

TRURO PLANNING BOARD AGENDA
THURSDAY, February 25, 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.

Public Hearings

1. Adoption of Rule under Adoption of MGL c. 44 §53g for Subdivision Regulation
2. Growth Management Bylaw Extension

Definitive Subdivision Plan Endorsement and Acceptance of Covenant

2015-012PB Irving Ziller seeks endorsement of a Definitive Plan approved by the Board on December 22, 2015 and following the expiration of a 20-day appeal period (no appeals were filed). The subject property is known and numbered as 1 & 1A Quail Ridge Way, Truro and shown as Parcels 27 & 28 on Truro Assessor's Map, Sheet 43. A covenant is proposed for acceptance.

Preliminary Subdivision- Continued -APPLICANT'S REPRESENTATIVE HAS INDICATED AN INTENT TO WITHDRAW

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. This matter was continued from December 8, 2015.

Waiver of Site Plan Review

2016-002SPR Dorchester Awning c/o Thomas Cebula seeks a waiver of Site Plan Review for installation of a seasonal canopy covering a portion of a patio at Captain's Choice Restaurant, 4 Highland Road, Map 36, Parcel 93-D.

Commercial Site Plan Review, Continued

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. The application was re-advertised for hearing on February 2, 2016 and on request of the applicant was continued to February 25, 2016.

Continued Discussion on Possible Zoning Articles and Scheduling of Public Hearings

- Accessory Dwelling Unit Bylaw

Review and Approval of Meeting Minutes

January 28, 2016 Seamen's Bank Onsite
February 2, 2016 Planning Board Meeting

Reports from Board Members and Staff

Meeting Dates and *Other Important Dates:*

- [Annual Town Meeting Warrant closes March 8, 2016](#)
- March 15, 2016 – Reg. Meeting
- March 29, 2016 – Reg. Meeting
- April 12, 2016 – 3 pm Work Shop and Reg. Meeting
- [April 26, 2016 - Annual Town Meeting](#)

Adjourn

TOWN OF TRURO
PLANNING BOARD
NOTICE OF PUBLIC HEARING

The Truro Planning Board will hold a public hearing at 6:00 p.m. on Thursday, February 25, 2016 at the Truro Town Hall located at 24 Town Hall Road, Truro to take comments on the proposed modification of the Town of Truro Rules and Regulations Governing the Subdivision of Land:

**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.

Lisa Maria Tobia, Chair
Truro Planning Board
02/11/16, 02/18/16

TOWN OF TRURO
PLANNING BOARD
NOTICE OF PUBLIC HEARING

The Truro Planning Board will hold a public hearing at 6:00 p.m. on Thursday, February 25, 2016 at the Truro Town Hall located at 24 Town Hall Road, Truro to take comments on the following proposed modification of §40.6 of the Town of Truro Zoning Bylaws, where ~~strikethrough~~ denotes deletion of text and underline indicates addition of text:

§ 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 infrastructure. ~~so that build-out will be gradual.~~ This 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 to the 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, 202116.

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 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)

Lisa Maria Tobia, Chair
Truro Planning Board
02/11/16, 02/18/16



TOWN OF TRURO

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

To: Planning Board
From: Carole Ridley
Date: February 18, 2016
Re: Staff Report

2015-012PB Irving Ziller seeks endorsement of a Definitive Plan approved by the Board on December 22, 2015 and following the expiration of a 20-day appeal period (no appeals were filed). The subject property is known and numbered as 1 & 1A Quail Ridge Way, Truro and shown as Parcels 27 & 28 on Truro Assessor's Map, Sheet 43. A covenant is proposed for acceptance.

The Planning Board conditionally approved this definitive plan on December 22, 2015. A decision was filed with the Town Clerk on January 20, 2016, and no appeals were filed within the 20-day appeal period. A copy of the decision is attached.

A condition of the approval was for the applicant to meet with the Building Commissioner to determine whether the turning (curb) radii for Ziller Path where it meets Quail Ridge Way is compliant with the Truro Zoning Bylaw and, if not, to amend the plan to be compliant in this regard. The applicant met with the Building Commissioner (letter attached) who indicated that he interprets the measurement of the curb radii as from the edge of the travelled way and not the roadway layout. As measured from the traveled way, the radii meet the 20-foot requirement.

In accordance with the decision, the applicant is request two 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 2015-012PB Irving Ziller Definitive Plan reflecting the terms of the conditional approval decision and the waivers granted for the Definitive Plan filed with the Town Clerk on January 20, 2016.

2. Endorsement of the plan. The condition that limits the use of Ziller Path as access and legal frontage for only lots B and D is to be printed on the mylar.

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

Russ Braun <rbaun@truro-ma.gov>

February 18, 2016 1:01 PM

To: Carole Ridley <cr@ridleyandassociates.com>, "chet.lay@slade-associates.com" <chet.lay@slade-associates.com>

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

RE: Ziller

My memo was written prior to Chet changing the plan. The new plan explicitly shows 20' curb radii. The board should have no question with this.

Russell Braun
Building Commissioner

508-349-7004 Ext 33

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

Sent: Thursday, February 18, 2016 11:57 AM

To: Russ Braun <rbaun@truro-ma.gov>; chet.lay@slade-associates.com

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

Subject: Re: Ziller

Russ and Chet-

Russ' memo does not explicitly say that the curb radii for the Ziller plan is/is not compliant with Zoning. The Board will be looking for evidence that demonstrates that the curb radii are 20 feet as measured in accordance with Russ' interpretation. You should anticipate that this will be a point of contention and the more clarity on this point that can be brought to this meeting, the more helpful for the Board.

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

On Feb 9, 2016, at 9:57 AM, Russ Braun <rbaun@truro-ma.gov> wrote:

Chet

Please see attached memo

Russell Braun
Building Commissioner

To: Planning Board
From: Russell Braun
Building Commissioner
Date: February 9, 2016
Subject: Ziller subdivision



Town of Truro
Building Department

24 Town Hall Rd.
PO Box 2030
Truro, MA 02666
Tel (508) 349-7004 x31 Fax (508) 349-5508

PLAN REVIEW MEMO

We have reviewed the permit application documentation for the proposed project at the above-referenced location and have the following comments/questions/concerns:

The definition of "street" in the Zoning Bylaw requires that item (b), (c) and (d) of the Subdivision Regulations design standards be met. It is my understanding that, regarding the above-referenced application that there is concern regarding item (c) which states, "Property lines at street intersections shall be rounded to provide for a curb radius of not less than 20 feet."

If it is achievable to create 20' curb radii without "rounding" the property line intersection is that acceptable? My opinion is that it is. Clearly, the 20' curb radius is the critical factor and, clearly, curb radius refers to the travelled way, not the property lines.

This particular design standard is understandably confusing but it is my opinion that this is the only interpretation that makes sense.

In addition, the regulation gives no guidance as to how "rounded" the property line intersections have to be, only that it allows for the specified curb radius. Therefore one can make the argument that if the property line intersection had a minutely, even infinitesimally small "rounding", then that satisfies the definition. At that level what's the point of providing the property line intersection "rounding" at all? There is none.

Chester Lay <chet.lay@slade-associates.com>

December 24, 2015 6:59 AM

To: "Carole Ridley" <cr@ridleyandassociates.com>, "Carole Ridley" <cr Ridley@truro-ma.gov>, "BEN ZEHNDER" <bzehnder@zehnderllc.com>, "Geoffrey Doherty" <gcdo52@gmail.com>

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

Ziller

Good morning Carole- I wanted to bring you and the Board up to date. I met with Russ Braun yesterday about the concern of at least one board member about the requirement adopted from the 1988 Planning Board Regulations into the Zoning Bylaws in 1989 which states "c"- Property lines at street intersections shall be rounded to provide for a curb radius of not less than 20 feet." We reviewed the plan and I pointed out that Ziller Path ran along a property line. His comment was "Well, sometimes you can only do what you can only do." which I found to be encouraging. I left him the plan and he will look it over and get back to me.

I also wanted to thank you for all your help and to wish you a Merry Christmas.

Chet

(508) 349-3110



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

DEFINITIVE SUBDIVISION

Reference No. 2015-012

Map 43 Parcels 27 & 28

1 & 1A Quail Ridge Way

Applicant: Irving Ziller

Meeting Dates December 22, 2015

Decision Date December 22, 2015

At a duly posted and noticed public hearing opened on December 22, 2015, the Town of Truro Planning Board, acting in the matter of Reference Number 2015-012, and pursuant to MGL c.41, §81T and §81 U and § 2.5 of the Town of Truro Rules and Regulations Governing Subdivision of Land, voted to approve waivers and to conditionally approve a Definitive Plan entitled “Definitive Subdivision of Land in Truro Made for Irving Ziller” by Slade Associates, Inc. dated October 5, 2015. The Board’s vote was 4-2-0 (Mr. Riemer and Mr. Herridge opposed) to approve the requested waivers and 6-0-0 to conditionally approve the Definitive Plan.

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

1. Form C Application for Approval of a Definitive Plan, dated November 5, 2015, Form D covenant, and fee of \$275, received by the Town Clerk November 5, 2015;
2. Definitive Subdivision of Land in Truro Made for Irving Ziller, by Slade Associates, Inc., dated October 5, 2015, 1”=50’;
3. Ziller Path Plan & Profile Made for Irving Ziller, by Slade Associates, Inc., dated October 8, 2015, Scale 1”=50’;
4. Letter from Slade Associates, dated December 15, 2015, re: Ziller, 1 and 1A Quail Ridge Way, itemizing and providing explanation for requested waivers.

Findings

After discussion and testimony by the applicant, and the applicant’s representatives, the Planning Board deliberated on the merits of the request for approval of the two-lot Definitive Plan. In its deliberation the Board found:

- The applicant seeks to create a two-buildable-lot subdivision, involving six parcels totaling 184,648 sf. or 4.238 acres. Parcel A & E are to be combined for a private way, Ziller Path (14,282 sf.); Parcels B & C are to be combined to create a lot which currently has a pre-existing dwelling on it (35,403 sf, or .813 acres); Parcel D is a new buildable lot (40,040 sf; or .919 acres); Parcel F is not a buildable lot (94,923 sf., or 2.179 acres).
- Ziller Path is shown as a 40-foot-wide right of way with a 14-foot gravel roadway. Frontage for combined parcel B&C is provided on Quail Ridge Way, and on Ziller Path for Parcel D.

- A Preliminary Plan for this subdivision had been approved by the Planning Board on July 10, 2012 subject to the following condition: “At the time of the filing of the Definitive Plan the plan shall be corrected to note the correct road name – Quail Ridge Way,” and the condition of Preliminary Plan approval had been satisfied; and
- The subdivision roadway would provide frontage for only one lot, Parcel D, and maintenance of Ziller Path would be solely the responsibility of the owner of said Parcel D.

Decision

On a motion by Mr. Hopkins and seconded by Mr. Roderick, the Board voted to approve the itemized requested waivers.

The following submission requirements of Section 2.5 of the Town of Truro Rules and Regulations Governing the Subdivision of Land are waived:

- 2.5.2a.6 drainage calculations
- 2.5.2a.9 traffic impact study
- 2.5.2a.10 three proposed road names
- 2.5.2b.5 existing and proposed methods of providing road drainage and utilities
- 2.5.2B.10 topographical contours (shown on preliminary plan)
- 2.5.2b.14 base flood elevation
- 2.5.2.b.22 two onsite USGS benchmarks
- 2.5.2b.24 all information required on preliminary plan
- 2.5.2.b.30 location of all trees 10” in diameter
- 2.5.2.c. 4 & 5 right and left side grades
- 2.5.2.c.11 limits of clearing
- 2.5.2.c.12 water main data
- 2.5.2.c.13 utilities and drainage on profile
- 2.5.2.c.14 cross sections
- 2.5.2.c.15 landscape plan
- 2.5.2.c.16 erosion control plan

and the following Roadway Standards from Appendix 2 of the Town of Truro Rules and Regulations Governing the Subdivision of Land, Table 1, Type A Roadway be waived:

- 4.1 construction of circular turnaround
- 4.1.1 4’ shoulders

Board members expressed that they had been satisfied that the granting of the waivers was not inconsistent with the intent and purposes of the Subdivision Control law and not injurious to the public. The vote was four (4) in favor, two (2) opposed (Mr. Riemer and Mr. Herridge) and none in abstention.

On a motion by Mr. Herridge and seconded by Mr. Hopkins, the Board voted to approve the Definitive Plan pursuant to MGL c.41, §81T and §81 U and Section 2.5 of the Town of Truro Rules and Regulations Governing Subdivision of Land subject to the following conditions:

1. Ziller Path is approved to provide access for only one (1) buildable lot, Parcel D as shown on the definitive plan entitled Definitive Subdivision of Land in Truro Made for Irving Ziller by Slade Associates, Inc. (October 5, 2015 1”=50’).
2. Parcel F as shown on said definitive plan is not a buildable lot under the Truro Zoning Bylaws.



TOWN OF TRURO PLANNING BOARD
FORM D
COVENANT

The undersigned Geoffrey Doherty of Middlesex County, Massachusetts, hereinafter called the "Covenantor", having submitted to the Truro Planning Board, a definitive plan of a subdivision, entitled Definitive Subdivision of Land in Truro Made For Irving Ziller

dated October 5, 2015 made by Slade Associates, Inc. for property located at 1 & 1A Quail Ridge Way and showing 1 proposed lots, 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 GEOFFREY C. + SUSAN Z. DOHERTY 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.

Witness our hands and seals this 12th day of January, 2016

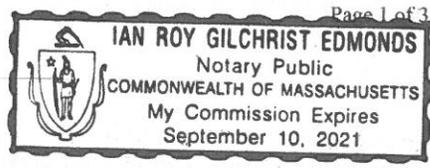
Signatures of Geoffrey C. Doherty and Susan Z. Doherty

COMMONWEALTH OF MASSACHUSETTS

BARNSTABLE, SS

On this 12th day of January, 2016, before me, the undersigned notary public, personally appeared GEOFFREY + SUSAN DOHERTY, proved to me through satisfactory evidence of identification, which were MASS DL, 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.

Signature of Notary Public: P.R.G. Edmonds



7. Attachment to Ziller /Dcherty Covenant

1. Ziller Path is approved to provide access for only one (1) buildable lot, Parcel D as shown on the definitive plan entitled Definitive Subdivision of Land in Truro Made for Irving Ziller by Slade Associates, Inc. (October 5, 2015 1"=50').
2. Parcel F as shown on said definitive plan is not a buildable lot under the Truro Zoning Bylaws.
3. The roadbed of Ziller Path will have a traveled width of 14-feet, a 6-inch hardened base and 3-inch gravel surface.
4. The maximum grade for the Ziller Path will not exceed 5%. Site clearing will be the minimum necessary to accomplish the road grade.
5. Lot D will be subject to Nitrogen Loading Limitations in accordance with the Town of Truro Board of Health Regulations (Section VI Article 12, Town of Truro Board of Health Regulations, effective July 22, 2015 as may be amended), limiting the lot to 4 bedrooms.
6. The site is within Estimated Habitat and the applicant will file all required information with the Natural Heritage and Endangered Species Program of Massachusetts Division of Fish and Wildlife and incorporate any conditions set forth by NHESP into the Definitive Plan to ensure that the project will not result in a take of state-listed species.
7. There will be a performance guarantee, executed upon endorsement, via a covenant stipulating the terms of road construction and utilities, and including all conditions and waivers granted by the Planning Board on December 22, 2015.
8. The applicant will meet with the Truro Building Commissioner to determine if the turning radii for Ziller Path where it meets Quail Ridge Way is compliant with the Truro Zoning Bylaw and, if not, will amend the plan to be compliant in this regard.
9. The following waivers were approved on December 22, 2015 for this definitive plan:
The following submission requirements of Section 2.5 of the Town of Truro Rules and Regulations Governing the Subdivision of Land are waived:
2.5.2a.6 drainage calculations
2.5.2a.9 traffic impact study
2.5.2a.10 three proposed road names
2.5.2b.5 existing and proposed methods of providing road drainage and utilities
2.5.2B.10 topographical contours (shown on preliminary plan)
2.5.2b.14 base flood elevation
2.5.2.b.22 two onsite USGS benchmarks
2.5.2b.24 all information required on preliminary plan
2.5.2.b.30 location of all trees 10" in diameter
2.5.2.c. 4 & 5 right and left side grades
2.5.2.c.11 limits of clearing
2.5.2.c.12 water main data
2.5.2.c.13 utilities and drainage on profile
2.5.2.c.14 cross sections
2.5.2.c.15 landscape plan

2.5.2.c.16 erosion control plan
and the following Roadway Standards from Appendix 2 of the Town of Truro
Rules and Regulations Governing the Subdivision of Land, Table 1, Type A
Roadway be waived:

4.1 construction of circular turnaround
4.1.1 4' shoulders

Planning Board Signatures:

Date: _____

COMMONWEALTH OF MASSACHUSETTS

BARNSTABLE, SS

On this ____ day of _____, 20____, before me, the undersigned notary public, personally appeared _____, 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
P.O. Box 2030, Truro, MA 02666
Tel: (508) 349-7004 Fax: (508) 349-5505

To: Planning Board
From: Carole Ridley, Consultant
Date: February 19, 2016
Re: Waiver from Site Plan Review

2016-002SPR Dorchester Awning c/o Thomas Cebula seeks a waiver of Site Plan Review pursuant to §70.9 of the Truro Zoning Bylaw for installation of a seasonal canopy covering a portion of a patio at Captain's Choice Restaurant, 4 Highland Road, Map 36, Parcel 93-D.

Completion of Submission

1. Commercial Development Application for Site Plan Review received January 29, 2016.
2. Correspondence from Dorchester Awning dated January 26, 2016
3. Accompanying photographs and photo representation of the proposed awning
4. Site Plan for 4 Highland Road, Map 36, Parcel 93-D 8, stamped by surveyor dated 12/31/2015, at 1"=10'

Additional materials requested per comments of Health Agent to be provided in advance of public meeting:

1. Seating plan for outdoor area and indication of change/no change in number of seats proposed
2. Location of outdoor refuse/recycling receptacle

Other Department Comments

Summary of Health/Conservation comments:

- No Wetland Issues
- Health Department issues itemized in attached letter

Application materials also were distributed to the Police Department, Fire Department, DPW and Building Commissioner and no comments/concerns raised.

Planning Board Jurisdiction

§70.9 Waiver of Site Plan Review

The Planning Board may determine at its discretion without a public hearing that submission of a Commercial or Residential Site Plan review application is not required when the alteration or reconstruction of an existing building or structure or new use or change in use **will not** have a significant impact: within the site or in relation to adjacent properties and streets; on pedestrian and vehicular traffic; on public services and infrastructure, or on unique environmental and historic resources abutting properties; or community needs.

A waiver from Commercial or Residential Site Plan Review must be requested by the applicant using the appropriate Site Plan Review Application form. The form, applicable filing fee and supporting documentation to establish such review shall be filed with the Planning Board Secretary. A waiver request will be considered at a regular session of the Planning Board.

Upon the decision of the Planning Board, a copy of the decision shall be sent to the applicant, the owner, the representative, if any, and the Building Commissioner.

Completeness of Application

As there are no specific requirements for the submittal of a Waiver of Site Plan Review, it is the responsibility of the Planning Board to determine whether the information submitted provides adequate information to determine whether the applicant has demonstrated that “the alteration or reconstruction of an existing building or structure or new use or change in use will not have a significant impact: within the site or in relation to adjacent properties and streets; on pedestrian and vehicular traffic; on public services and infrastructure, or on unique environmental and historic resources abutting properties; or community needs.”

Additional Planning Staff Comments

The applicant has not identified any measures that will be undertaken to control littering or handle refuse/recycling.

The duration of the season during which the canopy would be installed is not defined in the materials submitted by the applicant. Also, it is not clear whether the frame remains up all year or is taken down and reinstalled each year.

Board Options

1. Approve the request of **Dorchester Awning c/o Thomas Cebula** for a Waiver of Site Plan Review pursuant to §70.9 of the Truro Zoning Bylaw for installation of a seasonal canopy covering a portion of a patio at Captain’s Choice Restaurant, 4 Highland Road, Map 36, Parcel 93-D. This is based on the fact that the seasonal canopy in this location **will not** have a significant impact: within the site or in relation to adjacent properties and streets; on

pedestrian and vehicular traffic; on public services and infrastructure, or on unique environmental and historic resources abutting properties; or community needs. *(NOTE: Include a condition (s) if applicable.)*

2. Deny the request of **Dorchester Awning c/o Thomas Cebula** for a Waiver of Site Plan Review pursuant to §70.9 of the Truro Zoning Bylaw for installation of a seasonal canopy covering a portion of a patio at Captain's Choice Restaurant, 4 Highland Road, Map 36, Parcel 93-D. This is based on the fact that the seasonal canopy in this location **will** have a significant impact: within the site or in relation to adjacent properties and streets; on pedestrian and vehicular traffic; on public services and infrastructure, or on unique environmental and historic resources abutting properties; or community needs.
3. To continue the meeting on the application for additional information *(Need to state what additional information is required and the continuation of a meeting must be to a date and time certain.)*



Town of Truro Planning Board

P.O. Box 2030, Truro, MA 02666

COMMERCIAL DEVELOPMENT APPLICATION FOR SITE PLAN REVIEW

Office of Town Clerk
Treasurer - Tax Collector
\$125.00 Fee PAID
JAN 23 2016
2016-002 / SPR
Received TOWN OF TRURO
By Molly Stevens

Date 1/22/16

To the Town Clerk and the Planning Board of the Town of Truro, MA

The undersigned hereby files an application with the Truro Planning Board for the following:

- Site Plan Review** pursuant to §70.3 of the Truro Zoning By-law (Complete I, II & III)
- Waiver of Site Plan Review** pursuant to §70.9 of the Truro Zoning By-law (Complete I & III)

I. General Information

Description of Property and Proposed Project EXISTING RESTAURANT WITH OUTDOOR DINING PATIO, TO HAVE A SEASONAL CANOPY COVERING PORTION OF PATIO AS INDICATED ON INCLUDED SITE PLAN

Property Address 4 HIGHLAND ROAD Map(s) and Parcel(s) 36-93-D

Registry of Deeds title reference: Book _____, Page _____, or Certificate of Title Number _____ and Land Ct. Lot # _____ and Plan # _____

Applicant's Name DORCHESTER AWNING COMPANY / THOMAS CERULA

Applicant's Legal Mailing Address 9 CALLEN ROAD, KINGSTON MA 02364

Applicant's Phone(s), Fax and Email 781 826 9001 / 781 826 1628 / TOM@DORCHESTERAWNING.COM

Applicant is one of the following: (please check appropriate box)

- Owner
- Prospective Buyer*
- Other* *Written Permission of the owner is required for submittal of this application.

Owner's Name and Address KING WHITE REALTY, 4 HIGHLAND ROAD, TRURO

Representative's Name and Address CHRIS KING & JOHN WHITE

Representative's Phone(s), Fax and Email 508 509 4180 / 508 237 1512 / C-KING@CWKMG.NET

II. Waiver(s) Request – Waivers from any of the items listed in §70.3.D, must be identified below and a separate sheet shall be attached indicating in detail the reason for said waiver(s) pursuant to §70.3.D. *Note that items 1(a-d), 2 and 3.a (1 – 6) of §70.3.D shall not be waived.*

- 1.e: 3 copies of drainage calculations
- 3.b: Existing Conditions Plan (specific waiver requests and reason must be attached)
- 3.c: Proposed Conditions Plan (specific waiver requests and reason must be attached)
- 3.d: Proposed Landscaping Plan (specific waiver requests and reason must be attached)

III. Signature(s)

Applicant(s)/Representative Signature

Owner(s) Signature or written permission

Your signature on this application authorizes the Members of the Planning Board and town staff to visit and enter upon the subject property.



*Awnings of Distinction
Since 1901*

9 Gallen Road
Kingston, MA 02364
Office: 781-826-9001
Toll Free: 800-649-8686
Fax: 781-826-1628

January 26, 2016

Planning Board Members
Town of Truro
24 Town Hall Road
Truro, MA 02666

Members of the Board,

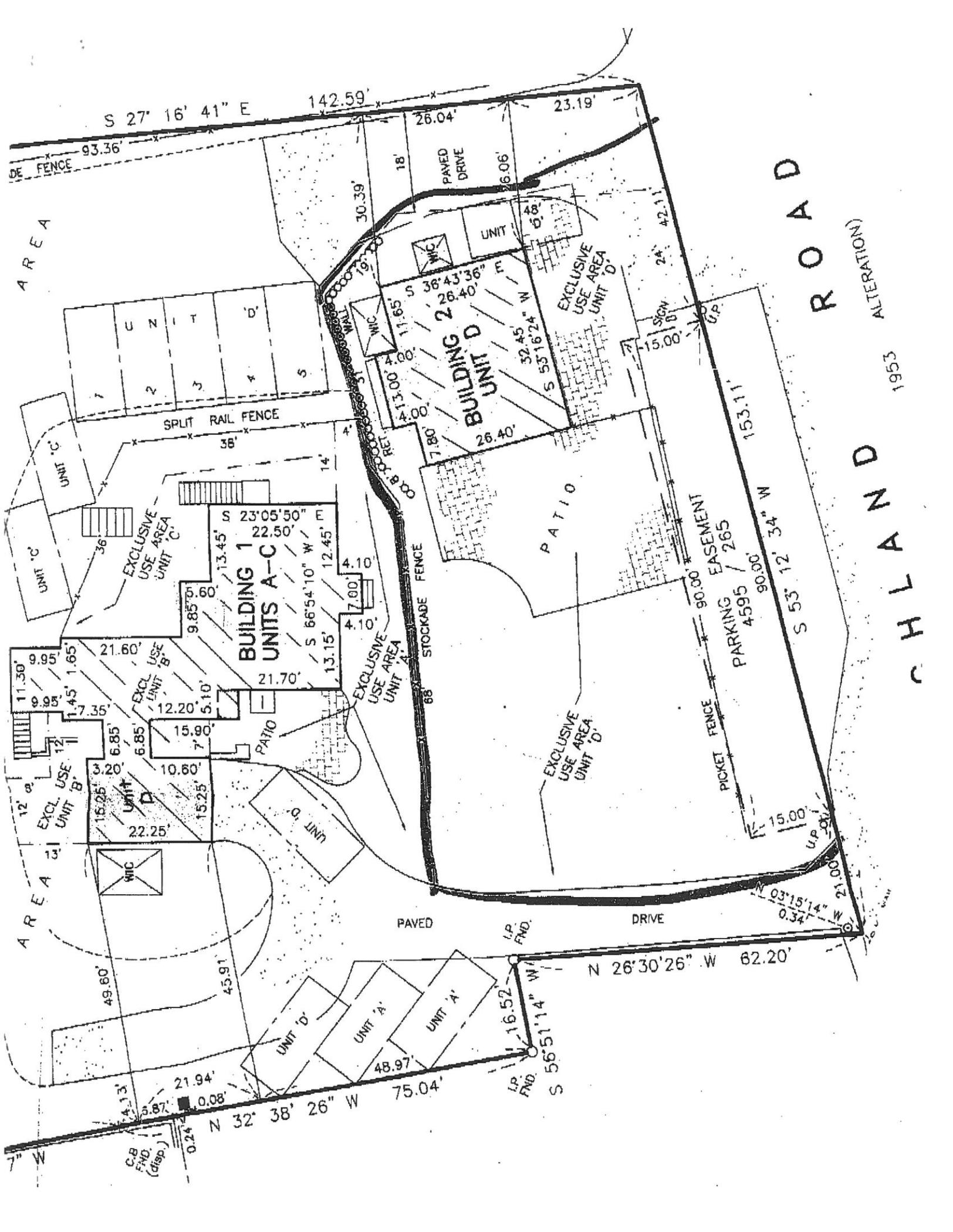
Please review the attached information for a Request of Waiver of Site Plan Review for the Captains Choice Restaurant at 4 Highland Road. The existing brick paver patio is currently used for a dining area during the operating season for the restaurant. The owners have contracted with us to provide a seasonal fixed frame, fabric covered canopy structure as shown on the attached Site Plan & Rendering.

We believe the Waiver of Site Plan Review is appropriate for this application, as per Section 70.9 of the Town Ordinance, none of the following apply:

- No change in use of the property
- No significant effect on adjacent properties or streets
- No impact on pedestrian or vehicular access
- No effect on public services, unique environmental and historic resources, or on community needs

Thank you,

Thomas Cebula
Account Executive
The Dorchester Awning Company



CHILAND ROAD
 (NOTATION) ALTERATION
 1953



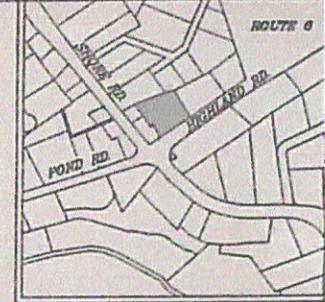
EIGHT ADDITIONAL PARKING SPACES ARE AVAILABLE FOR UNIT D AS SHOWN ON THE 4 HIGHLAND ROAD SITE PLAN RECORDED IN BK 599, PG. 27.

36-93

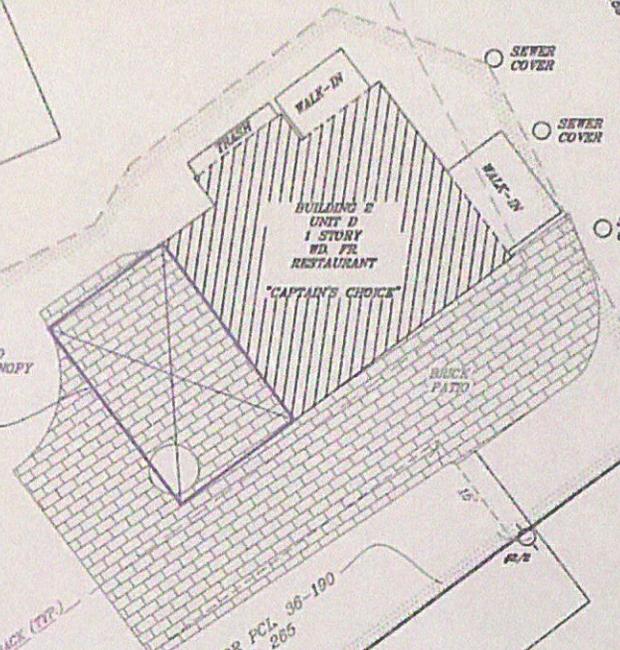
BUILDING 1
UNITS A-C

SEE PLAN
BK 599, PG. 27

36-91



LOCUS IS SHOWN AS PCL. 63 ON SHE. 38 OF THE TRURO ASSESSORS' ATLAS.

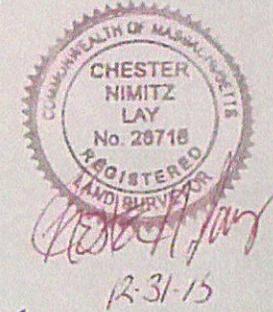


PAVED DRIVE

PROPOSED SEASONAL CANOPY

EXCLUSIVE USE AREA UNIT D

PARKING EASEMENT FOR PCL. 96-190
SEE BK. 4595, PG. 285



HIGHLAND ROAD
STATE HIGHWAY - 1953 ALTERATION

SITE PLAN

OF LAND IN

TRURO

MADE FOR

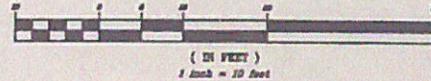
MJM TRURO, LLC

SCALE: 1"=10'
SLADE ASSOCIATES, INC., REGISTERED LAND SURVEYORS
10 PINE POINT ROAD, WELLFLEET, MA 02667

508-349-3210

PLAN #2015-151

GRAPHIC SCALE



(IN FEET)
1 inch = 10 feet

36-190
SEE PLAN
BK 400, PG. 69

ZONING:
GENERAL BUSINESS

MIN. LOT SIZE 33,750 SQ. FT.
MIN. LOT FRONTAGE 150 FT.
MIN. FRONT YARD SETBACK 20 FT.
MIN. SIDE YARD SETBACK 25 FT.
MIN. BACK YARD SETBACK 25 FT.
MAX. BLDG. HEIGHT 2 STORIES, 30 FT.

OWNER:
CHRISTOPHER W. KING,
TRUSTEE OF THE KING WHITE REALTY TRUST
19 OLD COLONY WAY, ORLEANS, MA 01953
508-237-1512

CONTRACTOR:
THOMAS CEBULA
ACCOUNT EXECUTIVE
THE DORCHESTER AWING CO.
9 GALEN RD.
KINGSTON, MA 01924
781-626-9001

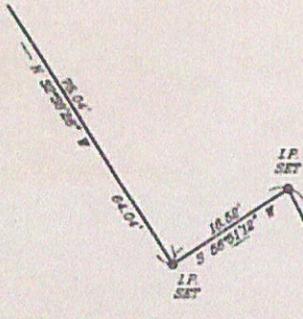
PAVED DRIVE

PAVED DRIVE

SURVEY
DISK

64.44'

EDGE OF PAVEMENT



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**Health/Conservation Agent
Town of Truro**

Phone: (508) 349-7004 ext. 32

Fax: (508) 349-5850

MEMO

To: Carole Ridley, Planning Consultant for the Town of Truro

From: Patricia Pajaron 

CC:

Date: February 17, 2016

Re: Development Application Referral, Dorchester Awning, 4 Highland Road, Map 36 Parcel 93

I have reviewed the Application for Waiver of Site Plan Review submitted by Thomas Cebula of Dorchester Awning Company to install a seasonal canopy covering a portion of the outdoor patio area. The following outlines my questions and comments relative to the submittal:

1. CONSERVATION

According to the OLIVER GIS maps available online at the MassDEP website, there appear to be no Wetland Resource Areas subject to protection under the Massachusetts Wetlands Protection Act (310 CMR 10.00) affecting the property; therefore Conservation Commission review and approval are not required at this time.

HEALTH

1. This property consists of a food service establishment with a seating capacity of 16 interior seats and 24 outside seats.
2. Are additional outside seats being proposed?
3. A seating plan should be included with this application.
4. Per Truro BOH Regulations Section X, Article 5(2), all outdoor dining areas shall contain a refuse and recycle container.
5. The canopy provides overhead protection as required by the *Food Code*; **6-202.18 Outdoor Servicing Areas, Overhead Protection.**



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.

Chris Vaccaro <cvaccaro@dfllp.com> 

February 12, 2016 12:09 PM

To: Carole Ridley <cr@ridleyandassociates.com>

Cc: Lisa Maria Tobia <lisamariatobia@gmail.com>, Michael Tribuna <mike.hwrt@verizon.net>, Rae Ann Palmer <rpalmer@truro-ma.gov>

RE: 7 Parker Drive, Truro, Mass.

1 Attachment, 166 KB

Carole, you had requested that I furnish additional information for the Planning Board's hearing on February 25, 2016.

I am attaching a copy of my client's building permit, authorizing the demolition of two cottages because he has changed the use from a cottage colony (nonconforming) to single-family (legal and conforming). Please add this to the file.

Given the change of use, we reiterate our request that the Planning Board allow the withdrawal of the site plan approval application without prejudice. Mr. Tribuna would appreciate your consideration of this request, bearing in mind that a refusal by the Planning Board to allow such a withdrawal would be highly unusual and, arguably, both arbitrary and capricious.

Thank you for your attention to this matter.

Chris

Christopher R. Vaccaro
Attorney at Law
Dalton & Finegold, L.L.P.

Direct Dial: 978-269-6425
Email: cvaccaro@dfllp.com
Web Site: www.dfllp.com

This transmittal contains confidential information which may be legally privileged. The information is intended only for the use of the listed recipient named above. If you are not the named recipient, any disclosure, copying, distribution or taking of any action in reliance upon the contents hereof, except direct delivery to the intended named recipient, is strictly prohibited. If you have received this transmittal in error, please notify the sender immediately by telephone at (978) 269-6425. Thank you.

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

Sent: Wednesday, February 03, 2016 8:35 PM

To: Chris Vaccaro <cvaccaro@dfllp.com>

Cc: Lisa Maria Tobia <lisamariatobia@gmail.com>; Michael Tribuna <mike.hwrt@verizon.net>; Rae Ann Palmer <rpalmer@truro-ma.gov>

Subject: Re: 7 Parker Drive, Truro, Mass.

Chris-

This is to confirm that the continuance of the Site Plan Review for 7 Parker Drive will occur on Thursday, February 25th at 6 pm at Truro Town Hall. Kindly confirm your receipt of this email on Mr. Tribuna's behalf.

Thanks,

Carole

Ridley & Associates, Inc.

115 Kendrick Road

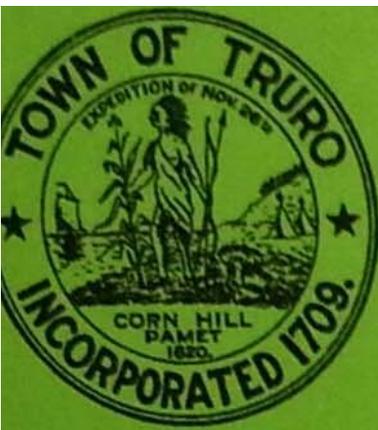
Harwich, MA 02645

(508) 430 2563 (office)

(508) 221 8941 (cell)

(508) 432 3788 (fax)

www.ridleyandassociates.com

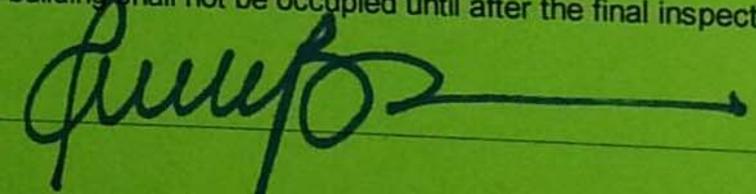


Town of Truro Building Permit

24 Town Hall Rd, Truro
P: 508-349-7004 x31 F: 5

Building Permit #: 15-321	Map: 39	Parcel: 171
Street Location: 7 Parker Dr.		
Owner: Michael Tribuna, Westview Court Realty Trust		
Type of Work: Change of Use	HIC: n/a	
Builder: HO	CSL: n/a	
Date of Issue: December 30, 2015		

This card shall be posted in a conspicuous place and shall not be covered or removed until all work associated with this permit, is completed. Work shall be in compliance with 780 CMR and all applicable laws and by-laws of the Town of Truro. Approved plans shall be available on the job site. Where a Certificate of Occupancy is required, the building shall not be occupied until after the final inspection and after the Certificate of Occupancy has been issued.

BUILDING OFFICIAL: 

REQUIRED INSPECTIONS

Footing - Rebar	Electrical Service	Final Gas
Inspector		



TOWN OF TRURO

P.O. Box 2030, Truro, MA 02666

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

Fax: (508) 349-5505

cridley@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

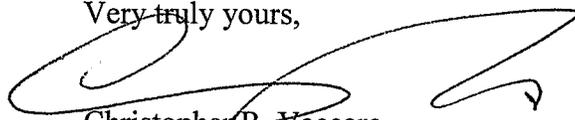
Dear Ms. Tobia:

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)

**Tru-Haven
Homeowners'
Association**

P.O. Box 537
Truro, MA 02666

Board of Directors

Jennifer Cohen, President
Bob Doolittle
Michael Janoplis

Kevin Kuechler
Fred Moss

January 30, 2016

Via Email

Ms. Lisa Maria Tobia
Chairman
Truro Planning Board
Truro, MA

Re: 7 Parker Drive

Dear Chairman Tobia,

I just learned from Ms. Ridley that the Planning Board must reopen the hearing with regard to the site plan for 7 Parker Drive. She also quite kindly copied me on her memorandum to the Board outlining options for this week's vote. While I am sorry that the Board must, once again, spend its time on this matter which has already proven so time consuming and frustrating, I do appreciate the opportunity to express our community's concerns and view regarding how this matter is finally resolved with the Planning Board. Unfortunately, I cannot attend this week's meeting as I am currently out of town but am sending this note which I hope you will share with the other members of the Planning Board.

We believe that the Planning Board's final determination on the site plan for this property should reflect the concerns expressed by its members over the past several months during which it repeatedly endeavored to devise a compromise solution for all concerned and to grant continuances when information supplied by the applicant continued to remain incomplete. While there may indeed be a loop-hole in zoning regulations that was revealed through this process, the facts are that the property was and remains in violation of zoning laws; and that the application for a change of use for this property was an end-run of the intent of the Town's bylaws since, by the applicant's own representations, it was pursued to avoid an expected order of mitigation.

We believe that allowing the applicant to simply withdraw his application without prejudice would be particularly inappropriate in this instance and, further, that doing so would create a terrible precedent for future applications by others. Simply put, such a waste of Town personnel and volunteer resources, and what appears to be a gaming of the system should not be encouraged or condoned.

Ms. Ridley outlines three reasons why the application itself can be denied along with reasons why

each of these may be true. We believe that her analysis is correct and that all reasons given are applicable and should be reflected in the final record. Further, we believe that such a finding may help inform future decisions on this property by other Town boards which may be unaware of the history on this application.

I therefore respectfully request that the members of the Planning Board:

- 1) Vote to deny the applicant's motion to withdraw without prejudice.
- 2) Vote to deny the application citing all three reasons offered:
 - a. The application for site plan approval remains incomplete
 - b. The imposition of reasonable conditions will not ensure that the project will conform to the standards and criteria described herein.
 - c. The project does not comply with the requirements of the zoning bylaw

For your information, Mr. Tribuna received a building permit for change of use on December 30. This permit was appealed last week due to concerns about possible hazard to the road and other issues. Some of these were actually points of concern expressed by Town officials and others during the commercial site plan review including drainage which, under the current building permit, would not need to be addressed at all. Our community is now simply trying to have the permit modified to add certain conditions to offer needed protections against what we believe will be substantially increased detriment to our neighborhood. I have been informed that it is being placed on the March ZBA agenda.

We believe having a clear record expressing the Board's concerns as suggested by a vote to deny the application based on all there reasons outlined above and in Ms. Ridley's memo will also be helpful in alerting the ZBA of the larger picture involved in this matter. While they will certainly reach their own, independent decision, I do believe that they should be informed of previous concerns as possible.

Thanks to you and to each member of the Board who has given such careful attention to this matter since last July.

Best regards,



Jennifer Cohen, President

EXISTING BYLAW SECTIONS RE: AFFORDABLE ACCESSORY DWELLING UNITS

§ 10.4. Definitions

Dwelling Unit, Affordable Accessory. A rental dwelling unit either detached from or located within or attached to a principal dwelling, principal structure, garage, containing at least four hundred (400) square feet but not more than one thousand four hundred (1,400) square feet of Gross Floor Area. Accessory unit shall be restricted to remain affordable by conditions attached to the Special Permit issued by the Planning Board and be occupied by income-eligible households determined in accordance with HUD Income and Fair Market Rental Guidelines.

§ 30.2. Use Table

The following uses are permitted by district as indicated below, and consistent with the purposes for which the district was established. Uses not expressly permitted are deemed prohibited.

KEY

- P Permitted
- SP May be allowed by special permit granted by the Board of Appeals, or the Planning Board, where noted
- N Not Permitted
- R Residential
- BP Beach Point Limited Business
- NT6A Route 6A, North Truro Limited Business
- TC Truro Center Limited Business
- NTC North Truro Center General Business
- Rt6 Route 6 General Business
- S Seashore

PRINCIPAL USES							
	R	BP	NT6A	TC	NTC	Rt6	S
AGRICULTURAL							
Agricultural (except Animal Husbandry); horticultural, floricultural	P	P	P	P	P	P	P
Animal husbandry, parcels of more than 5 acres	P	P	P	P	P	P	P
Animal husbandry, parcels of 5 acres or less	SP	SP	SP	N	SP	SP	SP
COMMERCIAL							
Automobile service, repair, storage, or salesrooms	N	N	N	N	P	P	N
Commercial fishing activity (1, 11)	P	P	P	P	P	P	P
Professional office (2)	N	P	P	P	P	P	N
Restaurant	N	N	N	P	P	P	N

EXISTING BYLAW SECTIONS RE: AFFORDABLE ACCESSORY DWELLING UNITS

PRINCIPAL USES							
	R	BP	NT6A	TC	NTC	Rt6	S
Retail business service (4/14)	N	N	P	P	P	P	N
Retail sales (4/14)	N	N	N	P	P	P	N
Wholesale Trade (4/14)	N	N	SP	SP	P	P	N
INDUSTRIAL							
Communication structure	N	N	N	N	N	SP (4)	N
Industrial or manufacturing use (5)	N	N	N	N	SP	SP	N
Marine installation	SP	SP	SP	N	SP	SP	N
Public utility	N	N	N	N	P	P	P
Research or experimental lab (6)	SP	SP	SP	N	SP	SP	N
Small engine repair	SP	SP	SP	N	SP	SP	N
Trade, repair shop, etc. (7) (4/14)	N	N	P	P	P	P	N
INSTITUTIONAL							
Educational institution	P	P	P	P	P	P	P
Hospital, nursing and/or convalescent home	P	P	P	P	P	P	P
Municipal use (4/13)	P	P	P	P	P	P	P
Private club not conducted for profit	SP	SP	SP	N	SP	SP	N
National Seashore administration facilities, public facilities	N	N	N	N	N	N	P (11)
Religious institution	P	P	P	P	P	P	P
Large-Scale Ground-Mounted Photovoltaic Array (4/11)	SP (12)	N	N	N	N	P	P
RECREATIONAL							
Children's camp	SP	SP	SP	N	SP	SP	N
Park, playground, non-commercial recreation	P	P	P	N	P	P	N
RESIDENTIAL							
Cottage or cabin colony, motor court	N	P	N	N	P	P	N

EXISTING BYLAW SECTIONS RE: AFFORDABLE ACCESSORY DWELLING UNITS

PRINCIPAL USES							
	R	BP	NT6A	TC	NTC	Rt6	S
Duplex new (8)	N	SP	SP	SP	SP	SP	N
Duplex, conversion of existing single family dwelling (8)	SP	SP	SP	SP	SP	SP	N
Hotel	N	N	N	N	P	P	N
Motel	N	P	N	N	P	P	N
Single family dwelling (10)	P	P	P	P	P	P	P (11)
ACCESSORY USES							
Dwelling Unit, Affordable Accessory (10) (04/07)	SP	SP	SP	SP	SP	SP	N
Bed and breakfast, home; as defined; Boarding House, Home, as defined	P	P	P	N	P	P	P (11)
Habitable Studio	P	P	P	N	N	P	P
Home occupation, as defined	P	P	P	P	P	P	P (11)
Other home occupation (5)	SP	SP	SP	N	SP	SP	N
Working Studio	P	P	P	N	N	P	P

(4/06)

NOTES

- To include traditional fishing activities, opening of shellfish, storage and use of fishing equipment.
- No more than four (4) offices per lot; 20% lot coverage permitted, exclusive of parking; storage of equipment or materials where they are visible from neighboring properties or public or private ways is prohibited; the Board of Appeals shall find that the proposed use does not produce any injurious or offensive dirt, odor, fumes, gas, noise, or danger from explosion or fire.
- Reserved
(4/14)
- Includes buildings and appurtenances; Special Permit Granting Authority is the Planning Board.
- The Board of Appeals shall find that a proposed use is not injurious or offensive or tends to reduce values in the same district by reason of dirt, odor, fumes, gas, sewage, noise, or danger from explosion or fire.
- The Board of Appeals may approve activities which are necessary in connection with scientific research or scientific development or related production, and which are accessory to a permitted use, if the Board finds the proposed accessory use does not

EXISTING BYLAW SECTIONS RE: AFFORDABLE ACCESSORY DWELLING UNITS

substantially derogate from the public good; the proposed accessory use need not be located on the same parcel as the primary use.

7. Includes shops of carpenters, plumbers, electricians, dressmakers and similar tradespeople, repairs to radio-TV-computers and related electronic services, bicycle repairs, furniture repairs and upholstery.

(4/14)

8. Uses in this category are further subject to the special regulations set forth in § 40.1, Duplex Houses and Apartments.

9. Except trailers, mobile homes, Quonset huts or portable buildings. One tent for non-commercial use is allowed per lot, for a specified period of time and with the written consent of the owner and the Board of Health. The Board of Health may limit the period of time the tent is erected and used.

10. Uses in this category are further subject to the special regulations set forth in §40.2, Affordable Accessory Dwelling Unit and the Planning Board shall serve as the Special Permit granting authority.

(04/07)

11. Uses in this category are further subject to the special regulations set forth in § 30.3, Seashore District.

12. Except in the Solar Farm Overlay District, where the use is permitted.

(4/11)

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40.2 Affordable Accessory Dwelling Unit

(04/07)

Purpose: For the purpose of promoting the development of affordable rental housing in Truro for year-round residents, one affordable accessory dwelling unit, as defined in Section 10.4 – Definitions, per lot may be established subject to the requirements, standards and conditions listed below:

- A. One Affordable Accessory Dwelling Unit per buildable lot may be allowed in any district by Special Permit from the Planning Board.
- B. An Affordable Accessory Dwelling Unit created under this by-law shall be occupied exclusively by income-eligible households, as defined by the guidelines in subsections D and E below. The affordability requirements of this section shall be incorporated into the terms of the Special Permit issued by the Planning Board. No accessory dwelling unit shall be constructed or occupied until proof of recording of the terms of the Special Permit decision in the Barnstable County Registry of Deeds within the time required by M.G.L. c. 40A has been provided to the Building Commissioner and to the Planning Board.
- C. Requirements and Standards
 - 1. One Affordable Accessory Dwelling Unit may be established within or attached to a principal dwelling, principal structure, or a garage or constructed as a detached unit, and which must be located on the same lot as the other structure(s).

EXISTING BYLAW SECTIONS RE: AFFORDABLE ACCESSORY DWELLING UNITS

2. An Affordable Accessory Dwelling Unit shall not contain more than one thousand four hundred (1,400) square feet nor less than four hundred (400) square feet of Gross Floor Area as that term is defined in Section II of this Zoning By-law.
 3. An Affordable Accessory Dwelling Unit within or attached to a principal dwelling, principal structure or garage that is a pre-existing nonconforming use or structure shall not increase any existing nonconformity.
 4. A newly constructed detached Affordable Accessory Dwelling Unit shall comply with all applicable provisions of this by-law unless specifically waived by the Planning Board.
 5. Either the principal or the Affordable Accessory Dwelling Unit shall be owner-occupied. For the purposes of this section, any such dwelling shall be considered as owner-occupied if either dwelling unit is occupied on a year-round basis by the property owner of record, except for temporary absence during which the owner's unit is not rented for more than ninety (90) days.
 6. The subsurface waste disposal system for an Affordable Accessory Dwelling Unit shall be reviewed and approved by the Health Agent and/or the Board of Health, as applicable.
 7. The Building Commissioner and Health Agent shall inspect each Affordable Accessory Dwelling Unit at least annually for compliance with public safety and public health codes, respectively. A written consent form to allow for the inspection must be filed at the beginning of any tenancy.
 8. An Affordable Accessory Dwelling Unit shall be maintained in the same record ownership as that of the principal dwelling unit or principal structure. Prior to occupancy of an Affordable Accessory Dwelling Unit the lot upon which it stands shall be made subject to a recorded instrument that restricts the property owner's ability to convey any interest in the Affordable Accessory Dwelling Unit, apart from the principal dwelling unit or structures, other than a leasehold estate, for the term of the restriction.
- D. All occupants of an Affordable Accessory Dwelling Unit shall upon initial application and annually thereafter on the first of September in each calendar year, submit to the Town or its agent the documentation necessary to confirm their eligibility to occupy the dwelling unit. Specifically, all dwelling units must be rented to those meeting the following guidelines for a low or moderate-income family: (1) low income families having an income not exceeding eighty (80) percent of the Barnstable County median family income, and (2) moderate income families having an income between eighty (80) and one hundred twenty (120) percent of the Barnstable County median family income and, as determined by the United States

EXISTING BYLAW SECTIONS RE: AFFORDABLE ACCESSORY DWELLING UNITS

Department of Housing and Urban Development (HUD) Published Income Guidelines, as they may from time to time be amended.

- E. Maximum rents shall be established in accordance with Fair Market Rental Guidelines published from time to time by the United States Department of Housing and Urban Development (HUD). Property owners are required to submit to the Town or its agent information on the rents to be charged. Each year thereafter on the first of September, they shall submit to the Town or its agent information on annual rents to be charged. Forms for this purpose shall be provided by the Town. Rents may be adjusted upward and shall be adjusted downward annually in accordance with adjustments to the Fair Market Rental Guidelines.
- F. Procedure
1. The property owner shall complete and submit an application for a Special Permit to the Planning Board
 2. The Planning Board shall hold a public hearing in accordance with the procedures and requirements set forth in Section 9 of MGL, Chapter 40A and the Truro Zoning By-law, Section 30.8
 3. The Planning Board may grant a Special Permits only if it finds that the proposal complies with the provisions of this bylaw, §40.2, and that it complies with the applicable criteria for granting Special Permit, as detailed in §30.8.
 4. If the Planning Board grants the Special Permit and following expiration of any applicable appeal period, the property owner shall complete and submit to the Building Commissioner an application for a Building Permit to allow a change in use.
 5. The property owner shall obtain a Certificate of Occupancy from the Building Commissioner prior to any occupancy of the Affordable Accessory Dwelling Unit.
 6. An appeal of a determination of the Planning Board under this section may be taken in accordance with Section 17 of MGL, Chapter 40A.
- G. Penalty – Failure of the applicant to comply with any provision of this section is punishable by a fine established in Section 60.1 of the Truro Zoning By-laws and/or may result in the revocation of the Special Permit.

PROPOSED CHANGES TO BYLAW RE ACCESSORY UNITS

§ 10.4. Definitions

Dwelling Unit, Accessory. A rental dwelling unit either detached from or located within or attached to a principal dwelling, principal structure, garage, containing at least four hundred (400) square feet but not more than one thousand four hundred (1,400) square feet of Gross Floor Area. Accessory unit shall be a complete, separate housekeeping unit containing both kitchen and sanitary facilities allowed as of right in conformance with §40.2 of this bylaw, (4/16)

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§ 30.2. Use Table

The following uses are permitted by district as indicated below, and consistent with the purposes for which the district was established. Uses not expressly permitted are deemed prohibited.

KEY

- P Permitted
- SP May be allowed by special permit granted by the Board of Appeals, or the Planning Board, where noted
- N Not Permitted
- R Residential
- BP Beach Point Limited Business
- NT6A Route 6A, North Truro Limited Business
- TC Truro Center Limited Business
- NTC North Truro Center General Business
- Rt6 Route 6 General Business
- S Seashore

PRINCIPAL USES							
	R	BP	NT6A	TC	NTC	Rt6	S
AGRICULTURAL							
Agricultural (except Animal Husbandry); horticultural, floricultural	P	P	P	P	P	P	P
Animal husbandry, parcels of more than 5 acres	P	P	P	P	P	P	P
Animal husbandry, parcels of 5 acres or less	SP	SP	SP	N	SP	SP	SP
COMMERCIAL							
Automobile service, repair, storage, or salesrooms	N	N	N	N	P	P	N
Commercial fishing activity (1, 11)	P	P	P	P	P	P	P
Professional office (2)	N	P	P	P	P	P	N
Restaurant	N	N	N	P	P	P	N

PROPOSED CHANGES TO BYLAW RE ACCESSORY UNITS

PRINCIPAL USES							
	R	BP	NT6A	TC	NTC	Rt6	S
Retail business service (4/14)	N	N	P	P	P	P	N
Retail sales (4/14)	N	N	N	P	P	P	N
Wholesale Trade (4/14)	N	N	SP	SP	P	P	N
INDUSTRIAL							
Communication structure	N	N	N	N	N	SP (4)	N
Industrial or manufacturing use (5)	N	N	N	N	SP	SP	N
Marine installation	SP	SP	SP	N	SP	SP	N
Public utility	N	N	N	N	P	P	P
Research or experimental lab (6)	SP	SP	SP	N	SP	SP	N
Small engine repair	SP	SP	SP	N	SP	SP	N
Trade, repair shop, etc. (7) (4/14)	N	N	P	P	P	P	N
INSTITUTIONAL							
Educational institution	P	P	P	P	P	P	P
Hospital, nursing and/or convalescent home	P	P	P	P	P	P	P
Municipal use (4/13)	P	P	P	P	P	P	P
Private club not conducted for profit	SP	SP	SP	N	SP	SP	N
National Seashore administration facilities, public facilities	N	N	N	N	N	N	P (11)
Religious institution	P	P	P	P	P	P	P
Large-Scale Ground-Mounted Photovoltaic Array (4/11)	SP (12)	N	N	N	N	P	P
RECREATIONAL							
Children's camp	SP	SP	SP	N	SP	SP	N
Park, playground, non-commercial recreation	P	P	P	N	P	P	N
RESIDENTIAL							
Cottage or cabin colony, motor court	N	P	N	N	P	P	N

PROPOSED CHANGES TO BYLAW RE ACCESSORY UNITS

PRINCIPAL USES							
	R	BP	NT6A	TC	NTC	Rt6	S
Duplex new (8)	N	SP	SP	SP	SP	SP	N
Duplex, conversion of existing single family dwelling (8)	SP	SP	SP	SP	SP	SP	N
Hotel	N	N	N	N	P	P	N
Motel	N	P	N	N	P	P	N
Single family dwelling (10)	P	P	P	P	P	P	P (11)
ACCESSORY USES							
Dwelling Unit, Affordable Accessory (10) <i>(04/14)</i>	P	P	P	P	P	P	P
Bed and breakfast, home; as defined; Boarding House, Home, as defined	P	P	P	N	P	P	P
Habitable Studio	P	P	P	N	N	P	P
Home occupation, as defined	P	P	P	P	P	P	P
Other home occupation (5)	SP	SP	SP	N	SP	SP	N
Working Studio	P	P	P	N	N	P	P

(4/06)

NOTES

- To include traditional fishing activities, opening of shellfish, storage and use of fishing equipment.
- No more than four (4) offices per lot; 20% lot coverage permitted, exclusive of parking; storage of equipment or materials where they are visible from neighboring properties or public or private ways is prohibited; the Board of Appeals shall find that the proposed use does not produce any injurious or offensive dirt, odor, fumes, gas, noise, or danger from explosion or fire.
- Reserved
(4/14)
- Includes buildings and appurtenances; Special Permit Granting Authority is the Planning Board.
- The Board of Appeals shall find that a proposed use is not injurious or offensive or tends to reduce values in the same district by reason of dirt, odor, fumes, gas, sewage, noise, or danger from explosion or fire.
- The Board of Appeals may approve activities which are necessary in connection with scientific research or scientific development or related production, and which are accessory to a permitted use, if the Board finds the proposed accessory use does not

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PROPOSED CHANGES TO BYLAW RE ACCESSORY UNITS

substantially derogate from the public good; the proposed accessory use need not be located on the same parcel as the primary use.

7. Includes shops of carpenters, plumbers, electricians, dressmakers and similar tradespeople, repairs to radio-TV-computers and related electronic services, bicycle repairs, furniture repairs and upholstery.

(4/14)

8. Uses in this category are further subject to the special regulations set forth in § 40.1, Duplex Houses and Apartments.

9. Except trailers, mobile homes, Quonset huts or portable buildings. One tent for non-commercial use is allowed per lot, for a specified period of time and with the written consent of the owner and the Board of Health. The Board of Health may limit the period of time the tent is erected and used.

10. Uses in this category are further subject to the special regulations set forth in §40.2, Accessory Dwelling Unit.

(04/16)

11. Uses in this category are further subject to the special regulations set forth in § 30.3, Seashore District.

12. Except in the Solar Farm Overlay District, where the use is permitted.

(4/11)

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40.2 Affordable Accessory Dwelling Unit

(04/16)

A. Purposes

- 1. Add moderately priced rental units to the housing stock to meet the needs of smaller households and make housing units available to moderate income households who might otherwise have difficulty finding housing;
2. Increase the number of small dwelling units available for rent in Town, and increase the range of choice of housing accommodations;
3. Encourage greater diversity of population with particular attention to young adults and senior citizens; and
4. Encourage a more economic and energy-efficient use of the Town's housing supply while maintaining the appearance and character of the Town's single-family neighborhoods; and
5. Provide homeowners with a means of obtaining rental income to defray housing costs.

B. Requirements and Standards

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PROPOSED CHANGES TO BYLAW RE ACCESSORY UNITS

1. One Affordable Accessory Dwelling Unit per buildable lot in any district may be established within or attached to a principal dwelling, principal structure, or a garage or constructed as a detached unit, and which must be located on the same lot as the other structure(s).
2. An Affordable Accessory Dwelling Unit within or attached to a principal dwelling, principal structure or garage that is a pre-existing nonconforming use or structure shall not increase any existing nonconformity.
3. A newly constructed detached Accessory Dwelling Unit shall comply with all applicable provisions of this by-law.
4. Either the principal or the Accessory Dwelling Unit shall be owner-occupied. For the purposes of this section, any such dwelling shall be considered as owner-occupied if either dwelling unit is occupied on a year-round basis by the property owner of record, except for temporary absence during which the owner's unit is not rented for more than ninety (90) days.
5. An ADU shall be maintained in the same record ownership as that of the principal dwelling unit or principal structure. Prior to occupancy of an ADU, the lot upon which it stands shall be made subject to a recorded instrument that restricts the property owner's ability to convey any interest in the ADU, apart from the principal dwelling unit or structures, other than a leasehold estate, for the term of the restriction.
6. An ADU shall not be used for boarding and lodging, or other commercial use. An ADU and principal dwelling to which it is accessory may be rented for periods not shorter than one, three, six? months at a time, and are prohibited from any use as rental units on a weekly, twice-monthly or daily basis.

C. Use, Design and Dimensional Requirements:

1. The ADU shall be a complete, separate housekeeping unit containing both kitchen and sanitary facilities.
2. An ADU shall not contain more than one thousand four hundred (1,400) square feet nor less than four hundred (400) square feet of Gross Floor Area as that term is defined in Section II of this Zoning By-law.
3. At least one (1) off street parking space in addition to that required for the principal single family dwelling is required for an ADU.
4. An ADU and principal dwelling shall share common septic/ wastewater and water service facilities. The Board of Health must have documented to the Building Commissioner that sewage disposal will be satisfactorily provided for in accordance with the provisions of Title 5 and local Board of Health regulations, including provisions for an appropriate reserve area on the site. The principal dwelling unit and accessory apartment shall meet all wastewater requirements for the combined number of bedrooms/ wastewater flow on the lot.

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PROPOSED CHANGES TO BYLAW RE ACCESSORY UNITS

5. If the primary entrance of an ADU is not proposed to be shared with that of the principal dwelling, such entrance shall be less visible from the street view of the principal dwelling than the main entrance of the principal dwelling.
6. An ADU shall be clearly subordinate in use, size and design to the principal single-family dwelling. An ADU shall be designed so that, to the maximum extent practical, the appearance of the property on which it is to be located remains that of a single-family residential property and the privacy of abutting properties is maintained, considering the following: building architectural details, roof design, building spacing and orientation, building screening, door and window location, and building materials.

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D. Procedure Administration and Enforcement;

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1. An ADU shall be permitted as a "By Right" use accessory to a lawful single-family dwelling use. Upon enactment of this bylaw a building permit shall be required for each ADU.
2. The Building Commissioner/ Chief Zoning Officer shall administer and enforce the provisions of §40.2.A-D.
3. ADUs shall not be eligible for zoning use variances, or for zoning dimensional variance relief proposing to increase the allowable number of ADUs on a lot.
4. The construction of any accessory dwelling unit must be in conformity with the State Building Code, Title V of the State Sanitary Code and lawful under all other provisions of applicable town health, building, zoning and other local laws and regulations.
5. Prior to issuance of a building permit for an ADU, site plans, floor plans and elevations shall be submitted showing the proposed interior and exterior changes to existing buildings or new building and improvements on a lot associated with a proposed ADU consistent with this bylaw.
The Building Commissioner and Health Agent shall inspect each Accessory Dwelling Unit at least annually for compliance with public safety and public health codes, respectively. A written consent form to allow for the inspection must be filed at the beginning of any tenancy.

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40. E Property Tax Exemption for Affordable ADU

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Any ADU that is created under this bylaw that meets the affordability requirements of subsection 40.E.1 and 40.E.2 of this bylaw is qualified to seek a property tax exemption under Chapter 59 of the Massachusetts General Laws, as calculated under subsection 40.E.3 of this bylaw.

1. All occupants of an Affordable Accessory Dwelling Unit shall upon initial application and annually thereafter on the first of September in each calendar year, submit to the Town or its agent the documentation necessary to confirm their eligibility to occupy the dwelling unit. Specifically, all dwelling units must be rented to those meeting the following guidelines for a low or moderate-income family: (1) low income families having an income not exceeding eighty (80)

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PROPOSED CHANGES TO BYLAW RE ACCESSORY UNITS

percent of the Barnstable County median family income, and (2) moderate income families having an income between eighty (80) and one hundred twenty (120) percent of the Barnstable County median family income and, as determined by the United States Department of Housing and Urban Development (HUD) Published Income Guidelines, as they may from time to time be amended. Forms for this purpose shall be provided by the Town and submitted to **XXXXXX**.

2. Maximum rents shall be established in accordance with Fair Market Rental Guidelines published from time to time by the United States Department of Housing and Urban Development (HUD). Property owners are required to submit to the Town or its agent information on the rents to be charged. Each year thereafter on the first of September, they shall submit to the Town or its agent information on annual rents to be charged. Forms for this purpose shall be provided by the Town and submitted to **XXXXXXXX**. Rents may be adjusted upward and shall be adjusted downward annually in accordance with adjustments to the Fair Market Rental Guidelines.

3. An exemption shall be equal to the real estate tax otherwise owed on the property, based on the assessed value of the entire property, including any accessory structures, multiplied by the square feet of the living space of all accessory structures on the property at are restricted to occupancy by low- and moderate-income household, divided by the total square feet of a all structures on the property. For a property with a single affordable ADU the exemption allowed shall not exceed 50 per cent of the tax otherwise owed. For the purposes of determining the assessed valued of the entire property, if by income approach to value, such assessment shall assume that all housing units are rented at Fair market values.

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TRURO PLANNING BOARD

DRAFT

Meeting Minutes

SEAMAN'S BANK Site Visit – 346 & 350 ROUTE 6, TRURO

Thursday, January 28, 2016, 3 pm

Planning Board members attending: Lisa Maria Tobia, Bruce Bolyen, John Hopkins, Peter Herridge (excused Jack Riemer, Mike Roderick). Representing Seaman's Bank: Lori Meads, Tom Swennson (Fenuccio Raber, project architect). Also attending: Carole Ridley, Planning Board Consultant.

The site visit was conducted in accordance with section 70.3 (J) of the Town of Truro Zoning Bylaw the purpose of this visit is for the determination of substantial compliance with approved site plan for 2014-003SPR Seaman's Bank Commercial Development Site Plan.

In accordance with section 70.10 (1) the applicant submitted an "as built" plan with notation of minor changes, along with letters from the project architect and engineer certifying that the project was built in substantial compliance with the approved plan. There was no performance guarantee required for the project.

Members present walked the site and Mr. Swennson reviewed the following minor modifications to the plan:

- The addition of wheel stops to prevent cars inadvertently sliding into the drainage swales. The stops are designed with a flow-through hole to prevent blockage of run-off into the swales;
- A small retaining wall was eliminated in lieu of grading and seeding, to allow the retention of a mature tree;
- A fuel source for the emergency generator was switched from propane to diesel, with the fuel tank now directly under the generator instead of buried underground. The Bank has agreed to screen the generator and fuel tank with arborvitae or appropriate vegetation;
- Two exterior light posts have been added and three moved, to achieve adequate light coverage with warmer lighted fixtures. All exterior fixtures are compliant with the bylaw and use dark sky compliant fixtures. A change in fixture for parking area lights was selected to provide a warm white light (89 watts, 3,000 K).
- A small pedestrian sidewalk in front of the building was eliminated as it the area is not used by pedestrians and could inadvertently invite pedestrians to cross the busy portion of the driveway from the drive-up window.

Lori Meads also noted that the bank will review vegetation at the Parker Drive boundary in the spring to see if additional vegetation is warranted. It was acknowledge that this was voluntary and outside of the site plan decision.

Members present concurred that the changes improved public safety or were otherwise consistent with the approved site plan. Carole noted that the next step would be the issuance of a letter confirming compliance and memorializing the proposed screening.

The site plan adjourned at approximately 3:30 pm.

Respectfully Submitted:

TRURO PLANNING BOARD
Meeting Minutes
February 2, 2016 - 6:00 pm
Truro Town Hall

DRAFT

Planning Board Members Present: Steve Sollog; Bruce Boleyn; John Riemer; Michael Roderick; Peter Herridge; and John Hopkins

Members Absent: Lisa Maria Tobia (excused)

Other Participants: Chet Lay, Slade Associates; Christopher Snow, Esq.; William N. Rogers II; Carole Ridley, Planning Consultant

Mr. Sollog opened the meeting at 6:00 p.m. and announced, in consideration of any members of the public who were in attendance for a specific item, that several agenda items have been postponed.

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.

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.

Representatives: Chet Lay, Slade Associates

Ms. Ridley spoke to the fact that the new covenant, Form D, needed to have the conditions that were part of the approval recorded on the second page.

Mr. Riemer pointed out that in his reading of the ZBA decision, no waiver was granted for the turning radius and the 20 foot radius at the end of Knowles Heights Road and therefore he asked that an additional covenant be added to ensure the turning radius is constructed and relief be given for the 20 foot radius at the end of Knowles Heights Road.

Mr. Lay responded that the construction of the cul de sac would be a T-turnaround. He has also spoken with the zoning enforcement officer, Russ Braun and he has responded that the only thing that makes sense in terms of the 20 foot radius at Knowles Height Rd is if it is actually on the road itself. Mr. Lay provided the plan which shows this. In terms of the concern that the T-turnaround would be used for future building, Mr. Hopkins referred to the

current zoning bylaws for setbacks and the need for a building permit which would prevent this.

Mr. Herridge concurred with Mr. Riemer's concern about needing to be consistent legally. Mr. Riemer reinforced that the inability for the Planning Board to waive by-laws and read from the street definition by-law. Ms. Ridley clarified that the 80 foot reference for a dead end street is for a property line diameter, not the construction of the turnaround.

Ms. Ridley clarified also that this is an approved plan that has not been endorsed. The Board has three possible actions to take: release of the pre-existing plan; acceptance of the new covenant with the conditions; endorsement of the plan.

There was discussion between Board members about the interpretation of the 80 foot requirement. Mr. Riemer feels this matter needs relief while other members feel the plan meets zoning requirements.

On a motion by Mr. Hopkins and seconded by Mr. Roderick, the Board voted 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, so voted 4-1-1 (Mr. Riemer opposed; Mr. Herridge abstained because he is unsure of the legality raised by Mr. Riemer).

On a motion by Mr. Hopkins and seconded by Mr. Roderick, the Board voted, 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, so voted 4-1-1 (Mr. Riemer opposed; Mr. Herridge abstained citing again the legal concerns).

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.

Representatives: Christopher Snow, Esq. and Mr. William N. Rogers II

Mr. Snow reviewed the reason for the consultation. Due to an oversight, the original ANR was never recorded which is now an issue due to a transfer of property. He would like the Planning Board to ratify the original ANR.

Ms. Ridley reported that, although legally the Board can endorse this plan, Town Counsel raised some 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.

Mr. Rogers spoke to the need for a de-registration process and a revised plan for Land Court. Mr. Snow spoke to the need to move quickly because of the financial need for the surviving owner.

Mr. Snow concurred the Board to bring it back quickly as the original plan so it can be de-registered and with the new ANR plan.

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.

It was noted by Ms. Ridley that the applicant has requested a continuance until March 3, 2016 and will be taken up at the next meeting.

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.

Due to a scheduling conflict, this matter has been continued until the next meeting.

Adoption of MGL c. 44 §53g

Ms. Ridley reviewed the purpose of the law and how the two sections (special permits and subdivision regulations) could be adopted. The first rule for fees regarding special permits only requires a majority vote by the Board. The second rule for review fees for subdivision regulations requires an advertised public hearing to be in compliance with MGL c 41 § 81 Q as this would be an amendment to a regulation. This information has been provided to Town Counsel who approved this.

On a motion by Mr. Herridge and seconded by Mr. Riemer, the Board voted to adopt the following Rule in relation to Special Permits pursuant to G.L. c.40A, §9 and G.L. c.44, §53G as recited to the Board, so voted 6-0-0.

The consensus of the Board was to direct Ms. Ridley to post the subdivision rule for a public hearing. In order to accommodate the filing requirements and requirements for posting by the local paper, the Planning Board meeting will be rescheduled from February 16, 2016 to Thursday, February 26, 2016. This would allow the Board to hold a public hearing on the proposed zoning matters as well.

Continued Discussion on Possible Zoning Articles and Scheduling of Public Hearings

Growth Management Bylaw-has been reviewed by Town Counsel. The purpose of the bylaw is to allow for planning, not prohibit or inhibit growth and there have been some proposed edits to the current bylaw to reflect this. The town needs more time to conduct further studies and that is why a 5 year extension is being proposed as the full 10 years. Mr. Hopkins suggested that it may present a problem for passage at town meeting if a lot of the language is changed from the original bylaw as opposed to just the dates. Mr. Herridge and Mr. Riemer like the proposed changes. The notice will show all the changes and at the public hearing the Board will gauge the public reaction.

Water Resource Protection District-map change is not available and the use change analysis is not complete.

Seashore Zoning Changes-currently under review by Town Counsel so it is unlikely to be part of town meeting. More community discussion is needed but first needed is Town Counsel opinion to help frame the discussion.

Affordable Accessory Dwelling Unit Bylaw-two features of the current bylaw merit consideration. The first is that there is an affordability factor that the renter has to meet certain criteria and the landlord has to provide certain information. By definition, accessory dwelling would be affordable. By removing the requirements for income reporting, this may assist in addressing the objective. The second consideration is the special permitting process that could possibly made easier if certain bylaws were strengthened (e.g., size, no more than one allowed per building lot, year round occupancy etc.) and therefore making it a by-right option. For the tax exemption, however, the affordability requirements should remain, including the deed restriction. The consensus of the Planning Board was that this would be a very positive direction to pursue and if possible, post it for public hearing on February 25, 2016.

Review and Approval of Meeting Minutes

On a motion by Mr. Hopkins and seconded by Mr. Roderick, the January 19, 2016 Planning Board Meeting were approved, so voted 5-0-1 (Mr. Herridge abstained).

Reports from Board Members and Staff

- Update on Other-plans for White Sands Beach Club need signature on file for the conditional set of plans that were approved.
- Housing Authority Committee would like to meet with the Planning Board on March 15, 2016.

Planning Board Minutes 2-2-16

- Mr. Sollog would like to have a report on the water usage study.
- Ms. Ridley reported that Verizon has submitted a special permit application to change some equipment. Review to take place in March.
-

On a motion by Mr. Boleyn and seconded by Mr. Herridge, the meeting was adjourned, so voted 6-0-0.

Respectfully Submitted,

Shawn Grunwald
Recording Secretary