



TOWN OF TRURO CONSERVATION COMMISSION

P.O. Box 2030
Truro MA 02666-0630

Conservation Commission Meeting Minutes: November 4, 2019

The meeting and public hearings were called to order at 5:30 at the Truro Town Hall.

Commissioners Present: Deborah McCutcheon, Jack McMahon, Larry Lown, Diane Messinger, Linda Noons-Rose and Robert White; **Others Present:** Emily Beebe, Conservation Agent

Minutes: September 9, 2019

Motion: Commissioner McCutcheon moved to approve the September 9, 2019 minutes; seconded by Commissioner Lown; the vote was unanimously in favor, 5-0-0.

Certificates of Compliance: 2 Kill Devil Road; DEP SE#75-716; 75-784; 75-831

Motion: Commissioner Noons-Rose moved to approve the Certificates of Compliance; seconded by Commissioner White; the vote was unanimously in favor, 5-0-0.

Administrative Review Permits:

5 River View Road: Patio area & path to river

Motion: Commissioner Messinger moved to approve as presented; seconded by Commissioner Lown; the vote was unanimously in favor, 5-0-0.

542 Shore Road: Snow fencing

The Agent discussed the planting of beach grass to help stabilize the dune.

Motion: Commissioner Lown moved to approve the application as submitted; seconded by Commissioner Noons-Rose; the vote was unanimously in favor, 5-0-0.

0 Toms Hill Road: Trail & bench

A new path will be installed with a bench located at the top of the bank. The applicant will be required to use a brush hog to clear the area for the pathway.

Motion: Commissioner Lown moved to approve the path and bench with sufficient flagging and materials as specified in the application; seconded by Commissioner Messinger; the vote was unanimously in favor, 5-0-0.

5 Bearberry Lane: Cutting of 4 dead trees

The Agent proposed a condition that the trees shall be removed from the site and no further disposal of clippings and pant material over the bank.

Motion: Commissioner Noons- Rose moved to approve the application with the condition that the trees shall be removed from the site and not thrown over the

bank; seconded by Commissioner McMahon; the vote was unanimously in favor, 5-0-0.

494 Shore Road: Seawall repair

Minor seawall repair will be made by hand; a mini excavator will be located behind the wall on the seaward side.

Motion: Commissioner Lown moved to approve the repair; seconded by Commissioner Messinger; the vote was unanimously in favor, 5-0-0.

Castle Road: Resurfacing

The Agent explained that the proposed resurfacing qualifies as re-development under the Storm Water Management Act, makes improvements by removing direct outfalls and meets the requirements.

Motion: Commissioner McMahon moved to approve the application; seconded by Commissioner Noons-Rose; the vote was unanimously in favor, 5-0-0.

Ryder Beach: Plant beach grass

Motion: Commissioner Noons-Rose moved to approve the application as submitted; seconded by Commissioner White; the vote was unanimously in favor, 5-0-0.

Enforcement Discussions:

445 Shore Road, Mark Young, installation of fence w/o permit

Mr. Mark Young came to the table to address the Commission. Commissioner McCutcheon asked Mr. Young how long he has owned property in the Beach Point area. Mr. Young responded that he has owned various properties in the area since 2011. Mr. Young was told by his contractor that a permit was not required as the fence was being replaced in kind.

Motion: Commissioner McCutcheon moved to satisfy the enforcement order with the filing of an after the fact permit application; that the applicant be required to install plantings per the Agent's directions; and that the fence be elevated 6" off the ground. Discussion occurred on the motion: Commissioner McMahon asked about the elevation of the bottom of the fence. The Agent confirmed that the bottom of the fencing should be elevated to allow for movement of sand and wildlife; seconded by Commissioner White; 4-0-1

5 Bearberry Lane, Mark Kinnane, Cape Associates, partial stair re-construction w/o permit

Mark Kinnane of Cape Associates came to the table to address the Commission. Mr. Kinnane received an Administrative Review Permit in July of 2019 to replace the treads at the bottom of neighborhood beach-stairs, it was conditioned upon also removing the debris from destroyed serpentine fencing that had collected around the stair, and removal of brush from the top of the Coastal Bank.

In October Mr. Kinnane filed a staging permit application to access the area from the beach. His application also stated that he was working on beach stair replacement. The Agent clarified to Mr. Kinnane that the ONLY project approved was a 30-day Administrative Review permit to replace the stair treads and some splintered railings. The

Agent stated that an email was sent to Mr. Kinnane during the summer confirming that he would need to file a Notice of Intent for any work beyond tread replacement, and he was notified by email several times of the filing requirements. The Commission discussed the additional conditions that were not met under the original permit. Commissioner Lown asked Mr. Kinnane to discuss the serpentine fence that is in disrepair with his client.

Motion: Commissioner Noons-Rose moved to direct the Agent to develop a finding of violation, that requires the filing of a Notice of Intent for the work done to be remediated under timelines and incorporates a site plan; seconded by Commissioner Messinger; the vote was unanimously in favor, 5-0-0.

Notice of Intent: 1 Moorings Way, James Sloman Rev. Trust of 2010 c/o Tim Dickey: SE# 75-1078; construct two-bedroom studio, in-ground pool, decking and walkway, removal of 14 trees; Buffer Zone to a Coastal Bank and Riverfront Area. (Map 46, Parcel 113) *(continued from 10/7/2019)*

David Lajoie of FELCO, Inc. and the contractor, Tim Dickey, came to the table to address the Commission. A site plan was presented that shows the work that was done without the review of the Commission along with the additional alterations to the property. Commissioner Lown asked about the screened porches that were constructed without the permission of the Commission. The Agent clarified that the Building Department accepted a plan from 1993 with the building permit application; the 1993 plan did not adequately reflect the current resource areas. Commissioner Messinger noted that Mr. Dickey has worked with the Commission before; Mr. Dickey responded that he would have filed with the Commission had he known that he was working in the riverfront area, and once he did realize it, he reported to the Agent. The Agent noted for the record that the plan before the Commission reflects the removal of five trees; the removal of the very large locust previously discussed will be removed in small pieces and walked out. The Agent directed the Commissioners to the walkways on the plan and the water line from the existing dwelling to the proposed studio and suggested that the brush at the property be removed as a condition of the approval. The proposal includes the activities in the buffer zone connected to the pool walkway and the remaining walkway shown on the plan within the work limit; the trenching and establishment of a new line from the existing house to the studio; and removal of five trees shown on said plan, all subject to conditions. A plan for future land management and view corridors will be submitted under a separate filing.

Motion: Commissioner Noons- Rose moved to approve the Notice of Intent with the conditions as set forth herein, as agreed to by the contractor and Agent; seconded by Commissioner McMahon; the vote was unanimously in favor, 5-0-0.

Notice of Intent: 405 Shore Road, Kenneth Shapiro: SE# 75-1062; removal of garage, construction of dwelling, septic system and appurtenances; Barrier beach, LSCSF, Coastal Dune. (Map 10, Parcel 5) *(continued from 9/9/2019)*

Attorney Benjamin Zehnder came to the table to represent the applicant. Attorney Zehnder previously appeared before the Commission and was directed to obtain approvals from the Zoning Board of Appeals prior to the Conservation Commission proceedings. Attorney Zehnder subsequently received approval from the Zoning Board

and the Board of Health. The matter was again presented to the Commission and some concerns were expressed about the zoning process, the design of the structure and that the applicant had not adequately demonstrated compliance with the resource standards. A new plan has been presented to the Commission, which reflects the removal of the second floor of the house. Attorney Zehnder provided the Commission with a packet containing copies of Zoning Board of Appeals, Board of Health and Conservation Commission minutes, approvals and permits from the various boards to establish a recap of the procedural history. Commissioner McMahon asked about the grading of the property; the Agent added that a large amount of fill would be required to achieve the grade noted on the plan. Discussion occurred regarding the level of disturbance. The Agent stated that the site plan is inaccurate in listing setbacks to a coastal bank; there is no coastal bank on Beach Point, it is a coastal dune. Further, the work limit was not shown on the plan, nor are the proposed grades. Additional discussion occurred regarding the proposed structure and the impact on the resource areas. Attorney Zehnder suggested that the Commission was not applying the same requirements to this matter as they had to the applications heard earlier in the meeting; the Agent responded that those matters were entirely different in nature and the comparison was inappropriate. Commissioner McMahon requested information from the engineer, who was not present. Annie Ditacchio of 412 Shore Road came to the table to discuss her opposition to the proposed building. Mrs. Ditacchio asked if the building has been staked so the Commission would see where it would be located; the Agent confirmed the property was staked, but the stakes may have been removed. Commissioner McCutcheon requested that the property be re-staked by January 6th so the Commission can make a site visit. The Commission then discussed the possibility of engaging an independent consultant to review the project. Commissioner Noons-Rose stated she would like to speak with the engineer prior to requiring a consultant.

A joint motion to continue the matter to January 6, 2020 was agreed upon between the Commission and Attorney Zehnder.

Notice of Intent: 17 Long Dune Lane, Moore Truro Realty Trust; SE# 75-1082; replace pilings for existing dwelling; new 8x12 shed; Coastal Bank, Buffer Zone to Coastal Bank, Riverfront Area. (Map 48, Parcel 9) (continued from 10/7/2019)

David Lajoie of FELCO, Inc. came to the table to represent the application. Mr. Lajoie reviewed the changes to the proposed plan, including the new location of the shed. The Agent asked Mr. Lajoie if he would consider diamond piers for the footings; Mr. Lajoie agreed that diamond piers could be used.

Motion: Commissioner Lown moved to approve the plan as submitted with the provision that the disturbed area next to the studio be restored; seconded by Commissioner McMahon; the vote was unanimously in favor, 5-0-0.

Notice of Intent: 503 Shore Road, Unit 21; SE# 75-1083; new deck; Barrier Beach, Land Subject to Coastal Storm Flowage. (Map 7, Parcel 2.21)

Paul Shea of IEC came to the table to represent the application. Mr. Shea reviewed the proposed plans with the Commission. The Agent asked about the options for creating a removable structure. Commissioner McCutcheon raised concerns regarding the size of the parking area and possible encroachment by vehicles in the road. Discussion occurred

regarding the need for the applicant to obtain approval from the Zoning Board of Appeals. The Agent noted for the record that an abutter, Russell Braun of the Sunrise Cottages Condominium, provided notice that the property line is not the fence and that the fence is owned by the Sunrise Cottages Condominium.

A joint motion to continue the matter to December 2, 2019 was agreed upon between the Commission and the applicant.

Motion: Commissioner Lown moved to adjourn the meeting; seconded by Commissioner Messinger; the vote was unanimously in favor, 5-0-0. The meeting adjourned at 8:03pm.

Minutes prepared by Michelle Fogarty

