

TRURO PLANNING BOARD AGENDA
TUESDAY, February 2, 2016 – 6:00 pm
Truro Town Hall, 24 Town Hall Road, Truro

Public Comment Period:

The Commonwealth's Open Meeting Law limits any discussion by members of the Board of an issue raised to whether that issue should be placed on a future agenda.

Modified Definitive Subdivision Plan Endorsement, Release of Covenant and Acceptance of Covenant

2015-009PB Nancy A. Dyer seeks endorsement of a Modification of a Definitive Plan approved by the Board on December 8, 2015 and following the expiration of a 20-day appeal period (no appeals were filed). The subject property is known and numbered as 8 Sam's Way, Truro and shown as Parcel 13 on Truro Assessor's Map, Sheet 24. The covenant recorded at Book 9221 Page 26 will need to be released, and a new covenant is proposed for acceptance.

ANR Plan – Consultation

Nearen and Cubberley Nominee Trust seek consultation with the Planning Board regarding re-endorsement of ANR plan previously endorsed by the Planning Board on January 24, 2001.

Preliminary Subdivision- Continued

2015-010 Rose L. D'Arezzo, Charles S. Hutchings, et al seeks approval of a 5-lot 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 4H Bay View Road and a portion of 3 Laura's Way, Assessors Map 39, Parcels 77 & a portion of 325.

Commercial Site Plan Review, Hearing Re-opened

2015-006SPR Michael A. Tribuna, Trustee, c/o Christopher R. Vaccaro, Esq., seeks approval of an Application for Commercial Development Site Plan Review pursuant to §70.3 of the Truro Zoning By-law for the filling of low area at 7 Parker Drive with related drainage improvements and erosion controls. There will be no new buildings or changes to existing buildings and structures. The property is also shown on Atlas Map 39 Parcel 168 & 169. This application was previously heard on September 8, 2015 and December 8, 2015.

Adoption of MGL c. 44 §53g

Continued Discussion on Possible Zoning Articles and Scheduling of Public Hearings

Growth Management Bylaw
Water Resource Protection District

Review and Approval of Meeting Minutes

January 19, 2016 Planning Board Meeting

Reports from Board Members and Staff

- Update on Affordable Accessory Dwelling Unit Bylaw
- Other

Meeting Dates and *Other Important Dates:*

- February 16, 2016 – Reg. Meeting
- Annual Town Meeting Warrant closes March 8, 2016

- March 15, 2016 – Reg. Meeting
- March 29, 2016 – Reg. Meeting
- [Annual Town Meeting](#)

Adjourn



TOWN OF TRURO

Planning Department
P.O. Box 2030, Truro, MA 02666
Tel: (508) 349-7004, Ext. 27 Fax: (508) 349-5505
cridley@truro-ma.gov

To: Planning Board
From: Carole Ridley
Date: January 28, 2016
Re: Staff Report #2

2015-009PB Nancy Dyer seeks endorsement of a Modification to Definitive Plan for 8 Sam's Way, approved by the Board on December 8, 2015 and following the expiration of a 20-day appeal period (no appeals were filed). The applicant also seeks a release of covenant recorded at the Barnstable County Registry of Deeds, Book 9221, Page 26, and acceptance of a new covenant.

The Planning Board conditionally approved this modification to a definitive plan on December 8, 2015. A decision was filed with the Town Clerk on January 7, 2016, and no appeals were filed within the 20-day appeal period. A copy of the decision is attached.

In accordance with the decision, the applicant is request three actions by the Board:

1. Acceptance of a new covenant reflecting the modified road design and condition that the approved way will provide legal frontage only for Lot 1A and no new lots shall be created using this way as frontage.

To accept Form D Covenant for 2015-009PB Nancy Dyer Modified Definitive Plan reflecting the terms of the conditional approval decision for the Modified Definitive Plan filed with the Town Clerk on January 7, 2016.

2. Release of a covenant assigned under the previously approved subdivision plan. If the Board so chooses to release the covenant associated with the prior plan, a possible motion to this effect follows:

In consideration of a modification of definitive plan and associated covenant, to execute form F Certification of Completion and Release of Municipal Interest in Subdivision Performance Security with respect to the covenant recorded with the Barnstable County Registry of Deeds, Plan book 9221, Page 26 only.

3. The Board does not need to vote to endorse the plan.



COMMONWEALTH OF MASSACHUSETTS
TOWN OF TRURO
PLANNING BOARD – NOTICE OF ACTION

MODIFICATION TO A DEFINITIVE SUBDIVISION

Reference No. 2015-009

Map 24 Parcels 13

8 Sam's Way

Applicant: Nancy A. Dyer

Meeting Dates December 8, 2015

Decision Date December 8, 2015

At a duly posted and noticed public hearing opened on December 8, 2015, the Town of Truro Planning Board, acting in the matter of Reference Number 2015-009, and pursuant to MGL c41 §81W, voted to approve a waiver from strict compliance to allow application of the Rural Road Alternative and to conditionally approve a Modification to a Definitive Plan entitled "Subdivision Plan of Land in Truro Showing a Subdivision of Lot A as Shown on a Plan Recorder (sic) in Plan Book 503, Page 18 Made for Nancy A Dyer" and recorded at the Barnstable County Registry of Deeds to allow modified specifications for road construction. The Board's vote was 6-1-0 (Mr. Riemer opposed) to approve the waiver from strict compliance and 6-1-0 (Mr. Riemer opposed) to conditionally approve the Modified Plan.

In the Planning Board's deliberations, the following plans and submittals were reviewed:

- Form E Application for Modification, Amendment or Rescission of Definitive Subdivision, 2. Received October 20, 2015
- Fee of \$275 paid to the Town of Truro
- Subdivision Plan of Land in Truro Showing a Subdivision of Lot A as shown on A Plan Recorder (sic) in Plan book 503, Page 18, Made for Nancy A. Dyer, May 27, 2015, Revised 7/22/15, 8/19/15 and 9/29/15; 1"=40'
- Certified list of abutters to parcel 24-13, 8 Sam's Way
- Subdivision Plan of Land in Truro, MA made for Samuel Dyer, Jr., November 10, 1993, by Slade Associates, Inc., 1"=4-' endorsed by the Truro Planning Board on January 5, 1994
- Decision/Motion of the Zoning Board of Appeals of Truro, MA, October 6, 2015
- Letter from Attorney Lester J. Murphy, undated, requesting waivers from strict compliance with Section 3.6.8 of the Truro Rules and Regulations Governing the Subdivision of Land, pursuant to section 3.7 Rural Road Alternative

Findings

After discussion and testimony by the applicant, the applicant's representatives, and members of the public, the Planning Board deliberated on the merits of the request for approval of the Modification to the previously approved two-lot Definitive Plan. In its deliberation the Board found:

- A Preliminary Plan for the modification was approved by the Planning Board on August 4, 2015 and the conditions of the approval were satisfied;
- The Zoning Board of Appeals granted a variance from the required roadway width;
- The subdivision roadway would serve only one lot, and would be limited by the Board of Health Regulations to two-bedrooms unless a waiver is granted by the Board of Health;
- Maintenance of Sam's Way Lot A1 would be solely the responsibility of the owner of Lot A1 (Parcel 24-13);
- Pre-existing pedestrian access rights over Sam's Way would not be interrupted;
- The shortening of the roadway would allow a dwelling built on parcel 24-13 (Lot A1) to be located further inland of the coastal bank.

Decision

On a motion by Mr. Sollog and seconded by Mr. Hopkins, the Board voted to approve the requested waiver from strict compliance with the design requirements of §3.6.8 pursuant to § 3.7, Rural Road Alternative, of the Truro Subdivision Regulations. Board members expressed that the granting of the waiver was not inconsistent with the intent and purposes of the Subdivision Control law and not injurious to the public. The vote was six (6) in favor, one (1) opposed (Mr. Riemer) and none in abstention.

On a motion by Mr. Sollog and seconded by Mr. Hopkins, the Board voted to approve a Modification of a Definitive Plan pursuant to MGL c.41, Section 81W and Section 2.5 of the Town of Truro Rules and Regulations Governing the Subdivision of Land with respect to property known and numbered 8 Sam's Way, Truro and shown as Parcel 13 on Truro Assessor's Map, Sheet 24 subject to the following conditions:

- 1.) The granting of waivers from strict compliance § 3.6.8 pursuant to §3.7 of the Town of Truro Regulations Governing the Subdivision of Land.
- 2.) Sam's Way as shown on the plan entitled 'Subdivision Plan of Land in Truro Showing a Subdivision of Lot A as shown on A Plan Recorder (sic) in Plan book 503, Page 18, Made for Nancy A. Dyer', May 27, 2015, Revised 7/22/15, 8/19/15 and 9/29/15; 1"=40', shall serve only Lot A1 (Parcel 24-13) as shown on said plan, and no new lots shall be created using this way for frontage.
- 3.) Prior to endorsement of the Modified Plan, the covenant recorded at the Barnstable County Registry of Deeds Book 09221 Page 026 associated with the plan approved on January 5, 1994 shall be released and a new covenant reflecting the conditions of the modified plan shall be executed.
- 4.) The applicant shall file a letter of determination with the Massachusetts Division of Fisheries and Wildlife Natural Heritage and Endangered Species and secure determination of no take of rare or endangered species.
- 5.) The applicant shall comply with all applicable requirements and regulations of the Truro Conservation Commission and Truro Board of Health.

Board Vote

The Board's vote on the motion to conditionally approve the Modification to the Definitive Plan was vote was six (6) in favor (Ms. Tobia, Mr. Herridge, Mr. Hopkins, Mr. Roderick, Mr. Sollog, Mr. Boleyn), one (1) opposed (Mr. Riemer) and none in abstention.

Jana Maria Jahn 1-5-16
Planning Board Chair Date

Received, Office of the Town Clerk:

[Signature]
Signature

JANUARY 7, 2016
Date



TOWN OF TRURO PLANNING BOARD
FORM D
COVENANT

The undersigned Nancy A. Dyer, Trustee of the Dyer Realty Trust u/d/t dated 11/9/2009 of Middlesex County, Massachusetts, hereinafter called the "Covenantor", having submitted to the Truro Planning Board, a definitive plan of a subdivision, entitled Subdivision Plan of Land in Truro Showing a Subdivision of Lot A as Shown on a Plan Recorded in Plan Book 503, page 18 Made For Nancy A. Dyer dated May 27, 2015, revised 07/22/15, 08/19/15, 09/29/15 made by Slade Associates, Inc. for property located at 4 Sam's Way and showing 1 proposed lot, does hereby covenant and agree with said Planning Board and the successors in office of said Board, pursuant to MGL c.41, §81U, as amended that:

1. The Covenantor is the owner of record of the premises shown on said plan;
2. This covenant shall run with the land and be binding upon the executor, administrators, heirs and assigns of the Covenantor, and their successors in title to the premises shown on said plan;
3. The construction of ways and the installation of municipal services shall be provided to serve any lot in accordance with the Rules and Regulations of said Planning Board before such lot may be built upon or conveyed, other than by mortgage deed; provided that a mortgagee who acquires title to the mortgaged premises by foreclosure or otherwise and any succeeding owner of the mortgage premises or part thereof may sell any such lot, subject only to that portion of this covenant which provided that no lot so sold shall be built upon until such ways and services have been provided to serve such lot;
4. Nothing herein shall be deemed to prohibit a conveyance subject to this covenant by a single deed of the entire parcel of land shown on said subdivision plan or of all lots not previously released by the Planning Board without first providing such ways and services;
5. This covenant shall take effect upon approval of said plan by the Planning Board.
6. Reference to this covenant shall be entered upon said plan and this covenant shall be recorded at the Registry of Deeds or the Land Court when said plan is recorded. A copy of the recorded covenant shall be returned to the Planning Board.
7. See attached.

The undersigned Nancy A. Dyer, Trustee as aforesaid
the Covenantor hereby agree that such interest as I, we, may have in said premises shall be subject to the provisions of this covenant.

Witness my hand and seal: this 2nd day of October, 2015

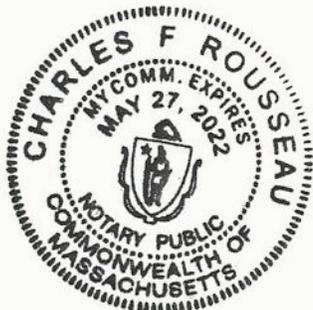
Nancy A. Dyer
Signature of Owner

Signature of Owner

Nancy A. Dyer, Trustee of the Dyer Realty Trust u/d/t dated 11/9/2009
COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss

On this 2nd day of October, 2015, before me, the undersigned notary public, personally appeared Nancy A. Dyer, Trustee, proved to me through satisfactory evidence of identification, which were MA Driver's License, to be the person whose name is signed on the preceding or attached document in my presence and acknowledged the foregoing instrument to be his free act and deed before me.



Charles F Rousseau
Notary Public: Charles F. Rousseau
My Commission Exp: May 27, 2022

The following are further agreements and/or conditions of approval:

We, the undersigned, being a majority of the members of the Truro Planning Board present at a meeting held on December 8, 2015, hereby agree to allow the traveled portion of Sam's Way as shown on the aforementioned plan, to be a fourteen foot wide T-base surface as shown on the preliminary subdivision plan approved by this Board on August 4, 2015 and as under Section 3.7 (Rural Road Alternative) of our Regulations.

Planning Board Signatures:

Date: _____

COMMONWEALTH OF MASSACHUSETTS

BARNSTABLE, SS

On this ____ day of _____, 20____, before me, the undersigned notary public, personally appeared _____, one of the above-signed members of the Truro Planning Board, proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding or attached document in my presence and acknowledged the foregoing instrument to be his free act and deed before me.

NOTARY PUBLIC

TOWN OF TRURO



PLANNING BOARD

FORM F CERTIFICATION OF COMPLETION & RELEASE OF MUNICIPAL INTEREST IN SUBDIVISION PERFORMANCE SECURITY

Date: _____

Subdivision Name: Samuel Dyer Location Sam's Way

Owner: Nancy A. Dyer

Owner address: 103 Algonquin Trail, Ashland, MA 01721

Applicant: same as owner

Applicant address: _____

Barnstable County Registry of Deeds, Plan Book 503, Page 18

Barnstable County Land Registry, L.C.P. No. _____

Form D Covenant Doc. No. _____ Book 09221 Page 0026

The undersigned, being a majority of the Planning Board of the Town of Truro, Massachusetts, hereby certify that the construction of ways and the installation of municipal services for the subdivision cited above have been fully and satisfactorily completed in accordance with the Planning Board Rules and Regulations to serve the following lots: Lots A and B

Pursuant to MGL c.41, §81-U and in consideration of said construction and installation, the Town of Truro a Massachusetts municipal corporation, acting through its Planning Board, hereby release its interest in the performance security for the subdivision cited above.

Truro Planning Board Date: _____

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

On this _____ day of _____, 20____, before me, the undersigned notary public, personally appeared _____, one of the above signed members of the Truro Planning Board, proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding or attached document in my presence.

By commission expires: _____

Notary Public



TOWN OF TRURO

Planning Department
P.O. Box 2030, Truro, MA 02666
Tel: (508) 349-7004, Ext. 27 Fax: (508) 349-5505
cridley@truro-ma.gov

To: Planning Board
From: Carole Ridley
Date: January 28, 2016
Re: Consultation

ANR Plan – Consultation

Nearen and Cubberley Nominee Trust seek consultation with the Planning Board regarding re-endorsement of ANR plan previously endorsed by the Planning Board on January 24, 2001.

An email request for consultation from Attorney Christopher Snow is attached, along with a copy of the signed ANR. The ANR was endorsed by the Planning Board in 2001, but not recorded. An impending property transfer requires that the Land Court approval and recordation be accomplished.

I conferred with Town Counsel on the Board's ability to re-endorse the plan. While there may be no legal reason to prevent you from doing so, there may be practical concerns associated with having two identical plans signed by two Planning Boards fifteen years apart. Given that the ANR process can be accomplished expeditiously, it may be cleaner to request a filing as a new ANR for action and the earliest possible date. This would provide assurance to this Board that all conditions of an ANR are duly met.

617 Shore Road Truro, Ma.

Snow and Snow Law <office@snowandsnowlaw.com>

Mon 1/11/2016 3:06 PM

To: Carole Ridley <cr Ridley@truro-ma.gov>;

Cc: billsier@verizon.net <billsier@verizon.net>;

 1 attachment

MX-M264N_20160111_145905.pdf;

Dear Ms. Ridley:

This correspondence is prompted by what our engineer, William N. Rogers, has described to me as your need for a letter from the property owner's counsel requesting that the Planning Board set aside an agenda item for the next available date on an informal advisory basis to consider what the Board would require in endorsing/ratifying a prior endorsed ANR plan dated November 2000 and endorsed on January 24, 2001 by the then duly appointed members of the Planning Board. A copy of said plan is scanned and attached to this email for your convenient reference.

Due, however, to a misunderstanding by the property owner, the plan was never recorded as it first required Land Court approval which by owner's oversight she did not obtain, apparently thinking that as it is co-owned with her adjacent bordering property, the building addition to 627 Shore Road would not cause a trespass to their own land. The affected lot to be conveyed to 627 Shore Road was subsequently built upon with a duly issued building permit 14 plus or minus years ago without any knowledge or recognition of this oversight until now when a proposed Purchasers' review of the legal description of 617 Shore Road disclosed the infirmity.

It is anticipated that a cursory review only be needed to establish long since past action of the Planning Board resulting in an endorsement of an updated plan identical to the 2000 Plan permitting us to record and seek Land Court approval needed to complete conveyance as previously contemplated.

Hopefully this informal request could be taken up and acted upon expeditiously at the Board's

next meeting , January 19, 2016 or as soon thereafter as is possible so we may know what services our surveyor will need to complete which we assume to be simply a replica of the past plan as ANR. . Please advise when this matter can be addressed given the time sensitive nature of a pending Purchase closing date. Thank you in advance for your attention to this matter.

Cordially,

Christopher J. Snow, Esquire

Christopher J. Snow, Esq.
Snow and Snow
P.O. Box 291
90 Harry Kemp Way
Provincetown, MA 02657
508-487-1160
office@snowandsnowlaw.com
www.snowandsnowlaw.com

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TOWN OF TRURO
P.O. Box 2030, Truro, MA 02666
Tel: (508) 349-7004 Fax: (508) 349-5505

To: Planning Board
From: Carole Ridley, Consultant
Date: January 28, 2016
Re: Preliminary Plan Continuance

2015-010 Rose L. D'Arezzo, Charles S. Hutchings, et al seeks approval of a 5-lot 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 4H Bay View Road and a portion of 3 Laura's Way, Assessors Map 39, Parcels 77 & a portion of 325.

Description

The applicant seeks approval of a 5-lot subdivision primarily located on Map 39 Parcel 77. The area of this area is 6.448 acres, and each lot exceeds 40,000 sf. The proposed way extends onto a portion of Map 39 Parcel 325, although no lots are on this parcel. The remaining area of 39-325 after the proposed subdivision exceeds 40,000 sf. The total area of the proposed way is 40,386 sf. The proposed way is 40 feet wide. As a type B street, 18 feet of paved travel surface is required. Shoulders and grade are not defined. Drainage is proposed as preliminary.

December 8th Meeting and Follow-Up

The Planning Board discussed this application on December 8th. Several questions were raised about limitations on the use of Sawyer Grove Road for access, and possible impacts to traffic and pedestrian safety in the area.

The following additional information is provided:

- A letter outlining the points of concern and questions raised by the Board was sent to Slade Associates on December 28, 2015 (enclosed).
- An email response to that letter from Slade Associates is also enclosed.

Subsequently, a request was sent to Town Counsel asking him to opine on the following:

- Whether a condition in the approval of the Sawyer Grove Road subdivision

limiting the use of that road to only that development and not for access to any subsequent subdivision precludes that road from providing a means of access to the new proposed way, as stated in a prior legal opinion.

- Whether two or more of the Sawyer Grove Road, Laura's Way and Tashmuit Way subdivisions should be considered in combination for the purposes of requiring secondary access in accordance with section 3.6.5
- Whether, for the purposes of compliance with Sec 3.6.6.a, the dead end street should be measured from the intersection of Tashmuit and Sawyer Grove Road, or from the intersection of Sawyer Grove Road and Hughes Rd.

A response from Counsel had not arrived at the time of this memo but is expected prior to the February 2 meeting.

Additional Abutter Comment

Additional comment from abutters was submitted to the Board for consideration and are enclosed with this memorandum

Town Staff Comments (Comments submitted subsequent to the December 8th meeting are in bold)

Conservation

1. There are no wetland resources on the property, and therefore Conservation Commission review is not required.
2. It appears that the proposed subdivision is within the NHESP Priority Habitat of Rare Species, mapped area PH 15. Any proposed work in this area would require a filing with NHESP. Pat Pajaron wrote: "The proposed work limit area on the MESA Overlay plan indicates a work limit that includes all site work, dwellings, etc. Typically projects and subdivision plans that are reviewed and approved by NHESP, show work restricted within an approved building envelope."

Health

3. Each of the lots is 40,000 sf and subject to a limit of 4 bedrooms per acre. It appears there is room for septic systems on the parcels except for Lot 2 which contains two wells, and Lot 1 with no locus. A well should be located on Lot 1 unless the applicant can demonstrate that potable water cannot be obtained.
4. The master well and septic plan and Definitive Subdivision Plan will need to be approved by the Board of Health. The applicant will need a variance to Section VI, Article 2, Hydrogeologic Studies of the Truro Health regulations.

Police

5. Chief Takakjian registered no concerns **(A request for any additional input was emailed on January 27, 2016 and had not arrived at the time of this memo, but may be reported at the February 2nd meeting.)**

Building Commissioner

6. Plan conforms to zoning and the design standards in Subdivision Control except much of the street has grades (15% - 20%) in excess of the standard shown in

Appendix 2, Table 1. There is no profile of the proposed street but his observation is based on the existing contours shown. Extensive fill would be required at the road layout as well as the building sites in order to flatten out the road grade.

Planning Staff Comments

Pending Town Counsel's opinion on the questions outlined above, the following issues require attention:

1. The degree of traffic safety concerns warrants further evaluation of traffic impacts associated with the development and the extent to which adequate mitigation measures could be developed in consultation with the Police Department and local residents. This would be a reasonable condition.
2. In your consideration of the application, the Board should reflect on the following requirements of access ways:

Section "3.6.5 Access" of the Subdivision Regulations: "Subdivisions containing a total of thirty (30) or more lots shall provide more than a single access from an existing street. For this purpose, "total number of lots" includes the lots fronting on pre-existing subdivision roads used for access to the proposed subdivision, as well as new proposed lots." Sawyer Grove Road (17 lots) provides access for Laura's Way (15 lots) and potentially Tashmuit Lane (5 lots) without an existing or proposed secondary means of access.

Section "3.6.6 Dead-end streets" of the Subdivision Regulations: subsection (a) "The length of dead-end streets should not exceed one thousand (1,000) feet, and the dead end street shall include a turn around having a property line diameter of at least eighty (80) feet. Length of the street shall be measured along the centerline to the end of the turnaround."

The Board has the ability to waive these standards as follows, and should consider the full implications of doing so:

In accordance with Section 1.5 "strict compliance with the requirements of the subdivision rules and regulations may be waived when, in the judgment of the Board, such action is in the public interest and not inconsistent with the purposes and intent of the Subdivision Control Law. In waiving strict compliance, the Board may impose such alternative conditions as will serve substantially the same objective as the standards or rules waived..."

3. It should be demonstrated that Lot 5 meets the requirement of Section 50 Area and Height Regulations, Lot Shape: "For any lot created after April 30, 204, the portion of the lot connecting the frontage with the front line of any building site shall not be less than 50 feet wide, as measured between opposite sidelines."

4. Approval by the Board of Health of a master well and septic plan and a variance to Section VI, Article 2, Hydrogeologic Studies of the Truro Health regulations all are needed to demonstrate adequate water supply and wastewater disposal capacity compliant with town regulations. The Board could consider a reasonable condition to require that these approvals be obtained prior to application for Definitive Plan. Subsequently, Board of Health approval of the Definitive Plan also would be needed.

Planning Board Jurisdiction

According to § 2.4 of the Rules and Regulations Governing the Subdivision of Land, the purpose of a preliminary plan is to “enable the subdivider, the Board, other municipal agencies and owners of abutting property to identify and discuss any problem areas in the proposed subdivision. Review of, and comments on, a Preliminary Plan are strictly advisory and do not commit the Board to approve a Definitive Plan.

§ 2.4.4 Action on Preliminary Plans states:

“Within 45 days after submission to the Board of a preliminary plan, it shall notify the applicant and the Town Clerk, by certified mail, either that the plan has been approved, or that the plan has been approved with modifications suggested by the board or agreed upon by the person submitting the plan, or that the plan has been disapproved, and in the case of disapproval, the board shall state its reasons therefore.

The approval of a Preliminary Plan does not entitle that plan to be recorded, but it may facilitate the approval of a Definitive Subdivision Plan.”

Planning Board Options

As noted above, the Board may vote to approve the plan, approve the plan with conditions, or disapprove of the plan, citing specific reasons for disapproval.



TOWN OF TRURO

Planning Department

P.O. Box 2030, Truro, MA 02666
Tel: (508) 349-7004, Ext. 27 Fax: (508) 349-5505
critley@truro-ma.gov

December 28, 2015

Mr. Chet Lay
Slade Associates, Inc.
PO Box 592
Wellfleet, MA 02667

Re: 2015-010 PB D'Arezzo Hutchings Preliminary Plan

Dear Mr. Lay:

This letter is in follow-up to the Planning Board's vote on December 8th to continue the above referenced matter to Tuesday, January 19, 2016, and your letter (December 9, 2015) requesting the same.

On December 8th, the Board made a number of comments and information requests based on your presentation and other testimony and information provided during the meeting. These are summarized below:

1. An attachment to a covenant (Book 9632 Page 061) of Planning Board approval of the Definitive Plan for Helen Sawyer Reserve at North Truro stipulates that "Approval of this definitive plan is limit to construction of Sawyer Grove Road as shown on said plan and is not approved for construction of any ways to adjoining land." This condition was based on the Board's vote (December 20, 1989) that "roads are insufficient and inadequate to serve development of any adjacent property, which will require additional and separate access." A previous Town Counsel opinion prepared for a separate nearby subdivision (May 24, 2007) indicates that this condition would preclude use of Sawyer Grove Road for access to the adjacent subdivision. By extension, this Town Counsel opinion would seem to preclude use of Sawyer Grove Road for access to the proposed Preliminary Plan.
2. The Board raised questions about the appearance of segmentation of subdivisions to avoid going over the 30-unit threshold that triggers the requirement under section 3.6.5 for a second means of access. The Board questions whether the approval of the Sawyer Grove Road, Laura's Way and, potentially, Tashmuit Way trigger the requirement for an additional means of access under section 3.6.5. What form of secondary access could be provided to address this concern?
3. An amendment to covenant for the Helen Sawyer Reserve at North Truro dated February 26, 2007 stipulates that the paved surface of Sawyer Grove Road would be limited to 20 feet, raising further question of the adequacy of the roadway to support additional traffic from the existing and proposed subdivision of adjacent land.

4. In light of the concerns about restrictions on the use of Sawyer Grove Road for access, and about related traffic and pedestrian safety concerns, please provide analysis of projected new and existing traffic on Sawyer Grove Road, Hughes Road and Tashmuit Lane and indicate any measures that could be implemented to mitigate concerns about traffic and pedestrian safety.

5. Section 3.6.1.e requires that all lots within a subdivision shall have their access from the subdivision road. You noted that Lot 2A would not have access over the new way, Tashmuit Lane, and would need to have granted access from Laura's Way to avoid a take of state listed species in accordance with conditions from Natural Heritage and Endangered Species Program (NHESP). Please provide evidence of agreement from abutting property owners to provide such easement, and any requirements or stipulations.

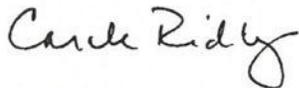
6. In accordance with section 4.2.2, catch basins are to be located off the road, yet appear on the plan as overlapping with the road. Please revise the plan accordingly.

7. Please demonstrate the provision of adequate turning radii on both sides of Tashmuit Lane where it intersects Sawyer Grove Road.

Thank you for your attention to these comments. Please submit any additional information or plans related to this project to the Town Clerk no later than noon on Friday, January 8th.

Please contact me if you have any comments or concerns.

Sincerely,

A handwritten signature in cursive script that reads "Carole Ridley".

Carole Ridley
Planning Consultant

Cc: Lisa Maria Tobia, Chair
Rae Ann Palmer, Town Administrator

On Dec 28, 2015, at 4:36 PM, Chester Lay <chet.lay@slade-associates.com> wrote:

Carole- the developer has the means (and right) to widen Sawyer Grove Roads, and items 5, 6 and 7 in your memo don't present a problem. We do need to know, however, whether or not the Board will be treating the new subdivision as a *de novo* development which would not need the waiver for maximum length of road and second access or as an add-on to the Sawyer Grove plan. These obviously could be "drop dead" issues and a traffic study done before we have answers to those two questions may be just a waste of money. I was under the impression that the Board was seeking input from Town Counsel- was this correct?

Is the Board meeting again on January 5th to sign the Meldahl plan?
Many thanks.

Chet

(508) 349-3110

From: Carole Ridley [<mailto:cr@ridleyandassociates.com>]

Sent: Monday, December 28, 2015 11:04 AM

To: <chet.lay@slade-associates.com>

Cc: Lisa Maria Tobia; Rae Ann Palmer; Carole Ridley

Subject: 2015 010PB D'Arezzo Hutchings

Chet-

Please see the attached letter summarizing Planning Board comments on the above referenced file from the December 8th meeting. This letter is intended to help prepare for the continuance on January 19th.

Please let me know if you have any questions.

Thanks,

Carole

Ridley & Associates, Inc.

115 Kendrick Road

Harwich, MA 02645

(508) 430 2563 (office)

(508) 221 8941 (cell)

(508) 432 3788 (fax)

www.ridleyandassociates.com

Town of Truro
Truro Planning Board

Truro, Massachusetts

Minutes

PR file

Meeting of December 20, 1989

Present: ^{Ken Bates} Brock, ^{dec. Precilla} Brown, Downey, Dyer, Nickerson, Pazolt

Absent: Morris

*How B. J. or
Martha Ing.*

Also attending: Selectmen, C Davidson, R Bednarak, J Killian, R Lay, A Lundwell, R Martin
L Rose, approximately 6 others

The minutes of December 6, 1989, were approved, 6-0

Helen Sawyer Sub-division/Further Discussion

Noted letters from Chief of Police, recommending STOP sign, elimination of bushes on sides of entrance and widening of entrance, and from Highway Supt urging there be an alternate plan. Also telephone advice from Town Counsel that Board can approve plan, approve it with modifications to include both the entrance and preventing side access roads to be used to enable development adjacent properties, or deny plan as creating a hazardous traffic condition.

*→ due to the narrowness of
Hugues Rd.*

Motions to (1) Reject plan and (2) Accept plan without modification failed for lack of seconds. Motion to accept plan, subject to following conditions, was approved, 5-0 (Downey stepped down)

1. STOP sign at entrance
2. Enlargement of entrance area
3. Permanent removal of bushes
4. Covenant that roads are insufficient and inadequate to serve development of any adjacent property, which will require additional and separate access, and roads on plan are approved only for this sub-division.
5. Developer to submit plan incorporating these changes to Board at its January 3, 1990, meeting.

Proposed by-law amendment/Definition of Living Area

Question as to why bedrooms not included; agreed to add them. Also questions re basements and attics and why they should not be included. Also some question about space which may not now be "living" but could be in future.

Proposed by-law amendment/Lot Density in Seashore

Town Counsel thought original proposal (as advertised) unlawful and proposed alternatives. Downey submitted two: one indicating maximum allowable percentages and another indicating maximum allowable Mass in cubic feet.

Noted letter from National Seashore Supt commending town for considering these articles and that town zoning by-laws were the only way to insure the intent of the guidelines. Observed the inequity for a property owner who has been responsive to the guidelines to see another violate them with impunity.

This proposal, and the following one, evoked considerable discussion. Many of the comments directed at one proposal were equally applicable to the other.

Some questioned need for any action: this would take away property rights; the system has worked for years so why change it? Others responded that these regulations

Truro Planning Board
Truro, Massachusetts
Minutes

Meeting of January 3, 1990

Present: Brock, Brown, Dyer, Morris, Nickerson, Pazolt
Absent: Downey
Also attending: Approximately 20 others

The minutes of December 20, 1989, were approved 5-0 (Morris abstained since he did not attend meeting)

Annual Report for 1989 was approved as presented by Chairman, 4-2 (Pazolt in negative)

List of twelve articles for Annual Town Meeting and pertaining to the Zoning By-law was approved for forwarding to Selectmen

Helen Sawyer Sub-division

Since agenda for December 20 meeting had implied that a vote would not be taken until January 3, the Board indicated willingness to reopen its decision if new information made that appropriate. Mr Cyzowski objected to proposed covenant since it would effectively landlock his property. Board reiterated its concern for opening 20-plus acres for a development which would only be accessed by the single road into the Sawyer sub-division and, thus, did not change its decision of December 20, 1989.

Stanley Potts Preliminary Sub-division Plan

- Requesting creation of three lots where one now exists. Also waiver of road requirement to permit a 12 ft hardened way.
- Site visit schedule for January 16 at 8:30 am

David Del Gizzi Preliminary Sub-division Plan

Plan denied, 6-0, since there is not adequate frontage and no public purpose would be served by granting a waiver.

James & Yvonne Johnson/ANR

Consolidation of two lots into one, on a parcel of two-plus acres. Approved, 5-0, (Nickerson not present for vote)

Hearing: Proposal to Amend Zoning By-law to permit EXIT and ENTER signs

- amendment proposed since there is no provision in present by-law for such signs and this would eliminate misunderstandings
- amendment simply permits such signs and defines their size; does NOT require them
- other signs governing traffic flow, especially on state highways, are prescribed by State and have precedence.
- consider "grandfathering" or giving amnesty to existing signs of this type. (only Cap'n Josie's noted as being in violation)

Hearing: Proposal to Amend Zoning Bylaw to permit OPEN signs

- amendment proposed since there is no provision in present by-law for such signs and this would eliminate misunderstandings and permit uniform enforcement

Town of Truro
Truro Planning Board
Truro, Massachusetts
Minutes

Meeting of February 7, 1990

Present: Brock, Brown, Downey, Dyer, Morris, Nickerson

Absent: Pazolt

Also attending: R. Lay, W. Rogers, S. Williams, S. Perry, E. Silva, J. Johnson, 3 others

The minutes of January 17, 1990, were approved, 5-0 (Downey arrived late)

ANR/Stanton W. Putnam

Division of property on Knowles Heights Rd. Creates one new lot. Meets all requirements and no waivers requested. Approved, 4-0 (Dyer stepped down; Downey arrived late)

Ruth Hollander property on extension of Toms Hill Rd

Lay requested advisory opinion on combining three lots, now under common ownership, into two - both of which would be buildable. No formal vote taken, but no objections raised from Board. Brown stepped down.

Subdivision/Helen Sawyer

Board of Health has approved. Signed definitive plan.

Shearwater

Lay requested approval of a new design for that part of Cormorant Way which has not been completed. Proposed to eliminate existing catch basins; slant road away from wetland, create a continuous stone trench on edge of road away from wetland; move road further from wetland, between two and six feet. All to be shown on a new Sheet 3 of the previously approved 6 Sheets. Lay reported that Conservation Commission had endorsed.

Approved, 4-0 (Brown and Downey stepped down)

Davol/Preliminary Subdivision plan

Note comments in minutes of January 17, 1990, meeting: Main concern was waiving of grade requirement, requested since only serves two lots. Approved waiver; require entire road except cul-de-sac to be surfaced with 6" of processed stone over a base of hardening. Drainage to be provided at base of hill, with method according to sound engineering practise. Approved, 4-1 (Brown stepped down; Downey in negative)

Hearing/Proposal to amend Zoning By-law to control Vending Machines

Purpose is to establish regulations now before these machines become too numerous and have an adverse visual impact.

- they can be restricted now under the sign code; Building Commissioner feels that a literal interpretation of the code for this purpose could be too harsh
- problem of newspapers could be resolved by amending proposal to exclude them
- question as to applicability to telephones; ice machines.
- some feel proliferation will be limited by market forces and high cost of machines
- fear of vandalism if machines are not visible; also, visibility is important to the traveller who seeks refreshment and to the merchant who wants to sell product.

The undersigned, Helen Mary Sawyer
of Barnstable County, Massachusetts,
hereinafter called the "Covenantor", having submitted to the Truro
Planning Board, a definitive plan of a subdivision, entitled "Helen Sawyer
Reserve at North Truro" Subdivision Plan of Land in Truro, made for Helen Mary Sawyer
dated April, 1989 made by Slade Associates, Inc.
does hereby covenant and agree with said Planning Board and the successors in office of
said Board, pursuant to G. L. (191. A.M.) C. 41, Sec. 81U, as amended, that:-

Plan 163/9

1. The covenantor is the owner of record of the premises shown on said plan;
2. This covenant shall run with the land and be binding upon the executors, administrators, heirs, assigns of the covenantor, and their successors in title to the premises shown on said plan;
3. The construction of ways and the installation of municipal services shall be provided to serve any lot in accordance with the applicable Rules and Regulations of said Board before such lot may be built upon or conveyed, other than by mortgage deed; provided that a mortgagee who acquires title to the mortgaged premises by foreclosure or otherwise and any succeeding owner of the mortgaged premises or part thereof may sell any such lot, subject only to that portion of the Covenant which provides that no lot so sold shall be built upon until such ways and services have been provided to serve such lot;
4. Nothing herein shall be deemed to prohibit a conveyance subject to this covenant by a single deed of the entire parcel of land shown on the subdivision plan or of all lots not previously released by the Planning Board without first providing such ways and services;
5. This covenant shall take effect upon the approval of said plan;
6. Reference to this covenant shall be entered upon said plan and this covenant shall be recorded when said plan is recorded.

The undersigned wife, husband,
of the covenantor hereby agree that such interest as I we, may have in said premises
shall be subject to the provisions of this covenant and insofar as is necessary release all
rights of tenancy by the courtesy, dower, homestead and other interest therein.

EXECUTED as a sealed instrument this day of 19

H. M. Sawyer



Melbourne Australia

4th December 1989

Then personally appeared, HELEN MARY SAWYER
and acknowledged the foregoing instrument to be her free act and deed,
before me PHILIP ALEXANDER HAMILTON

Notary Public
MY FACULTY IS NOT LIMITED AS TO TIME

Attachment to Covenant
"Helen Sawyer Reserve at North Truro"
Subdivision Plan

We, the undersigned, being a majority of the Truro Planning Board, hereby agree to grant the following waivers of the subdivision control regulations:

- 1) The requirement to construct the two 40' ways running northerly from Sawyer Grove Road to land of Michael W. Czyoski and Theo Christa Czyoski is waived.
- 2) Within the 25 ft. wide "restricted areas" shown on the plan there shall be no disturbance of the natural vegetation except that septic systems may be installed.
- 3) There is no claim of rights in the right of way bounding the westerly sides of Lots 9 and 10 and running westerly to Bay View Road.
- 4) A stop sign shall be installed on Sawyer Grove Rd. at the intersection with Hughes Rd.
- 5) Approval of this definitive plan is limited to construction of Sawyer Grove Road as shown on said plan to provide access for the 17 lots shown on the plan and is not approval for construction of any ways to adjoining land.

I believe this is a ~~mistake~~
point b/c of #5!

← Where did this come from? Not by planning board.

re-written + re-worded by SLADE

Kenneth S. Brock
Betsy A. Brown
John A. [unclear]

Laura B. [unclear]
George [unclear]

Truro Planning Board
4/7/90
 Date

COMMONWEALTH OF MASSACHUSETTS
 Barnstable, ss. Feb 7, 1990

Then personally appeared Kenneth S Brock, one of the above-signed members of the Truro Planning Board, and acknowledged the fore-going instrument to be his free act and deed, before me.

My Commission expires:
May 27, 1994

[Signature]
 Notary Public

RECORDED FEB 14 90

BARNSTABLE COUNTY
 REGISTRY OF DEEDS
 A TRUE COPY, ATTEST
[Signature]
 JOHN F. MEADE, REGISTER

Feb. 1997



AMENDMENT TO FORM D COVENANT
ATTACHMENT TO COVENANT
"HELEN SAWYER RESERVE AT NORTH TRURO" SUBDIVISION PLAN

WE, the undersigned, being a majority of the Truro Planning Board, hereby agree to grant the following waivers of the subdivision control regulations:

- 1) The requirement to construct the two 40' ways running northerly from Sawyer Grove Road to land of Michael W. Czyoski and Theo Christa Czyoski is waived.
- 2) Within the 25' wide "restricted areas" shown on the plan, there shall be no disturbance of the natural vegetation, except that septic systems may be installed.
- 3) There is no claim of rights in the right of way bounding the westerly sides of Lot 9 and Lot 10 and running westerly to Bay View Road.
- 4) A stop sign shall be installed on Sawyer Grove Road at the intersection with Hughes Road.
- 5) Approval of this definitive plan is limited to construction of Sawyer Grove Road with the following amendments as agreed to at our meeting of ~~November 26~~ ^{FEBRUARY 26} 1997 to provide access for the 17 lots shown on said plan and is not approval for construction of any ways to adjoining land. The asphalt surface will be reduced a width of twenty feet (20') of flat surface and sixteen inch (16") berms where required; seeding and planting will be done using indigenous species to the extent possible.

SEE FORM D COVENANT RECORDED WITH BARNSTABLE DEEDS IN
BOOK 9623, PAGE 60 ON APRIL 10, 1995.

Paul Kiernan
[Signature]
[Signature]
Joan Holt
 Truro Planning Board

COPY _____

 Date: 2/26/97

COMMONWEALTH OF MASSACHUSETTS

Barnstable, SS. 26 FEB., 1997

Then personally appeared the above named, PAUL KIERNAN, one of the above-signed members of the Truro Planning Board and acknowledged the foregoing instrument to be HS free act and deed, before me.

[Signature]
 Notary Public

My Commission Expires: OCT. 13, 2002

Truro Planning Board
Truro, Massachusetts
Minutes

File
Sawyer
ref

Meeting of February 26, 1997 4:00 P.M. Truro Council on Aging Building

Present : B.Brown, N.Brown, Kaufman, Kiernan, Holt

Absent : Lema, Rennert

Also present : C.Lay

Meeting of February 19, 1997 was not held due to lack of a quorum.

Minutes of February 5, 1997 were approved. (5-0).

Definitive Subdivision : Herbert N. Schwartz

C.Lay stated the petitioner seeks to extend Hart Road to create the 150' of straight line frontage needed to satisfy current building permit requirements for this previously created buildable lot. Approved (5-0). Plan # 96-108. No new buildable lots.

Covenant Revision : Sawyer

(NB stepped down). C.Lay again presented the Board with a new covenant which stipulated a road pavement width reduction to 20' with a berm width of 16" where required. After further discussion, the Board (4-0) approved and signed this new covenant. Because of the traffic density and the inadequacy of the entrance onto Priest Road, it was the consensus of this Board that no further access be granted to Priest Road over Sawyer Grove Road.

Covenant Release : Dyk

(NB stepped down). Having satisfied the covenant requirements, the Board voted (4-0) to release the petitioner from the covenant.

Articles Vote

The Board agreed to withhold voting their support for the upcoming articles at Annual Town Meeting until after the planned hearing on Thursday, March 6, 1997, at 7:30 PM. The discussion of limiting year-round apartments to situations currently or formally registered as motels was opened for debate.

Site Review : School Addition

The Board was informed of the necessity to perform or waive a site review of the planned school expansion and of the time-sensitive nature of the process. It was agreed that finished plans of the site and the building would be necessary for the Board to adequately make such a decision.

Letter to Selectmen : Reinstatement of Assessment Funding

The Board voted (5-0) to urge the selectmen to reinstate the budget item which would aid the town in furthering its 1999 reevaluation.

Outer Cape Capacity Study : Presentation

The Board was informed the O.C.Capacity Study would be presented in its final form on March 12, 1997 at 7:00 PM at the Wellfleet Library.

Submitted by P.K.

<u>0</u>	new buildable lots	<u>Yr to Date</u> 3
<u>1</u>	subdivisions	1

pc: Town Clerk

Board of Selectmen
Building Commissioner

Conservation Commission
Planning Board file

3/1995

Attachment to Covenant
"Helen Sawyer Reserve at North Truro"
Subdivision Plan

We, the undersigned, being the majority of the Truro Planning Board, hereby agree to grant the following waivers of the subdivision control regulations:

- 1) The requirement to construct the two 40' ways running northerly from Sawyer Grove Road to land of Michael W. Czyoski and Theo Christa Czyoski is waived.
- 2) Within the 25 ft. wide "restricted areas" shown on the plan there shall be no disturbance of the natural vegetation except that septic systems may be installed.
- 3) There is no claim of rights in the right of way bounding the westerly sides fo Lots 9 & 10 and running westerly to Bay View Road.
- 4) A stop sign shall be installed on Sawyer Grove Rd. at the intersection with Hughes Rd.
- 5) Approval of this definitive plan is limited to construction of Sawyer Grove Road as shown on said plan to provide access for the 17 lots shown on the plan and is not approval for construction of any ways to adjoining land.
- 6) This covenant shall be contingent upon the completion of all required improvements within 24 months of the date of endorsement of this covenant.

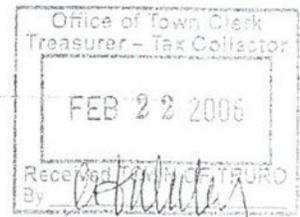
<u>Constance P. Kennert</u>	<u>Paul Kernion</u>
<u>Betsy A. Brown</u>	_____
<u>Wick Par</u>	_____

The Truro Planning Board
Date March 28, 1995
30 (can)
COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss. MARCH 30, 1995

Then personally appeared BETSEY A. BROWN, one of the above-signed members of the Truro Planning Board and acknowledged the fore-going instrument to be HER free act and deed, before me.

My Commission expires: OCTOBER 28, 1999 J. J. Kieren
Notary Public



TOWN OF TRURO
PLANNING BOARD
P.O. Box 2030
Truro, MA 02666-2030

Certificate of Action
On
Definitive Subdivision Plan

1. Name of Applicant: Czyoski Family Trust/A&B Realty Trust

Address: P.O. Box 132, N. Truro 02652/5 Kiley Ct., Provincetown 02657

2. Name of Surveyor or Engineer: Slade Associates, Inc.

Address: P.O. Box 592, Wellfleet, MA 02667

3. Deed of property recorded in the Truro Assessors' Atlas

Sheet: 39 Parcel: (s) 75&76 PB File Number: 2005-011(Prelim: 2004-025)

4. Location of property: 0 Bay View Rd.

This notice is to inform you that your subdivision plan submitted to this Board on: 6/30/05 (w/time
waivers)

was denied by a 0/6 vote on: February 21, 2006

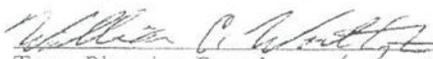
for the following reason(s):

1. Concern for safety of vehicles and pedestrians on Sawyers Grove, Hughes &
Priest Roads;

2. Lack of significant protection of Pilgrim Pond as spelled out in the LCP
(Local Comprehensive Plan).

3. _____

4. _____


Truro Planning Board Vice Chair

7/12/05
②

N. Brown stepped down.
W. Worthington assumed chair.

5. DOCKET # 2005-014
ANR - LONDON/PAYNE - OLD COUNTY ROAD - ASSESSORS
MAP 54, PARCEL 91

D. Lay made presentation which proposes to create one new lot with sufficient frontage and area. T. Franklin made a motion to endorse Plan #2005-35 dated May 2, 2005 as an ANR; motion seconded by C. Hartman and passed (5-0).

(ONE NEW BUILDING LOT CREATED)

N. Brown returned and resumed chair.

6. A. Chaplin suggested discussing with Mr. Lay the proposed Czyoski hearing scheduled for July 19 because of letter received from Atty. Murphy requesting postponement. C. Hartman also asked Mr. Lay if it would be possible to erect some sort of structure so that proposed impact of building could be viewed from Pond Road - agreed. Mr. Lay said a letter would be sent to the Board asking that the scheduled hearing be open and immediately postponed. Mr. Hartman asked that the Historical Committee, Conservation Committee, LCP Committee, Conservation Trust, Truro Neighborhood Assoc., Truro Non-Resident Taxpayers Assoc. and Board of Health be notified about change of date, as well as interested abutters. A. Chaplin asked that the plan be made available for public inspection.

7. C. Hartman asked the Board to adopt a policy that it will not discuss any matter brought to a meeting if paperwork had not been previously received. A. Chaplin made a motion to accept Mr. Hartman's suggestion that the Board will not consider any matter at any meeting unless the Board has received the relevant materials in their packet prior to the meeting. Discussion and Mr. Chaplin withdrew his motion. W. Worthington made a motion that the Planning Board Rules of Self-Governance be amended to include a stipulation for a document to be considered, it must be included in the pre-meeting packet; motion seconded by C. Hartman. Discussion followed and both motion and second were withdrawn. W. Worthington made a motion to ask A. Chaplin to draft working for amendment to Rules of Self-Governance; motion seconded by C. Hartman and unanimously passed (6-0).

W. Worthington suggested making this document available to engineers, etc.

8. Chair asked for working committee reports. C. Hartman and A. Chaplin will be ready to present mansionization work in September. W. Golden has been working on a survey of sign violations and is working with C. Hartman. W. Worthington, T. Franklin and K. Snow have been working on subdivision regulations.

file

MINUTES
PLANNING BOARD
TOWN OF TRURO
July 19, 2005

A meeting of the Planning Board was held at the Safety Facility on July 19, 2005 at 7:00 p.m.

Present were: W. Worthington (acting chair), C. Hartman, T. Franklin, K. Snow and W. Golden. N. Brown arrived during vote accepting minutes. A. Chaplin arrived at 7:15.

Also present: Steve Mondics, Edward Mondics, Judy and Robert Carlson, Michael Johnson, Thomas H. Peters, Blaine H. Johnson, Donald R. Smith, Judith Czyoski, Paul and Brenda Horowitz and Tom Wallace.

1. MINUTES OF JULY 12, 2005

T. Franklin made a motion to accept the minutes of July 12, 2005, as written; motion seconded by C. Hartman and passed 5-0-1 abstention.

N. Brown assumed chair.

2. W. Worthington presented Board members with copy of a letter he had sent to the Deputy Director of Mass Renewable Energy Trust regarding the wind generator proposed for Highland Center. C. Hartman suggested sending a copy of the letter to Mr. Price.

3. C. Hartman made a motion to amend Section 10 of the Ground Rules for Public Hearings to include as part (b.) "Questions by Board members to applicant"; motion seconded by K. Snow and passed 6-0.

C. Hartman questioned whether action for threatening behavior should be addressed in the Ground Rules. N. Brown said the chair should be able to control. K. Snow suggested applicants should be asked to remain seated. W. Worthington disagreed, saying applicants must sometimes stand for presentations.

N. Brown stepped down from Board.

W. Worthington assumed chair.

4. DOCKET #2005-011 - HEARING ON CZYOSKI DEFINITIVE SUBDIVISION

W. Worthington read letter from Lester Murphy, attorney for Czyoski, requesting postponing the hearing. T. Franklin made a motion to continue the hearing to a date not certain; motion seconded by K. Snow.

file

MINUTES
PLANNING BOARD
TOWN OF TRURO
FEBRUARY 21, 2006

A meeting of the Planning Board was held at the Library on February 21, 2006 at 7:00 p.m.

Present were: N. Brown (chair), W. Worthington, W. Golden, T. Franklin, C. Hartman, K. Snow and A. Chaplin.

Also present: Atty. J. Murphy, Dick Lay of Slade Associates, Mike & Judith Czyoski, Mike & Pam Coelho, Joseph & Peggy Duarte, Karen Holway, Wayne & Carol McCabe, Bill O'Brien, Ted Schilling, Jennifer Conley, Nan Porter, Dennis Cole, Mary Browne, Michael Rega, Robert & Judy Carlson, Leo Manske, Michael Johnson, Roger Dias, Eugenia Porter, Jeanne Gaarder, Donna Lembruno, Stephen Donnelly, Joann Eldridge, Theo Poulin, Rafael & Barbara Marin, Janice Parky, Bruce Cagwin, Chris Lucy, Dianne Messinger and Police Chief Thomas.

1. MINUTES OF FEBRUARY 14, 2006

C. Hartman made a motion to accept the minutes of February 14, 2006, as amended; motion seconded by W. Worthington and passed (4-0-3 abstentions) (W. Golden, N. Brown and K. Snow abstaining)

2. CZYOSKI SUBDIVISION HEARING - LAURA'S WAY OFF SAWYER GROVE ROAD - ASSESS MAP 39, PCLS 75 & 76

N. Brown stepped down - W. Worthington assumed chair.

T. Franklin made a motion to open the hearing; motion seconded by K. Snow and unanimously passed.

Atty. Murphy and Dick Lay appeared for applicant.

Atty. Murphy presented relevant documents to Board members relative to subdivision. He stated that the subdivision met or exceeded all requirements of Truro Bylaws. Purchasers of lots in the new subdivision will proportionately share in the expense of maintaining Sawyer Grove Road. Relative to easements surrounding the property, Atty. Murphy suggested that the Conservation Commission would be the enforcing authority. He noted updated traffic study which had been reviewed by the CCCommission. The applicant will pay the expense of having a stop sign installed at the intersection of Priest Road and Hughes Rd.

Installation of lawns is prohibited in subdivision to limit use of nitrogen. Each lot will require Site Plan Review.

in favor of applicant's project. Dianne Messinger said she was concerned about aesthetics. Mr. Lay pointed out that conservation restriction will foreclose access to adjacent vacant land.

The Board then resumed its consideration of the application.

C. Hartman made a motion to postpone judgment for 2 weeks and asked that applicant consider the installation of speed bumps, removal of foliage and expansion of conservation easement; motion seconded by A. Chaplin. T. Franklin said he was against any postponement and was very concerned about the inadequacy of the roads in the area. W. Golden agreed with Mr. Franklin.

K. Snow noted that the primary access road (Hughes Road) is inadequate and insufficient to carry the expected increase in traffic volume. She noted that the majority of Hughes Road has a paved width of 17 feet and no shoulders. She said that Hughes Road also has two poorly configured and extremely busy intersections. She noted that the traffic study indicating stopping sight distances meeting recommended design is not correct and that stopping sight distances do not meet recommended design standards. Also the traffic study stating a 25 mph speed limit in the site vicinity is incorrect - there is no 25 mph speed limit sign posted anywhere in the area of the study. Ms. Snow recommended possible remedial actions: (a) increase the buffer along the pond to 150 feet to protect the hillside and pond from detrimental effects of house building; (b) alter the entrance to the proposed subdivision from Sawyer Grove Road to more easily allow larger vehicles turning room without having to travel around the Sawyer Grove Road cul-de-sac to turn; (c) widen Sawyer Grove Road to comply with subdivision regulations for use by a total of 32 lots (a width of 22 feet, exclusive of berms, is required); (d) provide a second access road to lessen congestion caused by two large subdivisions dumping traffic in one small area onto Hughes Road; (e) investigate possibility of purchasing a small piece of land at Hughes Road/Priest Road intersection to increase site line; (f) pave Hughes Road to a width of 22 feet (1 foot less than the accepted 1906 layout); (g) create a 25' buffer along the Sawyers Grove Road boundary for the benefit of all property owners; (h) extend the life of the covenant to 30 years to insure prohibition of lawns to reduce nitrogen loading; (i) require all lots in new subdivision to access only from the new way.

Mr. Hartman agreed to amend his motion to include Ms. Snow's requests and Mr. Chaplin seconded the amendment.

N. Brown returned to Board and resumed Chair.

3. BEACH POINT SETBACK ARTICLE

A. Chaplin discussed the Beach Point setback issue and noted flaws in the proposed revision for the separation of buildings. He suggested that the Board not proceed with Article. A. Chaplin made a motion to withdraw the Article at the public hearing on March 7; motion seconded by C. Hartman and unanimously passed (7-0).

N. Brown observed that the public hearing on this proposed Article will have to be opened on March 7 before the Article can be withdrawn.

4. LOT COVERAGE

K. Snow noted an inconsistency in the Lot Coverage Article - will be corrected.

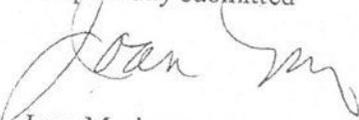
5. ACCESSORY USE

A. Chaplin asked if the Accessory Use definition could be placed on Warrant - Definition is being advertised for March 21 hearing according to W. Worthington.

K. Snow made a motion to adjourn; motion seconded by C. Hartman and unanimously passed.

Meeting adjourned at 9:35 p.m.

Respectfully submitted



Joan Moriarty

KAREN *file*
Czyoski
(8)

ZISSON AND VEARA
ATTORNEYS AT LAW
828 MAIN STREET
DENNIS, MASSACHUSETTS 02638
TELEPHONE (508) 385-6031
FAX (508) 385-6914

MAILING ADDRESS: P.O. BOX 2031, DENNIS, MA 02638-0043

EDWARD E. VEARA
E. JAMES VEARA
PAUL V. BENATTI
MICHAEL I. FLORES
CHRISTOPHER A. VEARA
ANNE E. BATCHELDER
COLLEEN A. WOLCOTT
SHARON MARCHBANKS

RICHARD L. ZISSON
(1942-2006)

EDWARD T. PATTEN
OF COUNSEL

May 24, 2007

Sawyer Grove Subdivs = 17 lots

Ms. Charleen L. Greenhalgh
Assistant Town Administrator/ Planner
P. O. Box 2030
Truro, MA 02666

Re: Czyoski family subdivision.

Dear Ms. Greenhalgh:

The subdivision covenant questions you forwarded can all be resolved by a reference to the Planning Board's records for the Helen Sawyer or Sawyer Grove subdivision. This is the subdivision which lies south of the Czyoski family's land, and it has the subdivision road the Czyoski family wants to use for the proposed subdivision of their land.

Slade Associates, Inc. prepared a modified definitive subdivision plan for Helen Mary Sawyer in 1989. Dick Lay of Slade Associates presented this plan to the Truro Planning Board in December, and the Board voted to approve the plan. The Board's vote, however, contained five (5) conditions. According to the official December 20, 1989 minutes, the fourth condition was the following:

- 4. Covenant that roads are insufficient and inadequate to serve development of any adjacent property, which will require additional and separate access, and roads on plan are approved only for this sub-division.

Consequently, the vote which approved the Sawyer Grove subdivision stated that the roads could not be used to serve adjoining land - most notably, the Czyoski family's land.

Ms. Charleen L. Greenhalgh
Assistant Town Administrator/ Planner
May 24, 2007
Page 2

At the Planning Board's next hearing on January 3, 1990, Michael Czyoski protested this condition for the Sawyer Grove subdivision. The Board's minutes state:

Mr. Czyoski objected to proposed covenant since it would effectively landlock his property. Board reiterated its concern for opening 20-plus acres for development which would only be accessed by a single road into the Sawyer subdivision and, thus, did not change its decision of December 20, 1989.

Dick Lay subsequently drafted the Sawyer Grove subdivision covenant which he presented to the Board for signature at its February 7, 1990 meeting. The language of the covenant, although consistent with the Board's vote, had changed and was far less explicit, even ambiguous. The fifth condition reads thus:

5. Approval of this definitive plan is limited to construction of Sawyer Grove Road as shown on said plan to provide access for the 17 lots shown on the plan and is not approved for construction of any ways to adjoining land.

Read in conjunction with the Board's vote, the covenant can mean only that Sawyer Grove Road was not approved for and cannot be used as an access road for adjoining property. The Czyoski family and Slade Associates were well aware of this restriction.

At the Planning Board's May 22, 2007 hearing, the Board considered a subdivision plan which was prepared by Slade Associates, Inc., which depicted a subdivision of the Czyoski family's land, and which relied upon extensions of Sawyer Grove Road to provide its only means of lot access. Both Mr. Czyoski and Mr. Lay attended various meetings of the Planning Board, but the Board, constituted now with different members, was only vaguely aware of the Sawyer Grove subdivision and the vaguely worded covenant. In my opinion, however, the Czyoski family cannot, as matters presently stand, use Sawyer Grove Road for its subdivision access.

The Planning Board has several options with regards to the prior approval of the Sawyer Grove subdivision if it believes it is warranted. The Planning Board could seek to modify or amend the approval under ch. 41, § 81W. The Board could consider whether to modify its approval by striking or amending condition 4 so that the roadway will be useable for the Czyoski subdivision. Alternatively, the Board could vote to confirm its December 20, 1989 vote and to amend - clarify, actually - the subdivision covenant by adding the explicit language of condition 4. In my opinion, based on the reading of ch. 41, § 81W and the cases that have interpreted the same, action in either case would not "affect" the lots in the Sawyer Grove subdivision, and therefore, written consent of the subdivision lot owners and mortgagees prior to any such modification would be unnecessary.

ZISSON AND VEARA
ATTORNEYS AT LAW

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PAUL V. BENNETT
SARAH A. TURANO-FLORES
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865 PROVIDENCE HIGHWAY
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FAX (508) 385-6814

January 25, 2005

William C. Worthington
Vice Chairman, Town of Truro Planning Board
P.O. Box 2030
Truro, MA 02666

**Re: Authorization #07-0105 - Subdivision Application by the Czyoski Family Trust;
Truro Assessor's Atlas Sheet 39, Lots 75 and 76**

Dear Mr. Worthington,

Recently the Planning Board asked this office to respond to questions of the Board regarding the Subdivision Application for a new development by the Czyoski Family Trust. The Board has inquired, first, whether they may consider the street loading of the new fifteen lot subdivision in conjunction with the already existing seventeen lot Sawyer Grove Development, for a total of thirty-two lots. Secondly, the Board has inquired whether it may refuse the proposed Czyoski Development on safety grounds because of the inadequate access and egress provided by Hughes Road. I will now address each of these questions in turn.

The issue of street loading was previously addressed in a 1986 opinion letter by Edward E. Veara in conjunction with the Shearwater Developments, a copy of which is enclosed for your reference. As the Board is no doubt aware, Section IV(f)(3) of the Truro Subdivision Regulations requires that subdivisions of thirty or more lots have more than one access from an existing major street, unless the requirement is waived by the Board. Thus, if the fifteen lot Czyoski Development and the seventeen lot Sawyer Grove Development were considered together, there would be a total of thirty-two lots, and more than one access way would be required.

However, it is my opinion that the number of lots in the two developments may not be considered together in the Board's review of the street loading from the proposed Czyoski Development. Both the Czyoski Development and the Sawyer Grove Development appear to

meet the statutory definition of "subdivision" as outlined in Massachusetts General Laws Chapter 41, Section 81L and the Truro Subdivision Regulations Section II(A). This makes each one a separate subdivision for purposes of the regulations. Furthermore, each development has undergone separate subdivision approval processes, with separate notices, hearings, plans and appeal periods. Therefore, each development should be classified as a separate subdivision, and Section IV(f)(3) of the regulation would not be applicable to the Czyoski Development.

In regards to the second inquiry though, the Board may properly consider the access provided by streets outside of the proposed subdivision, in this case Hughes Road. The Subdivision Control Law, Massachusetts General Laws Chapter 41 Section 81M, states that the powers of a planning board:

shall be exercised with due regard for the provision of adequate access to all of the lots in a subdivision...for lessening congestion in such ways and in the adjacent public ways...and for coordinating the ways in a subdivision with each other and with the public ways in the city or town in which it is located and with the ways in neighboring subdivisions.

The Courts have held that there is no limitation in the above language "which precludes a planning board from evaluating the adequacy of ways outside a proposed subdivision." *Rattner v. Planning Bd. of W. Tisbury*, 45 Mass.App.Ct. 8, 10 (1998). The Board may consider factors outside a subdivision, such as safety, accessibility and traffic, where such factors are relevant to the requirements of the Subdivision Control Law or local regulations. *Id*

The Truro Subdivision Regulations require that at least one street in the new subdivision connect with a road which will provide access to the new subdivision, and "said road shall in the opinion of the Board be adequate to reduce the danger to persons and property and to secure safety in the case of emergency." IV(f)(1). The Board may also disapprove a plan if it determines the access road to the subdivision is inadequate. IV(f)(2). The Courts have interpreted similar regulations requiring "adequate access" to be valid and consistent with the intent of Chapter 41, Section 81 M. *Rattner*, 45 Mass.App.Ct. at 11; see also *North Landers Corp v Planning Bd of Falmouth* 382 Mass. 432, 445 (1981). Therefore, the Board may consider the access and egress to the Czyoski Development from Hughes Road in its review of the Czyoski application, and after providing sufficient details of its objections, may disapprove the plan on this basis.

As I have detailed above, it is my opinion that the number of proposed lots in the Czyoski Development and the number of lots in the existing Sawyer Grove Development may not be added together, making Section IV(f)(3) of the Truro Subdivision Regulations inapplicable to the Czyoski Development. It is also my opinion that if the Board finds that access from Hughes Road is inadequate or unsafe, it possesses the authority to disapprove the Czyoski plan until such time that the Developer satisfies the Board's objections, if that is possible.

ZISSON AND VEARA

Mr. Worthington

January 25, 2005

Page 3

I hope that this has adequately addressed your concerns. Please feel free to contact me if you have any questions regarding this correspondence or if I can be of further assistance.

Cordially,

A handwritten signature in black ink, appearing to read "E. James Veara". The signature is stylized and somewhat cursive, with a large initial "E" and "V".

E. James Veara

KAL

cc: Truro Board of Selectmen

STONE & REID
ATTORNEYS AT LAW
A PROFESSIONAL ASSOCIATION *
SOUTH YARMOUTH PROFESSIONAL BUILDING
1292 ROUTE 28 SOUTH YARMOUTH, MA 02664-4452
TEL (508) 3945648 FAX (508) 3981699

DAVID S. REID, ESQ.
DSReid@verizon.net

MICHAEL F. STONE, ESQ.
MFStoneEsq@comcast.net

January 11, 2016

Truro Planning Board
P.O. Box 2030
Truro, MA 02666

RE: #2015-10
D'Arizzo & Hutchings, et al
Map 39, Parcel 77, etc.

Dear Chairman Tobia:

The preliminary subdivision of the above-referenced lot is pending before the Board for further hearing on January 19, 2016. I had previously written to you on behalf of one abutting lot owner, Mrs. Shelley Fischel, of 15 Sawyer Grove Road. Based on the comments and questions raised at your December 8, 2015 hearing on this matter, I would like to comment further on the proposed subdivision.

1. The question was raised regarding the application of §3.6.6 of the Subdivision Rules and Regulations (2014 edition) regulating dead-end roads. The question was raised as to how this maximum measurement was to be computed. The applicant would like the Board to only measure the newly proposed road from its intersection with the existing Sawyer Grove Road. I respectfully suggest that this proposition is not supported by the law.

“[such dead-end street regulations] are enacted
because of a concern that the blocking of a
dead-end street, as by a fallen tree or an

* Each Attorney in this office is an independent practitioner
who is not responsible for the practice or liabilities of any
other attorney in the office. Rule 7.5 (d)

automobile accident, will prevent access to the homes beyond the blockage particularly by fire engines, ambulances, and other emergency equipment. Given that concern, **it would make no sense to measure the length of a dead-end way other than from the nearest intersecting through street.**

This quotation comes from the 1992 decision of the Massachusetts Appeals Court, in the case of Nahigian v. Lexington, 32 Mass. App. Ct. 517, 521. (Emphasis added)

Therefore, the determination of the street's length should be measured from its intersection with Hughes Road. It would appear from the Sawyer Grove Road subdivision plan that the distance from Hughes Road to the spur which forms the beginning of Tashmuit Lane is itself approximately 1100 feet. I believe the applicant indicated that the proposed new road would be approximately 944 feet in length. We would therefore suggest that this proposed plan does not comply with the Town's Subdivision Rules and Regulations, which limit the length of dead-end roads to not more than 1000 feet. The fact that the prior plans were approved is not a factor militating in this applicants' favor. To the contrary, I suggest that it actually aggravate the situation and should discourage further deviation from the Rules and Regulations.

2. The issue was raised as to the applicability of Regulation §3.6.5 "Access" which requires that:

"Subdivisions containing a total of thirty (30) or more lots shall provide more than a single access from an existing street."

The applicant has suggested, based on an earlier opinion from Town Counsel, that the board must include in the counting of the lots only those within the discrete subdivision presently seeking your approval. Whatever the interpretation may have been at the time of that earlier opinion, the current regulation goes on to state:

"For this purpose, "total number of lots" includes the lots fronting on pre-existing subdivision roads used for access to the proposed subdivisions as well as the new proposed lots."

* Each Attorney in this office is an independent practitioner who is not responsible for the practice or liabilities of any other attorney in the office. Rule 7.5 (d)

Sawyers Grove Road provides the frontage for 17 lots. Laura's Way, an extension off of Sawyer's Grove Road, contains 15 lots. The proposed subdivision would add 5 more lots, making a total of 37 lots being provided access in this "subdivision" with a single point of access.

I would respectfully suggest that to allow the artificial segmenting of this neighborhood development into three separate subdivision approvals, without recognizing the cumulative effect of this progressive development, would not serve the purposes of your Subdivision Rules and Regulations or the Subdivision Control Laws, as stated above, nor that the overriding determination, under Section 3.9, of the adequacy of access roads within the subdivision. Even if the second means of access were not mandated by §3.6.5, §3.9 still provides that:

"The Board may require that a secondary access be provided for any size subdivision for demonstrate reasons of public safety and convenience."

3. Finally, I would repeat two points raised in my first letter to you. The 1995 approval of the Sawyer Grove Road subdivision expressly limited its approval of the adequacy of the road to the 17 lots shown on that plan. (Covenant, paragraph 5). Second, the extension of the dead end way with the addition of Laura's Way was not found by the Board to satisfy the Rule and Regulations, by rather was legally approved only by constructive grant by the Superior Court. And should it be suggested that this is a lateral new road, not an extension of the first dead-end road, the Appeals Court has also addressed this issue in the past.

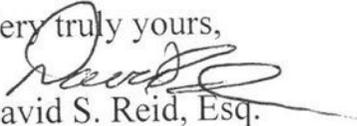
"Interpretation of the word 'extension' in a linear, geometric manner, as suggested by the Matthews, appears contrary to the spirit of the subdivision documents and inconsistent with the intent of the board to circumscribe the nature of the approved roads. As the judge concluded, '[w]hile the access to the Matthews land is accomplished by a new road tying into the sideline of Ruddy Duck Road, rather than an extension from the end of one of the two cul-de-sacs,...the

distinction [is not] a substantive one'.”

Matthews v. Planning Board of Brewster,
72 Mass. App. Ct. 456 (2008)

Given the relationship between these regulations, each concerned with assuring safe and adequate access by limiting the length of dead-end roads and requiring a second means of access to larger subdivisions, the fact that the proposed plan fails to satisfy both of these requirements is an ample basis for the Board's concerns for safety and access, and therefore for the disapproval of this preliminary plan.

Very truly yours,


David S. Reid, Esq.

CC: Slade Associates, Inc
Theodore A. Schilling, Esq.

DSR/dmp

dmp45/fischel/let/truro planning board2

PRELIMINARY SUBDIVISION PLAN

OF LAND IN
TRURO, MA
MADE FOR

ROSE L. DAREZZO, CHARLES S. HUTCHINGS, JON R.
HUTCHINGS, JOAN L. HUTCHINGS
& DAVID E. HUTCHINGS

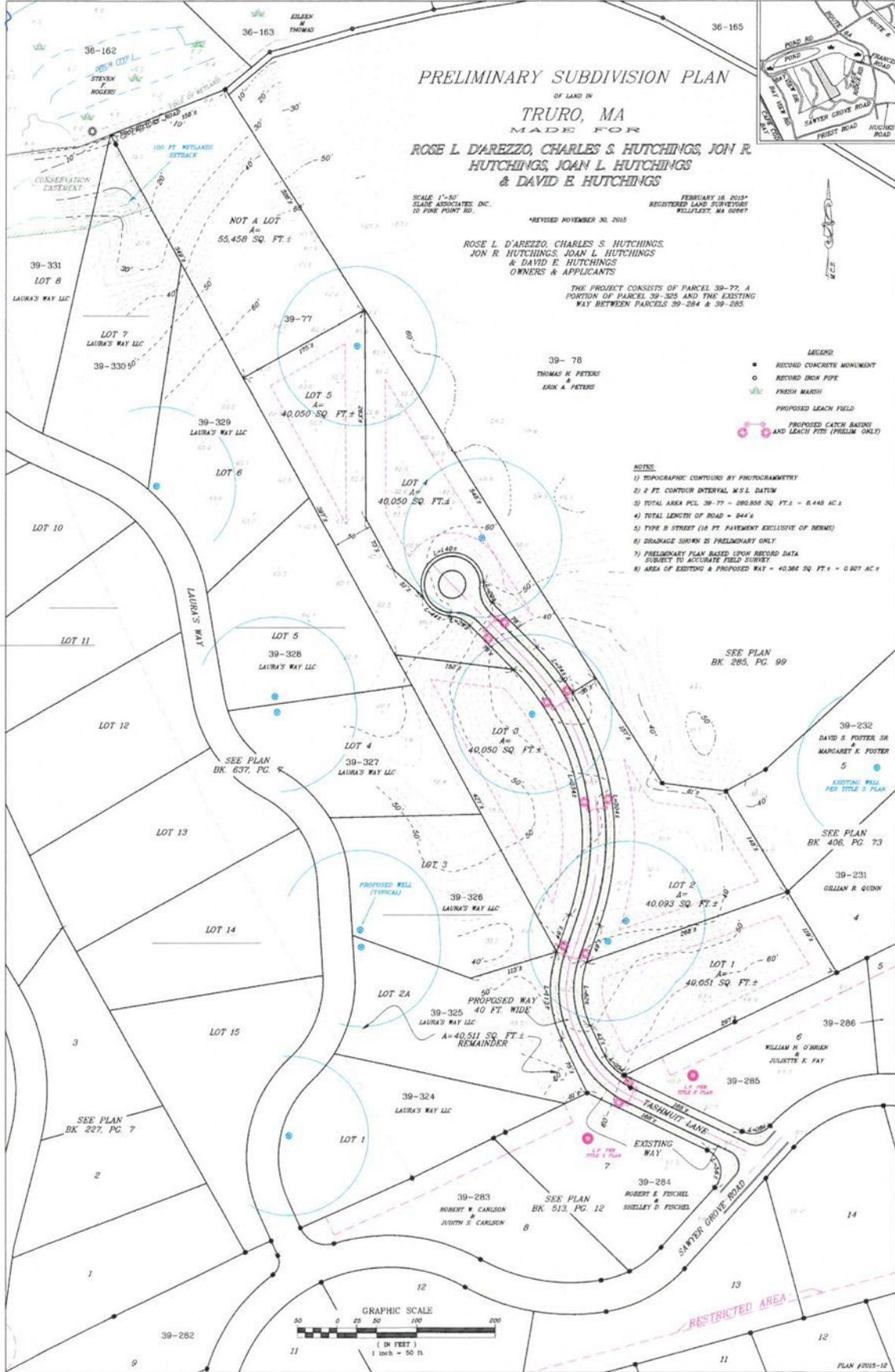
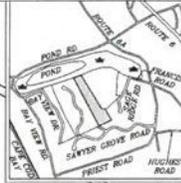
SCALE 1"=50'
GLASS ASSOCIATES, INC.
10 FINE POINT RD.

*REVISED NOVEMBER 30, 2015

FEBRUARY 18, 2015
REGISTERED LAND SURVEYOR
WELLFLEET, MA 02077

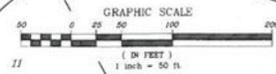
ROSE L. DAREZZO, CHARLES S. HUTCHINGS,
JON R. HUTCHINGS, JOAN L. HUTCHINGS
& DAVID E. HUTCHINGS
OWNERS & APPLICANTS

THE PROJECT CONSISTS OF PARCEL 39-77, A
PORTION OF PARCEL 39-325 AND THE EXISTING
WAY BETWEEN PARCELS 39-324 & 39-325.



- LEGEND
- RECORD CONCRETE MONUMENT
 - RECORD IRON PIPE
 - FRESH MARSH
 - ▭ PROPOSED LEACH FIELD
 - PROPOSED CATCH BASINS AND LEACH PITS (PRELIM. ONLY)

- NOTES
- 1) TOPOGRAPHIC CONTOURS BY PHOTOGRAMMETRY
 - 2) 2 FT. CONTOUR INTERVAL M.S.L. DATUM
 - 3) TOTAL AREA PCL 39-77 = 880.855 SQ. FT. ± = 0.448 AC. ±
 - 4) TOTAL LENGTH OF ROAD = 844' ±
 - 5) TYPE B STREET (16 FT. PAVEMENT EXCLUSIVE OF BERMS)
 - 6) DRAINAGE SHOWN IS PRELIMINARY ONLY
 - 7) PRELIMINARY PLAN BASED UPON RECORD DATA SUBJECT TO ACCURATE FIELD SURVEY
 - 8) AREA OF EXISTING & PROPOSED WAY = 40,366 SQ. FT. ± = 0.927 AC. ±





TOWN OF TRURO
P.O. Box 2030, Truro, MA 02666
Tel: (508) 349-7004 Fax: (508) 349-5505

Memorandum

To: Planning Board
Fr: Carole Ridley
Date: January 29, 2016
Re: 2015-007SPR Michael Tribuna

2015-006SPR Michael A. Tribuna, Trustee, c/o Christopher R. Vaccaro, Esq., seeks approval of an Application for Commercial Development Site Plan Review pursuant to §70.3 of the Truro Zoning By-law for the filling of low area at 7 Parker Drive with related drainage improvements and erosion controls. There will be no new buildings or changes to existing buildings and structures. The property is also shown on Atlas Map 39 Parcel 168 & 169. This application was previously heard on September 8, 2015, October 20, 2015 and December 8, 2015.

On December 8th the Board was presented with a request to allow a withdrawal without prejudice of the above referenced application. To allow withdrawal without prejudice would require a positive motion and vote of the Board. The Board did not make or vote on such a positive motion on December 8th.

The Board voted on a motion to allow withdrawal with prejudice. Withdrawal with prejudice does not require a vote, as an applicant has the right to withdraw with prejudice if notice is given to the Board. However, the applicant had not provided notice of intent to withdraw with prejudice.

Where the Board did not taken action on the applicant's request to withdraw without prejudice, or close or continue the hearing to a date certain, or act on the application, the file remains open.

A letter was sent to Mr. Tribuna through his attorney on December 11th requesting that he provide notice to the Board of his willingness to withdraw with prejudice, or the hearing would be re-opened to continue discussion on possible mitigation. This letter is attached. No response has been received.

Board Action

At the reconvened hearing the Board may consider the following actions:

1. Act on the pending request for withdrawal without prejudice (deny or grant)

In the matter of 2015-006SPR Michael A. Tribuna, Trustee, the Planning Board votes to (deny/approve) the request for withdrawal without prejudice submitted via a letter from Mr. Christopher Vaccaro to Lisa Maria Tobia dated October 20, 2015.

2. If the request for withdrawal without prejudice is denied, the Board should act on the application itself.

If the requested information is forthcoming from the applicant, the Board could consider the information and/or further continue the hearing if necessary, or vote to approve or conditionally approve the site plan review.

Alternately, the Board could to deny the application as follows:

Move not to approve the Application for Commercial Development Site Plan Review for 2015-006SPR Michael A. Tribuna, Trustee, c/o Christopher R. Vaccaro, Esq., pursuant to section 70.3 of the Truro Zoning By-law for the excavation and filling of low area at 7 Parker Drive with related drainage and erosion control measures, where there will be no new buildings or changes to existing buildings and structures. The property is also shown on Atlas Map 39 Parcel 171, based on the finding that (**choose one or more of the following**):

- **The application for site plan approval is incomplete.** This could be justified by the fact that information requested to assess the project's ability to meet the following §70.3.F Site Plan Review Criteria was not provided:

§70.3.F 2. The proposal provides for the protection of abutting properties and the surrounding area from detrimental site characteristics and from adverse impact from excessive noise, dust, smoke, or vibration higher than levels previously experienced from permitted uses.

§70.3.F 4. The proposal provides for the protection of significant or important natural, historic, or scenic features.

§70.3.F 5. The building sites shall minimize obstruction of scenic views from publicly accessible locations; minimize tree, vegetation, and soil removal and grade changes; and maximize open space retention.

§70.3.F 8. The proposed drainage system within the site shall be adequate to handle the run-off resulting from the development. Drainage run-off from the project shall not: damage any existing wellfield(s) or public water supply; damage adjoining property; overload, silt up or contaminate any marsh, swamp, bog, pond, stream, or other body of water; or interfere with the functioning of any vernal pool.

§70.3.F 9. *A soil erosion plan shall adequately protect all steep slopes within the site and control run-off to adjacent properties and streets both during and after construction.*

§70.3.F 10. *The proposal shall provide for structural and/ or landscaped screening or buffers for storage areas, loading docks, dumpsters, rooftop or other exposed equipment, parking areas, utility buildings and similar features viewed from street frontages and residentially used or zoned premises.*

§70.3.F 11. *Buildings and structures within the subject site shall relate harmoniously to each other in architectural style, site location, and building exits and entrances. Building scale, massing, materials, and detailing should be compatible with the surrounding area.*

The imposition of reasonable conditions will not ensure that the project will confirm to the standards and criteria described herein. This could be justified by the fact that insufficient information was provided to determine if an adequate mitigation plan could be developed and implemented.

The project does not comply with the requirements of the zoning bylaw. This could be justified by the fact that in that at the time of application, the proposed activity on the subject property was in violation of the zoning bylaw.



TOWN OF TRURO

P.O. Box 2030, Truro, MA 02666

Tel: (508) 349-7004, Ext. 27

Fax: (508) 349-5505

criddle@truro-ma.gov

Via email

December 11, 2015

Mr. Christopher Vaccaro
Dalton & Feingold, LLP
34 Essex Street
Andover, MA 01810

Re: 2015-006SPR 7 Parker Drive, Truro, Michael A. Tribuna, Trustee

Dear Mr. Vaccaro:

I am writing to inform you that on December 8th the Truro Planning Board did not vote to grant your request to withdraw the above referenced application without prejudice.

Please provide notice to the Planning Board of Mr. Tribuna's intent to withdraw with prejudice, or to continue the review of the application. If Mr. Tribuna intends to continue with the review of the application, the Board would be interested in seeing his proposal for site mitigation and to schedule a site visit prior to reconvening the public hearing.

Please respond in writing to this request by close of business, Monday, December 21, 2015.
Please contact me if you have any questions.

Sincerely,

Carole Ridley
Planning Consultant

Cc: Michael Tribuna
Lisa Maria Tobia, Chair
Rae Ann Palmer

DALTON
& FINEGOLD, L.L.P.
ATTORNEYS AT LAW

Christopher R. Vaccaro
Direct Line: 978-269-6425
Email: cvaccaro@dfllp.com

34 Essex Street
Andover, Massachusetts 01810
Telephone: 978-470-8400
Telecopier: 978-470-8338

October 20, 2015

BY EMAIL

Ms. Lisa Maria Tobia, Chair
Truro Planning Board
Truro Town Hall
P.O. Box 2030
24 Town Hall Road
Truro, Massachusetts 02666

Re: Michael A. Tribuna Jr., Trustee of Westview Court Realty Trust
7 Parker Drive, Truro, Massachusetts (Map / Parcel No. 39 / 171)
Planning Board Case No. 2015-006SPR

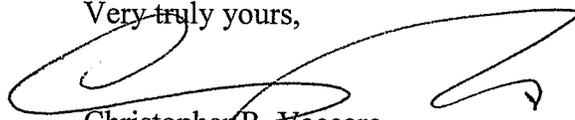
Dear Ms. Tobia:

This office represents Michael A. Tribuna Jr., Trustee of Westview Court in connection with the above-referenced site plan approval application.

Mr. Tribuna is changing his property from a cottage colony into single-family use. We expect the change of use to take place on or about November 1, when current leases on the property expire. The change of use will render site plan approval unnecessary for 7 Parker Drive. Accordingly, Mr. Tribuna respectfully requests that the Planning Board consent to the withdrawal of his site plan approval application without prejudice.

Thank you for your consideration in this matter.

Very truly yours,



Christopher R. Vaccaro

cc: Mr. Michael A. Tribuna Jr. (by email)
Mr. Daniel A. Ojala, P.E. (by email)



TOWN OF TRURO

Planning Department
P.O. Box 2030, Truro, MA 02666
Tel: (508) 349-7004, Ext. 27 Fax: (508) 349-5505
cridley@truro-ma.gov

To: Planning Board
From: Carole Ridley
Date: January 28, 2016
Re: MGL c. 44 §53 g

In previous meetings the Board has expressed a desire to adopt the rule regarding review fees afforded under MGL c. 44 §53 g.

As previously discussed, the Board has the option of adopting a rule concerning review of special permits, which it may do by a majority vote. Such a rule is attached for your consideration. A possible motion follows:

To adopt the Rule Regarding Review Fees, pursuant to G.L. c.40A, §9 and G.L. c.44, §53G, dated February 2, 2016, as recited to the Board.

The Board may also adopt the rule for review fees for subdivision regulations. Because this is an amendment to a regulation, it requires an advertised public hearing in compliance with MGL c 41 § 81 Q. A draft of that rule also is attached. With your consent I will post the rule for a public hearing at the earliest convenient date.

**TOWN OF TRURO PLANNING BOARD
RULE REGARDING REVIEW FEES**

The following Rule is adopted, pursuant to G.L. c.40A, §9 and G.L. c.44, §53G.

1. When reviewing an application for, or when conducting inspections in relation to a special permit, the Planning Board (“Board”) may determine that the assistance of outside consultants is warranted due, for instance and without limitation, to the size, scale or complexity of a proposed project, because of a project’s potential impacts, or because the Town lacks the necessary expertise to perform the work related to the special permit application. Whenever possible, the Board shall work cooperatively with the applicant to identify appropriate consultants and to negotiate payment of the consultant fees. Alternatively, the Board may, by majority vote, require that the applicant pay a reasonable “project review fee” of a sufficient sum to enable the Board to retain consultants chosen by the Board alone. The Board may require that an Applicant deposit a lump sum in order to retain consultants. In the event that such sum is insufficient to fund the necessary consulting services, the Board may require additional deposits.
2. In hiring outside consultants, the Board may engage engineers, scientists, financial analysts, planners, lawyers, urban designers or other appropriate professionals who can assist the Board in analyzing a project to ensure compliance with all relevant laws, ordinances, standards and regulations. Such assistance may include, but not be limited to, analyzing an application, monitoring or inspecting a project or site for compliance with the Board’s decision or regulations, or inspecting a project during construction or implementation.
3. Funds received by the Board pursuant to this section shall be deposited with the Treasurer, who shall establish a special account for this purpose, consistent with the terms and provisions of G.L. c. 44, §53G. Expenditures from this special account may be made at the direction of the Board without further appropriation. Expenditures from this special account shall be made only for services rendered in connection with a specific project or projects for which a project review fee has been or will be collected from the applicant. Accrued interest may also be spent for this purpose. Failure of an applicant to pay a review fee shall be grounds for denial of the appeal or application. Alternatively, approval of such appeal or application may be conditioned upon payment of any outstanding review fees.
4. At the completion of the Board’s review of a project, any excess amount in the account, including interest, attributable to a specific project shall be repaid to the applicant or the applicant’s successor in interest. A final report of said account shall be made available to the applicant or applicant’s successor in interest upon request. For the purpose of this regulation, any person or entity claiming to be an applicant’s successor in interest shall provide the Board with documentation establishing such succession in interest.

5. Any applicant may take an administrative appeal from the selection of the outside consultant to the Board of Selectmen. Such appeal must be made in writing and may be taken only within 20 days after the Board has mailed or hand-delivered notice to the applicant of the selection. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum, required qualifications. The minimum qualifications shall consist either of an educational degree in, or related to, the field at issue or three or more years of practice in the field at issue or a related field. The required time limit for action upon an application by the Board shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Board of Selectmen within one month following the filing of the appeal, the selection made by the Board shall stand.

February 2, 2016

TOWN OF TRURO PLANNING BOARD RULE REGARDING REVIEW FEES

The following Rule is adopted, pursuant to G.L. c.41, §8Q1 and G.L. c.44, §53G, and inserted into the Town of Truro Rules and Regulations Governing the Subdivision of Land (as Amended August 19, 2014).

1.7 Consultant Services

1. When reviewing an application for, or when conducting inspections in relation to a preliminary or definitive subdivision plan, the Planning Board ("Board") may determine that the assistance of outside consultants is warranted due, for instance and without limitation, to the size, scale or complexity of a proposed project, because of a project's potential impacts, or because the Town lacks the necessary expertise to perform the work related to the special permit application. Whenever possible, the Board shall work cooperatively with the applicant to identify appropriate consultants and to negotiate payment of the consultant fees. Alternatively, the Board may, by majority vote, require that the applicant pay a reasonable "project review fee" of a sufficient sum to enable the Board to retain consultants chosen by the Board alone. The Board may require that an Applicant deposit a lump sum in order to retain consultants. In the event that such sum is insufficient to fund the necessary consulting services, the Board may require additional deposits.

2. In hiring outside consultants, the Board may engage engineers, scientists, financial analysts, planners, lawyers, urban designers or other appropriate professionals who can assist the Board in analyzing a project to ensure compliance with all relevant laws, ordinances, standards and regulations. Such assistance may include, but not be limited to, analyzing an application, monitoring or inspecting a project or site for compliance with the Board's decision or regulations, or inspecting a project during construction or implementation.

3. Funds received by the Board pursuant to this section shall be deposited with the Treasurer, who shall establish a special account for this purpose, consistent with the terms and provisions of G.L. c. 44, §53G. Expenditures from this special account may be made at the direction of the Board without further appropriation. Expenditures from this special account shall be made only for services rendered in connection with a specific project or projects for which a project review fee has been or will be collected from the applicant. Accrued interest may also be spent for this purpose. Failure of an applicant to pay a review fee shall be grounds for denial of the appeal or application. Alternatively, approval of such appeal or application may be conditioned upon payment of any outstanding review fees.

4. At the completion of the Board's review of a project, any excess amount in the account, including interest, attributable to a specific project shall be repaid to the applicant or the applicant's successor in interest. A final report of said account shall be made available to the applicant or applicant's successor in interest upon request. For the purpose of this regulation, any person or entity claiming to be an applicant's successor in interest shall provide the Board with documentation establishing such succession in interest.

5. Any applicant may take an administrative appeal from the selection of the outside consultant to the Board of Selectmen. Such appeal must be made in writing and may be taken only within 20 days after the Board has mailed or hand-delivered notice to the applicant of the selection. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum, required qualifications. The minimum qualifications shall consist either of an educational degree in, or related to, the field at issue or three or more years of practice in the field at issue or a related field. The required time limit for action upon an application by the Board shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Board of Selectmen within one month following the filing of the appeal, the selection made by the Board shall stand.

§ 40.6. Growth Management

A. Purpose. The purpose of § 40.6 of the bylaw is to provide adequate time for the Town to plan and prepare for the effects of future residential growth, and ensure that~~control~~ the pace of the Town's growth does not diminish the Town's rural character, impair natural resources or overwhelm town services or infrastructureso that build-out will be gradual. Theis gradual pace of development afforded by the bylaw will provide opportunities for the Town to: 1) ~~an opportunity to purchase and protect open spaces, thereby reducing the Town's ultimate density and preserving, as much as possible, the Town's rural character;~~ 2) ~~undertake comprehensive planning tothe time for the Town to adequately identify a community land use vision to guide the regulation of land use and development;~~ 3) ~~study, assess the impacts of anticipated growth on town infrastructure, roads, drinking water supply and fresh and marine wetlands and water bodies, and plan appropriate measures to protect the integrity of those resources, and possibly regulate the impact of continued development on the Town's existing roads and water quality;~~ and 4) ~~develop a financially sustainable plan for the provision of town services and infrastructure necessary to support the community's land use vision, protection for the Town from a sharp acceleration of population growth that could suddenly overwhelm our current public services.~~ This section, § 40.6, shall expire on December 31, 2021+6.

B. Residential Development Limitation.

1. There shall be no more than forty (40) building permits for new single family dwelling units authorized within any calendar year, beginning January 1 and ending December 31. Permits not issued within the calendar year may be carried over and added to the next calendar year's quantity. This bylaw shall be effective as of March 3, 2006.

2. The Building Commissioner shall issue building permits in accordance with the following:

- a. For the purposes of this section, an application shall be accepted for review only if it conforms to all applicable building and zoning requirements, and has received all necessary approvals from pertinent Town boards, including the Board of Health, Planning Board, Board of Appeals, Conservation Commission, and so forth.
- b. Applications for building permits for single family dwelling units certified complete by the Building Commissioner shall be dated and time-stamped upon determination of completeness. Building permits shall be issued on a first-come/first-served basis.
- c. Within any calendar month, no more than six (6) permits for single family dwelling units may be issued. Permits not issued during one month may be carried forward and issued the next month, assuming it is within the same calendar year.
- d. No applicant may have more than one (1) application processed for a single family dwelling unit in any given month.
- e. No more than four (4) building permits for single family dwelling units shall be issued to any one applicant within a single calendar year unless 1) there are available permits within the yearly limit and 2) no other applicant has applied for them before the fifteenth day of December.

C. Exemptions.

1. Construction of affordable housing units provided such housing units have deed restrictions to ensure they remain affordable for the maximum period permitted under Massachusetts law. Occupancy permits for such affordable units are not to be issued until the restricted deed has been recorded or registered.
2. A presently existing structure which is otherwise subject to this bylaw but which is destroyed by fire or other calamity. Such a structure may be rebuilt outside of these limitations as long as: 1) the structure is not expanded beyond one additional bedroom; 2) it complies with all other provisions of these bylaws; and 3) so long as application for a building permits is submitted within two (2) years of the destruction.
3. A presently existing structure which, following demolition, is being rebuilt to no more

Comment [CR1]: I don't believe the effective date would change

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than one hundred twenty-five percent (125%) of its current footprint. Such a structure may be rebuilt so long as: 1) the structure is not expanded beyond one additional bedroom; 2) it complies with all other provisions of these bylaws; and 3) the application for a building permit is submitted within two (2) years of the existing structure's demolition. (4/16)

Summary:

This proposed bylaw would extend by five years the effective time period of the Growth Management Bylaw adopted in 2006.

Growth control bylaws are provided for under Massachusetts General Law and supported by case law to afford communities time to adequately plan for anticipated growth, and put into effect reasonable growth controls consistent with community goals and fiscal conditions. Since the bylaw was first enacted, the Town has initiated numerous efforts to assess resources and infrastructure needs, and evaluate road access issues. These include a water resources plan, community open space plan, and xxxxxx. However, due to budget and resource constraints, the town has not been able to complete all necessary growth planning over the initial period of the bylaw. The five-year extension would enable the town to update its comprehensive plan and complete other critical planning studies.

This extension would not interfere with efforts to develop affordable dwelling units in the community, as they would be exempt from the calendar year limitation on Building Permits. Building Department records show that Building Permits for new single-family dwellings did not reach the limits imposed by the bylaw in any one calendar year.

TRURO PLANNING BOARD

DRAFT

Meeting Minutes

January 19, 2016 - 6:00 pm

Truro Town Hall

Planning Board Members Present: Lisa Maria Tobia; Steve Sollog; Bruce Boleyn; John Riemer; Michael Roderick; and John Hopkins

Members Absent: Peter Herridge (excused)

Other Participants: Maria Kuliopulos; Martin (Reggie) Donohue; Christopher Snow, Esq.; Mike Powers; Judy Powers; Fire Chief Tim Collins; Chet Lay, Slade Associates; Ben Zander, Esq.; Carole Ridley, Planning Consultant

Ms. Tobia opened the meeting at 6:00 p.m.

Public Comment Period: The Commonwealth's Open Meeting Law limits any discussion by members of the Board of an issue raised to whether that issue should be placed on a future agenda.

No one came forward to comment.

Temporary Sign Permits

Payomet Performing Arts Center, seeks approval for two Applications for Temporary Sign Permit pursuant to §11 of the Truro Sign Code two (2) Temporary 48" high by 36" wide signs (January 16 – February 15, 2016 and February 15 – March 16, 2016) for various events in two locations (Route 6 at Noons Heights Rd and Route 6 at South Highland Rd).

On a motion by Mr. Boleyn and seconded by Mr. Sollog, the Board voted to approve the Temporary Sign Permit Application for two (2) signs from January 16, 2016 – February 15, 2016, so voted 6-0-0.

On a motion by Mr. Boleyn and seconded by Mr. Roderick, the Board voted to approve the Temporary Sign Permit Application for two (2) signs from February 15, 2016 – March 16, 2016, so voted 6-0-0.

Mr. Hopkins inquired if the Temporary Sign Permit application could be condensed to avoid excessive paper usage.

6:05 pm Site Plan Review – Public Hearing Continuance

2015-007SPR Maria Kuliopulos seeks approval of a Commercial Development Application for Site Plan Review pursuant to §70.3 of the Truro Zoning By-law for demolition of a building containing 19 motel units damaged by fire and reconstruction of a replacement building containing 17 rentable units and a hospitality room in the same location. The property is located at 706 Shore Road, White Sands Beach Club, Atlas Map1 Parcel 1.

Representatives: Maria Kuliopulos; Martin (Reggie) Donohue; Christopher Snow, Esq.

Mr. Donohue reviewed the changes in the site plan, the fulfillment of requests made by the Planning Board, and stated that they received Department of Health approval for the septic system earlier that day.

Mike Powers, Beach Point, an abutter came forward to comment. He is opposed to this project for the following reasons: the proposed height of the building (too high) with balconies that when in use, will compromise his property; objects to the proposed lighting; confusion as to the number of units and how many parking spaces will be required; confusion as to the status of the condominium versus motel; he questions the low proposed cost of the renovations; history of incomplete projects; questions if there was an oil leak from an underground tank that may have leached onto the abutting property and require removal. He feels the building should be rebuilt as it was prior to the fire.

Judy Powers, Beach Point, an abutter stated that she is opposed to the project because of the proposed height of the building will affect the views and privacy of her unit and those of others on the adjacent property.

Mr. Snow confirmed that the property is operated as a motel, even though it recorded condominium documents in 1985 although never acted upon, and intends to remain a motel operation. He reinforced the deadline to complete the construction of the building due to the fire of October 2016 due to an Agreement for Judgement. He stated that the proposed construction renovations meet zoning requirements, including the height and setbacks of the building and the number of parking spaces has been confirmed with Mr. Braun, the Building Commissioner.

Mr. Donohue reviewed the answers to questions raised at the December 8, 2015 public hearing.

Ms. Tobia questioned the proposed water usage with the additional 17 kitchens, even though there are fewer units. Mr. Donohue provided an explanation that the original system design was based on bedrooms and the difference between tabular flow (by bedroom) and permitted flow. All of the fixtures will be water saving and code compliant.

Mr. Roderick would like certification that the work will be completed. Mr. Snow referred to the deadline of October 2016 set forth in the court rendered agreement as the guarantee.

Mr. Riemer reviewed some of the issues he sees that do not meet planning requirements, particularly the information required in the planning block. Mr. Donohue believes it is an unrealistic expectation and that the plans are adequate. He addressed all of Mr. Riemer's issues. Mr. Snow referred to the staff report that the plans are adequate.

Mr. Riemer also addressed the unfinished roof line and Ms. Tobia did confirm that this would be something the Planning Board could condition.

Mr. Riemer asked about emergency illumination in the case of a power failure and the lighting be shielded so it does not affect abutting property.

Mr. Riemer believes the landscape plan was incomplete as it does not address any concerns from the Conservation Commission. Mr. Donohue stated this would be done following approval of this Board.

Mr. Riemer also questioned the mean height of the building that it exceeds the 25 foot maximum. Mr. Riemer also referred to the recommendation that a fire suppression system be installed and that this would involve bringing the water main across the road. There is also no indication of bicycle racks on the plan and the applicants are willing to have it conditioned that a revised plan be submitted showing the existing bike racks. Mr. Donohue stated that the proposed height of the two story building would be approximately 24 feet, well below the 30 foot maximum.

Mr. Riemer also referred to Truro Local Comprehensive Plan and to keep Beach Point as it is in terms of density and height of buildings and the requirements for rebuilding after a natural disaster or fire. Mr. Donohue stated the property is not within a flood zone A but they are being conservative with their planning.

It was verified that there are no waivers being requested.

Ms. Tobia read the communications from Debra and Scott Sverid (abutters) and Judith Edsal (abutter) opposing this project.

Mr. Sollog had a question about the flood zone. Mr. Donohue explained that although outside the flood zone, they are planning as if they are. The foundation will be below grade.

Mr. Hopkins asked for clarification about the FEMA flood zone. Mr. Donohue stated it is in the X zone. Mr. Hopkins is also concerned about the lighting and Mr. Snow is willing to bring a more detailed lighting plan back to the Board. He also feels the landscape plan is inadequate and there should be something between the proposed parking and the road. Mr. Hopkins would like to see as a completion of unfinished projects before this new project starts. He also questioned the compliance with the square footage of the rooms if this is a motel. This was clarified by Mr. Snow where if kitchen facilities are provided, the room must exceed 400 square feet. He requested documentation of the square footage of the rooms.

Mr. Boleyn believes that the over height building remains too high and Mr. Hopkins asked if the building permit for that project has ever been closed out. Mr. Boleyn asked that this be a condition of approval. There is a question of whether the statute has expired. Ms. Kuliopulos will provide the Board with certification that the height of that building meets the Town's requirements.

Ms. Tobia received clarification about the setbacks from the two story portion. The proposed construction will be modular units and given that there has already been a fire at this site, Fire Chief Collins stated that modular construction does meet building code requirements, although there are some specific requirements placed on this type of construction in Massachusetts (e.g., metal fasteners). He also reassured the Board that other safety measures will be compliant when the building plans are reviewed. For site plan review, access is not a problem. He has no concerns at the site review level and reinforced that continued safety issues would be addressed through the building permitting process.

Ms. Tobia stated that it would her preference if the building was constructed in a manner of the pre-existing structure and not be a two story building.

Mr. Riemer asked about the HVAC system and would encourage that any wall units be placed facing to the front of the building to minimize noise for the abutters.

Ms. Tobia reviewed a list of possible conditions for the approval of the site plan review.

On a motion by Mr. Sollog and seconded by Mr. Hopkins, the Board moved to approve a Commercial Development Application for Site Plan Review pursuant to §70.3 of the Truro Zoning By-law for demolition of a building located at 706 Shore Road, White Sands Beach Club, Atlas Map1 Parcel 1, containing 19 motel units damaged by fire and construction of a replacement building containing 17 rentable units and a hospitality room in the same location with the following conditions:

- The site plan approval is for a building to house 17 units and a non-habitable hospitality unit for motel use. None of the 17 units shall be used as permanent dwelling units as this change in use would trigger different requirements for parking. If at any point in time any of the units are used as a dwelling unit, the parking requirement of 2 spaces per unit would need to be met for all 17 units.
- There shall be no changes to the size, location or appearance of signage on the property without a permit in accordance with the Truro Sign Code
- Deliveries and dumpster service should be between the hours of 7 am and 7 pm
- As part of operation and maintenance, there will be a daily walk-around the property to pick up litter and debris.
- Any unused equipment or belongings of the owner or patrons visitors may not be stored outside or otherwise in view of the public or abutters.
- In light of the significant impact to adjacent properties to the north from the additional story, the fence at the property line shall be upgraded and maintained by the applicant. Additional plantings of appropriate screening vegetation shall be planted along the property boundaries
- The unfinished roof located on the easterly portion of the property shall be fully restored and repaired in compliance with zoning and all applicable building codes prior to the issuance of a CO.
- Only full cut-off or fully shielded lighting should be used to avoid light trespass on adjacent properties or the night sky.
- The plan provided makes it difficult to determine the number and location of fixtures. As a result, the Board would like the applicant to return in 1 year after issuance of the CO to review

site lighting in an administrative non-hearing proceeding, at which time the Board may request reasonable mitigation measures such as a reduction in the number of lights that would not result in an additional cost to the applicant and may reduce costs and therefore is considered a reasonable request.

- The project will need to comply with the terms of the Order of Conditions issued by the Conservation Commission on November 2, 2016
- The existing refuse disposal area is to be screened with vegetation.
- The applicant will comply with all applicable Board of Health regulations and requirements and is meeting with Board of Health on January 19, 2016 to review septic system design changes.
- The applicant has indicated that the reduction in the number of units by two will reduce water use on the property. The property will require water service from the Provincetown Water Department. A dedicated water line for domestic water and a dedicated line for the fire suppression system are necessary.
- The applicant must comply with Condition 23 of the construction protocol attached to the Order of Conditions to address include storm water management
- The applicant will implement the Long-term Operation and Maintenance Plan contained in the Storm Water Maintenance Report and Operations and Maintenance Manual prepared by Coastal Engineering revised 11/10/15
- Conditions 20 and 22 and the construction protocol attached to the Order of Conditions include soil management and erosion control requirements
- To ensure that proposed landscaping and screening is maintained and provides an adequate buffer to adjacent properties, the applicant shall return to the Planning Board two years after the issuance of CO for review, in an administrative non-hearing proceeding, by the Planning Board of landscape improvements at which time the Board may require reasonable measures to improve screening and landscaping
- Prior to issuance of a Building Permit, the applicant will provide the Planning Board with a list of building materials used on the exterior of the new units.
- All utilities serving the site will be constructed underground.
- A dedicated underground waterline will be installed for a fire suppression system compliant with all applicable fire safety regulations
- The applicant shall vigorously enforce parking within designated parking spaces.
- The applicant shall provide a durable, safety rated bicycle rack. The applicant shall submit the proposed bicycle rack to the Planning Board for approval.
- To ensure that all work is performed as proposed on the site plan and consistent with the conditions the Planning Board, in accordance with section 70.10 will require a security deposit in the form of good funds submitted to the town of Truro in an amount of \$75,000. Funds are to be released once compliance with the approved site plan including all conditions is met. A portion \$15,000 of the security deposit will be retained for the review of landscaping two years after issuance of the CO.
- The applicant is required to file the approved site plan and conditions with the Barnstable County Registry of Deeds and return a copy of the recorded plan with conditions to the Planning Board and Building Inspector

Mr. Hopkins proposed that the following condition also be placed:

- HVAC be located on the parking side of the building or be screened by a surround to mitigate noise

and that it be added to the list of conditions from the previous motion.

Mr. Sollog moved that the motion be amended to include the above proposed condition by Mr. Hopkins, along with the other previously cited conditions, and was seconded by Mr. Riemer.

The motion passed on a vote of 6-0-0.

After a brief recess, the meeting resumed at 8:43 p.m.

Approval Not Required Plan

2016-001PB Jeffrey C. Bloomberg seeks determination that plan does not require approval (ANR) for a conveyance that adds to/takes away from and changes the size and shape of lots in such a manner that no lot affected is left without frontage as required under the zoning Bylaw. The property is located at 35 Knowles Heights Road Map 35 Parcel 12.

Representatives: Chet Lay, Slade Associates and Ben Zander, Esq.

Mr. Lay described the parcels. The reason for this request is to meet setback requirements when some home improvements are done. Mr. Lay clarified the lot frontages for Mr. Hopkins. Mr. Riemer asked for clarification of how the changes impact the buildable area for the lots.

Ms. Ridley clarified the purpose of this determination. Further information regarding the submitted plans was provided by Mr. Lay.

On a motion by Mr. Sollog and seconded by Mr. Hopkins, the board determined that Knowles Height Road, shown as Knowles Road on the ANR plan, provides safe and adequate access and to endorse the Plan of Land in Truro, Mass, as Surveyed and Prepared for Jeffrey C. Bloomberg and Steven S. Fischman as Trustees of the Jeffrey C. Bloomberg Family Trust, dated January 5, 2016, Prepared by Slade Associates, Inc., and signed by the RLS on January 19, 2016, a 1"=30' as Approval Not Required and to file said decision with the Town Clerk, so voted 6-0-0.

Continued Discussion on Possible Zoning Articles

The possible zoning articles include Growth Management Bylaw, Temporary Sign Code and Water Resource Protection District.

Ms. Tobia noted that Accessory Dwelling was inadvertently omitted.

Ms. Ridley reported that she has consulted with Town Counsel on the Growth Management Bylaw, and given the limited resources, it would be reasonable to propose an extension for an additional 5 years. The Board agrees with this approach and Ms. Ridley to follow up with a written proposal.

In terms of the temporary sign code, the only restrictions in terms of free speech is with content. It is possible to propose sign size maximums. Ms. Tobia suggested that they utilize

the Board's ability to deny a sign if it presents a public safety issue because of its size and not propose any additional zoning changes.

Water Resource Protection District will need further examination to move beyond the boundary change that has been requested by Provincetown (it is a map change). One proposed change might be restrictions within that district. Mr. Riemer asked if there needs to be any planning for potential areas that may need town water in the future. Ms. Ridley will review materials that may assist in planning of this. This has only been discussed with the Planning Board. A public hearing will need to be held in February on any proposed bylaw changes.

Ms. Tobia would like to pick up from the discussion on accessory use and will discuss with Ms. Ridley.

Review and Approval of Meeting Minutes

January 5, 2016 Planning Board Meeting:

Mr. Boleyn noted a grammatical change and the omission of Mr. Riemer's name on the first vote to approve the preliminary subdivision 2015-008PB Secrest Family Trust.

On a motion made by Mr. Sollog and seconded by Mr. Boleyn, the minutes of January 5, 2016 were approved as corrected, so moved, 6-0-0.

January 14, 2016 Planning Board Workshop Minutes:

On a motion made by Mr. Boleyn and seconded by Mr. Sollog, the minutes of January 14, 2016 Planning Board Work Shop were approved as written, so voted 5-0-1 (Mr. Roderick abstained).

Reports from Board Members and Staff

- Scheduling of onsite visit for compliance with site plan decision **2014-003SPR Seaman's Bank.**
 - Ms. Ridley to poll members for a date
- Next steps with adoption of MGL c. 44 §53g
 - Ms. Ridley spoke with Town Counsel regarding this and has proposed language. This would require a public hearing. This will be discussed at the next meeting
- Other
 - There was a discussion of the timelines for upcoming subjects/items.

On a motion by Mr. Boleyn and seconded by Mr. Roderick, the meeting adjourned at 9:35 p.m., so voted 6-0-0.

Planning Board Minutes 1-19-16

Respectfully submitted,

Shawn Grunwald
Recording Secretary