

**Truro Planning Board
Meeting Minutes - October 22, 2013
Truro Town Hall - 6:00 pm**

Members Present: Karen Snow (Chair), Bill Worthington, Nick Brown, John Pendleton, Bruce Boleyn, Chris Lucy and Leo Childs

Others Present: Mrs. Greenhalgh ATA/Planner, Steve Sollog, Paul Millet, Cody Salisbury and Richard Waldo

Ms. Snow called the meeting to order at 6:01pm.

Review and Approval of Meeting Minutes:

September 17, 2013 Minutes, Mr. Worthington moved to approve the amended minutes. Seconded by Mr. Brown, voted on and approved 6-0-1(Ms. Snow).

October 8, 2013 Minutes, Mr. Worthington moved to approve the amended minutes. Seconded by Mr. Brown, voted on and approved 5-0-2(Mr. Lucy and Mr. Childs).

GFM Enterprises, Inc., Site Plan Review, 1 Noons Heights Road

Ms. Snow opened the public hearing at 6:05pm and read the legal notice into the record. The applicant seeks endorsement of an Application for Site Plan Review pursuant to §70.2 of the Truro Zoning By-law for an Industrial Use, a “Pit,” to process raw materials into new product in a General Business District. The property is located at 1 Noons Heights Road, Atlas Map 39 Parcel 166.

Mrs. Greenhalgh stated that through an email received on the 21st of October, GFM Enterprises requests to withdraw their application without prejudice. GFM Enterprises will resubmit a completed application in December. Mr. Worthington moved to approve that the application by GFM Enterprises Inc. be withdrawn without prejudice. Seconded by Mr. Childs, voted on and approved 6-0-1(Mr. Brown).

Town of Provincetown, Knowles Crossing Facility, 143 Shore Road, Request Condition Waiver

Representatives: Paul Millet, EPG, and Cody Salisbury and Richard Waldo, Provincetown DPW

The applicant requests a waiver to Condition #3 – Use of Soaker Hoses – of the July 9, 2013 Site Plan Review Revision Decision. The Town of Provincetown proposed to continue hand watering the trees. Mr. Childs stated that a temporary well with a watering system would be the most effective and inexpensive path to resolve this failure to meet the condition, and that the hand watering will ultimately lead to the replacement of the trees. Mr. Millet stated that the Environmental Protection Agency would prohibit the use of an additional well on the site for irrigation. The Provincetown Water and Sewer Board voted on this issue to uphold the Rules and Regulations of Provincetown. Mr. Brown stated that this will cause the Board to revisit this matter indefinitely.

Mr. Pendleton remarked that the condition (for soaker hoses) was clearly stated in the decision and the prohibition of soaker hoses in the Provincetown Rules and Regulations is not clearly stated therefore no modification of the condition is warranted. Mr. Lucy reviewed the events leading up to this situation. There was a work zone limit violation and the area in question was cleared. Then the no work zone area was used for staging, storage and even a manhole cover installed. The Board has been acting in good faith but must also follow the Rules and Regulations of the Town of Truro. The problem was created by Provincetown and should be fixed by Provincetown.

Mr. Millet stated that he is not intending to prolong this discussion, the town will water the trees and if any trees die they will be replaced. Mr. Salisbury stated that the Water and Sewer Board reviewed this and the watering will be continued for a term of two years, a timed watering system could fail, where they have more control over a hand watering schedule. Mr. Lucy described a similar project which had a

similar watering issue and has been a failure. He continued stating that at this point Truro will need more than a verbal promise to grant a waiver. Mr. Lucy stated that the people who are now representing Provincetown at this meeting are not the people who represented Provincetown at previous meetings and good faith was shown to previous representatives. That is no longer going to be the case, we will need more than trust to move forward and fix this problem.

Mr. Waldo approached the Board and stated that he is the Assistant Director of Public Works for Provincetown. This project has been in the works for approximately seven years at a cost of close to \$8M, there have been mistakes and there have been problems. Provincetown has consistently tried to remediate the problems. This is one of the more difficult problems; Provincetown may have been overly ambitious in laying out the limit of work area. Provincetown is trying to fix that mistake and to remediate the problem. The condition that supersedes the watering method is that the trees must survive for two years and it is in Provincetown's best interest and Truro's best interest that they survive.

Mr. Worthington acknowledged that he is on the Town of Provincetown Water and Sewer Board and continued that at this point it does not matter whether the water is administered by hand or sprinkler system. The Planning Board has gotten into a detail that it should not have. Several mistakes were made and the Planning Board should grant the waiver and restate the condition. Ms. Snow echoed the concerns of Mr. Pendleton regarding the request for a waiver and read the Provincetown rule/ restriction for water use §2.18. Ms. Snow stated that this is not a declared drought, therefore the use of a soaker hose would be allowed. Ms. Snow asked that Provincetown rule this necessary.

Mr. Waldo stated that power washing is prohibited because the water use restrictions run from June 1st to October 1st and all watering is limited to hand watering. Mr. Waldo asked the Board to consider that if the soaker hose system was installed it would cause a double standard to be created, this is a new regime and that would be a wrong direction for Provincetown to take. He asked to allow this matter to be put in the past; there will be a new commitment to attention of the rules and regulations going forward.

Mr. Pendleton moved to deny the request for waiver. Second by Mr. Boleyn. Ms. Snow asked for more discussion. Mr. Lucy restated his distrust of Provincetown's word as sufficient to guarantee the survival of the trees. The vote was taken 3-4-0. The motion failed.

Ms. Snow moved to grant a waiver from the timed irrigation, with the condition/requirement that the Town of Provincetown put up a bond for the cost of replacing the trees and that at two (2) years' time any of the trees that are not successful will be paid for using the bond and if everything else is acceptable the bond will be returned. The motion was second by Mr. Lucy. Mr. Pendleton asked for clarity concerning whether or not the trees were thriving. Mrs. Greenhalgh read the agreement condition #4 of July 9, 2013 which stated there would be a site visit at one year (Oct. 2014) and then again in two years (Oct. 2015) to insure plantings survival. Mr. Lucy asked for the total installation costs of the trees, and was told it was approximately \$35,000.00. Mr. Worthington stated that it may not be legally binding or practical to ask for this bond as Provincetown has signed an agreement. Mrs. Greenhalgh stated that Provincetown has not signed anything, this Board issued a decision and Provincetown agreed to the conditions. Ms. Snow stated that this Board should hold the money to bind Provincetown to the agreement however she would consider a bond of \$25,000.00. Mr. Waldo asked if the Board would consider dropping the number to 5 or 10 thousand dollars. Mrs. Greenhalgh read from Section 70.10.A, which stipulates no more than ten percent of the project cost may be held in escrow. After discussion, Mr. Lucy stated he would accept \$10,000 as bond for the trees survival. Mr. Worthington called for the vote.

Ms. Snow amended her motion to grant a waiver from the timed irrigation, with the condition/requirement that the Town of Provincetown put up a bond, in the amount of Ten Thousand dollars (\$10,000.00), for the cost of replacing the trees and that at two (2) years' time any of the trees that

are not successful will be paid for using the bond and if everything else is acceptable the bond will be returned. Mr. Lucy accepted the amendment. The vote was 6-1-0 (Mr. Worthington voting in the negative), the motion was approved. Mrs. Greenhalgh stated that the notice of the waiver will only be issued after the bond is received by Town of Truro.

Site Plan Review & Draft Rules and Regulations for Site Plan Review

Ms. Snow began a discussion of the proposed document for Rules and Regulations for Site Plan Review from a draft dated March 18, 2009. The purpose is to pull the rules and regulations out of the Site Plan Review Bylaws and have it exist separately; similar to the Subdivision rules and regulations, so that the Board may amend them without Town Meeting action, but by holding a public hearing. Mrs. Greenhalgh explained that the biggest difference is that the sections are broken down into four parts. This will provide for a much easier method of review and clearer requirement to applicants providing the information. Ms. Snow asked to begin section by section. The Board worked through the proposed new draft, making corrections where needed. Ms. Snow stated that this will provide the Board with a finished draft copy for Site Plan Review of section 70. Everyone should go over their copy of Site Plan Review draft and the new draft of Rules and Regulations for Site Plan review in order to move forward to a Public Hearing.

Uses in the Table that are not defined

Mrs. Greenhalgh reminded the Board that the Agricultural Commission is working on the agricultural definitions. Ms. Snow reviewed the list with the Board. The Board agreed to prioritize the following definitions: "Industrial or manufacturing use"; "Retail or wholesale business service" and "Retail Sales". It was also noted that "Apartment, affordable housing" can come off the list.

Street Definition and Street List

Ms. Snow asked Mrs. Greenhalgh to provide her opinion regarding the Street definition. She stated that the street list is not complete and until it is as complete as possible it does not make sense to move forward with the definition. Mr. Lucy asked whether the Board has to complete the street review and discussed the difficulty of determining the adequacy of the streets. Mrs. Greenhalgh stated that because Land Court plans do not provide for applicant names, it is not possible for her to determine if they are adequate or even built. The proof of the adequacy of the roads needs to be done and this leads to the next problem, determine who and how to make sure a street is adequate. Ms. Snow asked the Board to decide where to devote their time because determining street adequacy is still a gray area and now the scheduling is tight.

Mr. Pendleton stated that working on the Sign code would be more productive given the support of the Selectmen. It was the consensus of the Board to set the street definition aside and get through the items which are more prepared, Site plan review and the rules and regulations. Ms. Snow asked if there were any important information anyone needs to share with the Board.

Mr. Brown stated he will be resigning from the Board in thirty days. The Board Members and Mrs. Greenhalgh expressed their regrets and noted that Mr. Brown will be missed.

Mrs. Greenhalgh stated that Elbert Ulshoefer will be serving as an interim Building Commissioner. A very knowledgeable man with extensive experience.

Ms. Snow adjourned the Planning Board Meeting of October 22, 2013 at 7:52pm.

Respectfully Submitted

Steven Sollog