

**TOWN OF TRURO  
PLANNING BOARD**  
Meeting Minutes  
May 6, 2020 – 6:00 pm  
REMOTE MEETING

Members Present (Quorum): Anne Greenbaum (Chair); Karen Tosh (Vice Chair); Jack Riemer (Clerk); R. Bruce Boleyn; Peter Herridge; Paul Kiernan; Steve Sollog

Members Absent: None

Other Participants: Jeffrey Ribeiro, AICP – Truro Town Planner

Remote meeting convened at 6:04 pm, Wednesday, May 6, 2020 by Chair Greenbaum. Chair Greenbaum stated this is a virtual meeting which is being broadcast live on Truro TV Channel 18 and being recorded. Town Planner, Jeffrey Ribeiro, reiterated where to watch this meeting, how to access it, and to provide comment during the meeting by calling toll free (877) 568-4106 and entering the access code 505-772-437. The telephone number and access code were repeated, and he noted that a slight delay of 15 to 30 seconds between the meeting and the live stream television broadcast might be experienced. He also noted that if you are calling in to please lower the volume on your computer or television during public comments so they may be heard clearly and to also identify yourself so multiple calls can be managed effectively. Citizens may provide public comment for this meeting by emailing [jribeiro@truro-ma.gov](mailto:jribeiro@truro-ma.gov) with your comments. The emails are being checked live during the meeting, so this is another way to contact us.

Chair Greenbaum took a roll call of members; all present.

**Public Comment Period**

Public comment, for things not on the agenda, the caller on the line stated not I.

Member Sollog stated he had something that was not on the agenda. He had received a phone call from Dan Silva pertaining to Tradesmen's Park II. He asked for the Planning Board, or the Building Inspector, to make some decision so that he could be provided with a Certificate of Occupancy for the first building built. Member Sollog believes some research is necessary and that this needs to go on an agenda. Town Planner Ribeiro stated that he is actively working on that and would be in touch with them tomorrow. He has also been in contact with the Cape Cod Commission because it is a development with regional impact, and he has also been working with the Building Commissioner on that. Town Planner Ribeiro does not know the extent the decision was phased, needs to review the project file, and can then give the Board an update at their next meeting. If this needs to be on the next meeting agenda, it will be added.

### **Public Hearing – Continued**

Chair Greenbaum read case **2019-006/PB – Abigail B. Schirmer, Audrey Schirmer, and Joseph M. Schirmer** seek approval of a Preliminary Subdivision Plan of Land, pursuant to G.L. c. 41, §81S and §2.4 of the Town of Truro Rules and Regulations Governing the Subdivision of Land with respect to property at Route 6 and Amity Lane, Truro, MA, Map 46, Parcel 8. Town Planner Ribeiro stated that this case is being continued; we have time extensions through June; and the special Legislation that went through at the State also tolls all time periods. We are continuing to work with the applicant, and the engineer for the applicant is still working to identify those trees, so this will be brought back at the next meeting. This case will be continued to the next meeting, and it is likely it will be continued again. Chair Greenbaum stated she had a motion to continue and moved to continue case **2019-006/PB** to the regularly scheduled meeting of May 20, 2020 at 6:00 pm. Member Boleyn seconded. Chair Greenbaum asked if there was any discussion; there was none. Voted all in favor by roll call vote, none opposed, none absent. So voted: 7-0-0.

Chair Greenbaum read case **2020-001/PB – Nathan A. Nickerson III** seeks approval of a Definitive Subdivision Plan of Land, pursuant to G.L. c. 41, §81T and §2.5 of the Town of Truro Rules and Regulations Governing the Subdivision of Land with respect to property at 4-H Bay View Road and 3 Laura's Way, Truro, MA, Map 39, Parcels 77 and 325. Town Planner Ribeiro stated that this case is being continued; he has been in contact with the applicant as well as some of the abutters; we have time extensions through June; and in addition to that there is the special Legislation. Attorney David Reid has called in with comments regarding the extension and not substantive to the case. Attorney Reid referenced his letter of May 4 indicating that he has been involved in this case for several years now, and that he would not be available on May 20. If the Planning Board believes that meeting would go substantively, he requests that it be continued to the following meeting rather than the 20<sup>th</sup>. Chair Greenbaum ask Attorney Reid who he was representing, to which Attorney Reid replied Shelley Fischel, 15 Sawyer Grove Road, an immediate abutter to the new entranceway into the subdivision. Town Planner Ribeiro stated that they will make sure any interested party or member of the general public will have opportunity to comment on the case. For now, the case will be continued meeting to meeting. It is an ongoing discussion with Town Counsel and our tech to make sure there is adequate means of public participation for any hearing. Chair Greenbaum reiterated, that for consistency, continue to the May 20<sup>th</sup> meeting with the assumption that it is likely there will be no substantive work done at that meeting, and if there is an actual public hearing there would be a second day of public hearings where Attorney Reid would be available. Chair Greenbaum made a motion to continue to May 20<sup>th</sup>. Member Boleyn seconded. Voted all in favor by roll call vote, none opposed, none absent. So voted: 7-0-0.

A site visit is needed for the Nickerson subdivision. The Board and Town Planner Ribeiro discussed how future meetings, public hearings, and site visits may be held. Town Planner Ribeiro believes that holding public meetings, for work session items, are straightforward but public hearings are difficult. He has some concerns as Truro has some unique challenges. He believes Town Counsel is still advising against holding virtual public hearings; the State Legislation allows you to do so, but it also doesn't require that you do so; and all these timelines are full. If we are not holding public hearings, he and Chair Greenbaum have discussed options for site visits.

Chair Greenbaum asked the Board for reactions and thoughts regarding the public hearing process. Member Kiernan thought it could be very difficult. Sometimes during a public hearing, you are shown new pieces of evidence. In a virtual hearing this evidence cannot be passed around and may even be unfair to some people. Member Sollog asked if there was a limit in the GoToMeeting application for number of participants. Town Planner Ribeiro believes that the limit is 251. Since a meeting cannot occur with more than 10 people, there is something called a hybrid hearing where individual remote and location remote (e.g., Community Center) participation can occur. There will be challenges and also it will be slower. Member Boleyn agreed with Member Kiernan in that fairness is extraordinarily important to everyone – the petitioners, audience, callers – and the importance of fairness cannot be diluted here. Chair Greenbaum stated that there are people in Truro that cannot participate in a virtual meeting. For now, Town Planner Ribeiro suggests the Board continue this holding pattern; to continually assess; he will be in contact with Town Counsel; and on the 20<sup>th</sup> discuss where stand.

Chair Greenbaum would like to discuss, or brainstorm, how to do site visits moving forward under the current conditions or something similar. She and Town Planner Ribeiro have talked about a couple of different concepts: virtual – someone out there with a video camera; individual or small group; whole Board doing social distancing. Member Kiernan stated that site visits can be very informative and feels everyone could keep a social distance – masks, gloves, 6 feet. If other towns are doing site visits, find out how they are doing them, and use what works for us. Member Herridge agrees that site visits can be done if they stay 6 feet apart and all wear masks. Vice Chair Tosh suggested that a point person do the site visit and write up a report for the rest of the Board to review as she doesn't believe 6 feet distance is enough. Chair Greenbaum is not in favor of the whole Board going to a site visit. Vice Chair Tosh's idea is an interesting way to get good information without putting everyone in a potentially compromising position. Pairs could work. Town Planner Ribeiro said this buddy system – keeping each other within sight – along with detailed plans could work. But again, since there are no hearings, hold off on the site visits for now. Member Herridge stated that the purpose of a site visit is to see it for yourself, so he prefers to go himself. Chair Greenbaum brought up the previous discussion of what other towns are doing for site visits, and Town Planner Ribeiro stated he would ask the site visit question for the Board.

Chair Greenbaum asked Town Planner Ribeiro to address the Agenda item: Vote to authorize the Chair to schedule or reschedule public hearings. He stated that as part of the Municipalities Bill that the Legislature passed, there is a section relating to permitting. One of the things it allows for is that should the Board so authorize, the Chair can schedule and reschedule public hearings as needed. It provides a level of safety should something happen, e.g., with technology, and during these unknown times to have it as an option that doesn't have to be used even if authorized is highly recommended. He feels this gives them a failsafe for procedural issues should they arise. Chair Greenbaum stated this is good as a back-up, a just-in-case not an instead-of the Board making these decisions. Chair Greenbaum asked for a motion. Member Kiernan moved to authorize the Chair to schedule or reschedule public hearings in accordance with Chapter 53 of the Acts of 2020, *An Act to Address Challenges Faced by Municipalities and State Authorities Resulting from COVID-19*. Seconded by Member Boleyn. No discussion. Voted all in favor by roll call vote, none opposed, none absent. So voted: 7-0-0.

Chair Greenbaum noted that the next Agenda item was discussion of the Annual Town Meeting, including potential discussion of the proposed amendments to the Zoning Bylaws. She stated she did not have the opportunity to review that part of the previous day's Select Board meeting. Town Planner Ribeiro stated there are still many concerns about holding a Town Meeting this year but there are some good reasons to do so – it is an ongoing discussion. We are still tentatively slated to hold a Town Meeting on June 23 with only financial articles and only legally required petitioned articles. Member Kiernan asked that if a petitioned article was coming to Town Meeting it would be moved to be tabled? Town Planner Ribeiro responded that this is still unclear. His understanding is that Town Meeting would be to approve a budget and close, if we have one.

Chair Greenbaum stated that there have been many questions raised. Chair Greenbaum asked a hypothetical question to Town Planner Ribeiro: the elections have been moved, but if a vote was taken on one of the applications before the Board with the current Board members as an election had not taken place, but it was after the normal election date, would those votes be valid? This issue is something Town Planner Ribeiro needs to discuss with Town Counsel and will get back to the Board with their answer.

Before addressing the updated packets, Chair Greenbaum asked Town Planner Ribeiro to give an update on Town Hall protocol regarding COVID-19. Town Planner Ribeiro explained that we are starting to repopulate staff in certain areas: he has an office door that he can close, and he, as well as all Town Hall staff, is wearing a mask; the Admin staff, because they are in a shared area, they are never in the office the same day and are working remotely; maintaining dedicated spaces for everyone in Town Hall; and we are starting to talk about what opening up to the public again would look like. A question was asked about the cleaning of Town Hall, and Town Planner Ribeiro responded that it is being thoroughly cleaned and disinfected very carefully by an amazing DPW staff.

Chair Greenbaum stated that she reviewed all of the updates to the applications and found one correction. She asked if anyone else had taken a good hard look at those. Member Kiernan had some general comments. He noticed that when asking for a description of the property it does not ask if there are any easements, deeded restrictions, or any homeowner restrictions. Town Planner Ribeiro responded that these are valid questions but not ones the Planning Board can enforce. Member Kiernan stated not enforce, but for awareness. Chair Greenbaum asked for thoughts or comments on easements and restrictions and also do we want to include HOA restrictions. Member Herridge thinks that it is important to know about the deed restrictions because it could possibly bear on their decision. Member Riemer agrees with deed restrictions and easements being important; homeowner's restrictions – the Town and Planning Board could benefit by exploring what could be potential problems going forward so it shows we did our due diligence. Regarding the HOA piece, Vice Chair Tosh stated it is not our job to enforce it, but why not disclose it as it is relevant to any property as are easements and deed restrictions. Member Sollog agrees to see if there is a homeowner's agreement, but the Board doesn't need to read the whole thing. The fact that it exists should be sufficient. Member Boleyn agrees with Steve in that we need to be aware of it but not in detail; if there was a history of a problem, they would be made aware of it. Town Planner Ribeiro agreed with Vice Chair Tosh in that as long as the Board is careful in how they respond to that information when they receive it. He further stated that it is not in the jurisdiction of the Board to decide to approve or deny an application based on a homeowner's association or a

restriction. Member Kiernan stated they do not need to have the actual documents as they are on the Barnstable County Registry of Deeds, but to have that information available is something to consider. Chair Greenbaum stated that the HOA was discussed at the ADU Subcommittee meetings. The language they came up with regarding HOA was what the Town attorney had proposed: including in the application language strongly suggesting that the applicant read all relevant documents from jurisdictions such as the Seashore, Conservation Commission, Homeowner's Association. This language makes it the applicant's responsibility, not the Town. Town Planner Ribeiro said that the Definitive Subdivision checklist states easements, covenants, rights of way and/or other restrictions applicable to the area should be shown on the plan, and we should make sure that we have that. He proposed language suggesting the applicant provide the Book/Page for any applicable Homeowner's Association or other document. Chair Greenbaum suggested using the checklist only for a while, because it is new, before requiring additional information.

Member Kiernan had a few other items for discussion. He stated that at one point the Board had asked for drainage calculations based on a 50-year event. In the last nine years we have had three 50-year events. Member Kiernan asked Town Planner Ribeiro if the amounts needed had been altered at the State/Federal level. Town Planner Ribeiro responded that these requirements come directly from the Zoning Bylaw, so if the Board wants to go to a 100-year storm it would be a zoning change. This could be added to the potential zoning changes list.

Member Kiernan also brought up that all the applications in this packet state that the Town Planner will determine if the application is complete. He feels that what they are doing now is not only for the current Board but also for future Board membership and future Town Planners. It makes sense to him to have the Board weigh in before opening the hearing. He is comfortable with the Town Planner making the initial decision, but wants to make sure the Board also has a chance to weigh in. Town Planner Ribeiro stated that the Board always has the opportunity to do that and clarified that the statement on the applications means that we are not going to Notice a Hearing and distribute the materials to the Board if it is not complete. This is more of a procedural administrative step, as he cannot deny an application for lack of completeness, but those will always go to the Board. The Board can always ask for more materials – relevant materials, required materials. Chair Greenbaum stated that to date they have only used the checklist once, and the first thing the Board did was walk through the checklist to see if they saw everything that the applicant said they had. The first thing they are going to do whenever they get an application is review the checklist; if there is missing information, then determine if they can move forward.

Member Riemer wants to make sure all the application materials that come to the Board for review have been dated and time stamped by the Clerk's Office rather than have us spend time reviewing something that has not been officially received. In addition to that, he made a note on Form C – Application for Approval of a Definitive Plan, under Section 2.5.4 of the Subdivision Regulations, that the applicant must notify the Board of Health. He would like verification that the Board of Health has been notified and this is not on the checklist. Town Planner Ribeiro stated that he has been working with the Building Department and with the Health and Conservation Agent to make sure these get routed and get a system in place to avoid confusion. Member Sollog noted that on 2.5 of the Definitive Subdivision Plan Review checklist page 5 of 7, it mentions the Board of

Health. Town Planner Ribeiro stated that it is not the same thing, but it is an acknowledgment. He will go through the packet and see if it is on the process page.

Member Riemer next referenced Form D – Covenant. He believes he has read that it is important to state a time period for completion as part of the covenant and failure could be grounds for rescission. Town Planner Ribeiro stated that should be written in the covenant itself. Member Riemer stated that the Subdivision Regulations require that any definitive subdivision needs to be reupped every two years if it hasn't been completed to which Town Planner Ribeiro agreed. Member Riemer went on to state that he believes this language is very clear regarding subdivision approval. Town Planner Ribeiro reiterated that for Form D language should be added stating what should be in the covenant and timeframes; he stated that he believes this is form language that they have used and that it could be added, and he will take a look at that. Chair Greenbaum asked Member Riemer to clarify his thoughts on what is needed. Member Riemer stated that he wanted language to state a time period for completion because absent that what is the time period? In addition, failure to meet the time period for completion can be grounds for rescission. Town Planner Ribeiro reiterated that it should be on the form itself, which Member Riemer replied yes.

Chair Greenbaum stated that she had one issue on the Special Permit procedures. In number two we need to delete where it says “§40.2 Affordable Accessory Dwelling Unit” as we now have a special ADU form. She stated that at the next meeting they will vote on the corrected ones.

Chair Greenbaum asked Town Planner Ribeiro for an update on the Cloverleaf. Town Planner Ribeiro stated it is continued to May 28, but he thinks that going forward with a substantive hearing on the 28<sup>th</sup> is not likely. The applicant is still working on the plans with the Horsley Witten Group recommendations from the last Zoning Board of Appeals meeting. Once they send in a revised plan it goes to Horsley Witten again for review and feedback to the Board. For a project like that it is important the public have the opportunity to participate in a meaningful way, and as of right now it is unclear how we will be able to do that. The Governor's Order is extended through the 18<sup>th</sup>, and he will give another update at the Planning Board meeting on the 20<sup>th</sup>. Member Kiernan asked if the Board could have a copy of a section from the original RFP dated August 15, 2018: Exhibit C – Engineering Feasibility Study. Town Planner Ribeiro stated he would get a copy for the Board.

Member Sollog commented on the Ethics training all board members must take, and that there is a piece of that training regarding financial interests in anything he makes decisions on. He believes the developer of the Cloverleaf is a for-profit developer working within the boundaries of a 40B Development, which means that there will be investors. If there are investors in this project, and they have any interests in Truro on Boards, should that be revealed? Town Planner Ribeiro suggested that he could bring that up; however, the ZBA isn't reviewing the funding of the project. It is certainly something Member Sollog can voice, but the biggest investor of this will be the Federal Government in the Low-Income Housing Tax Credits from the Department of Housing and Community Development. It is incredibly common for affordable housing developers to be for-profit. Member Sollog reiterated that he just wanted to bring up the fact that they have investors they can sell these tax credits to or they can transfer the tax credits to. Member Boleyn stated that this is an important financial issue. Town Planner Ribeiro stated that, again, it is not really a ZBA issue but for further clarity the State Ethics Commission could be contacted. Member

Kiernan believes that Member Sollog brought up an excellent point, especially where we have a local Government that speaks in terms of openness and transparency.

Chair Greenbaum stated that regarding the update on past work sessions, much of that is now before the Board in the packets, e.g. warrant articles proposed. At the last work session, we started a conversation about looking at housing needs in the Town. We had a good discussion, but our joint work session scheduled with the Housing Authority did not happen, and they are not currently meeting because they are not a regulatory board. Chair Greenbaum asked the Board if they thought it would be helpful to do a work session to learn a little more about different types of housing, what data there is, etc. Member Herridge stated he thought it would be useful to have more information regarding housing, perhaps something more recent than the study the Cloverleaf has been based on, and also more objective data. Member Riemer and Member Boleyn agreed. Chair Greenbaum suggested that she and Town Planner Ribeiro speak about what might be more current and then see if there is enough to do a work session. Member Kiernan stated that it might be interesting to see what changes have occurred in the law concerning these things. Chair Greenbaum stated that, as a Planning Board, we are interested in looking at housing needs in Truro as a whole, and Capital A Affordable Housing is simply one component of that – senior housing, workforce housing, creative new things regarding multigenerational housing, reusing old motels – the bigger picture of housing: what is the need in Truro and for whom. Member Boleyn stated that shopping centers facing abandonment should also be considered as they could be turned into affordable housing and other large-purpose uses. Chair Greenbaum stated that not only do we have Supreme Judicial Court Opinions, but we also have a pandemic: what is that doing to the Town? Member Riemer suggested for the next work session members review the last work session minutes for anything outstanding. Chair Greenbaum stated that their discussion and brainstorming list would be part of the next work session.

Chair Greenbaum stated approval of minutes was the next on the agenda, and she did not believe they would get through this entire packet of minutes. Member Herridge stated he had a correction to the December 4, 2019 minutes. Before addressing the correction, Chair Greenbaum asked the Board if everyone had reviewed all the minutes – Members Boleyn and Riemer had. It was discussed which minutes the other Members had reviewed. Chair Greenbaum identified the meeting minutes the Board would review and approve at their next meeting: November 6, 2019; December 4, 2019; December 18, 2019; January 8, 2020; and January 22, 2020.

Chair Greenbaum stated the next meeting would be May 20<sup>th</sup> at 6:00 pm. In addition to probably voting to continue the two hearings, the issue regarding Tradesmen's Park II raised today by Member Sollog, the minutes, continued updates on COVID, and the Cloverleaf, are there other items that should be placed on the agenda for the next meeting? Member Kiernan asked Town Planner Ribeiro about Tradesmen's Park II and that he sees they have completed one building. He doesn't remember at the site plan meeting discussing building in phases. Town Planner Ribeiro replied that he does not know the extent the decision was phased, needs to review the project file, and can then give the Board an update at their next meeting.

Chair Greenbaum asked if there were any other items for discussion but there were none. Chair Greenbaum then asked if she could have a motion to adjourn. Member Sollog wanted to mention to the Board that he heard from someone that John Hopkins had died but he has been unable to

confirm that. John had been on this Board for a short time. There was confirmation by other Board members and that it had been announced at a previous Select Board Meeting. Member Sollog wanted to recognize that he was an asset to the Board when he was a member before sadly stepping down because of illness. Member Boleyn stated that it was credit well due, and all agreed. Chair Greenbaum again asked for a motion to adjourn. Motion by Bruce Boleyn and a second by Paul Kiernan. Voted all in favor. So voted: 6-0, one absent (technical difficulties mid-meeting).

Meeting adjourned.

Respectfully submitted,



Elizabeth Sturdy

