

## **TRURO PLANNING BOARD**

### **Meeting Minutes**

**July 21, 2015 – 6:00 pm**

**Truro Town Hall, Truro, MA**

**Planning Board Members Present:** Lisa Maria Tobia, Steve Sollog, Bruce Boleyn, William Worthington; and John Riemer;

**Member Absent:** Michael Roderick (excused)

**Others Present:** Chester Lay, Slade Associates; Lester J. Murphy, Attorney; Peter Casperson; William Fitzgerald; Paul Kiernan; John Martsberry; Charleen Greenhalgh, Town Planner and ATA and Shawn Grunwald

Ms. Tobia opened the meeting at 6:00 pm.

### **2015-005PB Nancy A. Dyer, Preliminary Subdivision, 4 Sam's Way**

**Representatives:** Chester Lay; Lester J. Murphy

The applicant seeks approval of a 1 Lot (including reconfiguration of the road) preliminary subdivision pursuant to MGL c.41, Section 81-S and Section 2.4 of the Town of Truro Rules and Regulations Governing the Subdivision of Land for property located at 4 Sam's Way, Assessors Map 24, Parcel 13.

Mr. Lay distributed a plan of the property that had been approved in 1994. He stated that the purpose of the preliminary subdivision request was to create more buildable upland within the existing parcel by shortening the subdivision road.

Mr. Lay wanted to specifically address the item in the staff report dated July 13, 2015 from Charleen Greenhalgh to the Planning Board members that questioned whether the new proposed layout would meet the definition of street in the Truro Zoning Bylaws. Mr. Lay distributed a plan that was approved by the Planning Board in 2001 for Malcolm Meldahl. He noted that Lot 1, containing the homestead, up by Edgewood Way the road actually constricts to 29 feet to allow for a proper setback to the home. What they did was widen the road with an easement to 40 feet. There is a letter from Town Counsel at that time that stated this was acceptable. Mr. Lay did not have the letter with him but is willing to provide a copy to the Board. Based on this past practice they are proposing to do something identical; although it is not shown on the Preliminary Plan. They propose to widen the road to 40 feet through an easement on the northerly side of the Samuel Dyer parcel, owner of the lot on Knowles Heights Road. This would allow the 40 foot and resolve the issue. Mr. Murphy stated that this is primarily academic as they will be looking for waivers to road construction as this would be a driveway to serve one lot. The one issue Mr. Murphy sees, and plans to research, is to address the setback of the current structure on the Samuel Dyer lot, which current sits 27 feet from the road. With the easement this would reduce by ten feet, thus the setback would be 17 feet. Mr. Murphy stated that his belief is that the setback is from the property line and not the easement line.

Mr. Sollog asked if the rural road alternative would be available and Mr. Lay responded that they will be seeking that waiver. Mrs. Greenhalgh clarified that the Board can approve the preliminary plan either through having a 40 foot road through an easement or for the applicant to seek relief through the Zoning Board of Appeals, which would need to be done before they file a final plan.

Mr. Lay agreed to a turning radius on the easement where it would meet Knowles Heights Road following Mr. Riemer's request. Mr. Lay clarified that there are no setbacks for easements, just for property lines. Mr. Murphy further clarified that the footpath, walking paths, beach access and rights of way will be retained. This reassurance has been given to the abutters. The abutters have all been notified.

Mr. Riemer stated he is not comfortable until he sees the letter with the Town Counsel opinion regarding the width of the road. Ms. Tobia expressed her concern about drainage and Mr. Lay replied they will be asking for a waiver of construction, one of several waivers they will be seeking. Ms. Tobia also identified that on the actual plan, it does not state that it is a preliminary plan. This will be rectified by Mr. Lay.

Ms. Tobia identified some of the comments made by the Building Inspector and the Health/Conservation Agent. Mr. Lay and Mr. Murphy acknowledged that they are aware of these issues and will address them in their waiver requests, particularly around the nitrogen load concern, which would go before the Board of Health. Mr. Murphy explained that they need to provide an identified lot before they can move forward on the waivers.

Mr. Riemer questioned the amount of beach that would be under water. Mr. Lay stated that it would be rare to have it under water. Ms. Tobia asked if there were any abutters who wanted to speak on this matter. Peter Casperson (lot 25) stated that he has no objection to the preliminary plan. William Fitzgerald, who owns the property across the road, stated his only concern is if they will have access to the easement while the road is being constructed. Mr. Lay addressed this concern saying that he foresees no problem with maintaining access and is willing to have that be one of the conditions.

Mr. Murphy is willing to have the matter extended to the next meeting. Mrs. Greenhalgh stated that they would need an additional 14 days from the next meeting to allow for all the paperwork to be completed and filed with the Town Clerk.

On a motion by Mr. Sollog and seconded by Mr. Worthington, the Planning Board agreed to extend the time they have to act until August 18, 2015 and to continue this matter to August 4, 2015, so voted 5-0-0.

### **Review and Discussion on Proposed Zoning Reform**

The purpose of this item was to review, discuss and possibly vote on whether to support Senate Bill No. 122 "An Act promoting the planning and development of sustainable communities" (aka Zoning Reform) and to send a letter confirming said support.

This bill is sponsored by Senator Daniel Wolf and has the support of many organizations, including MMA and Massachusetts Planners. Mrs. Greenhalgh will be supporting this bill as the Town Planner. The highlights, summary of the bill as well as the entire bill has been made available to Planning Board members.

This bill has been amended from previous versions, which Mrs. Greenhalgh believes better supports small towns such as Truro. Mr. Riemer questioned one aspect of the bill which will allow changes in zoning bylaws to move from a two-thirds super-majority to a simple majority, as he feels that may not

accurately reflect the true will of the voters. Mr. Worthington stated that he is in favor of this change, as that is how other major elections are decided, such as Presidential elections. Ms. Tobia would like to see some citizen input before the Planning Board endorses this bill or not. Mrs. Greenhalgh will put the link on the Town website. The Joint Committee on Community Development and Small Businesses will hear the zoning reform bill on September 15; so the Board has some time. The discussion will continue on August 4, 2015.

### **Discussion on Planning Board Goals/Topics for FY 2016 and Next Steps (Continued)**

Ms. Tobia pointed out that the goals have now been group into categories and that was part of the packet.

Mr. Sollog commented that the goals/topics represent a very ambitious list. He further stated that he would like to see public comment at the beginning of the meeting.

In response to Ms. Tobia's inquiry if anything should be removed from the list, Mrs. Greenhalgh stated that the Waste Water Management committee will be gathering a lot of potential helpful information for the Planning Board in terms of the sustainable growth goal. Further, she inquired if she could start a conversation with the Provincetown Water Department as they have the technology to draw the map needed to include the Zone of Contribution for the North Union Wellfield. The consensus of the Planning Board members was that she should proceed.

Ms. Tobia suggested a format change from bullets to a numbering system for ease of identification of a particular topic when this is brought forward for public comment. In addition, she would request that the community engagement goal/topic be the first on the list.

Following discussion, it was decided by consensus for the Board to do a presentation of the topics/goals to the public at the August 18, 2015 meeting.

On a motion by Mr. Boleyn and seconded by Mr. Worthington, the board voted to accept the list of topics/goals with the modifications discussed above by a vote of 5-0-0.

### **Interview of Applicants for Vacant Planning Board Member**

Ms. Tobia explained that the Planning Board received two (2) applications for the vacancy: Paul Kiernan and Richard Fishman. Mr. Fishman was unable to attend tonight's meeting but will be present for the August 4 meeting.

Mr. Kiernan was invited to discuss his interest and qualifications for the position. He stated that he was a former Planning Board member, having served from 1992-2002, at which time he resigned because he was involved with a law suit. His background is in engineering and economics and he believes that not only from his education but also personal experience representing himself in land court, he has many skills to offer the Board. He further stated that he values community service and is willing to speak up but also listen when needed. The floor was then opened to members for questions for the candidate.

Mr. Worthington acknowledged working with Mr. Kiernan on past Planning Boards and questioned if Mr. Kiernan would hold the floor extensively when speaking on a subject. Mr. Kiernan stated that he

operates by providing original source information so that Board members can understand his logic for his position and they can fact-check for themselves.

Mr. Riemer urged the Board to support Mr. Kiernan's application as he applied in June and the Board has been operating short-handed for almost two months. Mr. Boleyn agreed that Mr. Kiernan's application should be supported by the Board.

Mr. Worthington stated that he feels all the applicants should be given the opportunity to come before the Board, especially as there is not a timeframe for filling the vacancy.

Ms. Tobia stated that she has some concerns about how Mr. Kiernan has conducted himself in the past, particularly with personal attacks to individual board members. Ms. Tobia believes that all candidates should have the opportunity to discuss their credentials before a decision gets made.

Mr. Sollog stated that all members need to have the opportunity to speak while on the Board and feel their statements are equally valued. He acknowledged Mr. Kiernan's long history with the Town and his past service on the Planning Board. Mr. Kiernan suggested that the Planning Board packets should be made available to the public on line, not just the agenda.

Mr. Worthington commented that when he joined the Planning Board, Mr. Kiernan was the Chair and that it was a well-run Board. Mr. Kiernan complemented Ms. Tobia on her skills as the recently appointed Chair of the Board. Mr. Riemer stated that a team approach to matters is sometimes enhanced by someone on the team taking an adversarial or aggressive stance.

John Martsberry came forward to support the application of Mr. Fishman.

#### **Discussion of November 17, 2015 Meeting Date**

The Board of Selectmen has changed one of its meeting dates to November 17, 2015. The Planning Board was scheduled to meet that evening and now needs to vote to change the meeting schedule if deemed necessary. A suggestion was made to move the meeting to Wednesday November 18, 2015 to allow for a video recording. The consensus was to move the meeting date to November 18.

Mrs. Greenhalgh reminded the members that public hearings cannot be held on any election days, whether town, state or federal elections.

#### **Review and Approval of Meeting Minutes:** July 7, 2015

Mr. Worthington requested a modification of the phrasing of his comment in the Planning Board Goals/Topics section. On a motion by Mr. Worthington and seconded by Mr. Boleyn, the minutes as modified were approved by a vote of 5-0-0.

Mrs. Greenhalgh expressed her thanks to Carole Ridley for her work during her absence as well as Ms. Grunwald.

#### **Adjourn 7:36 pm**

Respectfully Submitted,

Shawn Grunwald