

**TOWN OF TRURO
PLANNING BOARD
Meeting Minutes
February 20, 2019, 5:00 pm
Truro Town Hall**

Board Members Present:

Chair S. Sollog
Vice Chair K. Tosh
Member B. Boleyn
Member P. Herridge
Member P. Kiernan
Member J. Riemer
Member M. Roderick

Other Participants:

Chris Lucy, 16 Glacier Dr.
Kristen Roberts, owner of 9 Shore Rd.
Art Hultin, builder
Mark Peters, abutter to 9 Shore Rd.
Heidi Merlini, owner of 41 Highland Rd.
Christopher Townsend, owner of 41 Highland Rd.
Atty Eliza Cox, Nutter McClennen & Fish Law Firm
Malachi Connolly, architect
Steve Parker, Town Planner

Meeting convened at 5:05 pm by Chair Sollog.

Public Comment Period

Chair Sollog asks if anyone would like to come forward for public comment.

Chris Lucy of 16 Glacier Dr. comes forward with a complaint. He says that the Planning Board has not reached out to people to help understand the ADU bylaw. He also says that the Board is false in thinking that the bylaw may not have been vetted by Town Hall. Mr. Lucy speaks of the process the bylaw went through.

Public Hearing – 2019-002 SPR Kristen Roberts for Roberts Family Property LLC. Applicant seeks approval of a Commercial Development Site Plan pursuant to Section 70.3 of the Truro Zoning Bylaw to construct a new storage building of 3, 712 square feet on existing raw land parcel of 40,135 square feet, and agricultural planting for farm winery business. The property is located at 9 Shore Road, Atlas Map 39, Parcel 137.

Kristen Roberts comes forward with plans for a storage facility. She speaks of the clearing of trees on some of the lot in question, which is currently wooded.

Art Hultin, builder, comments on the basic nature of the warehouse. He also says that there is no clearing of trees beyond where the construction of the storage facility will be.

Ms. Roberts discusses the planned apple tree terrace, a natural barrier with a neighbor meant to be visually pleasant and serve an agricultural purpose in the crafting of future products.

Member Kiernan asks if there will be parking on the property. Ms. Roberts says there is no current plan to include parking, though when asked by Mr. Kiernan, says it could be used for overflow. Mr. Hultin corrects Ms. Roberts in saying that there are 4 planned designated parking spots on the property.

Member Kiernan asks if there will be any septic on the property and Mr. Hultin replies that there will be no water use. Ms. Roberts says that they have brought up with the Board of Health that no septic or drainage was required with the intended use of the lot.

Member Riemer asks if it is an oversight that there is no zoning information included with the plans. Mr. Hultin says that the lot is part of the established farm and not believed to affect zoning in any way. Mr. Riemer says the zoning information would be required on a plan. He asks if the lot is within the zone of contribution for the water supply for that to be included on a plan.

Chair Sollog would prefer to see the property and continue the hearing to another meeting but first wishes to give any abutters a chance to speak about the plans. Mr. Hultin offers for anyone interested to look at the drawings for the plans of the barn. Mr. Sollog wants to know if Ms. Roberts is aware that the Health Agent has required there to be a spill control, Ms. Roberts is aware.

Mark Peters, the abutter, comes forward. He says that the vineyard have been excellent neighbors and when the property was purchased, they asked for his input on development. He endorses the project and believes even that the planting of apple trees would be beneficial to the neighborhood.

Member Boleyn makes a motion to approve a site visit for Monday, February 25 at 2:30 pm. Vice Chair Tosh seconds. So voted, 7-0-0. Motion carries.

Vice Chair Tosh makes a motion to continue the hearing to March 20, 2019. Member Boleyn seconds. So voted, 7-0-0. Motion carries.

***Continued Public Hearing 2019-001 SPR Heidi Merlini and Christopher Townsend.
Applicants seek approval pursuant to Section 70.4 of the Truro Zoning Bylaw, Seashore District, for the construction of an accessory dwelling unit on the same lot as their primary***

dwelling unit. The property is located at 41 Highland Road, Atlas Map 36, Parcel 183.

Continued Public Hearing 2018-006 PB Heidi Merlini and Christopher Townsend. Applicants seek approval, pursuant to Section 40.2 of the Truro Zoning Bylaws, for the construction of an accessory dwelling unit on the same lot as their primary dwelling unit. The property is located at 41 Highland Road, Atlas Map 36, Parcel 183.

Chair Sollog opens both public hearings so they may be discussed concurrently, but action will be taken on them separately.

Heidi Merlini and Christopher Townsend, owners of 41 Highland Rd. come forward.

Vice Chair Tosh has some concerns about the ADU being incidental to the primary unit. She believes it appears the new structure is twice as high as the primary and more than 1000 square feet. She says that the National Seashore has said an ADU on the property, being within the Seashore, is in violation of federal law.

Member Roderick agrees with Vice Chair Tosh and doesn't believe the board should grant a permit for something in violation of federal law.

Member Kiernan discusses the complications of this situation. He says he would be willing to vote for the site plan review and ADU with two conditions: that there is no shower or tub within the first floor bathroom, and that prior to applying for a building permit the applicant shall furnish a written approval from the Cape Cod National Seashore that the proposed project complies with all the requirements of the 1962 Federal Zoning Standards Regulation CFR, Part 27.

Chair Sollog reads a letter response from the National Seashore and asks if the applicants are aware of it, which they are.

Chair Sollog asks if the removal of the shower on the first floor would be possible. Mr. Townsend says that it would and has been the intention since the beginning of a new plan as it is not needed.

Mr. Townsend says that their attorney Benjamin Zehnder has directed the applicants to focus on the National Seashore after the Planning Board grants a permit. Mr. Townsend and Ms. Merlini believe they meet all the requirements for the ADU and that step one is getting the permit from the Board and then moving on to making their case to the Seashore. Ms. Merlini says that both applicants are well aware of the situation with the Seashore.

Member Riemer quotes the definition of an ADU. He is concerned that this planned structure doesn't meet the definition of accessory.

Mr. Townsend says they have future plans to expand their small house to be closer to the size of the planned ADU and that seeing the accessory unit as being larger than the primary unit isn't something the Board should get hung up on. A lot of the downstairs area is also for work on Mr. Townsend's lobster traps and future business plans.

Chris Lucy comes forward and asks for the second reason given by counsel's letter that the ADU could be permitted.

Chair Sollog reads the paragraph from the letter.

Mr. Lucy states that Town Counsel has also written that the Planning Board is not in charge of reinforcing the acts of the Seashore and reasons that the ADU could be allowed. He argues using language from the bylaw that the Planning Board must allow it.

Member Riemer reads town language that states an accessory building cannot be larger than the primary dwelling unit, something that has him concerned with the size of the planned ADU. He also says that the accessory unit, described as a barn, is used exclusively for the storage of farm products or sheltering of livestock and farm equipment. Mr. Riemer says none of those uses have been proposed here tonight yet.

Mr. Townsend says that by government definition he is considered a farmer.

Art Hultin comes forward. He says that he would disagree with the interpretation of accessory use size restrictions because the proposed project is residential in use.

Member Riemer reads the definition of building accessory. He says that the use of "incidental" and "ancillary" in the language must make an accessory secondary and subordinate to the primary use. He doesn't see an interpretation of an accessory structure being larger than the primary as being possible.

Chair Sollog says that because the accessory dwelling area is not larger, the argument focuses on using the garage as being part of the size of the dwelling area when it would not be. He says that based on the facts the Board is compelled to provide a permit.

Member Kiernan asks what the current square footage of the upstairs space is. Mr. Townsend says it is 990.

Steve Roderick comes forward. He speaks in favor of the proposal. Mr. Roderick thinks that it would not be fair to block this proposal because the applicants would not be able to go to the Seashore to work through getting their permission if it was blocked here by the Town.

Member Kiernan makes a motion to close the Public Hearing for the ADU permit. Member Boleyn seconds. So voted, 7-0-0. Motion carries.

Member Kiernan makes a motion to close the Public Hearing for the Site Plan Review. Member Boleyn seconds. So voted, 7-0-0. Motion carries.

Mr. Townsend wishes to confirm that even though he will be granted the permit and the site plan review, he will need the Seashore's permission to go forward. Member Kiernan says that is so. Mr. Townsend says he is vehemently opposed to that. He says that he has been told by his attorney that if the Seashore is in opposition to what they do, they have a defense for that.

Chair Sollog responds that it is the responsibility of the Town to make sure Mr. Townsend and Ms. Merlini understand the risks involved. Mr. Sollog personally is willing to grant the permit and site plan review based on removing the tub and shower.

The board and the applicants take a moment to discuss.

Vice Chair Tosh clarifies that the site plan review is what is conditioned. Member Riemer believes that the bylaw does allow for requiring conditions on ADU permits. Ms. Tosh says she believes that is in relation to the language of the bylaw. Member Kiernan asks Ms. Tosh if she thinks it is reasonable to condition site plans upon Seashore approval. She does and sees it as the norm in similar cases. Member Herridge agrees.

Member Kiernan says that he wants to take precautions on behalf of the applicant. He would be willing to make a motion to approve the permit now, with the conditions. Mr. Townsend reiterates that he does not agree that the Seashore's permission should be a condition.

Member Kiernan makes a motion to approve the ADU permit with the following conditions: that there be no shower or tub within the first floor bathroom, prior to applying for a building permit, the applicant shall furnish written approval from the Cape Cod National Seashore that the proposed project complies with all the requirements of the 1962 Federal Zoning Standards Regulation 36 CFR Pt. 27, and the ADU shall not exceed 990 square feet. Member Reimer seconds. So voted, 5-2-0. Motion carries.

Member Kiernan makes a motion to approve the Site Plan as amended, with the following conditions: that there be no shower or tub within the first floor bathroom, prior to applying for a building permit, the applicant shall furnish written approval from the Cape Cod National Seashore that the proposed project complies with all the requirements of the 1962 Federal Zoning Standards Regulation 36 CFR Pt. 27, and the ADU shall not exceed 990 square feet. Member Boleyn seconds. So voted, 5-2-0. Motion carries.

Continued Public Hearing 2018-004 SPR Stephen Reily and Emily Bingham. Applicants seek approval under Section 70.4 of the Truro Zoning Bylaw for the expansion of an existing single-family dwelling and the reconstruction of an existing guest house on the property located 81 Slough Pond Road, Atlas Map 61, Parcel 16.

Eliza Cox, atty representing the applicants, and Malachi Connolly come forward. Ms. Cox gives a brief history of coming before the board. She points out to the board a suggested amendment to a previous condition. Member Kiernan also suggests an edit to a spelling error. Vice Chair Tosh suggests the striking of some adjectives in findings of fact.

Chair Sollog asks if there are plans to revegetate around the cottage. Mr. Connolly says primarily blueberry bushes would be used.

Member Riemer asks if the existing cottage will require relief from the Zoning Board of Appeals. Atty Cox responds that it will not because it is pre-existing non-conforming.

Member Kiernan makes a motion to close the public hearing. Member Herridge seconds. So voted, 7-0-0. Motion carries.

Vice Chair Tosh makes a motion to approve the site plan under Section 70.4 of the Truro Zoning Bylaw for the expansion of an existing single-family dwelling and the reconstruction of an existing guest house on the property located at 81 Slough Pond Road, Atlas Map 61, Parcel 16 adopting the proposed findings and conditions as amended by correcting the spelling of the Massachusetts Division of Fisheries and omitting in paragraph 12 the word "only" and "well", and in paragraph 13 the word "well" in the final sentence, and in paragraph 16 the word "modest" as describing the guest cottage. Member Kiernan seconds. Motion pending.

Chair Sollog asks if the total square footage can be definitively stated for the Board. Mr. Connolly says it is 3,698.

Member Riemer asks if the Board should take any concern with when the project begins or ends or road access to the site once the project is finished.

Chair Sollog asks if there are any plans when the entire project is finished to, for example, resurface the entire driveway to make access easier. Mr. Connolly replies that they have careful direction planned for trucks and so forth as to not disturb certain things during construction, but as for after the project it's really a discussion with the owner as to what to do for an access way.

Pending motion is put to a vote. So voted, 7-0-0. Motion carries.

Continued Public Hearing 2018-003 SPR Maria Kuliopolos, White Sands Beach Club, Inc. Applicant seeks approval of a Commercial Development Site Plan pursuant to Section 70.3 of the Truro Zoning Bylaw to maintain existing uses and structures, reduce the number of units to 44 and construct a replacement structure. The property is located at 706 Shore Road, Atlas Map 1, Parcel 5.

Steve Parker, Town Planner, says that the applicant has requested the item be continued to March 20, 2019. The peer review process with an engineer is ongoing and will hopefully be completed prior to that meeting.

Member Kiernan makes a motion to continue to March 20, 2019. Member Boleyn seconds. So voted, 7-0-0. Motion carries.

Discussion

Member Kiernan would like to see another workshop. Chair Sollog is very much in favor of the idea and sees it as a benefit to citizens.

Approval of Meeting Minutes September 24, 2018

Vice Chair Tosh makes a motion to approve the minutes as written. Member Riemer seconds. So voted, 4-0-3. Motion carries.

Approval of Meeting Minutes October 30, 2018

Member Riemer makes a motion to approve the minutes as written. Member Kiernan seconds. So voted, 6-0-1. Motion carries.

Member Kiernan makes a motion to adjourn. Vice Chair Tosh seconds. So voted, 7-0-0. Motion Carries.

Respectfully Submitted



Paxton Green

