

**TOWN OF TRURO
Planning Board
MEETING MINUTES
January 22, 2020
TRURO TOWN HALL**

Members Present: Chair Anne Greenbaum, Karen Tosh, Steve Sollog, Jack Riemer, Bruce Boleyn, Peter Herridge, Paul Kiernan

Members Absent: None

Others Present: Town Planner-Jeffrey Ribiero, Paul Millett, Cody Salisbury

Chair Greenbaum called the meeting to order at 5:00 pm.

Public Comment Period:

Seeing as there were no public comments, Chair Greenbaum read a policy from the Select Board called the Policy on Professional Conduct.

Respect and civility from all employees, volunteers, those representing the Town, and those in attendance at any Town function shall be maintained at all times, including, and especially, during public meetings. Public meetings are to be free from disrespect, creating a public embarrassment, and /or personal attacks on any person, whether present or absent from the proceedings. Town officials and employees, as well as the public shall be free to express their ideas, as is their right, without the threat of harassment and/or intimidation. All persons as mentioned shall not be verbally or physically accosted for any reason at any time. While disagreements about issues are acceptable, becoming disagreeable is not.

Temporary Sign Permit Applications

Karen Tosh for one (1) sign, 3' x 10', to be located in front of Accent on Design, Truro Center, 14A Truro Center Road. The sign will be installed on January 23rd and removed February 19th for Special Town Election on February 18th.

Member Tosh recused herself and left the room.

Member Boleyn made a motion to approve the sign for Karen Tosh.

Member Herridge seconded.

So voted; 6-0-1 (Member Tosh abstained), motion carries.

Member Tosh rejoined the Planning Board.

Public Hearing

2019-010/PB-Richard and Cynthia Perry seek approval of an application for an Accessory Dwelling Unit Permit pursuant to Section 40.2 of the Truro Zoning Bylaw. The property is located at 15 Perry Road, Truro, MA, Map 45, Parcel 132.

Town Planner Ribeiro stated he'd missed that the unit had more than 1,000 square feet of gross floor area. The applicants are modifying their plans and will be resubmitting. They have requested a continuance to February 5th, 2020. Member Riemer wished to know who noticed the size issue of the unit. Town Planner Ribeiro stated that Chair Greenbaum had noticed. Member Riemer thinks the size of the ADU should be listed, not left for the Board to calculate. Chair Greenbaum mentioned that the Board would be voting on the new ADU packet later in the meeting, and that would take care of Member Riemer's concern.

Member Sollog made a motion to continue the Public Hearing-2019-010/PB for Richard and Cynthia Perry to the February 5th, 2020 Planning Board meeting.

Member Herridge seconded.

So voted; 7-0-0, motion carries.

2019-011/SPR-Town of Provincetown seeks approval for a proposed Knowles Crossing Water Department Storage Building located at 143 Shore Road, Map 19 and Parcel 1. The proposed project involves the demolition of the existing 2,670 sq. Ft. Wooden Water Chemical Addition Building and the erection of a new 2,970 sq. ft. Water Department Storage Building.

Chair Greenbaum opened the Public Hearing and asked the people before them to give an overview. Cody Salisbury, Provincetown Water Superintendent and Paul Millett, a consulting engineer with Environmental Partners, came before the Board. The existing structure is in poor shape and doesn't meet the needs of their current operation. They are looking to construct a similar sized building, mainly used for vehicle storage as well as distribution parts storage. They would demolish the current structure and build directly behind the current footprint. The current building is 35 feet to the ridge, and the new building will be 25 feet.

Chair Greenbaum wanted to talk about item 3B3-contours. She believed that they mentioned in the cover letter that they were doing one-foot contours. Mr. Millett stated he had a more accurate contouring for the site because of storm water. The land is quite flat, and they want to be sure they get the grade correct. The site plans on the tv screen, and in the packet, show the elevations of a one-foot contour interval. All stormwater is contained on-site. Member Riemer stated it was mentioned that the whole site falls within a zone of contribution, but he didn't see the zones delineated on any of the plans. Mr. Millett said that there are three active wells on the site that they'd received approval from MassDEP, and the Planning Board, back in 2012 for the actual site development. It meets all environmental requirements of environmental protection, and MassDEP. Mr. Salisbury stated the entire site is in zone 2. Member Riemer asked if a report from National Heritage & Endangered Species Program was pending. Mr. Millett let the Board know that they have received a letter back stating that there are no endangered species or issues of concern. Chair Greenbaum said that perhaps getting a copy of the letter could be a condition. Mr. Millett found a copy of the letter and emailed it to Town Planner Ribeiro.

Member Riemer wished to refer to 3C-7. He noted the plan calls for the inclusion of a retaining wall, where there was formerly a fence. The wall is to be three feet high, but when he looked at the grade lines, he wasn't sure that would be adequate. Mr. Millett believes it will be adequate.

Member Sollog stated that at the site visit he brought up the limit of work and referenced an abutter who is concerned. Mr. Millett said they will fully respect the abutter's comments.

Member Sollog would like to discuss 3C-12-Lighting. Mr. Salisbury stated that lighting on the proposed building will be motion activated, and downward facing. The lighting will be on three sides of the building. Member Sollog asked if the treatment plant was lit on all four sides, which Mr. Salisbury confirmed was correct. Member Sollog is proposing that the light on the far side of the treatment plant

could be converted to a motion detecting light, to address some concerns of the abutter. Member Kiernan stated that there was a lighting bylaw which, in essence, stated that the source of the light shall not be seen off of the property. The light will be shielded so when you look down at the property, you see what's being lit up, but you don't see the light itself. Mr. Millett stated that they are using shielded down lighting. Mr. Salisbury confirmed that these lights do not light up the parking lot. Chair Greenbaum noted that the abutter is asking if it's possible (especially on the South and West sides) to adjust the lighting to motion activated on the treatment building. Mr. Salisbury can investigate but does not think the lighting casts beyond their property. He will look into whether they can retrofit the lighting on that side with motion activation. Member Kiernan has seen new lighting setups that do not shut off, but go down in intensity, and pick up in intensity when there is motion involved. That might help satisfy the neighbors. Town Planner Ribeiro stated that with any proposal, they are reviewing any changes (which for this proposal is the new building). Changes to the existing building, as previously approved, is something the applicant can offer to do. It has to be a careful discussion when moving into those areas.

Member Riemer stated that on page G1, #23, it indicates that the plan be acceptable to the Provincetown Department of Public Works. He's curious as to why it says that. Mr. Millett said that remark refers to the construction phase of the project. They obviously need Planning Board approval before constructing.

Member Riemer had questions on page S1.1 a floor drain is shown in the new building. What sort of activities will be included in this building? Mr. Salisbury stated that it's a requirement to have a floor drain for vehicle storage. Member Riemer asked where the drainage was directed to. Mr. Millett said it's directed to a tight tank. Member Herridge asked if the trucks would be fueled inside the building. Both gentlemen answered no. Member Riemer asked if the waste from the lavatory onsite would be directed to the same tight tank? Mr. Millett stated there is one unisex bathroom which is tied into the tight tank configuration. Member Riemer asked if the Board of Health needed to take a second look at this, because of the update. Mr. Salisbury is not sure. The tight tank is already approved. Mr. Millett does not think so. It's there to provide the liberty to wash down a vehicle. If Health Agent Beebe wishes to look at it, they are more than happy to speak to her. Town Planner Ribeiro will touch base with Health Agent Beebe to make sure she's aware of the project. If Board of Health review is required, he's sure that would be caught during the building permit process. It won't hurt to give her a "heads-up". He's not sure it's necessary for the Planning Board to have information on things the Board of Health might review. Member Riemer said that under site plan review, in general, they are supposed to ensure that all Town regulations are enforced. If they had a report from the Board of Health, then they would know. He'll leave it up to the rest of the Board to see if they think it's required. Town Planner Ribeiro stated that it's common language to place in bylaws or decisions, that all approvals must be obtained. He doesn't think it's the duty of the Planning Board to be policing for other boards with their own jurisdictions. They can include it in a decision, but it's why they have a building review process. Member Riemer asked if the new building would improve the traffic flow on-site. Mr. Salisbury stated it would not impact any additional traffic flow. Will it improve traffic flow to the existing facility? He believes it will in terms of the turning radius in the front building. Mr. Millett added that this is a storage building, and the volume of traffic is not going to increase.

Member Riemer asked what the intended use of the second floor would be. Mr. Salisbury stated it's an open mezzanine area for overflow storage. Member Riemer thinks this building should be labeled "for storage only" so that future Boards will see what the building is intended for. Mr. Salisbury informed the Board that it's not intended for anything other than storage.

Member Kiernan has some site-specific questions. Will there be any chemical storage in this new building? Mr. Salisbury stated no. When demolishing the old building, will they be taking it down to the

ground and filling in the existing basement, or will they try to remove the old basement which may be more problematic than just filling it in. Mr. Millett stated they intend to fill it.

Chair Greenbaum moved to the review criteria.

Member Kiernan is looking at the site plan review which occurred in 2012. He'd like to know if all three conditions were met. It was determined all three conditions were indeed met. Member Kiernan would like to include on the checklist;

- Has there been a site plan review? Were there conditions, and have those conditions been met?
- Has a special permit been issued? Were there conditions, and have those conditions been met?

Member Herridge would like to know if they will need to break up the concrete slab, as it's particularly thick, and pour a new one? Mr. Millett stated they would remove everything above ground and fill in everything below ground. The slab will stay.

Member Sollog cautioned; if there is an existing elevator lift, and it's registered with the State, they should apply to have it either removed or abandoned and have that noted by the State. That is so inspectors aren't wandering around, looking for the elevator.

Member Riemer asked if the other members of the Board were satisfied that the new building was compatible with the existing structures on the site. No one had an issue with the compatibility.

Member Kiernan noted that current electricity and telephone service is provided overhead via a pole, but new services to the building will be underground. He asked if the underground service was just for the new building or would they be moving all service underground. It was confirmed that underground service was for the new building only.

Town Planner Ribeiro thinks a lot of the issues identified have been discussed. There is unlikely to be any significant traffic impacts associated with the proposal. There is not a large amount of grading associated with the project but there is some. He thinks it would be reasonable to request that a plan be provided that shows a reasonable limit of work, in addition to having the Provincetown DPW look at it. That could be done via condition, or they could return with a plan for the Board's approval. The lighting is shown on the buildings as motion activated. Detailed specifications for the fixtures themselves have not been provided and is something which could be conditioned for review by staff. The building is set back from the road quite a bit and is minimally visible given the topography. He believes it would be worthwhile, if there is an intent to limit the mezzanine to storage purposes, to condition. Conditions around chemical storage could also be considered.

Member Kiernan asked what color the building would be. Mr. Salisbury stated it would be a green stain with a gray trim. The bottom four feet will have a brick knee-wall to tie into the brick of the other building. He then inquired on what the landscaping would be. Mr. Millett discussed. Member Sollog noted that the side where the grade is would be disturbed. Mr. Millett stated there would be a sandy slope. Member Sollog wanted to be sure it was not the side where the abutter is located. Mr. Millett was able to confirm that the abutter was not on that side.

Member Riemer asked if the Fire Chief was notified of the building. Town Planner Ribeiro told the Board that he'd spoken with the Fire Chief and he was planning on driving to the site to review. He checked his messages and there were no comments from the Fire Chief. Town Planner Ribeiro stated that if the Chief had concerns, he would have heard from him.

Member Herridge made a motion in the matter of 2019-011/SPR-Town of Provincetown to approve with conditions Commercial Site Plan Review for demolition of the existing 2,670 sq ft. Wooden Water Chemical Addition Building and the erection of a new 2,970 sq. Ft. Water Department Storage Building, pursuant to Section 70.3 of the Truro Zoning Bylaw with respect to property at 143 Shore Road in accordance with the plans submitted with this application, subject to the following conditions:

1. Prior to the issuance of a building permit the applicant shall provide a revised plan showing the limit of work for review and approval by Town staff.
2. Prior to the issuance of a building permit the applicant shall provide specifications for the proposed lighting fixtures for review and approval by Town staff. Lighting fixtures shall conform to the requirements of Chapter 4, Section 6 of the General Bylaws of the Town of Truro.

Member Boleyn seconded.

Member Sollog pointed out that the scope of work was already noted on the plan.

Member Herridge revised his motion to remove the condition listed above (Condition #1-pertaining to the limit of work).

Member Boleyn seconded the amended motion.

So voted; 7-0-0, motion carries.

Public Hearing – Continued

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, Section 81S and Section 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. *Request to Continue to February 5, 2020.*

Town Planner Ribeiro stated that the engineer, Mr. O'Reilly, had a conflict tonight that he couldn't move. He has committed to clearing his calendar for the February 5, 2020 meeting. Mr. O'Reilly is also planning a site visit for the afternoon of February 4, 2020.

Member Sollog made a motion to continue the hearing for 2019-006/PB application for Abigail B. Schirmer, Audrey Schirmer, and Joseph M. Schirmer requesting approval of a Preliminary Subdivision Plan to the regularly scheduled Planning Board meeting of February 5, 2020.

Member Boleyn seconded.

So voted; 7-0-0, motion carries.

Member Kiernan asked when the site visit would be. Town Planner Ribeiro stated the site visit would be held on February 4, 2020 at 2:30pm.

Chair Greenbaum noted she was closing the Public Hearing on the 2019-011/SPR for the Town of Provincetown.

Chair Greenbaum would like to change the order of items on the agenda and address the "Approve ADU Application and Procedures" next.

Board Action/Review

Approve ADU Application and Procedures

Chair Greenbaum stated that this was reviewed back in October but was never voted on. She'd like to get this approved in order to get it onto the website. Member Kiernan asked if it allows ADUs in the seashore? Chair Greenbaum said it was reflective of the existing bylaw. Member Herridge stated that if it allows ADUs in the Seashore, he cannot vote for it. Chair Greenbaum stated that what they are reviewing is simply an application for the existing bylaw.

Member Tosh made a motion to approve the proposed ADU Application and Procedures packet. She also hopes they can address all the paper copies of applications. She personally would like all her applications received electronically.

Member Boleyn seconded.

So voted; 5-0-2 (Members Kiernan and Herridge abstained), motion carries.

Review of the Cloverleaf Truro Rental Housing Comprehensive Permit application under MGL Ch. 40B to formulate comments for submittal to the Zoning Board of Appeals.

Town Planner Ribeiro stated that the last conversation they had revolved around Horton's groundwater discharge permit. He has provided the Board a proposed cover letter for them to review. The other news he had was that the Peer Review for the Zoning Board is not expected to be back until the middle of February. The Zoning Board continued their hearing to their regular February meeting, which is Monday the 24th.

Chair Greenbaum asked if the Peer Review would be posted on the web? Town Planner stated yes. She wished to discuss the letter the Town Planner drafted in response to the issue Member Riemer brought up at their last meeting. The Board agreed the letter was okay with no edits.

Member Kiernan had put together some thoughts for the Board to consider. He read, *"The property is Town owned. The Community Housing Resource, Inc. a privately owned, for-profit, Massachusetts Corporation, would initially be responsible for any environmental problems that should arise from the onsite effluent sewage discharge. Should the current, or any future owner of the proposed development, decide to walk away from any possible future liabilities stemming from this development, will Truro be held financially responsible?"* Chair Greenbaum asked if the Board wanted to put some more discussion of this on their work-session agenda? She added that there is another regular Planning Board meeting scheduled before the next Zoning Board of Appeals meeting. Member Herridge believes the Board should discuss it, and make it be known to the ZBA that this is a concern. Member Kiernan thinks it's worthy of discussion at their workshop, as does Member Sollog. Chair Greenbaum placed this on the agenda for discussion at their next work-session.

Update on past Work Sessions

Chair Greenbaum said they've been focusing on trying to get potential items ready for the warrant, and a discussion on longer term planning. Member Sollog added that they'd discussed some outreach in the community. Chair Greenbaum stated they also worked on prioritizing in terms of some high priority items. She will try to do an actual report for the next Planning Board meeting.

Update by Planning Board/Select Board ADU Ad Hoc Subcommittee on their Work Sessions

Chair Greenbaum said that they have been working their way through, and she referenced the working summary in their packet. They, the subcommittee, has been charged with looking at the existing ADU Bylaw and seeing if they can improve upon it by making it more efficient while still protecting Truro. Each of the subcommittee members wrote down any item about the ADU Bylaw that they felt should be looked at. These items were listed, and then each member answered the question, "How important is it to address this item?" Based on the scores given, they fell into high, medium, and low priority to look at. The subcommittee started looking at the high priority items first and have worked through them to the medium priority items.

The topic of number of copies needed did come up immediately. Chair Greenbaum is hoping they can cut back on the number of copies.

One of the high priority items was, is there a way to standardize the process for ADU applications from properties inside the Seashore. There is much disagreement on what the law is, what the enabling legislation says, and is there a way to simply set up a process where the Board doesn't have to go around and around in the same conversation each time there's an application in the Seashore. What the subcommittee is looking for is reactions/thoughts from the Planning Board on the recommendations.

Member Tosh recommends there being a disclaimer regarding the Seashore that adopts Jonathan Silverstein's suggested language that puts people on notice that their property can be condemned. She doesn't feel the proposed language protects the Town from liability. As for a homeowner's association, there could be one sentence in there that says something like, "In addition, people in a subdivision with homeowner's regulations may not permit ADUs".

Member Sollog would like an explanation on "D", the first bullet. He asked if that meant they were going to approve an ADU without a septic system? Member Tosh read off the language from Jonathan Silverstein. He recommends for any applicant in the Seashore be provided written notice that states; *"Under Section 5D of the Act of August 7, 1961, the Secretary of the Interior is authorized to withdraw the suspension of his authority to acquire by condemnation "improved property" that is made the subject of a variance or exception which fails to conform, or is in any way/manner, opposed to, or inconsistent with preservation and development of the Seashore as contemplated in said Act. The Secretary may be consulted at any time by Zoning Authorities or by the owner of "improved property" regarding the effect of a proposed variance or exception upon the status of the affected property with regard to the suspension of the Secretary's authority to condemn. The Secretary, within 60 days of the receipt of a request for such determination or as soon thereafter as is reasonably possible shall advise the owner or Zoning Authorities whether or not the intended use will subject the property to acquisition by condemnation."* Mr. Silverstein also suggested that the permits in the Seashore be conditioned on the applicant providing notice that the permit was issued to the Seashore, subsequent to its issuance. Member Tosh's comments on Mr. Silverstein's language is that, when she took another look at the Act, all the improved property in the town, when the town adopts an inconsistent zoning bylaw, is potentially subject to condemnation. Member Herridge thinks that if there are ADUs in the Seashore, they should definitely use that language. Member Sollog added that he made a request to Lauren McKean from the Seashore. He received a statement from the Seashore about their feelings, or a possible stand they would take, that the Board could include. What Chair Greenbaum is surmising is that the language they see here is nowhere near strong enough. Member Kiernan says the portion at the top regarding homeowner's associations must be included. He does not want to see the Board approve something that could land the homeowner in court with their homeowner's association. Chair Greenbaum stated that there were two avenues to take. One is to require something from the applicant, while another is to simply provide information to the applicant. Member Kiernan stated that notification to the homeowner's association would be like notifying abutters. Town Planner Ribeiro said abutters would be receiving written notice. Member Tosh thinks it's better as a recommendation, because it's a private covenant. Member Riemer pointed out that in Section 2.5.9 under Subdivision Control Rules and Regulations the Board does require any new subdivisions to incorporate a homeowner's association. For the Board to ask for information is the Board's responsibility. Member Tosh stated that in terms of an individual property owner in a subdivision she doesn't feel they need to be policing it.

Member Sollog wished to discuss recommendation D. It talks about removing requirement that Board of Health and, if applicable, Conservation Commission and/or ZBA decisions before issuing Planning Board decision. He asked if that meant having a condition? Member Tosh stated that if you issued a

permit you would have to condition it upon all the other Boards approving. Member Sollog thinks that is "cart before the horse". Town Planner Ribeiro stated that depending upon a particular project it may make more sense for someone to come to the Planning Board first, and then the Conservation Commission second, versus the reverse. What this recommendation does is ensure the Planning Board is not always last in the line of reviewing a project. Member Tosh asked if the subcommittee might consider a provision that says that if more than one Board needs to approve, the Town Planner shall determine the sequence? Member Sollog is not convinced these changes will streamline the process, rather they may make it clear. As far as the order of approvals, he imagines the most important is the septic system (from his perspective). Town Planner Ribeiro said that the question came up was why is it important for the Planning Board to always go last? For what reason do you need those approvals for your review under your criteria? Is this necessary since in a lot of ways the Board doesn't have a lot of ability to argue. Member Kiernan thinks Member Tosh's suggestion of having the Town Planner determine the order of which Boards the applicant should go to is a good one.

Chair Greenbaum moved forward. As written, she stated, the decision is not appealable. Member Kiernan stated that was a violation of State law. Everyone on the Board agrees to bring that to Town Meeting to have it removed. Member Tosh suggested that they could either remove the language or amend the language to state the applicant can appeal to the ZBA if denied (or another Board) or go to court.

Moving along to parking spaces, the Chair stated some people in the subcommittee felt two parking spaces could be problematic, especially with a small ADU. The thought was for one (1) parking space per ADU, plus one (1) per bedroom. Discussion was had regarding different opinions of Board members. Chair Greenbaum stated that per the current bylaw, a studio ADU, a one-bedroom ADU, and a two-bedroom ADU all require two parking spaces. The draft recommendation would state that a studio ADU would require one parking space, a one-bedroom ADU would require two parking spaces, and a two-bedroom ADU would require three parking spaces. Member Kiernan wished to point out that ADUs are allowed on Beach Point.

Chair Greenbaum stated that the subcommittee had a discussion about amnesty. Amnesty and design standards started to become part of a similar conversation. If a unit already exists, should the application requirements be simpler? The subcommittee is looking at having a couple of different tracks. New construction and additions might be one route, while existing units (and possibly creating an ADU without touching the outside of a building) would be another route, one which would have fewer requirements in terms of what they would have to supply. Member Herridge thinks that's a good idea.

Chair Greenbaum continued by bringing the Board's attention to an item for discussion regarding removing the Seashore district from districts where ADUs are allowed. She would like to get some conversation going with the Planning Board. She's wondering if it makes sense to put an amendment in front of Town Meeting to remove ADUs from the Seashore simply to get the Town to vote very clearly on that. Member Herridge does not feel it's up to the Town. He then read some enabling legislation for the Seashore. His interpretation is that for the Town of Truro to have a bylaw that permits ADUs in the Seashore puts all property in the Seashore at risk of condemnation. The opinion of Town Counsel is nice, but what matters is the opinion of the Solicitor of the Department of the Interior, because if this is the case, he suspects that primary mortgage lenders will have a serious problem. Member Herridge feels this is a serious problem which the Town needs to look at. He thinks the Board should write to Brian Carlstrom and ask him to request an opinion from the Solicitor of the Department of the Interior. Member Sollog has always taken the position to find out, from the Department of the Interior, what their opinion is. Member Tosh agrees completely that they should get the Solicitor's opinion. They received that letter from Brian Carlstrom on the Highland Road ADU which basically said the same thing; the Seashore only allows cottages that existed prior to September 1, 1959 and no more can be added.

She feels, even though the letter is clear, the question needs to go up the chain to the legal department for the Department of the Interior. Chair Greenbaum asked if it's possible to get a definitive legal opinion from the Solicitor of the Department of the Interior? She also asked if they want to provide the Town (the voters) the opportunity to make a very clear decision on policy, separate from law, regarding yes or no to ADUs in the Seashore? Member Sollog feels they should get a legal opinion. If they put this to a vote, and the Town says "we want to keep ADUs in the seashore" then they are stuck. The Board agreed that the subcommittee could work on a draft letter to the Seashore.

Member Herridge made a motion to adjourn at 7:30 pm.

Member Sollog seconded.

So voted; 7-0-0, motion carries.

Respectfully Submitted,



Noelle L. Scoullar

