

## **TRURO PLANNING BOARD**

### **Meeting Minutes**

**March 10, 2015 - 6:00 pm**

**Truro Town Hall**

**Planning Board Members Present:** Leo Childs, Chris Lucy, Bruce Boleyn, Steve Sollog, William Worthington and Lisa Maria Tobia

**Member Absent:** Michael Roderick:

**Others Present:** Jamie Veara, Town Counsel, Rae Ann Palmer, Town Administrator, Selectman and Liaison Paul Wisotzky, Selectman Janet Worthington, Selectman Robert Weinstein, Selectman Maureen Burgess and Shawn Grunwald

Mr. Childs opened the meeting at 6:03 pm.

Mr. Childs acknowledged the absence of Charleen Greenhalgh and wished her a speedy recovery.

### **Zoning Amendment Public Hearing**

Mr. Childs opened the public hearing at 6:04 by reading the notices into the record:

**ARTICLE \_\_\_:** To see if the Town will vote to amend the Truro Zoning Bylaw Section 10.4 by deleting the definition of “Street” and replacing it with a new “Street” definition and further, to amend Section 30 Use Regulations by adding a new Section 30.11 Streets and Frontage, to include: Purpose, Applicability and Planning Board Determination.

**ARTICLE \_\_\_:** To see if the Town will vote to amend the Truro Zoning Bylaw by adding a new Definition of “Dwelling, Multi-Family” in Section 10.4; to Section 30.2 by adding “Multi-family Dwelling” in the Use Table under Residential Uses and by adding a new NOTES 13; and to add a new Section 40.3A Conversion of Cottage or Cabin Colony, Motor Court, Motel or Hotel for Year Round Use, to include: Purpose and Requirements.

Mr. Childs stated that each proposed amendment would be treated separately.

Mr. Childs reviewed the history of the street amendment in which some property owners are unable to use their property that are located on inadequate roads and ancient ways. At an earlier meeting, the building inspector said this is a situation unique to Truro and will change the character of the town if major changes were implemented. Therefore the Planning Board is proposing a clear and simple definition and the use table provides the minimum guidelines. In addition, there is a proposed course of action should a property owner be unable to meet the minimum guidelines. Outlined for a course of action is a public hearing, comments from department heads consisting of the police chief, fire chief, DPW director, decision of the Planning Board and an appeals process following Massachusetts general law. Mr. Childs asked for comments from the Board. Mr. Sollog stated that although this appears cumbersome, it represents a good effort by the Board and is an adequate definition of street. Mr. Boleyn concurred.

The floor was then opened up to comment.

Lucy Clark of Benson Road (seasonal resident) asked the question if under this amendment four Planning Board members would have the discretion to deem any road adequate as a public way in order to furnish frontage for the purposes of zoning requirements. Mr. Childs answered affirmatively that the majority of the Board would be able to do that.

Paul Kiernan opposes this amendment. He expressed concern about what is absent in the new definition that was in the old definition. Mr. Worthington responded that in the old definition, there were a lot of regulations that can be found elsewhere and the Board felt it is inappropriate to have those regulations in a definition. Mr. Kiernan stated he is concerned then about several omissions. The first is a regulation in effect since 1936 that has an easement requirement of 40 feet to allow for a driving surface of 20 feet plus 10 feet on either side for utilities, parking without encumbering neighboring property. The new definition allows for a road as narrow as 8 feet and he questioned how utilities and parking would be addressed. It also eliminates the by-law requirements of a curb radius when two roads meet, which is currently of 20 feet to allow for large trucks to maneuver. By-laws also require that at the end of a closed road there needs to be a diameter of 80 feet to allow for emergency or safety vehicles to be able to turn around. He is also concerned because there is no clear standards for the average citizen to reference yet the Planning Board gets to make a determination based on no clear standards. The biggest issue in his opinion is that there is no requirement for a street to be surveyed so there is no basis for the Planning Board to make a judgment. He also raised an easement question and is concerned about development and redevelopment that could happen once it has been declared there is road frontage. His concern is that the Planning Board is trying to address granting building permits on roads that are grossly inadequate and he believes this sets things up for redevelopment and this makes no sense. Lastly, he feels the omission of the by-law of the minimum width of a road should be 40 feet wide which passed unanimously in town meeting in 1989. He feels that these concerns should be addressed to avoid another court case like the Kline case.

Ms. Janet Worthington, Selectman requested that the Planning Board address the safety concerns raised by Mr. Kiernan. Mr. Lucy stated that the Kline property could not obtain a building permit. The 1989 by-law did not take into account ancient ways and town roads which are exempt. There is a list of all the roads in the town. Of the 346 roads in the town, 124 are legal roads and 222 are inadequate from the 1989 rule. Of the 222 inadequate roads, approximately 93 are roads that exist only on paper and will never be developed. This by-law is trying to address the remaining 129 roads. There will now be a process to apply for a building permit if the road does not meet the 1989 by-law. He also feels that there are safeguards in place that would prevent the subdivision concern because one person with a large parcel cannot subdivide unless the road is adequate. It cannot be made adequate just at the point of the subdivision.

Jack Riemer believes that the existing bylaws have presented problems and he feels that new changes may open up to new problems, especially with only 4 Planning Board members having

decision making ability. He believes there has not been enough research done and is totally opposed to this amendment.

Regan McCarthy Truro Non-Resident Taxpayers Association thanked committee for their perseverance and feels this will address some existing problem and allow for the granting of building permits under a more clear process. She had a question from the last hearing on this when the Town Counsel gave some comments to it. The question concerned whether the division in time prior 1955 subdivision and the 1989 definition and is concerned that there may be some people between these two time frames. Mr. Veara, Town Counsel stated that his question was what point in time the Planning Board was using when referencing the number of lots in a subdivision, i.e., as of 12/8/55 or some other date. Ms. McCarthy stated that the Nonresident Taxpayers support this Article.

Mr. Bob Weinstein, spoke as a private individual, not as a Selectman. He thanked the Planning Board for their efforts in clarifying the definition and providing an overview for new regulations that would become 30.11. He is very supportive of this amendment. He thinks the process that the Planning Board has set forth supports the democratic process of making decisions. He also thanked Mr. Lucy for his comments. He also wanted to clarify the difference between the zoning by-laws and the regulations of the subdivision of land which is a town regulation. He further wanted to put forth a few editorial suggestions which he feels are necessary:

In 30.11 Section A: he would like to see it broadened to be include both paved and unpaved roads and private and public roads to address any inadequacies for the purposes of obtaining a building permit

In 30.11 Section C #4 questioned meaning of adequate circulation and suggested language that provides safe access and egress to allow municipal safety and public vehicles to pass

In 30.11 Section C #5, Mr. Weinstein suggested a change from 60-30 days because of the undue burden placed on applicant to wait after an already lengthy process. He feels that this amendment addresses a larger issue than the Kline court case.

Mr. Lucy responded that there is a list of paved and unpaved town roads available from the Town Planner and these are exempt. Under this amendment, the Building Inspector will initially determine the adequacy of a road and can refer those cases the Building Inspector deems inadequate to the Planning Board. Addressing Mr. Weinstein's concern about the language of emergency vehicles, Mr. Lucy responded that it is the intent of the Planning Board for that to be addressed in Section C #3. He further responded that Massachusetts law prohibits changing the appeals timeframe to 30 days from 60. Mr. Lucy emphasized that this amendment is addressing the adequacy of roads in town. He further clarified that he is prohibited by ethics commission to have any business with Kline case, road etc. He also reminded that the Planning Board is elected while the Zoning Board of Appeals is appointed. Zoning Board of Appeals can only decide on property, not road. Ms. Tobia emphasized that Planning Board, in their deliberations, had in mind to preserve some of the historical aspects of some of Truro's roads such as Old Kings Highway.

Jack Riemer questioned how this amendment would affect national seashore properties and feels this amendment doesn't address this. Mr. Childs and Mr. Lucy stated that this amendment would apply to those properties as well. Ms. Tobia remarked in reference to Mr. Riemer's previous comments that this bylaw change will help prevent spot changes which is happening right now.

Lucy Clark questioned the calculation of the 8 foot width when previously it was 14 feet and 12% grade. Mr. Lucy explained that it is 8 feet paved plus 3 feet clearance on each side, still totaling 14 feet. The 12% grade is allowed in subdivisions. Ms. Clark's concern is that the amendment has a lot of leeway and is vague. Mr. Lucy replied that the Planning Board was trying to accommodate all the variations in the town. She remains concerned.

Jan Worthington, Selectman but spoke as a citizen. She is concerned because it opens the possibility of ancient ways to be developed.

Mr. Childs closed the Public Hearing at 7:07 for this article.

On a motion by Mr. Lucy and seconded by Mr. Sollog:

**ARTICLE \_\_\_:** To see if the Town will vote to amend the Truro Zoning Bylaw Section 10.4 by deleting the definition of "Street" and replacing it with the following:

Street. A private or public way by which vehicles and pedestrians can safely gain access to and egress from homes, places of business and other locations. For the purposes of this bylaw, the terms "street", "road" and "way" bear the same meaning.

And further, to amend Section 30 Use Regulations by adding a new Section 30.11 Streets and Frontage as follows:

**Section 30.11 Streets and Frontage**

- A. Purpose: It is the intent of this section to provide the minimum requirements for streets in Truro in order to qualify as safe and adequate for the purposes of obtaining a building permit from the Building Commissioner on an existing private road.
- B. Applicability: A Street is assumed to qualify as safe and adequate and can be developed by right provided the following is met:
  1. a public way which the Town Clerk certifies is maintained and used as a public way; or,
  2. a way that has been approved, endorsed and constructed in accordance with the subdivision control law; or
  3. a way that was in existence on December 8, 1955 and meets the following minimum criteria:

Number of lots on Road	1 - 5	6 - 10	11 - 20	21 or more
Minimum Roadway Width	8 feet, plus 3 feet clearance on both	14 feet	16 feet	18 feet

	sides			
Maximum Allowable Grade	12 %	10 %	8 %	8 %

For ways which do not meet these minimum requirements, the Planning Board, in conformance with subparagraph C, shall make a determination as to whether said road provides safe and adequate access.

C. The Planning Board shall make a determination of the adequacy of a street as outlined below:

1. Public Hearing – Upon the filing of a request with the Planning Board, the Board shall hold a duly noticed public hearing within forty-five (45) days. Notice shall be made no less than fourteen (14) days prior to the scheduled public hearing via regular first class mail to all the owners of properties along said street.
2. The request can be for a determination of the entire length of street or a determination of the street up to and including a lot located on said street.
3. Referral – Upon the filing of a request and prior to the public hearing said request shall be referred to the Police and Fire Departments and the Department of Public Works for review and comment.
4. Requirements – The applicant shall show to the satisfaction of the Planning Board that the street has sufficient width, suitable grades and adequate construction to provide access for emergency vehicles as well as safe travel and adequate circulation. The Planning Board may refer to and may utilize existing road standards as outlined in the Town of Truro Rules and Regulations Governing the Subdivision of Land (as amended) and the Town of Truro General Bylaws (as amended).
5. The Planning Board’s Decision on the determination of adequacy of the street shall be filed with the Town Clerk. Any appeal from that decision must be commenced within sixty (60) days from the date of filing with the Town Clerk under the provisions of Massachusetts General Laws Chapter 249, Section 4.

No further discussion by Board members. The motion passed unanimously 6-0-0.

Mr. Childs opened the public hearing on the second article at 7:08 by reading into the record:

**ARTICLE \_\_\_:** To see if the Town will vote to amend the Truro Zoning Bylaw by adding a new Definition of “Dwelling, Multi-Family” in Section 10.4; to Section 30.2 by adding “Multi-Family Swelling” in the Use Table under Residential Uses and by adding a new NOTES 13; and to add a new Section 40.3A, Conversion of Cottage or Cabin Colony, Motor Court, Motel or Hotel for Year Round Use, to include: Purpose and Requirements.

Mr. Childs asked for comments from the Board members and hearing none, he opened the floor to the public and invited Mr. Paul Wisotzky, Vice Chair, Board of Selectman and Mr. Veara,

Town Counsel to speak.

Mr. Veara provided some legal background explaining that this has been referred to the Planning Board from the Board of Selectman because there was a potential citizens' article concerning 40.3 the Conversion of Cottages, Hotels and Motels. Under the existing arrangement, you could convert to a condominium but there was a seasonal limitation (no occupancy between December 1 through March 31) with the exception of the one manager's unit. The reason it cannot be as simple as removing the seasonal component is because a cottage colony is defined in the bylaws as having one owner. Hotels/motels implies seasonal component, but not one owner. Rather than coming up with new definitions of existing situations, the intent is to create a definition of multifamily dwelling for Truro. 40.3A will only apply to existing cottage colonies that have been in place for at least 3 years. In addition, it must be suitable and inhabitable for year round living.

Mr. Wisotzky asked Mr. Veara to explain that by approaching it this way and obtaining a special permit, there will be a record of the elimination in the condo covenant in the registry of deeds. In addition, another control would be that the Board of Selectman would need to vote for change and that will act as another control.

Mr. Wisotzky also feels that in addition to responding to a citizen driven request for relief from the seasonal restriction, it will help to create or free up some affordable community housing. Also one of the important characters of Truro is the diversity of people. He feels this will help to keep people that work here live here. There were letters of support that came to Board of Selectman from Wendy and John King, Arthur and Corinne Nichols and Michael and Barbara Correa and will be entered into public record.

Richard Wood does not see this as a dramatic change for most but could benefit those who cannot afford to live. In Truro, the cost of the houses is very high and the inventory is limited. He is concerned that many of the town staff including teachers, fire, and police are unable to afford to live here. Mr. Wood feels the affordability of a condo would allow more people who work here to live here. He feels there are enough safeguards to prevent a dramatic change, including a spike in school enrollment. He also emphasized that not all of the condos (about 500) in Truro will not meet the requirements for year round conversion because it will be cost prohibitive.

Glenn Pasanen is very supportive of this article. He believes it is unfair that he has a seasonal limitation on his living arrangement, which he purchased due to the necessity of downsizing, as many senior citizens need to do. Condominiums represent 20 percent of housing units but is 6.5% of the assessments in Truro (\$132 million). He estimates that the revenue will increase because the value of the condos will increase if they are converted to year round use. He estimated this would be at least a \$175,000/year increased revenue which will cover any additional expenses.

Beth Wood supports this article as she has family members currently employed in Truro who cannot afford to live in Truro. She is concerned of the exile of young people out of town because they cannot afford to live here. In addition, she would like to move her mother to her seasonal condominium. She believes this article would benefit senior population.

Rose Kennedy, resident and realtor who cannot locate affordable housing for young adults who grew up in Truro. She is worried that the community is becoming a second homeowner community and the school will close like it did in Provincetown. She believes this article will help create a diverse community and is very supportive of the article.

Donna Mahan is supportive of the article because she sees it as maintaining some diversity by keeping younger folks in town and offering an option to seniors who can no longer maintain their own homes.

Gerry Spinella owns two seasonal condominiums and lives here year round but has to rely on friends for places to stay during winter. She is supportive of this article.

Nick Brown is supportive of this article because it is a way to provide affordable housing at no risk for town and would like to see the town supply water to our town residents.

Paul Kiernan is opposed to this article. He believes that conclusions for the provision of affordable housing, increasing revenues, water provision, and impact on schools are all speculative. He believes it may actually cause less affordable housing and questions if the Provincetown water infrastructure can handle additional demand. He is concerned about the impact on school enrollment. In addition, most of the units exist in FEMA designated flood zones. He strongly opposes this article because of the potential cost to taxpayers.

Regan McCarthy, stated that the Truro Non-Resident Taxpayers Association has no position but feels this article may be premature. She believes more discussion and study needs to be done.

Jack Riemer questioned the change in use of these structures and if it requires building codes changes, and how it might affect the Cape Cod bay with additional nutrients.

Alan Laplant, trustee of White Village questions whether any owners would want to winterize units due to cost.

Richard Wood believes that the facts are available. He reminded the Board that the condominium associations would have to approve to move forward. In terms of the water issue, he asked that it be compared to the addition of one 4 bedroom house versus the addition of 3 additional months for a condominium. You could add 16 condos for each one four bedroom house. The facts will be sent to the Planning Board.

Marianne Phillip supports the amendment. She owns a seasonal condominium and would like to be able to use it year round.

Glenn Pasanen clarified the assessment issue because condominiums are assessed differently than year round homes and would only increase because of the year round use.

Regan McCarthy clarified that the lower tax rate for condominiums is not based on lower tax rate but deflated tax because of the seasonal use. She reiterated the need for further study.

Paul Wisotzky thanked the public for attending the meeting. This article allows for condominium associations to have a choice to apply. This article will be on the warrant showing the vote of the Selectman and the vote of the Planning Board.

Public Hearing Closed at: 8:31

Ms. Tobia thanked everyone for their comments on both articles and would prefer not to vote immediately following the hearing.

Mr. Lucy commented on the process and stated that this has been a long standing issue because there are many unresolved questions. At the beginning of the year, the Planning Board had decided to take up the street issue. He feels the Planning Board was left out of the discussion on the multifamily dwelling issue. He does believe that the water issue has improved. He does not see this bylaw as specifically addressing the affordable housing stock. He questioned whether anyone has talked with Provincetown about this potential increase in water demand. He is concerned about impact of waste water and feels more information is needed about the impact not only on schools but other services such as recreation, Council on Aging, fire and police.

Mr. Sollog expressed concern about the Beach Point area and evacuation in the event of a storm.

Mr. Worthington believes there are too many questions that cannot be resolved to delay a vote.

Mr. Worthington moved to recommend the following and seconded by Mr. Sollog:

**Article \_\_\_:** To see if the Town will vote to amend the Truro Zoning Bylaw by adding a new Definition of “Dwelling, Multi-Family” in Section 10.4; and to amend the Truro Zoning Bylaw Section 30.2 by adding “Multi-family Dwelling” in the Use Table under Residential Uses and by adding a new NOTES 13; and to amend the Truro Zoning Bylaw by adding a new Section 40.3A, Conversion of Cottage or Cabin Colony, Motor Court, Motel or Hotel for Year Round Use, which will include Purpose and Requirements.

Motion failed: 0 -favor; 4 no; 2 abstentions

### **2015-002SPR Town of Provincetown Waiver of Site Plan Review**

Representative Cody Salisbury, Provincetown Water Department

The applicant seeks approval of a Waiver of Site Plan Review pursuant to §70.9 of the Truro Zoning Bylaw for the removal of a 27' x 15' extension of the original pumping station building at the Provincetown Water Department's Knowles Crossing location at 143 Shore Road, Map 19, Parcel 1.

Mr. Salisbury explained that they want to remove an extension of the building that housed an outdated sand filter system because it is a traffic safety hazard. The work would involve demolishing that section of the building, grading it and filling it in with seed. Mr. Boleyn stated he visited the site and affirmed it presents a safety hazard. Mr. Sollog asked for an assurance that the work will be completed as described given previous history on other projects. Ms. Tobia

asked about the timing of the project and Mr. Salisbury replied it would be done in May or June and that the Water Department will provide a letter to the Planning Board upon completion of the work. Mr. Worthington stated that he hoped the Water Department would honor the historic look of the building and would re-shingle the side where the extension would be removed. Mr. Salisbury agreed. Mr. Lucy asked for clarification about how the foundation would be graded. Mr. Salisbury replied that it would be filled in, graded and seeded. Mr. Childs asked about the scope of the work and Mr. Salisbury said it would be handled in-house.

On a motion from Mr. Worthington, seconded by Mr. Lucy, the Board unanimously voted to grant approval of a Waiver of Site Plan Review pursuant to §70.9 of the Truro Zoning Bylaw for the removal of a 27' x 15' extension of the original pumping station building at the Provincetown Water Department's Knowles Crossing location at 143 Shore Road, Map 19, Parcel 1.

### **Review and Approve Comments for Planning Board Articles**

The Board members had no comments. Mr. Worthington stated the Board had spent a considerable amount of time discussing these articles in past meetings. On a motion from Mr. Worthington, seconded by Mr. Boleyn the Board voted unanimously to make no changes to the four (4) zoning amendments for the Annual Town Meeting.

### **Review and Approval of Meeting Minutes:** February 19, 2015

Mr. Worthington asked that the minutes be amended to include Mr. Lucy's comment referencing that in the original agreement with Crown Castle, all open pipes would be capped. On a motion from Mr. Worthington and seconded by Mr. Sollog, the Board approved the minutes as amended with one abstention (Ms. Tobia) 5-0-1

### **Adjourn at 9:03**

Respectfully submitted,

Shawn Grunwald  
Recording Secretary