

TRURO PLANNING BOARD

Meeting Minutes

January 10, 2018 – 5:00 p.m.

Truro Town Hall

Planning Board Members present: Bruce Boleyn, Peter Herridge, Paul Kiernan, Jack Riemer, Mike Roderick, Steve Sollog, Karen Tosh

Other participants: Christopher Snow, Attorney; David Bennet, Attorney; William Rogers, Annie Detacchio, David Reid, Attorney; Lester J. Murphy, Attorney; Tim Brady, Dan Silva; Cally Harper, Town Planner

Public Comment Period

There was no public comment.

Public Hearing – Definitive Plan

2017-006PB Kevin Shea, Barbara D. Rybeck, and Joan Siniscalco seek approval of a Definitive Plan filed with the Town Clerk on November 27, 2017 pursuant to MGL c. 41 §81U and Section 2.5 of the Town of Truro Regulations Governing the Subdivision of Land. The subject properties are known and numbered as 402 and 408 Shore Road, North Truro and shown as Parcel 22 and 41 on Truro Assessor's Map, Sheet 10. Hearing continued from December 20, 2017.

Christopher Snow, David Bennett and William Rogers spoke on behalf of the applicants, discussing the purpose of the continued hearing: to confirm that the concrete wall is accurately depicted on the drawings. It has been confirmed to be on the Shea's property and is accurately portrayed on the plan. They presented a release deed signed by Ms. Detacchio stating that this instrument is intended to be a resolution of a boundary line. It was an open negotiated plan. There was a subsequent submission to request a change. The Detacchio's garden, which is in the Detacchio's lot, is not affected. Ms. Harper stated that Mr. Snow submitted a letter that the Board now has a copy of— it had been left out of the packet as an unintentional error. An unsigned letter from a neighbor's attorney was introduced into the discussion. Mr. Snow said the letter is seriously flawed and unsigned. In the letter, the neighbor's attorney used the term "quite" title which should have been "quiet" title. Mr. Bennet concurs with Mr. Snow regarding the matter. Mr. Sollog asked Ms. Detacchio about the wall. She stated that when Mr. Shea approached them about the agreement regarding the wall, she was happy to sign. She is now concerned that the wall, which has been there since the 50's, might be torn down. Mr. Riemer read from the ZBA regulation pertaining to the subject of privacy fencing, which should be limited to 3 feet in height. Would this affect the future of the wall? Mr. Snow said there is no intention to remove the wall. Mr. Kiernan asked if there could be an agreement that Mr. Shea won't touch the wall. Mr. Snow said his client should not be asked to make another concession. Mr. Kiernan wanted to know the square footage of the house. Mr. Snow said they have not put in

for a building permit yet. Mr. Snow said that they have agreed to build within the required limitations and suggested that we are getting off subject at hand and into the design phase.

Ms. Harper recapped the hearings. The list of waivers has been put on the plan by Mr. Rogers. Mr. Sollog said we are not going to be able to condition the wall. Mr. Riemer said he is concerned about the legal letter that seems to bring up a conflict. Mr. Sollog asked Ms. Harper about the letter, dated January 8, and asked who wanted it read into the record. Mr. Snow mentioned that the points of Mr. Shea's letter have been summarized in the discussion so far. Mr. Snow went over the unsigned letter again from the neighbor's attorney. He then restated the fact that the property went into foreclosure making the easement non-existent. Ms. Tosh asked about the easement and how the bank would handle it. The Siniscalcos have acknowledged they have no rights over that part of the property. It is not necessary to name the easement owners in the foreclosure. Mr. Kiernan asked about adverse possession, and would that would be wiped out. Discussion occurred about points of law, if there is a disruption. Mr. Herridge asked further about adverse possession. Mr. Sollog asked if there was any additional audience participation. Mr. Riemer is concerned about the extinguishment of the easement. Mr. Sollog asked if Ms. Harper had anything to add. She suggested that the Board should stay on task. Mr. Kiernan then asked about the waivers; Note parcel 1 and parcel 3 are claimed by Kevin Shea and Judith Richland. He asked Mr. Snow to explain. Mr. Rogers addressed the Board: He said he had explained this already but he would do it again. Mr. Bennet said they are going to put bounds on the property corners. Discussion ensued about the bounds. One condition could be to place external bounds on the front corners (northside) of the land. There is no need to waiver #18 as noted on the plan; it is redundant. There was further discussion about the size of single family homes that may be built on these lots. Mr. Snow objected and stated that the Planning Board does not have authority here. Mr. Kiernan said that for him to vote on this application he would like to limit each lot to one family dwelling; Mr. Riemer agreed.

Mr. Herridge read the motion:

*"I move to approve with conditions **2017-006PB** for Kevin Shea, Judith Richland, Barbara Rybeck and Joan Siniscalco for a Definitive Plan as filed with the Clerk of the Town of Truro pursuant to MGL c.40A, §81U and §2.5 of the Town of Truro Rules and Regulations Governing the Subdivision of Land with respect to their property located on 402 and 408 Shore Road as shown on the Definitive subdivision plan titled: "Definitive Subdivision Plan of Land in (North) Truro as prepared for Kevin Shea et ux. & Barbara D. Rybeck and Joan Siniscalco" prepared by William N Rogers, Professional Civil Engineers and Land Surveyors, dated November 2017 Revised January 3, 2018, Scale 1" = 20'."*

Mr. Roderick seconded. Mr. Kiernan said he would abstain. Mr. Riemer asked if all the agreements with other boards can be put on our approval. Ms. Harper said no, we've been over this before. Mr. Sollog said the Building Commissioner enforces the various agreements/conditions. The motion passed, 6-0-1. (Mr. Kiernan abstaining) Mr. Sollog stated the public hearing was closed before the vote.

6:18 pm

Continued Public Hearing - Commercial Site Plan Review

2016-008SPR Maria Kuliopulos – White Sands Beach Club, Inc. seeks approval of a Modification to a Commercial Development Site Plan pursuant to §70.3 of the Truro Zoning By-Law for consolidation of units to reduce the number of units on the property by four. Plans include construction of a replacement building containing 17 rentable units and a hospitality room in the same location as a previously demolished fire damaged structure. The property is located at 706 Shore Road, White Sands Beach Club, Assessor's Atlas Map 39 Parcels 131, 158. Hearing continued from January 17, 2017, March 7, 2017, May 2, 2017, June 6, 2017, June 27, 2017, July 18, 2017, August 15, 2017, September 19, 2017, October 17, 2017, and December 6, 2017.

Ms. Harper gave a summary of what has occurred. Ms. Kuliopulos dropped off a new application in December. The following day she withdrew her 2016 application. Mr. Sollog asked if abutters wanted to speak today while the hearing is still open. Attorney David Reid asked for clarification. Mr. Herridge read the motion to allow the applicant to withdraw her application without prejudice:

"I move to allow the applicant to withdraw without prejudice the application 2016-008 SPR Maria Kuliopulos - White Sands Beach Club, Inc. without prejudice, for Commercial Site Plan Review as filed with the Clerk of the Town of Truro pursuant to §70.3 of the Truro Zoning By-Law with respect to property located at 705 Shore Road, Map 39, Parcels 131 and 158."

Mr. Kiernan seconded. Mr. Riemer asked about the outstanding lawsuit which is pending. The lawsuit does not affect the withdrawal. Motion passed, 5-0-2 (Mr. Roderick and Ms. Tosh abstained.) Ms. Harper said that we have 65 days from the time of submission to have first hearing, so Board must hold the first hearing on February 7. Mr. Chair will be absent for this meeting. Ms. Harper drafted an extension agreement for Ms. Kuliopulos to sign proposing March 15th as the new date. Mr. Sollog signed the agreement. Mr. Kiernan said he thought we have to actually schedule it before we can extend it. The timing was affected by the old application not having been officially withdrawn— until tonight. Mr. Kiernan said we had better stay within the law to schedule the hearing for Feb 7 and then request an extension. Ms. Harper said that she will reach out to the applicant to see if she will sign the extension agreement tomorrow.

6:31 pm

Project Overview and Preliminary Plan

Discussion of project and preliminary plan for a commercial property located at 298 Route 6. This property will provide additional space for tradesmen, artists and other professionals.

Attorney Lester J. Murphy, Tim Brady, engineer, and Dan Silva came forward to discuss their preliminary plan to build a second tradesman's park. The first building would be 7200 sq ft, and second building would be 6,500sq ft. Dan Silva explained that he has 35 tenants at the current Tradesman's Park, with 10 on a waiting list for the new tradesman's park. The new project would be 1/3 the size of the current park. Low to moderate size workshops with no outside storage allowed. Climate control storage in the second building and basement. Cape Cod Commission would need to be involved for phase two. Discussion occurred regarding contouring, grading, and retaining walls. There could be a driveway on the north side on a lower level, and parking in the building. The one on the north would be on the lower level. Mr. Kiernan said he thought the applicant should get the opinion of the Cape Cod Commission before addressing phase one of the project. He brought up parking and septic issues.

Mr. Brady said the applicant might choose to go to the Cape Cod Commission, but he wanted to know if it would be a mandatory referral. Ms. Harper asked if there is anything other than square footage that would trigger Cape Cod Commission review and Mr. Murphy said no. Mr. Riemer asked if condo-izing would occur. Mr. Silva said no. Mr. Riemer also asked if there could be any mixed use with residential spaces on the second floor. The applicant said no because of issues with septic. Mr. Herridge agreed that it would be good to check in with Cape Cod Commission before proceeding.

6:56 pm

Application for Determination that Plan Does Not Require Approval

2017-009PB Sylvia Russianoff seeks a determination that a plan does not require approval under the Subdivision Control Law. The property is located at 5 Fisher Hill Way, Assessor's Atlas Map 54, Parcel 12.

Mr. Riemer recused himself and left the room. Phillip Scholomiti presented the plan which is off Old County Road. There are no dwellings on the property. The plan creates two lots, 2.8 acres, 188 feet of frontage on Fisher Hill, will be a build-able lot only when the road is built. The other lot has 10 feet of frontage, 1.08, to be combined later with another lot. Ms. Russianoff plans to sell lot 1 C. Fisher Hill Road is a paper road. Fisher Hill Way connects to Old County Road. Ms. Tosh asked when the definitive plan was approved and it was approved on December 9, 1976 but the road was never built. Ms. Tosh asked if it meet the standards of today? It was also noted that there were no covenants for the original subdivision. In 2010 there was a ANR approved which cut off a portion of land. The applicant would like to do the same thing that was done before. The current ANR plan does not address build-ability. There are no easements involved. They are not creating any new potential build-able lots. It's not a subdivision. C1b and 54-11 are owned by Ms. Russianoff. She's adding C1b to the property where she has her house. She would like to sell C1A. She wants additional protection.

Ms. Harper asked Town Counsel if frontage on a paper road affects approval of an ANR plan. The attorney for the Town said to put a notation on the plan stating that the lot is not a build-able lot. The Board noted that the notation is already on the plan. Lot C1A is a sellable lot, but not

necessarily a build-able lot. There is no covenant, so the notation is important. Mr. Kiernan stated that this is still “not a subdivision.” Mr. Kiernan made a motion:

With respect to application 2017-009PB, the Board determines that the plan entitled “Division of Land in Truro prepared for Sylvia Russianoff,” dated December 6, 2017, Scale 1” = 50’ prepared by Ryder & Wilcox, Inc. does not require approval under the Subdivision Control Law.

Mr. Herridge seconded. So voted, 6-0-1. (Mr. Riemer abstained.)

Open Discussion of Possible Zoning Bylaw Amendments

The Planning Board will consider possible amendments to the zoning bylaw, including, but not limited to, size restrictions for residential structures in all zoning districts. The Board will consider holding public forums and other means of outreach for obtaining citizen input and whether a subcommittee should be formed to review possible zoning amendments.

Two public forums have been scheduled, January 20 at 2 pm, and January 30 at 6 pm at the Truro Library.

There are 284 responses to the survey. Ms. Harper asked the Board to hold off drawing any conclusions based on the paper surveys until the survey is closed. Mr. Kiernan said he thinks over 60 paper surveys have been collected. In an email to Ms. Harper, Anne Greenbaum asked if the dates and times for the forums could be posted on the Town website. Ms. Harper asked the Board or the Chair to ask the Town Manager to post the forums. All were in agreement. Mr. Kiernan asked if the announcement of the forums could go in the Town newsletter.

Mr. Kiernan asked if they could be informed if Ms. Kuliopulos gives her approval for the extension.

Review and Approval of Meeting Minutes

December 20, 2017

Mr. Herridge moved to approve the minutes of the December 20th meeting as written, Mr. Kiernan seconded. So voted, 7-0.

Reports from Board Members and Staff

Town Planner Report

There has been a letter from Kristin Roberts regarding parking. It is included in the Planning Board packet, so it is in the public record. Mr. Sollog and Mr. Herridge were pleased that the applicant paid attention to the Planning Board’s request and no further action was recommended.

Next Meeting Agenda

Wednesday January 24 at 5 PM – Please note the new date and time!

There is nothing on the agenda yet for this meeting. Ms. Harper received a notice regarding Ocean Bluff Lane; there is an error on the notice and no time was given.

Mr. Sollog asked if the Board might re-schedule a workshop with Town Counsel at the end of February. Ms. Harper said she would reach out to them with possible dates.

Mr. Riemer asked if the Planning Board is invited to the meeting on open meeting law workshop. Ms. Harper will check tomorrow.

Mr. Herridge made a motion to adjourn, Mr. Reimer seconded. So voted, 7-0.
Meeting adjourned at 7:45 pm.

Respectfully submitted,



Katherine Black

