

**TRURO PLANNING BOARD AGENDA**  
**TUESDAY, September 22, 2015 – 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.

**Seashore Related Zoning Discussion**

The Planning Board will discuss proposed draft changes to zoning as it relates to the Seashore District. The public is encouraged to participate (Copies of the draft are available on the town website and at the Office of the Assistant Town Administrator.)

**Discussion of Adoption of MGL c.44, §53G as it Relates to MGL c.40A, §9, MGL c.41, §81Q and**

The Board will discuss whether to pursue the adoption of this provision which would allow the Planning Board to impose a fee on an applicant to cover the cost of the Board hiring a consultant for legal services, engineers, etc. for Special Permits and Subdivisions.

**Other Zoning Related Discussions**

Review and discuss letter received September 15, 2015 from Paul Kiernan regarding the Definition of Street and the Subdivision Rules and Regulations.

Discussion and appointment of working group to revisit the "Accessory Apartments" bylaw per FY16 Planning Board Goals and Topics Item 3.a.

**Review and Approval of Meeting Minutes:** September 8, 2015 Joint Meeting with Selectmen and Regular Meeting Minutes

**Meeting Dates and *Other Important Dates:***

- October 6, 2015 – Regular Meeting
- October 20, 2015 – Regular Meeting
- November 4, 2015 (Wed) – Reg. Meeting
- ***November 5, 2015 – Special Town Meeting***
- November 18, 2015 (Wed) – Reg. Meeting

**Adjourn**

## **Summary of intent to modify the Truro Zoning Bylaw as it relates to the Seashore District**

Revised September 15, 2015

Size of structures on a lot: The definition of Gross Floor Area for the Seashore District (GFA-SD) includes the dwelling, all accessory buildings, garages, covered porches, and covered decks.

In no case shall the Seashore District GFA exceed 4,600 square feet.

Site Plan Review: Residential site plan review is now required for construction, reconstruction or alternations that result in a property exceeding an aggregate gross floor area of 3,600 sq. ft., or increase the property's aggregate gross floor area by 50%, or for certain changes to the natural landscape.

Site Plan Approval will not authorize an excess over 4,600 sq. ft. GFA.

Residential Site Plan Review will assure that the scale of proposed buildings will be sensitive to the natural landscape and scenic value, and will be in keeping with the rural character and scale and massing of buildings throughout the Seashore District.

To ensure transparency in decision-making, the Planning Board may no longer waive Site Plan Review for residential properties in the Seashore District without a public hearing.

Proposed Changes Related to “Seashore District”

Revised September 15, 2015

New text shown in **red bold** - Deleted text shown in ~~red-strikethrough~~

Section 10.4 Definitions

Floor Area, Gross. The sum of the horizontal areas of the floor(s) of a building measured from the interior face of the exterior wall of a building, without deduction for hallways, stairs, closets, and thickness of walls, columns or other features used or intended to be used for living, sleeping, sanitation, cooking or eating purposes, excluding cellar and basement floor area, garage, porches, decks, and attics.

For the purposes of computing floor area, any portion of the floor area measuring less than five feet from the finished floor to the finished ceiling shall not be included in the computation of floor area. (04/07)

**Floor Area, Gross – Seashore District (GFA-SD). The aggregate gross floor area of all structures on a lot within the Seashore District, including the sum of the horizontal area(s) of the floors of a dwelling and all accessory buildings, garages, covered porches and covered decks, but excluding cellar and basement floor area, open decks and attics.**

§ 30.3. Seashore District

A. Purpose. The Seashore District is intended to further preservation and development of the Cape Cod National Seashore in accordance with the purposes of the Act of Congress of August 7, 1961 (75 Stat. 284, 291); to prohibit commercial and industrial uses therein; to preserve and increase the amenities of the Town; **to preserve the scenic value, the natural landscape, and rural character of the district; to maintain the prevailing scale and massing of buildings;** and to conserve natural conditions, wildlife, and open spaces for the education, recreation and general welfare of the public.

B. Permitted Uses

1. Conservation of land, water, wildlife, vegetation, and other natural features and values.
2. Facilities deemed by the Secretary of the Interior to be necessary for the administration and public use and enjoyment of the Cape Cod National Seashore.
3. Recreation, including but not limited to hunting, fishing, swimming and boating.
4. Agricultural, horticultural, floricultural
5. Traditional commercial fishing activities, the opening of shellfish, and storage and use of fishing equipment.
6. Uses of existing dwellings as residences and accessory uses customarily incidental to the principal residential use on the same premises, providing such uses are not detrimental to a residential neighborhood and do not alter the essential character of the dwelling as a residence. Residential uses of dwellings may include the renting of rooms and furnishings of board by residents of the premises to overnight guests, if such uses do not alter the essential character of the dwelling as a residence.

7. Customary or self home occupations as defined in § 10.4, but this shall not include the use of accessory structures as stores or for the display of goods to the passing public.
8. Moving, alteration, enlargement, maintenance, or repairs of existing one-family residential dwellings or the erection of customary structures which will be accessory to the existing principal residential use provided that such improvements to existing dwellings and the erection of accessory structures will afford not less than a 50-foot setback from all streets measured at a right angle with the street line and 25-foot distance from the abutters' property lines and further provided that the Building Commissioner determines that the improvements do not alter the essential character of the dwelling as a residence. In appropriate cases, the Board of Appeals may approve lesser set back of side line requirements for improvements to existing dwellings or for the erection of accessory structures, provided they do not alter the residential character of the premises.
9. Public Utilities.
10. Religious and Educational use
11. Detached one-family dwellings and accessory structures, provided that no lot may be used for their construction which has a frontage of less than 150 feet, and an area of less than three acres, and no dwelling or building may be located in such manner as to provide less than a 50-foot setback from all streets measured at a right angle with the street line and 25-foot distance from ~~abutters'~~ **abutters'** property lines.
12. Lawfully pre-existing non-conforming commercial uses and structures may continue, but in no case shall the use be altered or converted to another commercial use. (4/08)
- 13. The construction, reconstruction or alterations of buildings on parcels of less than 3 acres are subject to the provisions of Section 30.7 (Nonconforming Uses).**
- 14. In no event shall a dwelling and its accessory buildings in this district exceed a total GFA-SD Seashore District Gross Floor Area of 4,600 square in order to preserve the intent, purposes, scenic value, and character and scale of buildings of the Seashore District.**

C. General regulations. Except as provided above and in the use table, the following activities or uses are prohibited in the Seashore District:

1. Burning of cover unless determined by the Board of Fire Engineers to be necessary for the welfare and safety of the Town of Truro, and then such burning shall be in accordance with the requirements of Section 13, Chapter 48 of the General Laws.
2. Filling of land, dumping, or removal of soil, loam, sand, or gravel.
3. Cutting of timber except; a) by an owner for the purpose of reasonably controlling brush or trees; b) maintenance cutting in pastures; or c) cutting for clearance or maintenance on rights-of-way including those pertaining to public utilities or public highways.
4. Buildings or structures, except as provided in §B above. (4/08)
5. Commercial or industrial ventures or activities, except as provided in §b.12 above. (4/08)
6. Drainage, damming or relocation of any water course except by a publicly authorized agency for the purpose of pest control.
7. Continuous storage of materials or equipment.

D. Signs. The use of signs shall comply with the Truro Sign Code provided, however, that double-faced signs on residential property which advertise the occupancy, sale, or rental of such property shall not exceed two square feet and shall not be of a type or style employing or using neon, fluorescent, or other direct illumination. The foregoing limitations shall not apply to facilities deemed by the Secretary of the Interior to be necessary on federally owned property for administration and public use and enjoyment of the Cape Cod National Seashore.

E. Variances or Special Permits. Applicants for variances or special permits shall be promptly notified by the Board of Appeals that the Secretary of the Interior is authorized to withdraw the suspension of his/her authority to acquire, by condemnation, property which is made the subject of a variance or special permit that in the Secretary's opinion, fails to conform or is in any manner opposed to or inconsistent with the purposes of the Cape Cod National Seashore. The Secretary of the Interior shall be given notice by the Board of Appeals of all applications or petitions made for variances or special permits to the bylaws for the Seashore District and the Secretary shall be provided notice by the Planning Board of all applications for building permits involving the Seashore District within seven (7) days of receipt of the applications or petitions. Subsequently, the Secretary shall be given notice by the appropriate board of any variance, or special permit, or building permit, granted or denied for the area within the Seashore District. (4/08)

#### **§70.4 Residential Development**

A. Site Plan Review is required for:

Construction, alteration, or modification of any Seashore District property (i) which results in the addition of more than one thousand (1,000) square feet of gross floor area (**GFA-SD**, the aggregate gross floor area of all structures on the project lot) to an existing structure or structures, (ii) which adds an additional story to an existing structure, or (iii) which constitutes the construction or reconstruction of a single-family dwelling or a two-family dwelling, **or (iv) which increases the aggregate gross floor area by 50%, measured at the time of the adoption of this bylaw (April \_\_, 2016); or (v) which results in a property exceeding the aggregate floor area of 3,600 square feet (GFA-SD); or (vi) which results in a material permanent change to the natural landscape and topography from site clearing, filling or grading if visible from publicly accessible locations.**

B. Applicability

1. A Residential Site Plan approved by the Planning Board becomes the official development plan for a site within the Town of Truro. Town permits are issued only upon compliance with the Approved Residential Site Plan. The approved Residential Site Plan is legally binding upon the holder and any future owner(s). The Board's approval shall mean that all pertinent aspects of this by-law have been reviewed by the Board, unless specifically waived by the Board.
2. The Planning Board shall have the authority to hire at the applicant's expense necessary professional services reasonably required to review and adequately analyze the contents

of any site plan or related impact study requested by the Board.

**3. Nothing in Section 70.4 shall be construed as authorizing the issuance of Site Plan Approval that exceeds the building size limitation set forth in Seashore District 30.3.B.13.**

C. Procedures and Plan Requirements

1. Each application for Residential Site Plan Review shall be filed by the Applicant with the Town Clerk consisting of:

- a. An original and 14 copies of the Application for Site Plan Review;
- b. 15 copies of the required plans and other required information per subsection 3 below;
- c. Applicable filing fee;
- d. Certified copy of the abutters list obtained from the Truro Assessors Office.

2. Site Plans shall be prepared, stamped and signed by a Registered Land Surveyor and Professional Engineer, as applicable and shall be prepared at a scale of one inch equals forty feet (1"=40') or larger, or at another scale as approved in advance by the Planning Board.

3. The following information must be submitted together with the application form:

a. Site Plan shall include:

1. North Arrow and a locus plan containing sufficient information to locate the subject property, such as streets bounding or providing access to the property.
2. Zoning Information: All applicable Zoning Bylaw information regarding the site's development, both existing and proposed conditions. This information shall be placed in a table format which must list all setbacks; percent of lot coverage, broken out between building, pavement, landscape coverage, etc.; number of buildings; total amount of square feet; and any other applicable zoning information necessary for the proper review of the site plan.
3. Assessor and Deed Information: The Truro Assessors Atlas Map(s) and Parcel(s) numbers and all plan and deed references.
4. Graphic Scale
5. Title Block: Including the name and description of the project; the address of the property; the names of the record owner(s) and the applicant(s); and the date of the preparation of the plan(s) and subsequent revision dates.
6. Legend of All Symbols
7. Property boundaries, dimensions and lot area, **including any easements.**
8. Topography and grading plan.
9. Location, including setbacks of all existing and proposed buildings and additions.
10. Septic system location.
11. Location of wetlands, the National Flood Insurance Program flood hazard elevation and Massachusetts Natural Heritage Endangered Species Act jurisdiction, as applicable.
12. Driveway(s) and driveway opening(s).
13. Existing and proposed lighting.

14. Existing landscape features both vegetative and structural.
15. Limit of work area (area to be disturbed during construction, including parking and storage of vehicles and equipment) and work staging area(s).

**16. Existing and proposed utilities (electric, cable, telephone, and other utility lines).**

- b. Architectural plans, including elevations and floor plans, with all dimensions at a scale of no less than 1/8" = 1'-0".
- c. Lighting specification, including style and wattage(s).
- d. Photographs or other readily available data concerning the location and size of buildings on lots adjacent to or visible from the lot under consideration in order to provide a neighborhood context for the property under consideration.
- e. Re-vegetation/Landscaping plan, including both vegetative and structural features.

#### D. Review Criteria

The Planning Board shall review Residential Site Plans and their supporting information. It is the intent of Residential Site Plan Review that all new construction, shall be sited and implemented in a manner that is in keeping with the scale of other buildings and structures ~~in its immediate vicinity~~ **throughout the Seashore District** in order to preserve the ~~characteristics of scenic value, the natural landscape, rural character and prevailing scale and massing of building within existing neighborhoods~~ **the Seashore District**. Such an evaluation shall be based on the following standards and criteria:

1. Relation of Buildings and Structures to the Environment. Proposed development shall relate to the existing terrain and lot, and shall provide a solar and wind orientation which encourages energy conservation.
2. Building Design and Landscaping. Proposed development shall be **sensitive to the scenic value and** consistent with the prevailing character, **scale and massing** of the buildings and structures **throughout the Seashore District through** the use of appropriate scale, massing, building materials, screening, lighting and other architectural techniques.
3. Preservation of Landscape. The landscape **and topography** shall be preserved in its natural state insofar as practicable by minimizing any grade changes and removal of vegetation and soil **and by locating new construction so as not to impact views and vistas if visible from publicly accessible locations.**
4. Circulation. Curb cuts and driveways shall be safe and convenient and shall be consistent with Chapter I, Section 9 of the General Bylaws of the Town of Truro.
5. Lighting. Lighting shall be consistent with Chapter IV, Section 6 of the General Bylaws of the Town of Truro. There shall be protection of adjacent properties and the night sky from intrusive lighting.

#### E. Findings of the Planning Board

The concurring vote of four members of the Planning Board shall approve a Residential Site Plan in the form submitted or with reasonable conditions, unless it finds that (a) the

application for site plan approval is incomplete, or (b) the imposition of reasonable conditions will not ensure that the project will conform to the standards and criteria described herein, or (c) the project does not comply with the requirements of the Zoning By-law.

#### F. Waiver of Information Requirements

The Planning Board may, upon the request of the applicant on the appropriate Site Plan Approval Application, waive any requirements of §70.4.C, provided that in the opinion of the Planning Board such a waiver would not be detrimental to the public interest, cause the Town any expense, or be inconsistent with the intent and purpose of this Bylaw.

#### §70.9 Waiver of **Commercial** 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 that such review is not required 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.

#### COMMENTS

On the occasion of the 100th anniversary of the creation of the National Park Service, the Truro Planning Board proposes amendments to the Truro Zoning Bylaw *Seashore District*, to recognize our Town's important stewardship role for the lands protected by the Cape Cod National Seashore. The goal is to assure that reconstructed, newly constructed or altered buildings will be sensitive to the scenic value and in keeping with the prevailing rural character and scale and massing of buildings throughout Truro's Seashore District.

To further protect our Seashore District, additional criteria are proposed to strengthen the Site Plan Review process and to make the process less subject to inconsistent or arbitrary decisions.

Notably, residential Site Plan review now will be required for changes that result in the property's aggregate gross floor area\* exceeding 3,600 sq. ft. or increasing by 50%, or for certain changes to the natural landscape. Provisions of the Town of Wellfleet have been considered and modified in ways appropriate to Truro's needs and conditions. For example, in the Wellfleet Seashore District, the aggregate gross floor area of a lot cannot exceed 3,600 sq. ft. while a larger cap of 4,600 sq. ft. is recommended for Truro's Seashore District. Such a building

size cap is similar to our having a bylaw cap on building height. There are only 6 residential properties in Truro's Seashore District that exceed that size, and they would become grandfathered non-conforming. If someone wanted to construct a larger residence, he or she could do that elsewhere in Truro, where it would not conflict with the purposes, scenic value, and rural character of the Seashore District.

To ensure transparency in decision-making, the Planning Board may no longer waive Site Plan Review for residential properties in the Seashore District without a public hearing.

*Delete Paragraph: Eastham recognizes ... District.*

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\*Note: the Truro Assessor's Office defines floor area as the Net Livable Area measured between the exterior faces of exterior walls. However, the Truro Zoning Bylaw defines gross floor area as measured between the interior faces of exterior walls. The difference is minor, estimated at about 5% for 6" to 8" thick exterior walls.

## **Memorandum**

*Charleen L. Greenhalgh, ATA/Planner  
Town of Truro*

September 14, 2015

To: Planning Board  
From: Charleen L. Greenhalgh, Assistant Town Administrator/Planner  
Re: Adoption of MGL c. 44, §53G – Consulting Fee

In recent conversations with Jonathan Silverstein of Kopelman and Paige (Town Counsel) we discussed whether the Boards or Commission had adopted the provision of MGL §53G – Employment of outside consultants. This provision, through the rules established by each Board or Commission, has the ability to impose reasonable fees on applicants to cover the cost of hiring outside consultants such as engineers, scientists, financial analysts, planners, lawyers, or other appropriate professionals who can assist. Attorney Silverstein commented that this would be a useful tool and he recommends adoption.

Attached is a sample consultant fee regulation, prepared by Attorney Silverstein, pursuant to G.L. c.44, §53G. The sample is prepared for the ZBA for zoning and comprehensive permit applications, but the statute allows the Planning Board, Conservation Commission and Board of Health to adopt similar regulations. The highlighted language would need to be adjusted for use by other boards/commissions.

The Planning Board would adopt two versions: one for zoning applications (special permits) and one for subdivision applications. The subdivision regulation (unlike the zoning regulation) would require a public hearing, whereas the zoning regulations would not.

Attached please also find a copy of MGL c. 44, §53G. If you have any questions or comments, please do not hesitate to contact me.

**TOWN OF TRURO ZONING BOARD OF APPEALS**  
**RULE REGARDING REVIEW FEES**

The following Rule is adopted, pursuant to G.L. c.40A, §§9 and 12, G.L. c.40B, §21 and G.L. c.44, §53G.

1. When reviewing an application for, or when conducting inspections in relation to, a comprehensive permit application, special permit application, appeal or variance application, the Zoning Board of Appeals (“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

**Comment [A1]:** The Planning Board would adopt two versions, one to be inserted into its Subdivision Rules and Regulations under G.L. c.41, §8Q1 and a separate one pursuant to G.L. c.40A, §9. As I mentioned, the Conservation Commission and Board of Health should also consider consultant fee regulations.

**PART I** ADMINISTRATION OF THE GOVERNMENT**TITLE VII** CITIES, TOWNS AND DISTRICTS**CHAPTER 44** MUNICIPAL FINANCE**Section 53G** Employment of outside consultants

Section 53G. Notwithstanding section 53, any city or town that provides by rules promulgated under section 9 or 12 of chapter 40A, section 21 of chapter 40B, section 81Q of chapter 41 or section 31 of chapter 111, or by rules promulgated by a conservation commission established by a city or town under section 8C of chapter 40 when implementing the authority conferred under said section 8C of said chapter 40, section 40 of chapter 131, or under any local wetlands ordinance or by-law, for the imposition of reasonable fees for the employment of outside consultants may deposit such fees in a special account. Such rules shall provide for an administrative appeal from the selection of the outside consultant to the city council or town board of selectmen. 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 limits for action upon an application by a municipal permit granting board shall be extended by the duration of the administrative appeal. In the event that no decision is made by the city council or the town board of selectmen within one month following the filing of the appeal, the selection made by the municipal permit granting authority shall stand. Such an administrative appeal shall not preclude further judicial review, if otherwise permitted by law, on the grounds provided for in this section. Any such account shall be established by the municipal treasurer in the municipal treasury and shall be kept separate and apart from other monies. The special account, including accrued interest, if any, shall be expended at the direction of the authorized board or authority without further appropriation; provided, however, that such funds are to be expended by it only in connection with carrying out its responsibilities under the law. Any excess amount in the account attributable to a specific project, including any accrued interest, at the completion of said project shall be repaid to the applicant or to the applicant's successor in interest and a final report of said account shall be made available to the applicant or to the applicant's successor in interest. The municipal accountant shall submit annually a report of said special account to the chief elected body and chief administrative official of the municipality for their review. Said report shall be published in the city or town annual report. The municipal accountant shall submit annually a copy of said report to the director of the bureau of accounts.

**PART I** ADMINISTRATION OF THE GOVERNMENT**TITLE VII** CITIES, TOWNS AND DISTRICTS**CHAPTER 40A** ZONING**Section 9** Special permits

Section 9. Zoning ordinances or by-laws shall provide for specific types of uses which shall only be permitted in specified districts upon the issuance of a special permit. Special permits may be issued only for uses which are in harmony with the general purpose and intent of the ordinance or by-law, and shall be subject to general or specific provisions set forth therein; and such permits may also impose conditions, safeguards and limitations on time or use.

Zoning ordinances or by-laws may also provide for special permits authorizing increases in the permissible density of population or intensity of a particular use in a proposed development; provided that the petitioner or applicant shall, as a condition for the grant of said permit, provide certain open space, housing for persons of low or moderate income, traffic or pedestrian improvements, installation of solar energy systems, protection for solar access, or other amenities. Such zoning ordinances or by-laws shall state the specific improvements or amenities or locations of proposed uses for which the special permits shall be granted, and the maximum increases in density of population or intensity of use which may be authorized by such special permits.

Zoning ordinances or by-laws may provide that special permits may be granted for multi-family residential use in nonresidentially zoned areas where the public good would be served and after a finding by the special permit granting authority, that such nonresidentially zoned area would not be adversely affected by such a residential use, and that permitted uses in such a zone are not noxious to a multi-family use.

Zoning ordinances or by-laws may provide for special permits authorizing the transfer of development rights of land within or between districts. These zoning ordinances or by-laws shall include incentives such as increases in density of population, intensity of use, amount of floor space or percentage of lot coverage, that encourage the transfer of development rights in a manner that protect open space, preserve farmland, promote housing for persons of low and moderate income or further other community interests.

Zoning ordinances or by-laws may also provide that cluster developments or planned unit developments shall be permitted upon the issuance of a special permit.

Notwithstanding any provision of this section to the contrary, zoning ordinances or by-laws may provide that cluster developments shall be permitted upon review and approval by a planning board pursuant to the applicable provisions of sections 81K to 81GG, inclusive, of chapter 41 and in accordance with its rules and regulations governing subdivision control.

“Cluster development” means a residential development in which the buildings and accessory uses are clustered together into one or more groups separated from adjacent property and other groups within the development by intervening open land. A cluster development shall be permitted only on a plot of land of such minimum size as a zoning ordinance or by-law may specify which is divided into building lots with dimensional control, density and use restrictions of such building lots varying from those otherwise permitted by the ordinance or by-law and open land. Such open land when added to the building lots shall be at least equal in area to the land area required by the ordinance or by-law for the total number of units or buildings contemplated in the development. Such open land may be situated to promote and protect maximum solar access within the development. Such open land shall either be conveyed to the city or town and accepted by it for park or open space use, or be conveyed to a non-profit organization the principal purpose of which is the conservation of open space, or to be conveyed to a corporation or trust owned or to be owned by the owners of lots or residential units within the plot. If such a corporation or trust is utilized, ownership thereof shall pass with conveyances of the lots or residential units. In any case where such land is not conveyed to the city or town, a restriction enforceable by the city or town shall be recorded providing that such land shall be kept in an open or natural state and not be built for residential use or developed for accessory uses such as parking or roadway.

“Planned unit development” means a mixed use development on a plot of land containing a minimum of the lesser of sixty thousand square feet or five times the minimum lot size of the zoning district, but of such larger size as an ordinance or by-law may specify, in which a mixture of residential, open space, commercial, industrial or other uses and a variety of building types are determined to be sufficiently advantageous to render it appropriate to grant special permission to depart from the normal requirements of the district to the extent authorized by the ordinance or by-law. Such open space, if any, may be situated to promote and protect maximum solar access within the development.

Zoning ordinances or by-laws may also provide for the use of structures as shared elderly housing upon the issuance of a special permit. Such zoning ordinances or by-laws shall specify the maximum number of elderly occupants allowed, not to exceed a total number of six, any age requirements and any other conditions deemed necessary for the special permits to be granted.

Zoning ordinances or by-laws may provide that certain classes of special permits shall be issued by one special permit granting authority and others by another special permit granting

authority as provided in the ordinance or by-law. Such special permit granting authority shall adopt and from time to time amend rules relative to the issuance of such permits, and shall file a copy of said rules in the office of the city or town clerk. Such rules shall prescribe a size, form, contents, style and number of copies of plans and specifications and the procedure for a submission and approval of such permits.

Zoning ordinances or by-laws may provide for associate members of a planning board when a planning board has been designated as a special permit granting authority. One associate member may be authorized when the planning board consists of five members, and two associate members may be authorized when the planning board consists of more than five members. A city or town which establishes the position of associate member shall determine the procedure for filling such position. If provision for filling the position of associate member has been made, the chairman of the planning board may designate an associate member to sit on the board for the purposes of acting on a special permit application, in the case of absence, inability to act, or conflict of interest, on the part of any member of the planning board or in the event of a vacancy on the board.

Each application for a special permit shall be filed by the petitioner with the city or town clerk and a copy of said application, including the date and time of filing certified by the city or town clerk, shall be filed forthwith by the petitioner with the special permit granting authority. The special permit granting authority shall hold a public hearing, for which notice has been given as provided in section eleven, on any application for a special permit within sixty-five days from the date of filing of such application; provided, however, that a city council having more than five members designated to act upon such application may appoint a committee of such council to hold the public hearing. The decision of the special permit granting authority shall be made within ninety days following the date of such public hearing. The required time limits for a public hearing and said action, may be extended by written agreement between the petitioner and the special permit granting authority. A copy of such agreement shall be filed in the office of the city or town clerk. A special permit issued by a special permit granting authority shall require a two-thirds vote of boards with more than five members, a vote of at least four members of a five member board, and a unanimous vote of a three member board.

Failure by the special permit granting authority to take final action within said ninety days or extended time, if applicable, shall be deemed to be a grant of the special permit. The petitioner who seeks such approval by reason of the failure of the special permit granting authority to act within such time prescribed, shall notify the city or town clerk, in writing within fourteen days from the expiration of said ninety days or extended time, if applicable, of such approval and that notice has been sent by the petitioner to parties in interest. The petitioner shall send such notice to parties in interest by mail and each such notice shall specify that appeals, if any, shall be made pursuant to section seventeen and shall be filed within twenty days after the date the city or town clerk received such written notice from the petitioner that

the special permit granting authority failed to act within the time prescribed. After the expiration of twenty days without notice of appeal pursuant to section seventeen, or, if appeal has been taken, after receipt of certified records of the court in which such appeal is adjudicated, indicating that such approval has become final, the city or town clerk shall issue a certificate stating the date of approval, the fact that the special permit granting authority failed to take final action and that the approval resulting from such failure has become final, and such certificate shall be forwarded to the petitioner. The special permit granting authority shall cause to be made a detailed record of its proceedings, indicating the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and setting forth clearly the reason for its decision and of its official actions, copies of all of which shall be filed within fourteen days in the office of the city or town clerk and shall be deemed a public record, and notice of the decision shall be mailed forthwith to the petitioner, applicant or appellant, to the parties in interest designated in section eleven, and to every person present at the hearing who requested that notice be sent to him and stated the address to which such notice was to be sent. Each such notice shall specify that appeals, if any, shall be made pursuant to section seventeen and shall be filed within twenty days after the date of filing of such notice in the office of the city or town clerk.

Zoning ordinances or by-laws shall provide that a special permit granted under this section shall lapse within a specified period of time, not more than two years, which shall not include such time required to pursue or await the determination of an appeal referred to in section seventeen, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause.

Zoning ordinances or by-laws shall also provide that uses, whether or not on the same parcel as activities permitted as a matter of right, accessory to activities permitted as a matter of right, which activities are necessary in connection with scientific research or scientific development or related production, may be permitted upon the issuance of a special permit provided the granting authority finds that the proposed accessory use does not substantially derogate from the public good.

In any city or town that accepts this paragraph, zoning ordinances or by-laws may provide that research and development uses, whether or not the uses are currently permitted as a matter of right, may be permitted as a permitted use in any non-residential zoning district which is not a residential, agricultural or open space district upon the issuance of a special permit provided the special permit granting authority finds that the uses do not substantially derogate from the public good.

“Research and development uses” shall include any 1 or more of investigation, development, laboratory and similar research uses and any related office and, subject to the following limitations, limited manufacturing uses and uses accessory to any of the foregoing.

“Limited manufacturing” shall, subject to the issuance of the special permit, be an allowed use, if the following requirements are satisfied: (1) the manufacturing activity is related to research uses; (2) no manufacturing activity customarily occurs within 50 feet of a residential district; and (3) substantially all manufacturing activity customarily occurs inside of buildings with any manufacturing activities customarily occurring outside of buildings subject to conditions imposed in the special permit.

A hazardous waste facility as defined in section two of chapter twenty-one D shall be permitted to be constructed as of right on any locus presently zoned for industrial use pursuant to the ordinances and by-laws of any city or town provided that all permits and licenses required by law have been issued to the developer and a siting agreement has been established pursuant to sections twelve and thirteen of chapter twenty-one D, provided however, that following the submission of a notice of intent, pursuant to section seven of chapter twenty-one D, a city or town may not adopt any zoning change which would exclude the facility from the locus specified in said notice of intent. This section shall not prevent any city or town from adopting a zoning change relative to the proposed locus for the facility following the final disapproval and exhaustion of appeals for permits and licenses required by law and by chapter twenty-one D.

A facility, as defined in section one hundred and fifty A of chapter one hundred and eleven, which has received a site assignment pursuant to said section one hundred and fifty A, shall be permitted to be constructed or expanded on any locus zoned for industrial use unless specifically prohibited by the ordinances and by-laws of the city or town in which such facility is proposed to be constructed or expanded, in effect as of July first, nineteen hundred and eighty-seven; provided, however, that all permits and licenses required by law have been issued to the proposed operator. A city or town shall not adopt an ordinance or by-law prohibiting the siting of such a facility or the expansion of an existing facility on any locus zoned for industrial use, or require a license or permit granted by said city or town, except a special permit imposing reasonable conditions on the construction or operation of the facility, unless such prohibition, license or permit was in effect on or before July first, nineteen hundred and eighty-seven; provided, however, that a city or town may adopt and enforce a zoning or non-zoning ordinance or by-law of general application that has the effect of prohibiting the siting or expansion of a facility in the following areas: recharge areas of surface drinking water supplies as shall be reasonably defined by rules and regulations of the department of environmental protection, areas subject to section forty of chapter one hundred and thirty-one, and the regulations promulgated thereunder; and areas within the zone of contribution of existing or potential public supply wells as defined by said department. No

special permit authorized by this section may be denied for any such facility by any city or town; provided, however, that a special permit granting authority may impose reasonable conditions on the construction or operation of the facility, which shall be enforceable pursuant to the provisions of section seven.

**PART I** ADMINISTRATION OF THE GOVERNMENT**TITLE VII** CITIES, TOWNS AND DISTRICTS**CHAPTER 41** OFFICERS AND EMPLOYEES OF CITIES, TOWNS AND DISTRICTS**Section 81Q** Planning board; adoption of rules and regulations

Section 81Q. After a public hearing, notice of the time and place of which, and of the subject matter, sufficient for identification, shall be published in a newspaper of general circulation in the city or town once in each of two successive weeks, the first publication to be not less than fourteen days before the day of the hearing or if there is no such newspaper in such city or town then by posting such notice in a conspicuous place in the city or town hall for a period of not less than fourteen days before the day of such hearing, a planning board shall adopt, and, in the same manner, may, from time to time, amend, reasonable rules and regulations relative to subdivision control not inconsistent with the subdivision control law or with any other provisions of a statute or of any valid ordinance or by-law of the city or town. Such rules and regulations may prescribe the size, form, contents, style and number of copies of plans and the procedure for the submission and approval thereof, and shall be such as to enable the person submitting the plan to comply with the requirements of the register of deeds for the recording of the same, and to assure the board of a copy for its files; and shall set forth the requirements of the board with respect to the location, construction, width and grades of the proposed ways shown on a plan and the installation of municipal services therein, which requirements shall be established in such manner as to carry out the purposes of the subdivision control law as set forth in section eighty-one M. Such rules and regulations shall not require referral of a subdivision plan to any other board or person prior to its submission to the planning board. In establishing such requirements regarding ways, due regard shall be paid to the prospective character of different subdivisions, whether open residence, dense residence, business or industrial, and the prospective amount of travel upon the various ways therein, and to adjustment of the requirements accordingly; provided, however, that in no case shall a city or town establish rules or regulations regarding the laying out, construction, alteration, or maintenance of ways within a particular subdivision which exceed the standards and criteria commonly applied by that city or town to the laying out, construction, alteration, or maintenance of its publicly financed ways located in similarly zoned districts within such city or town. Such rules and regulations may set forth a requirement that a turnaround be provided at the end of the approved portion of a way which does not connect with another way. Any easement in any turnaround shown on a plan approved under the subdivision control law which arises after January first, nineteen hundred and sixty, other than an easement appurtenant to a lot abutting the turnaround, shall terminate upon the approval and recording of a plan showing extension of said way, except in such portion of said turnaround

as is included in said extension, and the recording of a certificate by the planning board of the construction of such extension. Such rules and regulations may set forth a requirement that underground distribution systems be provided for any and all utility services, including electrical and telephone services, as may be specified in such rules and regulations, and may set forth a requirement that poles and any associated overhead structures, of a design approved by the planning board, be provided for use for police and fire alarm boxes and any similar municipal equipment and for use for street lighting. The rules and regulations may encourage the use of solar energy systems and protect to the extent feasible the access to direct sunlight of solar energy systems. Such rules and regulations may include standards for the orientation of new streets, lots and buildings; building set back requirements from property lines; limitations on the type, height and placement, of vegetation; and restrictive covenants protecting solar access not inconsistent with existing local ordinances or by-laws. Except in so far as it may require compliance with the requirements of existing zoning ordinances or by-laws, no rule or regulation shall relate to the size, shape, width, frontage or use of lots within a subdivision, or to the buildings which may be constructed thereon, or shall be inconsistent with the regulations and requirements of any other municipal board acting within its jurisdiction. No rule or regulation shall require, and no planning board shall impose, as a condition for the approval of a plan of a subdivision, that any of the land within said subdivision be dedicated to the public use, or conveyed or released to the commonwealth or to the county, city or town in which the subdivision is located, for use as a public way, public park or playground, or for any other public purpose, without just compensation to the owner thereof. The rules and regulations may, however, provide that not more than one building designed or available for use for dwelling purposes shall be erected or placed or converted to use as such on any lot in a subdivision, or elsewhere in the city or town, without the consent of the planning board, and that such consent may be conditional upon the providing of adequate ways furnishing access to each site for such building, in the same manner as otherwise required for lots within a subdivision. A true copy of the rules and regulations, with their most recent amendments, shall be kept on file available for inspection in the office of the planning board of the city or town by which they were adopted, and in the office of the clerk of such city or town. A copy certified by such clerk of any such rules and regulations, or any amendment thereof, adopted after the first day of January, nineteen hundred and fifty-four shall be transmitted forthwith by such planning board to the register of deeds and recorder of the land court. Once a definitive plan has been submitted to a planning board, and written notice has been given to the city or town clerk pursuant to section eighty-one T and until final action has been taken thereon by the planning board or the time for such action prescribed by section eighty-one U has elapsed, the rules and regulations governing such plan shall be those in effect relative to subdivision control at the time of the submission of such plan. When a preliminary plan referred to in section eighty-one S has been submitted to a planning board, and written notice of the submission of such plan has been given to the city or town clerk, such preliminary plan and the definitive plan evolved therefrom shall be governed by the rules

and regulations relative to subdivision control in effect at the time of the submission of the preliminary plan, provided that the definitive plan is duly submitted within seven months from the date on which the preliminary plan was submitted.

This open letter to the Truro Planning Board is in support of the discussion begun at the September 8, 2015 meeting of the Board during the Public Comment section of the meeting.

RECEIVED  
SEP 15 2015  
BY: *CYG*

At the 1989 Truro Annual Town Meeting a new definition for the term “**STREET**” was unanimously approved. *(see attached)*

At the October 26, 2004 Special Town Meeting a “complete restatement of our Zoning Bylaw” was approved by a 2/3 voice vote. The Planning Board assured Town Meeting that “...the restatement avoids substantive changes, and is simply intended to be clearer, better organized and easier to use.”

This was not true. There were some serious omissions. One of which was a section of the Zoning Bylaw that is referred to within the definition of “STREET”. *(Section IV, “Design Standards”, (b), (c), & (d) as they existed on January 1, 1989) (see attached)*

Truro’s current definition of “STREET” still contains this deficiency. *(see attached)*

The only place that any of these “*Design Standards*” appear is within Truro’s ‘**Subdivision Rules and Regulations**’ (2014). *(see APPENDIX 2, Table 1, ‘Recommended Geometric Design Standards for Subdivisions’, page 31)*

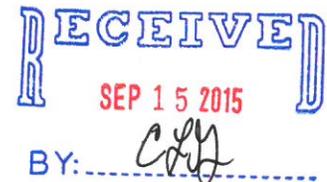
Placing these Bylaw requirements within the Subdivision Rules and Regulations without labeling them as Bylaws misleads the public.

The Planning Board cannot waive these standards. As Bylaws, relief from these requirements can only be granted by the Zoning Board of Appeals. *(see ‘Truro Planning Board Handbook & Policies’, excerpts attached)*

Over the last three years I have notified the Selectmen, the Town Administrator, the former Town Attorney and the Planning Board of this situation.

My hope is that the current membership of the Planning Board under the current Chairman will review and correct this 2004 mistake.

Thank you,



OFFICE OF  
TOWN CLERK  
TREASURER - COLLECTOR OF TAXES  
TOWN OF TRURO, MA 02666

Annual Town Meeting (adjourned session), April 27, 1989

ARTICLE 44. Voted: to amend the Zoning By-laws by adding to Section II "Definitions" and inserting in proper alphabetical order the following:

**STREET.** A public or private way which affords access to abutting property. For the purposes of this by-law, the terms "street", "road", "way", and "road right of way" bear the same meaning. When a street(s) is to be used for lot frontage the street(s) shall conform to the requirements of Section IV, "Design Standards", (b), (c), & (d) as they existed on January 1, 1989, and shall have a center line length in excess of 100 feet; for dead-end street(s), this distance shall be measured from the sideline of the layout of the road to be intersected to the opposite end of the layout of the turnaround cul-de-sac.

So voted: unanimous voice vote.

So certified,

*Cynthia A. Slade*  
Cynthia A. Slade  
Town Clerk, Town of Truro  
June 19, 1989

*Approved*  
APRIL 16, 2014

AG approved 10/5/89

5) Certificate of Approval:

The action of the Board in respect to such plan shall be by vote, copies of which shall be certified and filed with the Town Clerk and sent by certified mail to the applicant. If the Board modifies or disapproves such plan, it shall state in its vote the reasons for its action. Final approval, if granted, shall be endorsed on the original drawing of the Definitive Plan by the signature of the majority of the Board (or by the signature of the person officially authorized by the Board), but not until the statutory, twenty-day appeal period has elapsed following the filing of the Certificate of the Action of the Board with the Town Clerk and said Clerk has notified the Board that no appeal has been filed. After the Definitive Plan has been approved and endorsed, the applicant shall furnish the Board with two prints thereof. Final approval of the Definitive Plan does not constitute the laying out or acceptance by the Town of streets within a subdivision.

(9/71,12/83,3/88)

**Section IV. Design Standards.**

*(As amended by the Planning Board on November 12, 1986 by adoption of Sections (h) through (m))*

- (a) The Board shall require a minimum lot size of 33,750 square feet, minimum frontage of 150 feet on a way and a 25 foot setback from all lot lines. (12/55,8/72)

The area of a lot when used for building purposes shall not be less than the minimum required herein. Said lot shall not be interpreted to include any areas below mean water on tidal water, areas of exposed ground water, or within the limits of any defined way. No less than 100% of the minimum area required shall consist of contiguous upland exclusive of marsh, bog, swamp, beach, dune or wet meadows. (6/78,3/88)

The lot frontage shall be the distance along a straight line connecting the points of intersection of the side lot lines with the front lot line. (6/78,12/83,11/86)

- (b) The minimum width of street right-of-ways shall be 40 feet. (12/55,9/71)
- (c) Property lines at street intersections shall be rounded to provide for a curb radius of not less than 20 feet. (9/71)
- (d) Dead-end streets shall be provided at the closed end with a turnaround having a property line diameter of at least 80 feet. When ways requiring turnarounds may be extended in future subdivision, the Board may require only an area equal to the above requirement to be shown and marked "Reserved For Turning." Upon extension of the way through this turning area, the portions not included in the way shall revert to their respective lots. (12/55,9/71)
- (e) All streets in the subdivision shall be continuous wherever practicable. (12/55,9/71)
- (f) 1. Provisions satisfactory to the Board shall be made for the proper projection of streets, or for access to adjoining property not yet subdivided. (12/55,9/71,6/78)  
At least one street in the new subdivision will connect with a road which will provide access to the new subdivision, and said road shall in the opinion of the Board be adequate to reduce the danger to persons and property and to secure safety in the case of emergency. (9/91,3/88)

Section 10.4 Definitions - Page 6

...

Street. A public or private way which affords access to abutting property. For the purposes of this bylaw, the terms “street”, “road”, “way”, and “road right-of-way” bear the same meaning. When a street(s) is to be used for lot frontage, the street(s) shall conform to the requirements of the Town of Truro Subdivision Regulations, Section IV, Design Standards, (b), (c), & (d) as they existed on January 1, 1989. Street(s) shall have a centerline length in excess of 100 feet. For dead-end street(s), this distance shall be measured from the sideline of the layout of the road to be intersected to the opposite end of the layout of the turnaround cul-de-sac. Town of Truro paved street(s) that: (1) have a minimum layout width of 20 feet, (2) were created prior to January 1, 1989 and (3) were accepted by Truro Town Meeting, are exempt from the width requirements of the Town of Truro Subdivision Regulations, Section IV, Design Standards. These accepted public paved ways shall be deemed adequate as lot frontage for the issuance of building permits. The list of accepted Truro public paved ways is available from the Town of Truro Town Clerk upon request.

...

**APPENDIX 2**

**TABLE 1**

**Recommended Geometric Design Standards for Subdivisions**

<b>DESIGN ELEMENTS</b>	<b>Type A</b>	<b>Type B</b>	<b>Type C</b>	<b>Type D &amp; E</b>
<b>Roadway layout</b>				
Minimum right-of-way width	40 feet	40 feet	40 feet	40 feet
Minimum Roadway width – not including berms	14 feet	18 feet	20 feet	22 feet
Shoulder width (each side of roadway)	4 feet	4 feet	4 feet	4 feet
<b>Horizontal Alignment</b>				
Minimum radius at street centerline	125 feet	125 feet	290 feet	290 feet
<b>Vertical Alignment</b>				
Clear sight distance from 4'-6" to 4" above pavement	200 feet	200 feet	350 feet	350 feet
Minimum vertical curve	100 Feet	150 feet	200 feet	200 feet
<b>Grade(1)</b>				
Maximum grade	8%	8%	8%	8%
Minimum grade	1%	1%	1%	1%
Maximum grade, within 30' from intersection	2%	2%	2%	2%
<b>Intersection Standards</b>				
Minimum intersection angle	60°	60°	60°	85°
Minimum centerline offset	125 feet	125 feet	200 feet	200 feet
Minimum curb (or edge of roadway) radius	20 feet	20 feet	30 feet	30 feet
<b>Dead-end Street</b>				
Maximum length	1,000 feet	1,000 feet	1,000 feet	Not allowable
Minimum radius of circular turnaround, to curb or to edge of pavement	40 feet	40 feet	40 feet	n/a
<b>Pavement and Storm Frequency Standards</b>				
Unpaved(2)	6" T-Base 3" crushed Stone	n/a	n/a	n/a
Pavement, compacted thickness	3" total 1½" binder 1½" finish	3" total 1½" binder 1½" finish	4½" total 2½" binder 2" finish	4½" total 2½" binder 2" finish
Base, compacted thickness	8" total 4" sub-base 4" base	8" total 4" sub-base 4" base	12" total 6" sub-base 6" base	12" total 6" sub-base 6" base
Storm frequency for drainage calculations	50 years	50 years	50 years	50 years
Storm frequency for cross culverts sizing	50 years	50 years	50 years	50 years

n/a - Not applicable. (1) The maximum grade for all roads shall be a maximum of 8%. The "Maximum Grade" may be waived, but cannot exceed 10%, for a distance of one hundred (100) feet. (2) Although unpaved roads may be accepted as access under these regulations, they will not be considered for acceptance as a town road unless reconstructed.

Rules and Regulations (Pg. 13)

Q. Can the Planning Board waive its own subdivision rules and regulations?

A. *Yes, under Section 1.5 of the Rules and Regulations*

Zoning And Plans (Pgs. 13-14)

Q. Can the Planning Board waive zoning by-laws?

A. *No. The petitioner's recourse is relief from the Zoning Board of Appeals.*

Q. In considering subdivision plans, should the Planning Board be concerned with zoning?

A. *Yes. Chapter 41, §81-M states that the powers of the Planning Board under the subdivision control law **shall** ("must") be exercised with due regard for insuring compliance with zoning.*

Q. Can the Planning Board sign plans which show zoning violations?

A. *Yes, but only if the Zoning Board of Appeals has granted the necessary relief from the zoning. A variance has the legal effect of bringing a violation into compliance.*

Approval Not Required (PG. 14)

...

Q. Can the Planning Board sign a plan which makes a lot more non-conforming?

A. *Generally speaking - **No**. Petitioner recourse is Zoning Board of Appeals.*

## **Memorandum**

*Charleen L. Greenhalgh, ATA/Planner  
Town of Truro*

September 15, 2015

To: Planning Board

From: Charleen L. Greenhalgh, Assistant Town Administrator/Planner

Re: Working Group to Revisit Accessory Apartment

Buddy Perkel, Chair of the Zoning Board of Appeals has asked that a member of the Zoning Board of Appeals work with members of the Planning Board on the revisiting of the Accessory Apartment bylaw. This is Item 3A of the FY16 Planning Board Goals and Topics. Mr. Perkel has asked Fred Todd, a full member of the ZBA, to participate.

The Planning Board will be discussing that at the September 22, 2015 meeting.

DRAFT

**JOINT MEETING WITH THE BOARD OF SELECTMAN AND THE TRURO PLANNING BOARD**

**Meeting Minutes  
September 8, 2015  
Truro Town Hall**

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

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

**Board of Selectmen Members Present:** Paul Wisotsky, Chair; Jan Worthington, Vice Chair; Jay Coburn; Maureen Burgess, Clerk; Robert Weinstein

**Others Present:** Rae Ann Palmer, Town Administrator; Charleen Greenhalgh, Town Planner and ATA and Shawn Grunwald

Mr. Wisotsky opened the Board of Selectmen meeting at 5:38.

Ms. Tobia opened the Planning Board meeting at 5:38.

The Chair of each Board introduced the members of their respective Boards.

Mr. Wisotsky stated that the purpose of the joint meeting with the Planning Board was to discuss, review and vote on the applicants to fill the current Planning Board vacancy per the Town Charter. For the record, he stated that there are two (2) applicants and that both have been interviewed separately by both Boards. Further, the appointment will be decided by a majority vote of the group.

The members of the respective Boards were polled:

Mr. Wisotsky, Mr. Coburn and Mr. Weinstein stated that they would like to table the decision in order to recruit additional applicants for consideration.

Ms. Worthington and Ms. Burgess stated that they endorse the application of Mr. Paul Kiernan because of his extensive experience.

Ms. Tobia, Mr. Sollog and Mr. Worthington stated that they would like to table the decision in order to have additional candidates for consideration.

Mr. Riemer and Mr. Boleyn endorsed Mr. Kiernan for the position because of his extensive experience.

Mr. Coburn moved to table the decision for appointment and was seconded by Mr. Weinstein. After discussion, including verification by Ms. Palmer, Town Administrator that the appointment does not need to occur within a certain timeframe, the motion was approved, so voted 6-4-0.

Meeting adjourned at 6:09 p.m. by a motion by Mr. Weinstein and seconded by Ms. Burgess.

Respectfully Submitted,

Shawn Grunwald  
Planning Board Recording Secretary

**TRURO PLANNING BOARD**

**DRAFT**

**Meeting Minutes**

**September 9, 2015 - 6:00 pm**

**Truro Town Hall**

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

**Members Absent:** Michael Roderick (excused);

**Others Present:** Richard Waldo; Richard Rodricks; Jim Rodricks; Christopher Vaccaro, Esq.; Michael Tribuna; Daniel Ojala; Carol Damico; Jennifer Cohen; Paul Kiernan

Ms. Tobia opened the meeting at 6:15 p.m.

**2015-005SPR Terrace Dunes Realty Trust, Site Plan Review, 179 Shore Road**

Representatives: Richard Waldo, P.E.; Jim Rodricks and Richard Rodricks of Terrace Dunes Resort

Ms. Tobia reopened the public hearing. The applicant seeks approval of a Commercial Development Application for Site Plan Review pursuant to §70.3 of the Truro Zoning By-law for the construction of an accessory building to house a manager's unit and a storage garage. The manager's unit would be relocated from the existing building. The property is located at 179 Shore Road, Atlas Map 21 Parcel 2. Continued from August 4, 2015

Mr. Waldo provided a comprehensive history of the development of the property. There are two properties that share management, staff and equipment. One of the properties operates as a condominium timeshare which needs year round management and oversight. He explained that one of the properties is currently a 30 unit motel with 30 bedrooms which includes a manger's unit that provides the year round oversight. They are looking to take the current manager's unit out of the motel structure and construct an accessory building to house the manager's unit and a storage unit. This would increase it to 31 bedrooms but maintain 30 units in order to comply with current regulations as the manager's unit will now have two bedrooms, one of which will be used as an office. This will make the building more efficient as they will no longer have to heat the entire building in the winter to accommodate the current manager's unit.

An issue was raised by Mr. Riemer concerning documentation of the special permit for the condominium conversion. The representatives were not confident that they could produce documentation of the special permit. Mrs. Greenhalgh stated that both she and the Building Commissioner attempted to locate a record of the special permit but they could not find one in the Town records. The representatives responded that since June 6, 1986, they have operated as condominiums and have met all the regulatory requirements.

Ms. Tobia also requested clarification about the blocking of a common driveway with an abutting property which was provided. Ms. Tobia also reminded the applicants that there are other contingencies identified by other Town Departments.

Due to the lack of documentation as to the special permit for the conversion, Mrs. Greenhalgh suggested that the Board continue the matter so that the documentation can be secured. The applicants requested

that the matter be continued until October 6, 2015 meeting.

On a motion by Mr. Worthington and seconded by Mr. Sollog, the public hearing for the site plan review was continued until October 6, 2015, so voted 5-0-0.

**2015-006SPR Michael A. Tribuna, Trustee, Site Plan Review, 7 Parker Drive**

**Representatives: Christopher Vaccaro, Esq.; Michael Tribuna; Daniel Ojala, P.E.**

Ms. Tobia opened the hearing at 6:45 p.m. The applicant 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.

Mr. Vaccaro explained that they are seeking approval to essentially remediate the site which is a commercial property without prior Site Plan approval. Mr. Tribuna, the property owner, is hoping to convert a currently commercial cottage colony to a single family residence for Mr. Tribuna in the future. Mr. Vaccaro stated that he has been working with Mrs. Greenhalgh to address the list of items to complete the application and also to address the concerns and questions raised by other Departments, Committees and Boards.

Mr. Ojala provided a complete overview of the proposed site plan, the proposed drainage and drainage calculations and the landscaping to address possible erosion issues and drainage problems.

Mr. Ojala addressed the concern raised by Mr. Worthington of the distance from the leach pit to the well by clarifying that neither was being disturbed by the proposed plan.

Mr. Riemer asked about any Natural Heritage and Endangered Species impact and Mr. Vaccaro stated that the final outcome of the MESA review could be made a condition if the Site Plan was approved.

Carol Damico, 11 Parker Drive and a direct abutter questioned the retention area as it is within 4 feet of her property. She also requested that the Board continue this matter until she can get her property fully surveyed as she has had a dispute with Mr. Tribuna in the past about the property line. She also questioned the integrity of how the applicant is handling this matter and to be mindful of the how this may alter the quiet culture of Truro.

Jennifer Cohen, 10 Parker Dr. abutter and President of Tru Haven reviewed the information she submitted to the Planning Board on behalf of the Tru Haven Homeowners Association. She reemphasized her concern that this application may be a way of making incremental changes that would not be approved if the final project was known. She is asking for complete mitigation and remediation and in absence of that have the conditions discussed in the material submitted to the Board enforced.

The Planning Board expressed their grave concern as to the harm that has been done to the land and how the current plan does not address the loss of trees.

Mrs. Greenhalgh reminded the Board that they should read through §70.3. F. Review Criteria/Design Guidelines, as this is what the Board needs to make their decision on, not necessarily what the abutters

would prefer to see. In order to address the criteria more information is needed including the response to the DPW concerns, the MESA review and a more comprehensive landscaping plan, especially in light of the steep slope to the land.

There was a short recess from 7:46-7:48 p.m.

Following the recess, the applicant informed the Board that he would be willing to put in a dense Leyland Cypress hedge along the top slope to provide screening.

The Planning Board again expressed its concern that the proper process was not followed and there were serious violations in terms of the changes to the landscape that were made by the cutting down of so many trees. Ms. Tobia suggested that the applicant talk to the neighbors about the plans and to come back with a more comprehensive landscaping plan.

On a motion by Mr. Sollog and seconded by Mr. Worthington, the site plan review public hearing was continued to October 20, 2015, so voted 5-0-0.

#### **Truro Treasures, Temporary Sign Permits**

The applicant seeks approval for an Application for Temporary Sign Permit pursuant to §11 of the Truro Sign Code for four (4) banner signs for Truro Treasures to be held September 18-20, 2015. The signs would be located on Route 6 southbound at the Pamet Roads Exit, at the Route 6/6A split, on the fence at the Truro Central School (317 Route 6), and at Standish Way on Route 6. The signs would be installed September 9 and removed September 21, 2015.

On a motion by Mr. Boleyn and seconded by Mr. Sollog, the temporary sign permit request was approved, so voted 5-0-0.

#### **Payomet Performing Arts Center, Temporary Sign Permits**

The applicant seeks approval for an Application for Temporary Sign Permit pursuant to §11 of the Truro Sign Code two (2) Temporary Signs (Sept 15 – Oct 15) for various events in two locations (Route 6 at Noons Heights Rd and Route 6 at South Highland Rd) and for one (1) Temporary Directional Sign (Sept 15 – Oct 15) to be located at South Highland Rd at Old Dewline Rd.

Mr. Sollog disclosed that he is an employee of Payomet.

On a motion by Mr. Worthington and seconded by Mr. Boleyn, the temporary sign permit request was approved, so voted 5-0-0.

#### **The Truro Group, Temporary Sign Permits**

The applicant seeks approval for an Application for Temporary Sign Permit pursuant to §11 of the Truro Sign Code for two (2) 21" x 8' banner signs for an Art Show to be held the month of October at the Truro Public Library. The signs would be located on Route 6 at Standish Way and at the Route 6/6A split. The signs would be installed October 1 and removed October 30, 2015.

On a motion by Mr. Sollog and seconded by Mr. Boleyn, the temporary sign permit request was approved, so voted 5-0-0.

**Preliminary discussion regarding proposed changes to zoning related to the Seashore District**

Mr. Worthington reviewed the documents provided to Board members. A major proposed change is that residential site plan review will need to have the scale of the buildings in keeping with the scenic value and rural character throughout the Seashore, not just with the neighboring structures. Also, the applicant will need to submit a letter of review from the Secretary of the Interior.

This is a working document. At the September 22, 2015 Planning Board meeting, there will be further discussion of the proposed changes with other members working on this.

It was clarified that the hope is that this will become a warrant for the Annual Town Meeting and therefore the work will need to be completed by December.

Mr. Worthington and the other members working on this were thanked for their work.

**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.

Paul Kiernan thanked the Board for considering his application to fill the vacancy and suggested that the public comment period be moved to the beginning of the meeting to encourage more participation from the public. He also suggested that a future agenda item include a rewrite of the by-laws so that they are clearer and more understandable for the general public.

**Review and Approval of August 18, 2015 Meeting Minutes:**

On a motion by Mr. Sollog and seconded by Mr. Boleyn, the meeting minutes from August 18, 2015 were approved, so voted 4-0-1 (Mr. Worthington abstained).

**Discussion on Topics for Training Workshop and Proposed Dates**

A list of proposed topics was reviewed per the August 31, 2015 memorandum from Mrs. Greenhalgh. The following were chosen:

- *Introduction to the Subdivision Control Law & ANR*
- *Introduction to the Zoning Act*
- *Writing Reasonable and Defensible Decisions*
- *Planning with Community Support*
- *Vested Rights and Non-conforming Structures, Lots and Uses*
- *Special Permits & Variances*

In addition, Mrs. Greenhalgh suggested *Roles and Responsibilities of Planning and Board of Appeals* is also an important topic. Thursdays and/or Fridays were identified as possible good days to hold trainings. Additional topics may be submitted to Mrs. Greenhalgh.

**Meeting adjourned 8:26 p.m.**

Respectfully Submitted,

Shawn Grunwald  
Recording Secretary