

Truro Board of Health Minutes
August 6, 2019
4:30 PM-Truro Town Hall

Members Present: Chair Tracey Rose, Mark Peters, Peter Van Stratum, Tim Rose
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. PUBLIC HEARING

9 Highland Avenue, Clinton Kershaw: Request for variance to Title 5 (310 CMR 15.211)
(Continued from July 16, 2019)

Attorney Robin Reid and the property owner, Clinton Kershaw came to the table to address the Board. Attorney Reid summarized the applicant's permitting process; Mr. Kershaw received approval from the Planning and Zoning Boards for an Accessory Dwelling Unit ("ADU"). Attorney Reid read a statement to the Board, asserting Mr. Kershaw's willingness to bring his property into compliance and discussed the variance standards as they apply to the applicant's existing septic system. The Board received two letters of opinion supporting the variance request; from J.C. Ellis Design and Richard Waldo, P.E. Both opinions stated that an additional tank would offer no additional protection to the environment; that the grant of variance would be no additional risk to public health or safety; and, that the additional expense was unnecessary. Attorney Reid suggested replacing the current deed restriction with an updated one. Mr. Kershaw has proposed to reduce the size of the den in the ADU to eliminate the possibility of it being considered a bedroom. Ms. Rose asked for clarification regarding the den. Attorney Reid responded that the walls would be "padded" to bring the square footage under 70sf and there will be no door.

Ms. Rose asked the Agent to provide a summary.

The Agent reviewed the timeline beginning with Mr. Kershaw's appearance before the Board of Health in 2014, at which time the applicant was requesting to construct a second building for office and storage space. The Board approved the plan with conditions and required a deed restriction that the space not be "used for sleeping purposes", and not habitable. The deed restriction was not recorded at that time and the condition was not followed; the applicant proceeded to build the new building that was presented as "office/storage space" as a second dwelling unit.

In 2018 Mr. Kershaw inquired to the Health Department about what was required for the ADU process. He was advised that a second tank/2 compartment tank was required. He argued about the necessity, and ultimately applied for a variance to this requirement. During his initial hearing he told the Board that the second building was unoccupied. However, upon inspection, it had been confirmed that someone was residing in the second building.

The Agent noted that the Board has required a two-compartment septic tank for every ADU that has been approved as the ADU changes the property from single family use to 2 family use. The Board discussed the original Zoning decision that allowed for the main house to have two-bedrooms and that the second building was to be unoccupied. Mr. Van Stratum spoke to the applicant's credibility issue. Mr. Peters expressed his support for the ADU but stated that he was not in support of the variance request. Ms. Rose asked Attorney Reid for copies of the most recent floor plans. Attorney Reid clarified that the most recent plans reflected a change from having a wider wall opening to instead padding the walls to reduce the square footage.

Motion by Mr. Rose to rescind the BOH deed restriction that is currently in place from 2014; each building will be restricted to one bedroom; a deed restriction will be required for a maximum of two-bedrooms total at the property; seconded by Mr. Peters; Vote: 4-0-0, motion carries.

Motion by Ms. Rose to deny the variance request; seconded by Mr. Peters; Vote: 4-0-0, motion carries.

Discussion commenced regarding the configuration of the den in the ADU. The Agent stated that the deed restriction should state that the smaller bedroom in the original house will be reconfigured so as to not be defined as a bedroom. Attorney Reid suggested attaching the plan to the restriction to be recorded with the Registry of Deeds. The Agent also requested a timeframe for completion of the project. Mr. Rose requested a two-month completion date. Mr. Kershaw estimated that he would need at least nine months in order to accommodate the tenant.

Mr. Rose responded by suggesting a ninety-day completion date.

Motion by Ms. Rose to accept the floor plan dated March 15, 2019 prepared by Jason Ellis, noting for the record that the "den" will be less than 70 square feet and that the work will be completed within ninety days; seconded by Mr. Peters; Vote: 3-0-1, motion carries.

The Agent requested a timeframe for the completion of the septic work. Mr. Rose suggested ninety days. Attorney Reid expressed concern about the timeframe given how long it took for the plans to be completed and requested a completion date of December 31, 2019. The Board was amenable to the request. Attorney Reid confirmed that she and the applicant will maintain contact with the Agent.

Motion by Mr. Peters to allow for an extension until December 31, 2019 for completion of the septic work; seconded by Mr. Rose; Vote: 3-0-1, motion carries.

449 Shore Rd- Variance Request from Truro BOH Regulations Section VI, Article 10 "Required Setbacks for System Components" (continued from 6/4/2019) (Applicant is requesting a continuance until 10/15/2019)

The Agent informed the Board that the matter is pending a hearing in front of the Conservation Commission.

Motion by Mr. Rose to continue the matter to October 15, 2019; seconded by Mr. Peters; Vote: 4-0-0, motion carries.

Proposed Amendments to Truro Board of Health Regulations: Section IV – Solid Waste, Article 7 Swap Shop and Section V – Transfer Station Rules and Regulations, Article 2 - Transfer Station Permits The Agent reviewed the proposed changes for the Board. The Board discussed an additional change to Article 7 to reflect “active for a period of one year from the date of purchase”. **Motion by Mr. Van Stratum to approve the proposed amendments to the Truro Board of Health Regulations; seconded by Mr. Peters; Vote: 4-0-0, motion carries.**

III. AGENDA ITEMS

Change of Manager: Little Skipper Condominium, 642 Shore Rd, Donna Petsch & Christine DeAmbrose: Donna Petsch and Matthew DeAmbrose came to the table representing the application of the Little Skipper Condominium. Mr. DeAmbrose will be substituted for Christine DeAmbrose as he resides in Truro. Ms. Rose asked the applicants if they had any questions. Ms. Petsch asked the Board what they are looking for from the managers. Ms. Rose explained the requirements to the applicants, specifically emphasizing protecting public health. **Motion by Mr. Peters to approve; seconded by Mr. Rose; Vote: 4-0-0, motion carries.**

Change of Manager: Big Fisherman, 148 Shore Rd, Jan Garver-Flanders Jan Garver-Flanders came to the table representing the Big Fisherman Condominium. Ms. Garver-Flanders purchased the manager’s unit and will be taking over the responsibilities. **Motion by Mr. Rose to approve; seconded by Mr. Peters; Vote: 4-0-0, motion carries.**

Kalmar Pool: 674 Shore Road (map 2, parcel 5); Discussion

David Prelack of 674 Shore Road came to the table to address the Board. The Agent stated for the Board that she received a call from Mr. Prelack just before July 4th to inspect the pool at Kalmar Village. The Agent went to the property to inspect the pool and upon arrival, found the pool full of people. The Agent brought this to the attention of Mr. Prelack as well as observations that work had been done to the pool. The Agent summarized the standard process for inspecting and opening the pool, which was not adhered to by Mr. Prelack. Further, a similar instance of a late opening happened last year. The Agent was concerned that her prior discussions with Mr. Prelack did not register. The pool was opened and operating this year prior to a license being issued; the Agent requested that the Board speak directly with Mr. Prelack about the Board of Health requirements. The Agent stated that the pool is impeccable, but the decision to open the pool needs to lay with the Board of Health in accordance with the regulations.

Mr. Peters noted the substantial liability to the Town.

Mr. Prelack informed the Board that he had consulted a CPO (“Certified Pool Operator”) expert for guidance after the fact. Mr. Prelack was told by the Truro Building Inspector Stevens that he did not need a permit to replace the pool fence. Mr. Prelack noted that part of the work included re-plastering the pool, which creates cloudy water. Mr. Prelack also noted that the repair work was delayed due to the amount of rain this year. Ms. Rose asked the Agent about the code; the Agent read the code (105 CMR 435) requirements. The Agent noted the importance of the regulations as they protect the patrons of the pool. The Agent was also inclined to request that the Board of Health issue the pool permit in the future. Mr. Prelack argued that the repairs, changing tiles and re-plastering of the pool, did not affect the safety

and sanitation of the pool. The Agent had no argument with that and pointed out the issue is with the new fence. The fence was changed, and the Agent was not notified, nor was the change reviewed in accordance with the code. Mr. Prelack replaced the old chain link fence with a new 6' fence. Ms. Rose informed Mr. Prelack that moving forward the first point of contact should be the Health Agent. Mr. Prelack agreed to that requirement. Mr. Rose reiterated the importance of Mr. Prelack obtaining his permit before any person enters the pool. Mr. Rose also implored Mr. Prelack to communicate with the Agent.

Truro Motor Inn: 296 Route 6 (map 43, parcel 116): Update

The Agent updated the Board to confirm that the third manager will appear at the August 20th meeting. The Agent is also working on the schedule for receiving a preliminary plan from Mrs. DelGizzi. Mrs. DelGizzi is scheduled to meet with the engineer to discuss the placement of the septic system. The Agent has maintained contact with Mrs. DelGizzi. Mr. Van Stratum asked about the configuration of the rooms; the Agent replied that she had met with Mrs. DelGizzi to discuss the rooms, but floor plans of the existing layout are not drafted yet. JC Ellis design is preparing the floor plans. The Agent will next have a walk-through with the Fire Chief and Mrs. DelGizzi to look at the storage on the outside of the building.

Water Resource Protection Regulations: discussion on proposed amendments

The Agent provided the Board with updated amendments. The discussion will be continued to the next meeting.

IV. REPORTS

Wind & Wave, 432 Shore Rd, Unit 8

The Agent notified the Board that the annual permit was renewed for Units 1 – 7 only because Unit 8 has been boarded up. Unit 8 has not been rented.

53 Old County Road

An Order to Correct housing code violations was issued to the property owner. The Agent notified the Board that due to the Order the building is not being occupied. The property owners are working to correct the violations.

The Agent notified the Board that the State contacted their office earlier that day to confirm a positive result for West Nile Virus detected in a mosquito sample taken from Truro on August 1. The Agent provided the Board with a draft press release to provide to the public. Mosquitos will continue to be sampled weekly. If infected mosquitoes continue to be detected a conversation will be had with DPH. The Agent reminded the public that the single most effective way to mosquito proof your home is to drain standing water from places where rainwater may collect. It was suggested that the public take extra care to empty bird baths, buckets and any receptacle that contains standing water. The Agent also directed the public to view the "Bug-Off" program available on the health department webpage. The public may also access <https://www.mass.gov/mosquito-borne-diseases> for additional information.

V. MINUTES

July 16, 2019

Motion by Mr. Peters to approve the July 16, 2019 minutes; seconded by Mr. Rose; Vote: 4-0-0, motion carries

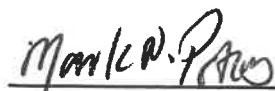
Motion by Mr. Rose to adjourn the meeting; seconded by Mr. Peters; Vote: 4-0-0, motion carries.

Respectfully Submitted,

Michelle Fogarty



Chair-Tracey Rose



Mark Peters, Member



Peter Van Stratum, Clerk

Meredith Goff, Member

Vice-Chair, Jason Silva

Tim Rose, Member

