

## **TRURO PLANNING BOARD**

### **Meeting Minutes**

**March 7, 2018 – 5:00 p.m.**

**Truro Town Hall**

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

**Other Participants:** Eric Parker, Debra Best-Parker, Emily Beebe, Town Conservation Agent; Karen A. Kirby, Barbara Correa, Mike Correa, Nick Brown, Irene Grey, Bob Weinstein, Paul Wisotzky, Russell Braun, Town Building Commissioner; Rae Ann Palmer, Town Manager; Chris Lucy, Anne Greenbaum, David Drinkwater; Cally Harper, Town Planner.

Mr. Sollog opened the meeting at 5:00 pm and spoke about the ground rules for the public hearings. Town Counsel, Jonathan Silverstein, was not able to attend due to the winter storm and was present on speaker phone.

### **Public Comment Period**

There was no public comment.

**Public Hearing - §40.3 Conversion of Cottage or Cabin Colony, Motor Court, Motel or Hotel** The Planning Board will hold a public hearing on proposed amendments to the Town of Truro Zoning Bylaw §40.3 Conversion of Cottage or Cabin Colony, Motor Court, Motel or Hotel which would allow existing seasonal condominiums to change to year round use through a clearly defined process. The proposed changes are available for public viewing at the Board of Selectmen's Office, the Clerk's Office and in the Planning Office at Truro Town Hall, 24 Town Hall Road Truro from 8 AM to 4 PM Monday through Friday and at [www.truro-ma.gov/planning-board](http://www.truro-ma.gov/planning-board).

Ms. Harper introduced the by-law amendment and spoke about the survey. There are two emails in support of the amendment – one from the Community Development Partnership and one from a Mr. Steve Hirschboeck, a resident of North Truro.

Eric Parker came forward. He referred to an article in the Provincetown Banner, March 1965, about water protection in Truro. He asked if the Selectmen had looked into the burden on the water table and the environmental impact.

Rae Ann Palmer, Town Manager, came up and responded. She worked with staff to prepare this bylaw amendment and it requires compliance with existing health codes, water and septic. It should not be an issue for water, but it will be an issue for septic.

Debra Best-Parker came up and asked how they can convert the septic if the condos are on a small amount of property. Emily Beebe, Town Conservation agent responded talking about

upgrading septic systems on Beach Point. A lot of them are already upgraded, she said. Days Cottages, for instance, have septic systems that are on the street side, and they use town water, so the siting of septic is easier to locate. They can be innovative. Mr. Riemer asked why we limit the number of bedrooms. The nitrogen load provision and town water are the issues. On Beach Point, there is no need for separation of water and septic. The effect on aquaculture was also asked. Ms. Beebe said that we haven't seen issues with bacterial problems. They are tested. Shellfish areas are closed when you have storms.

Mr. Kiernan asked if the Town should hook into the Provincetown sewer system. Ms. Palmer said that they have asked for an analysis and the results were inconclusive. There have been very preliminary discussions about hooking Shore Road into Provincetown's sewer system. They are evaluating and the conversation is at the beginning stages. They would look to use a State funding source.

Mr. Riemer asked about Provincetown condos. They have very restrictive regulations for their own residents. Ms. Beebe said we should have this on the table, to comply with standards that Provincetown imposes.

Mr. Kiernan asked about the expense which would be to the benefit of Beach Point. Would it be paid for by the whole Town? The tie in would be the responsibility of the property owner.

Karen Kirby came forward and thanked them for bringing up the year round condo issue. She said schools are closing due to families being unable to afford to live here. Seniors may want to downsize, families with children could return to Truro which would improve the community. She thinks they should think about fairness. She's a manager at Beach Point so she gets to live there year round. There is such a misunderstanding about water usage. It seems to be misrepresented. She wants to have the choice. It embarrasses her that it has been a class or race issue, or the fear that we might overcrowd our schools. We need more people to be here year round.

Barbara Correa, who lives at Stones Throw as the manager, came forward. She said the Stones Throw condos are self-sufficient, own wells, and have a highly efficient septic system. They were built for year round living. 23 out of 28 are one bedroom condos. The remaining units are two bedrooms. Schools are essential for a community. This is one way to make the community live-able for people of all ages, housing choices, shopping opportunities, etc.

Fred Shapiro came up next. He has been around for 40 years, and talked about the history of the motels on the Outer Cape. In the early 80's, condo conversion happened because motel or cottage colony owners wanted to stay in their homes as they got older. They could sell their individual units and afford to stay in Truro. Back then there was the fear of overcrowded schools and overtaxed town services. In the past the rule against year round condos hasn't been a big deal. But now, he's been in touch with some of these owners. It's a toss up. Some would use the amendment, some would not.

Mike Correa came forward. He has been here for ten years, managing Stones Throw condos. If he was not the manager, he would have to leave in the winter. He feels very positive about the amendment and that Stones Throw would be a good candidate for year round use.

Nick Brown, is over the top in favor. The town has lost 8% of its population. We have a segment of people that can't live here. It's the young people. We're losing a significant portion of the population. There are many condos that are never going to be year round. This is not just about Beach Point, there are other condos in town that are not on Beach Point.

Irene Grey spoke about Stones Throw. She mentioned that she is registered to vote and she pays taxes but they had to move to Provincetown and they ended up staying in Provincetown. Their home could be year round and they would like to see the town flourish.

Paul Wisotzky, Chair of the Board of Selectman, came up and talked about how wonderful it was to hear what people are saying in support of the amendment. This bylaw amendment is about creating a sustainable community, and that is a priority for the Selectmen this year. We have held meetings to answer questions, we've identified key issues; we are bringing to you our best effort. Once we have your report, we will take it to Annual Town Meeting. It is an issue of fairness and choice. We need to create policy that invests in our community. That allows people to move here, live here and spend money here year round. It will help that. This amendment will bring more diversity to our housing stock.

Mr. Sollog asked if the Selectmen made a decision about the residential tax abatement. Are condos included? The answer was yes.

Karen Kirby said it is good news that other property owners have already started upgrading on Beach Point. She was able to insulate her house and a grant helped cover the cost.

Mr. Riemer brought up the subject of subdivision rules and regulations and asked how condos comply with these regulations. Town Attorney Silverstein said the concern about whether or not a converted cottage colony would have to comply with subdivision rules, from a legal perspective, is no, they would not. It would be one lot with multiple homes, multi-family as opposed to multi-home. You already have a condo conversion bylaw. We are just talking about whether condos can be used year round. They have not been created by the subdivision bylaw. Mr. Sollog said safety is what Planning Board is concerned about. Does this create any hazard? Further discussion occurred about developments in a velocity flood zone.

Bob Weinstein, a member of the Board of Selectman, brought up the fundamentals: this proposal does not create any new units. They have to comply with health and numerous other regulations. He has a copy of the Truro Local Comprehensive Plan; we have the condo conversion plan, these met the requirements; condos do not come unto subdivision rules. The portion that talks about development is talking about units that are not in existence. The building commissioner can

speak to this. This all gets to one of our important goals— sustainability of our community. It is a very important step we should take. We can put another 100 children in our schools without changing anything. The questions that were out there three years ago have been answered.

Mr. Riemer asked if there a member of the water resources oversight committee, to present a pro or a con. They are not in support, but not against it either.

Mr. Kiernan asked about the language regarding seasonal use to year round use. He asked Town Counsel if it was a change of use. The purpose of the bylaw is authorizing the term of use. It is not really a change of use for zoning. Mr. Kiernan asked if the Planning Board would have to have site plan review. Mr. Silverstein said these were commercial properties in the past, once they were sold into separate ownership, they became like apartments and you are not adding roads.

Discussion continued on the legal status of the condos, special condo conversion permits issued by the ZBA and the year round issue. Mr. Kiernan asked about the legal status of the special permits issued by the ZBA. The answer was that they would still be in full force, but without the prohibition of year round. If the bylaw is changed, that part of the special permit goes away. Mr. Silverstein said the consensus was that another special permit would be onerous. Just an approval by the Board of Selectmen would be needed and then it would be recorded at the County. Mr. Kiernan said that you would have to put that in writing and it was noted that the language is already in there. Mr. Kiernan asked if the master deeds have to be changed. Russell Braun, Building Commissioner, responded and said, yes. Ms. Palmer said the covenants are the last steps in the conversion. The Board of Selectmen will have to vote to release the covenant. It's part of what they have to do. Is there any one place the owner can go to get all the codes? Mr. Braun said that staff is tasked with creating some sort of document or check list. We decided to be simple, codes change over time, and each property is different. We will be putting together a guide book or a check list. It will be important that people know what the rules are. There are many details to work out.

Mr. Kiernan asked about the Board of Selectmen issuing the permits. He asked if they are they also overseeing safety issues. The answer was no, staff will do that. Mr. Braun said there are a lot of "what ifs" in this process. There are properties where they are not going to be able to do this, due to the expense. There are a lot of moving parts. It's not going to be automatic. There will have to be a vote by property owners in their respective condo associations and the mortgagees will also have to be in agreement. As far as safety goes, building codes will have to be met. Many of these properties have substandard electric, so they will be reviewed on a case by case basis. None of this is a slam dunk. It will require some work. There is nothing in this bylaw that skips processes. If there are site improvements, there is nothing that will be skipped. The Board of Selectmen will hold hearings. Mr. Kiernan said he felt as though he was left out of the loop. Mr. Wisotzky said that every time the condo amendment was on their agenda, they had notified the Planning Board.

Discussion continued about changes from motel use to multi-family and the change in use that already occurred, including changes in regulations for such things as sprinkler systems and emergency escape windows. These new regulations would still be enforced. The Building Commissioner would have authority to require improvement in egress for condos going year round. Every property is different. We have started a check list, and it is very extensive.

The words “shall,” “will” and “may” were discussed. Ms. Palmer said they can change “may” to “will” or “shall.” The intent is for the Board of Selectmen to follow the lead of staff. There will be circumstances that determine when conditions will be necessary. They could add “if necessary.”

Mr. Kiernan said on Beach Point there have been a number of condo conversions that did not go through the proper process. Mr. Silverstein said that the amendment only allows year round when there is already a special permit in place for conversion. They would have to go for a special permit from the ZBA. Discussion of the possible cost to the Town— Ms. Palmer does not believe there will be increase in cost to the Town. Condo owners already pay the same taxes as year round residents.

The condos have to be licensed. The question was, how does this incorporate into the growth management bylaw. Mr. Silverstein said that the growth management bylaw applies to new house construction, so the year round bylaw amendment does affect it.

Mr. Kiernan asked who applies for this permit, the owner or the association? Ms. Palmer said it depends. If the condo association approves, then individual owners can apply, or the association can apply.

Mr. Herridge says he thinks no one knows what the effects can be on our water and the beauty of Truro. He worries about the effect on Pilgrim Lake. He can't go along with this amendment.

Mr. Sollog closed the hearing at 7:09 pm. He asked if anyone wants to move this amendment.

Mr. Herridge said, “I move to recommend the AMENDMENT TO ZONING BYLAWS §40.3 CONVERSION OF COTTAGE OR CABIN COLONY, MOTOR COURT, MOTEL OR HOTEL to Town Meeting and to send a report to the Board of Selectmen stating our support for the article with amendments.” Ms. Tosh seconded the motion. Mr. Kiernan said because of flood zones and lack of notification of abutters, he can't support the motion. So voted, 2-4-1. Motioned failed. (Mr. Sollog and Ms. Tosh voted in favor. Mr. Herridge, Mr. Kiernan, Mr. Riemer, and Mr. Boleyn voted against. Mr. Roderick abstained.)

#### **Public Hearing on Administrative Amendments to Zoning Bylaw and Subdivision**

**Regulations** The Planning Board will hold a public hearing on proposed amendments to the Town of Truro Zoning Bylaw which would add new language to Sections §70.3E and §70.4F on

Waiver of Information Requirements and Section 11 of the Sign Code and to take comments on proposed amendments to the Rules and Regulations Governing the Subdivision of Land which would make changes to Sections 2.5.2.7 and 2.5.2.8 on the Submission Requirements for Definitive Plans. The proposed changes are available for public viewing at the Board of Selectmen's Office, the Clerk's Office and in the Planning Office at Truro Town Hall, 24 Town Hall Road Truro from 8 AM to 4 PM Monday through Friday and at [www.truro-ma.gov/planning-board](http://www.truro-ma.gov/planning-board).

Ms. Harper said that the administrative amendments on the subdivision rules and regulations do not need to go to the Town Meeting. She explained these amendments and amendments.

Mr. Herridge moved and Mr. Riemer seconded, "to approve the changes to Section 2.5.2.7 on Submission Requirements for Definitive Plans so that the Section 2.5.2.7 reads: A list of requested waivers from these Rules and Regulations consistent with §1.5, if applicable, and a narrative explanation detailing the reasons for such waivers and the bases for finding that such waivers are in the public interest." So voted, 7-0.

Mr. Herridge moved and Mr. Riemer seconded "to approve the following sentence be deleted from Section 2.5.2.8 on Submission Requirements for Definitive Plans 'A computer disk containing a file of the subdivision in either .DWG or .DXF file format.' and the following language be inserted so that Section 2.5.2.8 reads: A digital copy of the subdivision application and accompanying plans in PDF format. This digital copy shall be sent to the Planning Department within 1 business day of the paper filing at the Town Clerk's Office. In addition, the Board and/or its consultants may require submission of the plans and other relevant documents in CAD or other formats." So voted, 7-0.

Ms. Harper also explained the administrative changes to the Zoning Bylaws. Mr. Herridge moved and Ms. Tosh seconded, "to recommend the Amendments to ZONING BYLAWS §70.3E WAIVER OF INFORMATION REQUIREMENTS to Town Meeting and to send a report to the Board of Selectmen stating our support for the article." So voted, 7-0

Mr. Herridge moved and Ms. Tosh seconded, "to recommend the AMENDMENTS TO ZONING BYLAWS §70.4F WAIVER OF INFORMATION REQUIREMENTS to Town Meeting and to send a report to the Board of Selectmen stating our support for the article." So voted, 7-0.

Mr. Herridge moved and Ms. Tosh seconded, "to recommend the AMENDMENTS TO THE SIGN CODE SECTION 11 TEMPORARY SIGNS, ETC. to Town Meeting and to send a report to the Board of Selectmen stating our support for the article." So voted, 7-0.

**Public Hearing - §10.4 Definitions, §50.2 Total Gross Floor Area in all Districts other than the Seashore District** The Planning Board will hold a public hearing on proposed amendments to the Town of Truro Zoning Bylaw which would add a new definition of Total Gross Floor Area

in §10.4, Definitions and add a new Section §50.2, Total Gross Floor Area in all Districts other than the Seashore District. These amendments would change the maximum size of residential buildings on lots within the Town of Truro by establishing a relationship between building volume, bulk and size that is consistent with Truro's historical development and character. The proposed changes are available for public viewing at the Board of Selectmen's Office, the Clerk's Office and in the Planning Office at Truro Town Hall, 24 Town Hall Road Truro from 8 AM to 4 PM Monday through Friday and at [www.truro-ma.gov/planning-board](http://www.truro-ma.gov/planning-board).

Mr. Sollog introduced the hearing. He spoke about how the real problem is with houses outside the Seashore. We are charged with conserving Truro. The law says you can't regulate the interior. We can however, regulate building size according to lot size.

Mr. Lucy came forward and talked about why he disagrees with the proposed zoning bylaw. Mr. Silverstein, said that case law talks about the concept of floor area ratio of a home. The court said that floor area ratios can limit square footage of a home. It regulates bulk according to size of lot. It is not a set maximum square footage. The original purpose was to prevent towns from imposing a minimum.

Mr. Sollog said 3/4 acre allows 3150 of living space. Mr. Lucy said that this opens the door to lawsuits. He thinks the Planning Board is regulating what he can do in his house, because you are regulating interior space. He also asked why they are excluding de-attached garages. Mr. Sollog said we are not counting garages. Mr. Lucy brought up the ADU. There was discussion about exempting ADU's and Affordable properties. Mr. Lucy also took issue with why, if they are trying to prevent 10,000 square foot homes, they are dropping the limit all the way down to 3,200 square feet. Mr. Kiernan said the numbers were place holders. He proposed we change the numbers, and add two provisions, a section E and F about ADUs and affordable housing.

The next question was, how many homes will be newly pre-existing non-conforming if this amendment passes? Ann Greenbush came forward, and said we don't have that number. We can say that for the seashore, there would be 11.5% over. Town wide, there are almost the same; it is similar to the Seashore.

Ms. Harper said we are moving in the policy direction. Can we let our Town Counsel go home? Members of the public asked that he remain on the line.

David Drinkwater, a resident who comes down part-time, came forward. He said he is a non-voter. He is not in favor of this amendment. He thinks there is a lot more work that needs to be done on it. He said he didn't think it was appropriate the way Mr. Lucy was treated by Planning Board members. He said, you are trying to avoid another 10,000 square foot house being built yet your proposal is significantly smaller. Stopping the construction of large buildings is not addressing affordability. We are so far beyond that. The number of houses oversized, since 2002, is not that significant. There might be a few outliers. Individuals who live in the Seashore have always known there would be limits. Limits in town have always been shot down. The

numbers are far too restrictive. You should have a public hearing during the summer. I came down for the first forum, and it was cancelled due to snow. I was hoping that by now it would be understood that there is no consensus. He believes his property values will decline and the Planning Board's efforts are premature. You should get it right; not just try to get it fast. There are other issues, like roads, that need your attention first.

Deborah Parker came up and said she went to a previous public meeting. She doesn't think 3,200 square feet is small or a burden. She's for the proposed bylaw.

Mr. Sollog said that through the survey they found that people do want this.

Mr. Kiernan suggested bumping the limit up to 5,000 square feet, with, by right 3,600. Discussion followed about exclusions of cellars, basements, etc.

Mr. Drinkwater asked how it goes up according to lot size? If it gets another acre, 200 sq ft. Could the ZBA could allow 5,000 square feet?

Mr. Kiernan brought up the fact that we have to do bylaws for cannabis, so we could continue to work on this for the next six months and include it in a special town meeting for zoning in the fall.

Mr. Drinkwater said that if you are going to use a sliding scale, use the health codes regarding bedrooms. You could create harmony in the town. Mr. Sollog said he thinks their proposal is fair. Mr. Drinkwater stated that he feels Mr. Sollog has not been as neutral as he should be as chair of the Planning Board.

Mr. Drinkwater said the survey was set up to get the answers the Board wanted. Deborah Parker said she thinks we should re-poll. You might want to do another questionnaire.

Mr. Sollog said there would not be a two year waiting period if the bylaw failed. But of course it sets a precedent. Mr. Silverstein said that you could continue the hearing and still send the bylaw to town meeting. Mr. Sollog said maybe we should continue the hearing. Ms. Harper asked if the decision can be postponed. Mr. Silverstein said yes they can do that.

Mr. Boleyn said he would like to wait till a fall meeting. It would be better than to act in haste. Mr. Riemer would like to continue it to the next meeting, with a 48 hour posting of the continuance. Ms. Tosh thinks we need more time. She appreciated Mr. Drinkwater's comments. She thought Mr. Lucy was being argumentative. She is favor of waiting. Mr. Herridge thinks we should take more time. We should find out what sizes people would vote for. It was agreed to keep the hearing open.

Mr. Silverstien said the warrant is separate from keeping the hearing open. The Board of Selectmen are responsible for putting it on the warrant.



Ms. Harper recommended to close the hearing and work on the bylaw in the summer and fall to put it on the warrant for the Fall Town Meeting fall town meeting.

Mr. Sollog closed the hearing.

Mr. Herridge made a motion to close the hearing and wait until a possible fall Town Meeting, Mr. Boleyn seconded. So moved 7-0. Motion carried.

### **Review and Approval of Meeting Minutes**

February 21, 2018

Mr. Boleyn made a motion to approve the minutes of February 21 as written. Mr. Kiernan seconded. So voted, 6-0-1 (Mr. Sollog abstained)

### **Reports from Board Members and Staff**

#### **Town Planner Report**

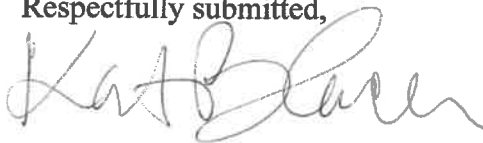
Ms. Harper talked about upcoming projects, an application from Sprint, to replace equipment of the tower. The building commissioner denied their application. Section 40.5 #17 requires the applicant consult with the Planning Board. Ms. Harper asked the Board how they wanted to proceed. Do you want the applicant to come in and meet with you? The Board agreed that they did not want to require a pre-meeting.

There is an upcoming application from Hatch Road and another submission from White Sands.

The next agenda is a busy one, cannabis, signs, driveway to Ocean bluff (the building there sustained damage from wind recently). Mr. Riemer asked if a liaison to the Water Resources Board could be placed on the next agenda. Ms. Harper will check on that.

Mr. Herridge made a motion to adjourn, Mr. Boleyn seconded. So voted, 7-0. Meeting adjourned at 9:15 pm.

Respectfully submitted,



Katherine Black

