

## **TRURO PLANNING BOARD**

### **Meeting Minutes**

**October 20, 2015 - 6:00 pm**

**Truro Town Hall**

**Planning Board Members Present:** Lisa Maria Tobia; Steve Sollog; Bruce Boleyn; John Riemer; and William Worthington

**Members Absent:** Michael Roderick (excused)

**Others Present:** Christopher Vaccaro, Esq.; Jennifer Cohen, Tru-Haven; Carol Ann D'Amico; Carole Ridley; Shawn Grunwald

Ms. Tobia opened the meeting at 6:00 p.m.

#### **Public Comment Period:**

Carol Ann D'Amico, 11 Parker Drive, came forward to request that the 20015-006SPR Michael A. Tribuna hearing be continued given his recent change of use request and request to withdraw the application without prejudice.

**2015-006SPR Michael A. Tribuna, Trustee,** c/o Christopher R. Vaccaro, Esq., seeks approval of an Application for Commercial Development Site Plan Review pursuant to §70.3 of the Truro Zoning By-law for the filling of low area at 7 Parker Drive with related drainage improvements and erosion controls. There will be no new buildings or changes to existing buildings and structures. The property is also shown on Atlas Map 39 Parcel 168 & 169. Continued from September 8, 2015.

#### **Representative: Christopher R. Vaccaro, Esq.**

Mr. Vaccaro explained that they are requesting a withdrawal of the Application for Commercial Development Site Plan Review because they will be changing the use of the property from a non-conforming cottage colony use to a private single-family residence. The basis of the application will no longer apply as they will be demolishing two of the buildings, converting one of the buildings to an artist workshop that will not have any cooking facilities, and leaving the larger cottage which will remain as Mr. Tribuna's personal residence, where he has lived for several years.

Mr. Boleyn stated that he feels the request to withdraw the application without prejudice does not address the remediation of the damage that has already been done in terms of the work done prior to the stop work order.

Mr. Sollog asked Mr. Vaccaro what harm Mr. Tribuna has experienced from this, as the Board has heard from the abutters regarding how they believe they have been harmed. Mr. Vaccaro reviewed the work Mr. Tribuna has done to try to rectify the situation such as hiring an engineer, attending meetings and providing information to the Board. This process has basically accelerated Mr. Tribuna's long term plan to convert the property to a single family residence.

Mr. Riemer asked about the current tenants whose leases will expire on November 1.

Mr. Vaccaro responded that although sympathetic with the loss of housing for the current tenants, it is not the responsibility of Mr. Tribuna to provide housing any more than any other property owner.

Mr. Riemer also inquired about exactly when the demolition will take place because until the demolition occurs, it remains a commercial property, even though Mr. Tribuna plans the change of use effective November 1. Further Mr. Riemer asked about a MESA review and a Conservation Commission review. Mr. Vaccaro received a letter provided recently to the Board that MESA found no take. However, if there is any action taken on the property in the future, Mr. Vaccaro is aware that the property is within a defined priority area within the Division of Fisheries and Wildlife.

When asked about Mr. Tribuna's vision for the property by Mr. Riemer, Mr. Vaccaro stated that his vision for the immediate future he wants to maintain his home but long term would like to have a more modern structure to reside in. Mr. Vaccaro denied that Mr. Tribuna has future plans to subdivide the property.

Mr. Worthington would like to see a compromise addressing the abutters concerns and allowing Mr. Tribuna to have a single family residence.

Ms. Tobia expressed her disappointment because contrary to the last meeting where it appeared that there was a willingness to work with the Board to address the concerns of the abutters, the refusal to have a site meeting and the request to withdraw circumvents the process which hurts everyone, including the applicant.

Mr. Vaccaro explained that this was a way to avoid further frustration on the part of the applicant to ultimately achieve his long term plan. He also apologized to the Board for any misunderstanding.

Jennifer Cohen, President of the Tru Haven Association that owns Parker Drive. She has sent a letter to the Planning Board. Receipt of this letter was acknowledged. She expressed her concern that with the change of use, the past violations and conditions will be erased. This would give Mr. Tribuna an advantage over every other member of the community in that he would be allowed to create fill in order to increase the overall height of his building. Also, she questioned whether Mr. Tribuna actually lives at that property and even if two buildings are removed, she sees this as an operational shift in a business strategy to essentially maintain it as a commercial property as the remaining two units would be for rent. The removal of the trees has impacted not only the abutters but also the entire neighborhood as it interferes with the vision of the neighborhood. The association is seeking remediation. She had also asked at the previous meeting for some agreement or assurance that prevents an encroachment of continuing commercial development through an access or annexation to Noon's Drive, a separate community. She emphasized that the property is currently commercial and that is in violation of zoning bylaws.

Ms. D'Amico stated she is a year round resident on Parker Drive and questioned the intent of Mr. Tribuna to live there. She also reinforced that there were violations of the bylaws and it would be a dangerous precedent to not allow for some consequences.

Ms. Ridley clarified that that the subject before the Board is a commercial site plan application and also a request to withdraw the application without prejudice. She referenced her memo to the Board in the packet dated 10/15/15. The first option to allow the applicant to withdraw the application without prejudice would allow the applicant some future flexibility for commercial activity. The second option would be to deny the withdrawal without prejudice and continue with the hearing, and presumably vote on the application at that time. The third option would be to deny the withdrawal of application without prejudice, further continue the hearing to a date certain and send a notice to the applicant to provide additional information and agree to proceed with the application or withdraw with prejudice. The third option would affect any future proposal for commercial activity should the change of use not proceed. A key question is when the change of use actually occurs. According to Town Counsel, it is not within the Board's purview to address remediation if the change of use occurs, even though there was a clear violation at the time the work was done.

Mr. Worthington, Mr. Sollog and Mr. Riemer expressed their concern for the situation expressed by the abutters. Mr. Vaccaro stated that he feels the abutters are not willing to work with Mr. Tribuna.

Ms. Cohen suggested that the Board continue the hearing to a date certain and this would still allow for Mr. Tribuna to withdraw his application but with prejudice.

Following a discussion about the next steps, Ms. Tobia expressed her concern about the perimeter of the property. She proposed that the applicant come up with a plan to address the perimeter and the screening of the gravel pit. She asked Mr. Vaccaro if the applicant would be willing to do this. Mr. Vaccaro said yes. Mr. Vaccaro wanted assurance from the abutters that it is a screening issue and that the fill can remain but with making sure that the fill has adequate drainage and does not wash into the road.

Ms. Cohen stated that the Association is willing to have a dialogue. Basically there are two key issues: sufficient screening and that the change in grade is not used to bypass the zoning requirements and that the new house would conform to the original grade.

Mr. Vaccaro asked abutters to mark-up a site plan to illustrate changes related to these two issues for consideration.

On a motion by Mr. Sollog and seconded by Mr. Worthington, the Board voted to continue the hearing until December 8, 2015, so voted 5-0-0. Any information from the abutters would then go to Mr. Tribuna for consideration and then be brought to the Board at the December 8 meeting. A site visit prior to the December 8<sup>th</sup> meeting also was discussed.

### **Discussion on Disposition of Planting at 143 Shore Road**

The Planning Board held an on-site at the Town of Provincetown property, 143 Shore Road to inspect the landscaping and to determine if the \$10,000 bond that was posted should be released. It was noted at the site visit that one tree had been removed due to blight and another one had been trimmed as it was experiencing stress.

On a motion by Mr. Worthington and seconded by Mr. Sollog, the Board voted to release the \$10,000 bond, so voted 5-0-0. The Board directed Ms. Ridley to draft a letter that should include the intent of replacing the one removed tree and if needed, the second tree as well as an expression of gratitude for the professionalism during this project.

### **Review and Approval of Meeting Minutes:** October 6, 2015; and revisit September 8, 2015

Mr. Boleyn asked about the revisit of the September 8, 2015 meeting minutes. Ms. Tobia indicated that additional information needs to be added regarding the issues during the Parker Drive hearing. These issues included items such as drainage, moving the well back from the setback and erosion concerns.

On a motion by Mr. Boleyn and seconded by Mr. Sollog, the minutes from September 8, 2015 will be amended to include the additional issues, so voted 5-0-0.

On a motion by Mr. Sollog and seconded by Mr. Boleyn, the minutes of October 6, 2015 were approved, so voted 5-0-0.

### **Other:**

The site visit for Seacrest Family Trust is scheduled for October 23, 2015 10:00 a.m. as this hearing has been rescheduled to the November 4, 2015 meeting.

The joint meeting with the Board of Selectmen has been confirmed for October 27, 2015 at 5:00 p.m.

The following meeting dates were reviewed:

- **October 24, 2015 (Sat) – Affordable Community Housing Forum – Community Center**
- **October 27, 2015 – Joint meeting with the Board of Selectmen – 5:00 pm**
- November 4, 2015 (Wed) – Reg. Meeting
- **November 5, 2015 – Special Town Meeting – Truro Central School**
- November 18, 2015 (Wed) – Reg. Meeting

On a motion by Mr. Sollog and seconded by Mr. Boleyn the meeting was adjourned at 7:40 p.m.

Respectfully submitted,



Shawn Grunwald  
Recording Secretary

