

Truro Board of Health Minutes
January 8, 2019
4:30 PM-Truro Public Safety Facility

Members Present: Chair Tracey Rose, Vice-Chair Jason Silva, Member Mark Peters, Clerk Peter Van Stratum

Others Present: Health Agent Emily Beebe

Chair Tracey Rose called the meeting to order at 4:30PM. Ms. Rose requested that everyone speak clearly for the video recorder. She asked if anyone in the audience was recording. No one replied in the affirmative.

I. PUBLIC COMMENTS:

There were no public comments.

II. AGENDA ITEMS

AGENDA ITEM: 1: 209 "A" Shore Rd: Variance Request from 310 CMR 15.211 Minimum Setback Distances and Truro Board of Health Regulations, Section VI Articles 2 (Variances) and 8 (Required Setbacks)

Mr. Silva recused himself from sitting in with the Board; he sat with David Lajoie of FELCO, Inc. o/b/o Silva Heritage Realty Trust. The two-bedroom dwelling is served by an existing cesspool to be replaced with a septic tank, pump chamber and a pressure dosed leach field between the house and the road. The plans received approval from the Conservation Commission. Mr. Lajoie reviewed the requested variances with the board. The applicant is performing a voluntary upgrade. The Agent has reviewed the plans and was satisfied that the applicant is providing mitigation for the leaching area location adjacent to the foundation.

Motion by Mr. Peters to approve as requested; seconded by Mr. Van Stratum; Vote: 3-0-1, motion carries.

AGENDA ITEM: 2. 8 Great Hills Rd: Variance Request from Truro Board of Health Regulations, Section VI Articles 2 (Variances) and 8 (Required Setbacks)

David Lajoie of FELCO, Inc. approached. The owner is performing a voluntary upgrade of the system. The plans have received approval from the Conservation Commission. The Agent discussed the variances with the board. Ms. Rose inquired about a poly-vinyl fence; Mr. Lajoie referenced the barrier noted on the plans. Mr. Van Stratum inquired about the leach field; Mr. Lajoie confirmed it is the appropriate size.

Motion by Mr. Peters to approve the plan as presented; seconded by Mr. Silva; Vote: 4-0-0, motion carries.

AGENDA ITEM: 3. 7 Yacht Club Rd: Variance Request from 310 CMR 15.211 Minimum Setback Distances and Truro Board of Health Regulations, Section VI, Articles 2 (Variances) and 8 (Required Setbacks)

David Lajoie of FELCO, Inc. approached. The matter has gone before the Conservation Commission and was continued. The property contains two cesspools and the owner is performing a voluntary upgrade. The property is experiencing some erosion on the south west corner of the tennis courts. Safe Harbor is preparing a restoration plan for the area; a continuance was requested at the Conservation Commission meeting so Safe Harbor may have additional time to prepare their restoration plan. Mr. Lajoie reviewed the proposed plans with the board. Mr. Van Stratum asked Mr. Lajoie to explain the barrier being used. Mr. Lajoie stated that Shore Guard, a poly-vinyl barrier, will be installed. Mr. Lajoie indicated that he did not foresee any issues with the guard containing the elevated leach field. Mr. Van Stratum asked Mr. Lajoie if test wells could be installed for future monitoring of possible contamination to the ground water; Mr. Lajoie replied in the affirmative. The Agent proposed requiring additional preventative measures to ensure the safety of the resource areas. The Agent provided the board with an email from Mr. and Mrs. Allen of 21 Yacht Club Road, the abutters to the property. The Agent read the letter into the record [see attached]. Mr. Van Stratum indicated that he would like to see a leach field monitor added to the plan. Ms. Rose asked about the capacity of the system, and the basis for it. Mr. Lajoie indicated that it was determined by the size of the building, DEP guidance. Mr. Silva, in response to the abutter concerns, noted the benefit of an upgrade from the cesspools, especially in a sensitive resource area.

Motion by Mr. Peters to continue the matter to February 5th; seconded by Mr. Silva; Vote: 4-0-0, motion carries.

AGENDA ITEM: 4. 9 Highland Ave: Variance Request from 310 CRM 15.223 Septic Tanks (1)(b)

Clint Kershaw of 9 Highland Avenue approached. The Agent referenced a letter Mr. Kershaw submitted to the board requesting a variance from Title 5 as part of his plan to develop an accessory dwelling unit on the property. The Agent had previously informed Mr. Kershaw of the requirement to install a second septic tank to comply with state requirements for non-single family use; Mr. Kershaw's variance request was to this provision of Title 5. He did not want to incur the expense, and requested use of the 1500 gallon unbaffled tank for the two residences. For all instances of an accessory dwelling application and non-single family use the board requires a system upgrade to add a second tank or a two-compartment tank. Ms. Rose asked the applicant about the bedroom count. Mr. Kershaw indicated that two bedrooms exist in the main house and that there is no bedroom in the studio building. The Agent referenced a 2018 septic report which notes there is one bedroom in the main house and one bedroom in the "studio", or new building. Mr. Kershaw stated that the report was incorrect as the septic inspector, Christopher Lucy, did not enter either building. Mr. Kershaw also stated that a previous septic report from 2014 did not reference a bedroom in the "studio" building.

The Agent informed the board that she spoke with Mr. Lucy who said he could see in the window, that there was a living space in each building and that Mr. Lucy asked and was told by Mr. Kershaw that the main residence was in the new building.

Mr. Van Stratum asked Mr. Kershaw if someone was living in the "studio" building. Mr. Kershaw then indicated that both buildings were being occupied.

Mr. Van Stratum pointed out that Mr. Kershaw had just told the Board that no one was living in the second building.

Ms. Rose asked about the deed restriction. The Agent stated that the Board of Health deed restriction had not been recorded with the Barnstable Registry of Deeds. Mr. Peters notified Mr. Kershaw that he needs to produce the deed restriction and that he has no right to occupy the new "studio" building.

Ms. Rose stated that she would like to see a walk-through and evidence of the deed restriction recording prior to making a decision.

The Agent clarified that construction of the studio building was approved by the Board of Health in 2014 as an office/storage building and approval was conditioned that the new space was not to be lived in. The Agent pointed out that Mr. Kershaw is requesting a variance which would allow him to do something that the Board of Health specifically said he couldn't do. Mr. Kershaw argued that the town has now allowed for accessory dwelling units. Mr. Peters noted that the By-Law is irrelevant to what Mr. Kershaw has done. Ms. Rose advised Mr. Kershaw that he must go through the proper process to obtain an ADU permit. Ms. Rose felt that the matter should be continued pending the determination of how many bedrooms are at the property and evidence of the recording of the deed restriction from the Board of Health in 2014.

Discussion occurred regarding the possible addition of a second tank at the property and the logistics associated therewith. Ms. Rose did not feel comfortable advising Mr. Kershaw about installation possibilities due to the lack of information about the status of the property. Mr. Van Stratum pointed out that Mr. Kershaw broke the law, knowing that he was acting against all the previous documentation stating that the studio building was not to be occupied. Mr. Silva encouraged Mr. Kershaw to hire a licensed engineer to look at the matter.

Motion by Ms. Rose to continue to January 22nd, with the requirement that Mr. Kershaw provide proof of recording of the deed restriction with the Barnstable Registry of Deeds and that a walk-through of the property is scheduled; seconded by Mr. Peters, Vote: 4-0-0, motion carries.

Discussion: Water Resources Protection District Regulations

The Agent provided the board with examples of ground water protection regulations from other Cape towns. Zone 2 layers have been added to the Truro assessor's maps for public water supplies. A layer for the Pamet River Protection District is forthcoming. The Agent encouraged the board to review the materials to help facilitate discussion regarding land use regulations. The board will have future discussions regarding water resources protection district regulations, Zone 1 and Zone 2 regulations.

III. REPORTS

Health Agent's Report

The Agent reviewed the status of the wastewater treatment project at the North Truro Camping Area (NTCA) and Horton's Campground. The project size (>15,000gpd) places the project under the jurisdiction of the MA DEP, who issued a groundwater discharge permit for

NTCA acquired Horton's Campground and thereafter the owners developed plans to combine the flow from both campgrounds and design a common waste water treatment plant. A zoning issue developed from a conversion of the tent-camping areas of Hortons without review of approval from the Town; the issue is still in court. In the Fall of 2018 MA DEP reached out to the Town to discuss moving forward with construction of the wastewater treatment plant. The Town was agreeable provided that the construction was only for the treatment plant. The Agent has not received any updates from the DEP after the conversation. Mr. Peters noted that the property owners have had a history of not obtaining proper licensing and not performing required upgrades. Ms. Rose felt that it would be beneficial to have the property owners appear before the board to provide an update. Mr. Peters agreed that it would be a good idea to remind the owners that they are accountable to the Board of Health.

IV. MINUTES:

Motion by Mr. Peters to defer the minutes to January 22nd; seconded by Mr. Van Stratum;

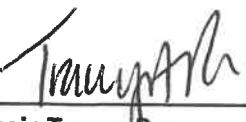
Vote: 4-0-0, motion carries.

For the record Ms. Rose stated that the Board of Health 2019 meeting schedule reflected several dates where the meetings will take place at the Truro Public Safety Facility.

Motion by Mr. Silva to adjourn the meeting; seconded by Ms. Rose; Vote: 4-0-0, motion carries.

Respectfully Submitted,

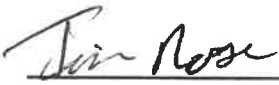
Michelle Fogarty


Chair-Tracey Rose


Vice Chair-Jason Silva


Mark Peters, Member

Clerk-Peter Van Stratum


Tim Rose, Member

