

**TOWN OF TRURO  
PLANNING BOARD  
Meeting Minutes  
May 1, 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**

**Other Participants:**

**Steve Parker, Town Planner  
Atty Robin B. Reid  
Clinton Kershaw, applicant  
Atty Ben Zehnder  
Stephanie Sequin, engineer Ryder & Wilcox  
John Haven, landscape designer LeBlanc Jones Landscape Architects  
David Stern, architect  
Atty Andrew Singer  
Dan Silva, Applicant  
Jon Salvador, friend of Applicant  
Keith Silva, Truro resident  
Claire Perry, Truro resident  
Richard Perry, Truro resident  
Raphael Richter, Truro resident  
Atty Dina Brown  
Chris Lucy, Truro resident  
John DeMasi, Truro resident  
Linda DeMasi, Truro resident  
Kristen Reed, Truro resident  
Bob Weinstein, Truro resident  
Bill Golden, Truro resident  
Amy Paine, Truro resident  
Josiah Mayo, Truro resident  
David Del Gizzi, Truro resident  
Michael Silva, Truro resident  
Daniel Ojala, engineer Outer Cape Engineering  
Atty Vaquero  
Jennifer Cohen, Truro resident  
Regan McCarthy, Truro resident**

**Meeting convened at 5:01 pm by Chair Sollog.**

### **Public Comment Period**

No one comes forward for public comment.

#### **1. Public Hearing**

**2019-001/PB Accessory Dwelling Unit, Clinton Kershaw, 9 Highland Ave.**

***Applicant is seeking approval of an application for an Accessory Dwelling Unit (ADU) permit pursuant to Section 40.2 of the Truro Zoning Bylaws. The property is located at 9 Highland Avenue, Map 22, Parcel 35, and includes 2 existing structures.***

Attorney Robin B. Reid representing the applicant and the property owner Clinton Kershaw come forward. They would like to schedule a site visit.

A site visit is scheduled for May 3, 2019 at 9:30 am.

**Vice Chair Tosh makes a motion that the hearing be continued to May 22, 2019 and that a site visit be scheduled for May 3, 2019 at 9:30 am. Member Boleyn seconds. So voted, 6-0-0. Motion carries.**

#### **2. Public Hearing**

**2019-004 SPR Daniel Carbonneau and Melinda Tuffy, Tr.**

***Applicant seeks approval of a Residential Development Site Plan pursuant to Section 70.4, Seashore District, of the Truro Zoning Bylaws. The property is located at 157 Slough Pond Road, Map 62, Parcel 5.***

Attorney Ben Zehnder comes forward representing the applicants. In the audience are Stephanie Sequin, engineer, John Haven, landscape designer, and David Stern, architect. The Board would like to schedule a site visit tonight and Atty Zehnder also wishes to present the information on the property.

The Board discusses if they are satisfied with the application. Chair Sollog and Vice Chair Tosh are. Members Boleyn and Reimer would like a site visit.

Atty Zehnder continues with his brief presentation of the applicant's plans.

David Stern comes forward to speak of the design and its simplicity and conformation to existing neighborhood designs.

John Haven comes forward to speak about the landscape design.

Stephanie Sequin comes forward and speaks about the distance between the home and the edge of a dune and beach erosion 200 feet from the proposed home.

Member Kiernan clarifies with the applicants which septic plan is in use and that the garage is being built on a slab.

**Vice Chair Tosh makes a motion to continue the public hearing to May 22, 2019 and schedule a site visit for May 3, 2019 at 12:00 PM. (No second) So voted, 6-0-0. Motion carries.**

### **3. Continued Public Hearing**

#### **2019-003/SPR Tradesmen's Park South, 298 Route 6.**

***Applicant seeks approval for Commercial Site Plan review pursuant to Section 70.3 of the Truro Zoning Bylaw for the development of two (2) steel framed buildings. The buildings will include a total of twelve (12) contractor bays and one hundred and eight (108) climate controlled self-storage units. The buildings include two (2) stories. The property is located at 298 Route 6, Map 43, Parcel 57.***

Attorney Andrew Singer, Dan Silva, the applicant, and Jon Salvador, a friend of the applicant come forward.

Atty Singer speaks to the approval of the proposed use of the property and its endorsement in the Local Comprehensive Plan. In addressing concerns raised last meeting over the protection of the water supply, Mr. Singer attests to the project meeting the standards of the Water Resource Protection District, even though the property is not within that district. The applicants propose having emergency spill kits on site, one per building. They secondly propose that a monitoring well be included at the southwest portion of the site. Lastly, based on a recommendation from Health Agent Emily Bebe, the applicants propose a condition that all hazardous material be stored properly and subject to inspection. In addition, bays would have drains that lead to tight tanks so that any possible leakage would end up contained and not enter the ground water.

Atty Singer says that the peak trips in and out of the property would be 81 per day, with an AM average of 15 trips per hour. The applicants submit that the project is a low traffic generator. Mr. Singer goes over parking space dimensions and how keypad units work for getting into units.

After meeting with the attorney of the major opposers to the project, owners of the Truro Motor Inn, they expressed possible support for the proposal if some changes were made. Atty Singer says no response was given until a letter was received at 2:30 PM today, the day of the meeting. He says that the letter suggests severe rollbacks of the proposal, and if their desires are met, the property will effectively be unbuildable for anything.

Tim Brady, engineer, presents the updated parking plan to the Board at Member Kiernan's request. Mr. Kiernan expresses concern about the size of the turnaround for safety reasons and emergency vehicles. Mr. Brady says that under review from the Fire Chief, it was found safe. Member Kiernan asks for an updated plan noting the parking delineated for the individual units.

Keith Silva, Truro resident, comes forward and expresses frustration with the Board requesting changes after a long design process.

Claire and Richard Perry, Truro residents, come forward, concerned about the impact the project will have on water. Mrs. Perry speaks to how there wouldn't be water issues and concerns if the town water extended to the area in question, since there would be no risk of well contamination. She wishes for the Town to address those issues. Mr. Perry is concerned that surface water from the elevated property on which the proposed project will sit will run down into his own property and asks how the applicants would prevent his property from flooding in heavy rain.

Raphael Richter, Truro resident and current Tradesmen's Park tenant comes forward. He is in support of

the project and speaks to the enhancement of an oil stain image shown by the abutter's counsel at a previous Board meeting meant to highlight pollution issues. Mr. Richter also says that images of tires sitting outside one of the contractor bays is a normal process of building up useless tires throughout the year that are then recycled in the spring when new tires are ordered. He doesn't like to see local businesses move away from Truro because of lack of opportunity and hopes the Board gives an affirmative vote.

Attorney Dina Brown representing the abutters of the Truro Motor Inn comes forward. She clarifies the reason for an earlier mentioned late submittal of a letter being due to dealing with the traveling of her clients as well as personal injury and hospitalization while trying to organize meetings with engineers. Atty Brown doesn't believe that Route 6 general business zoning covers storage units and contractor bays. She states that contractor bays require an industrial permit within the zone, citing the most recent bylaw amendment. Her clients and herself conclude the application is premature, as no groundwater testing has been done, saying that experts say a septic system can't be properly cited without testing. Ms. Brown says those issues fall under the purview of the Board of Health but are critical to what the Planning Board is viewing. Truro bylaw also states the Board must evaluate the drainage system and Atty Brown questions how the Board could do so without the proper data from testing. She concludes that water usage and storm drainage statistics are under-represented and cites determinations from engineers to back those up. There is also the issue that a fire-suppression system will be required in these buildings and the well on the property is not equipped to handle such a system. Atty Brown says that will require water storage tanks which are not shown on the existing plan. She and abutters are also concerned that the well area could be harmed during the construction phase. There is no refuse removal currently planned that seems appropriate and Atty Brown would request a dumpster. She also is concerned about artist bays that might use paint, paint removers, and solvents, that have no proper disposal on site with the only water access being a bathroom sink.

Chris Lucy, Truro resident, comes forward. He says that the Cape Cod Commission did consider safety when it asked for removal of the road around the back of a building and cites the fire department's conclusion of the site's safety. He speaks to the flexibility of the proposed septic system and the failure of the property to the north of the proposed site to keep the quality of their own water in check, as well as the dumping of water onto the proposed site.

John DeMasi, Truro resident, comes forward. He asks why the businesses in the area are being screened. Member Kiernan replies that it was thought trees lining the side of the properties would benefit the community by making it look less industrial. Mr. DeMasi says that those screenings become a safety issue when they obscure sight lines, such as with traffic or in the event of a fire starting on one of the properties, so he would not support that in between the road and the project. He speaks to his experiences growing up in that area and his expectations of the character of the area and would support the new Tradesmen's Park.

Linda DeMasi, Truro resident, comes forward in support of the project. She also expresses the concern that businesses will leave Truro without opportunity, and also believes most hazards would be well-handled by the lease agreements and that most paints artists would use are a lot safer than one might think.

Kristen Reed, Truro resident, comes forward in support of the project and details her businesses operations at the existing Tradesmen's Park.

Bob Weinstein, Truro resident, comes forward in support of the project. He quotes from the Cape Cod Commission's letter approving the project, reading that the project will not generate significant waste, the water will be handled by a very capable septic system, the traffic generated on site from the storage use is minimal, and that runoff will be addressed.

Steve Parker, Town Planner, says that there is an inter-departmental review team in Truro and that the building commissioner stated the current zoning did allow for the proposed use of the applicant's project.

Bill Golden, Truro resident, comes forward and comments in favor of the project that the family had been operating the existing Tradesmen's Park fine for years as an important part of the community. He feels that the discussion will go around in circles with unnecessary anger.

Amy Paine, Truro resident, comes forward concerned about the water supply and the traffic. She thinks that large trucks coming down the hill from Wellfleet could see issues turning left into the property. Her main concern with the water is that the drinking water has possibility of contamination.

Clint Kershaw, Truro resident, comes forward in support of the project. He claims the aquifer is well-protected already with a lot of effort put towards the consideration of protecting the water.

Josiah Mayo, Truro resident, comes forward in support of the project. As a tenant of the existing Tradesmen's Park he speaks to the value to local businesses.

David Del Gizzi, owner of the Truro Motor Inn comes forward against the project. He speaks to concerns of engineers he spoke to about the location of the bioswale and the impact on local water supply. He hopes the Planning Board will take into consideration the opposition of many abutters to the project.

Michael Silva, Truro resident comes forward and speaks in favor of the project.

Atty Singer states that there is a misconception about the contractor bays, clarifying that there are only 12 bays designated as such. He says that the building's proposed use is permitted and that all water runoff is contained on site.

Member Riemer says that he was aware of the meeting with the Cape Cod Commission and called the Chair prior to discuss concerns with the application. Mr. Riemer was told some problems would be addressed, and some would be better addressed at a local level.

Vice Chair Tosh believes the project meets the requirements of Section 30.F of the Design Criteria and Guidelines and supports the project. She believes the project is low impact in use as well as permitted. Ms. Tosh speaks to all the analysis that the project has gone through.

**Vice Chair Tosh makes a motion to approve the site plan with conditions. Member Boleyn seconds. Motion is pending.**

Chair Sollog asks if Member Riemer was satisfied when speaking with the Chair of the Cape Cod Commission that his concerns were addressed. Mr. Riemer says that he feels they were and after reading the Commission's report he saw that the plans provided to the Commission were dated differently from

those the Planning Board reviewed.

Atty Singer responds that after local review, he returns to the Commission with what is called a Minor Amendment that they hopefully approve, so the dates on the plans the Commission has are adopted to correspond with the ones the Planning Board has when all is said and done.

**Vice Chair Tosh amends her pending motion to also grant the waivers requested: waiver of a ten-caliper tree, and waiver of refuse containers.**

Member Kiernan asks about access to the elevator on the plans. Engineer Tim Brady points out the access point. Member Kiernan suggests conditioning paved access to the elevator with a width of 6 feet and to widen the turnaround-t. He also wishes for the one-way traffic to be noted on the plan. Mr. Kiernan suggests hours of use for the contractor bays to be 7 AM to 7 PM. Restricting access to the storage units after 11 PM is discussed. Mr. Kiernan and Mr. Silva discuss snow removal and gas tank access.

Member Boleyn asks Member Kiernan if the safety concerns he had before the meeting have been addressed. Mr. Kiernan believes so.

Member Riemer asks how the Board may maintain that the landscaping plan is adhered to. Chair Sollog replies that in the past the Board has scheduled a site visit for one year after the plan's approval and if anything was found lacking, it would be addressed. The Board and Atty Singer discuss a condition for scheduling a site visit. It is decided to be 2 years after the first building opens for business.

Member Riemer asks if the location of the sign for the property can be pointed out.

Member Kiernan asks for both plans to reflect the location of a well that is on one plan. Mr. Kiernan would also like to see an updated plan and a list of conditions before the Chair signs the plan.

**The conditions that access to the elevator be paved approximately 6 feet, that the turnaround at the back of building 1 be extended to be longer and wider, that the sidewalks to the stairs at the back of building 2 be paved, that the contractor bay parking spaces per unit be identified, that the traffic flow be one-way, that the lighting be downward-facing and have motion detectors on the entry lights and timed exterior lighting turning off at 11 PM, that access to the storage units be restricted at 11 PM, that access to the contractor bays be 7 AM to 7 PM, that all runoff can be contained on site, that all Board of Health and Building Commissioner requirements be met: emergency spill kits, the well in the southwest corner, that there be a Planning Board Site visit two years after the opening of the first building, that the sign be free-standing and at the entrance to the lot, that it be confirmed to add the second well referenced on the site plan if needed, and that the plan be updated and a list of conditions submitted to the Planning Board by email through the Town Planner before the Board signs the plan, are put to a vote. So voted, 6-0-0. Conditions approved.**

**Chair Sollog closes the public hearing.**

**Vice Chair Tosh makes a motion to approve the site plan with the prior approved conditions and that the requirement of a ten-caliper tree be waived, the requirement of on-site refuse containers be waived, and that the requirement of a 24-foot aisle width on the plan also be waived. Member Boleyn seconds. So voted, 5-0-1. Motion carries. Member Herridge abstained.**

**Chair Sollog calls for a break at 8:15 PM.**

**Chair Sollog brings the Board back into session at 8:26 PM.**

**4. Approval Not Required Plan**

**2019-002/PB Michael A. Tribuna Jr. and Sr. 7 Parker Drive, Map 39, Parcel 171.**

**Applicant seeks to create 2 lots. Total land area is 1.93 acres.**

Daniel Ojala, an engineer of Outer Cape Engineering, and Attorney Vaquero representing the applicant come forward. Mr. Ojala describes the two lots to be created.

Vice Chair Tosh makes Mr. Ojala and Atty Vaquero aware of a letter of opposition from an attorney Ms. Tosh worked with 18 years prior and gives the applicants the option that she recuse herself if they would like. Both Mr. Ojala and Mr. Vaquero welcome her opinion and do not ask for her recusal.

Mr. Ojala explains how the frontage is considered. Vice Chair Tosh questions how some of the frontage is being counted. She also says that there is no access and even if the access can be added it needs to exist before the plans come before the Board. Atty Vaquero and Mr. Ojala claim that frontage doesn't need to be unobstructed and that the area can be cleared quickly and easily.

Member Herridge asks Atty Vaquero if he considers the issues raised in Mr. Kaplan's letter to the Board settled; Mr. Vaquero does not, as they are litigation letters.

Jennifer Cohen, Truro resident, comes forward in opposition. She believes several issues merit ANR denial: insufficient frontage, the court not yet deciding if there has been an extinguishment of the easement, illusory access to the lots, and the giving of easement away from the homeowner's association to a third party. She asks that the Board deny the application and require a full subdivision review.

Mr. Parker directs the Board to consider the issues of access and frontage.

Member Riemer says he has read two publications by the Department of Housing and Community Development, one overviews the subdivision, and the other being the ANR handbook. Drawing from those he says he could not approve this ANR, saying that access is illusory.

**Member Riemer makes a motion to deny the plan based on the issue of illusory access. Motion is pending.**

Mr. Ojala says that the hill was created and asks how the Board could say that there is no frontage. Mr. Parker says the issue is the current state of the lot, regardless of what was created prior. Mr. Ojala asks what standards the Board would hold the applicant to for the plan to work, in regards to grade and access.

**Vice Chair Tosh seconds the pending motion.**

Vice Chair Tosh describes her reasoning behind seeing frontage as inadequate and points it out on the plan.

Member Kiernan, who says he is familiar with the property, briefly explains its history. He says that use of Parker Drive cannot be sold. Atty Vaquero and Mr. Ojala argue that can be done under the easement. Mr. Kiernan points out an area that doesn't meet the 40-foot standard and Mr. Ojala replies that it may be a drafting error on that plan. The elevation of the property is discussed as it would relate to a 9% grade.

Regan McCarthy, Truro resident, comes forward. She says that their surveyor has determined the rise on the property is sharp. Ms. McCarthy says that the property is being constantly manipulated to suit the applicant without enough stability for members of the community to understand what they are proposing.

Ms. Cohen comes forward and says that the applicant is preparing too much for a subdivision that may not be granted, which is against Truro bylaws. She thinks that if the applicant is willing to change the grade in hopes that their plans be approved, that should be prohibited or relayed to the building inspector.

Mr. Ojala says that there is a big difference between changing the grade for an ANR than for the purposes of a subdivision.

Member Riemer says that the principal object of the subdivision control law is to ensure vehicle access to each lot for safety, convenience, and welfare. which he does not believe can be met here.

The wording of the pending motion is discussed as well as the possibility of a withdrawal without prejudice. It is decided that the appropriate course of action is to vote on the pending motion.

**The pending motion to deny the ANR plan on the basis of illusory access is put to a vote. So voted, 6-0-0. Motion carries.**

#### **5. Temporary Sign Permit Requests**

##### **A. Sustainable Cape: Educational Farmers Market, Highway and Veterans Memorial Field**

**Vice Chair Tosh makes a motion to approve the request. Member Kiernan seconds. So voted, 6-0-0. Motion carries.**

##### **B. Eric Spencer, Route 6 and Union Field Road**

**Member Herridge makes a motion to approve the request. Vice Chair Tosh seconds. So voted, 6-0-0. Motion carries.**

##### **C. Payomet Performing Arts, Intersection of S. Highland and Old Dewline Road**

**Vice Chair Tosh makes a motion to approve the request. Member Kiernan seconds. So voted, 6-0-0. Motion carries.**

##### **D. Outer Cape Chorale**

**Vice Chair Tosh makes a motion to approve the request. Member Kiernan seconds. So voted, 6-0-0. Motion carries.**

#### **6. Next Meeting**



**The next meeting is set for May 22, 2019 at 6:00 PM.**

**Member Herridge makes a motion to adjourn. Vice Chair Tosh seconds. So voted, 6-0-0. Meeting is adjourned.**

Respectfully Submitted,



Paxton Green

