

**TOWN OF TRURO
ZONING BOARD OF APPEALS
MEETING MINUTES
July 30, 2020
Remote Meeting**

Members Present: Chair-Art Hultin, John Dundas, Fred Todd, Chris Lucy, John Thornley, Alternate-Darrell Shedd, Alternate-Heidi Townsend

Members Absent:

Others Present: Atty. Barbara Huggins-Carboni, Ted Malone, John O'Reilly, Jessica Snare, Bob Higgins-Steele, Health/Conservation Agent-Emily Beebe, Anne Greenbaum, Mark Nelson, Elizabeth Bradfield, Brian Boyle, Pamela Wolff, Christopher Clark, Jack Reimer, Steve Sollog, Chuck Steinman

Chair Hultin called the meeting to order at 5:30pm.

Atty. Huggins-Carboni read off instructions for citizens interested in how to join the meeting.

Public Hearing – Continued

2019-008 ZBA – Community Housing Resource, Inc. seeks approval for a Comprehensive Permit pursuant to G.L. c. 40B, §§20-23 to create 40 residential rental units, of which not less than 25% or 10 units shall be restricted as affordable for low or moderate income persons or families, to be constructed on property located at 22 Highland Road, as shown on Assessor's Map 36 and Parcel 238-0 containing 3.91 acres of land area.

Review of Comments

Board of Health Letter

Health Agent Beebe stated that the Board of Health reviewed the current proposal at a work session. The Board of Health discussed the peer review report with Mark Nelson from Horsley Witten Group. Of significant note is the change in the proposal to a new wastewater treatment system called a Bio-Microbic system. The Board of Health reviewed the conditions that would be necessary for the Board to put in place in order for the system to function as designed. The Board of Health provided additional detail regarding the final operation and maintenance agreement and the Barnstable County Health Test Center will also provide additional detail. In part two of their letter they addressed the balance of the comments within the peer review document. They determined that the recommendations made by Horsley Witten were sound. They also provided discussion about drinking water quality and ground water quality in the Pond Village area as there has been discussion about that in the past.

Chair Hultin asked if there were a current plan to try to improve or update well testing in that area and does the Board of Health have what they would consider a general baseline for water quality in that area. Health Agent Beebe stated that they are going to develop a plan for sampling with the Cape Cod Commission. As for the question regarding information for a general baseline, she stated that it's spotty. There is a reasonable amount of information that covers a number of years and she feels they can improve upon that by developing a plan where they test all the wells in the area. Member Shedd thinks it would be in the Board's best interest to start approving some of the suggestions that have been submitted by other Boards to at least get them into the record.

Member Lucy asked how many I/A systems were in the Pond Village area and what is being done to reduce the nitrate levels before they get to the wells in the Pond Village area? He feels it's unfair to assume that this project is going to contaminate everyone's wells ¼ of a mile away when you are looking at properties that are less than ½ an acre, waterfront property on the ponds, and to his knowledge there is only one system down there that completely contains the effluent from the home. He doesn't know of any other systems down there that remove nitrogen before the wastewater goes into the groundwater there. Health Agent Beebe stated that they have really just started using I/A systems as more of a tool to address the size of flows to reduce overall nutrient impacts. The Board of Health has been upgrading their regulation to add triggers for using I/A systems. Once the BOH takes a look into what the water quality indications are from their analysis of the watershed, people may need to be using I/A systems more broadly to address drinking water quality issues.

Member Dundas referenced testing of wells which was done over a ten-year period and asked if Health Agent Beebe could give the Board an approximate date that the 20 particular wells (mentioned in her report) were tested. Health Agent Beebe stated it was between 2007 and 2016.

Member Todd wanted to hear Mr. O'Reilly's reaction to the Board of Health comments, particularly the recommendations for action and monitoring. Mr. O'Reilly believes the conditions are pretty close to what he envisioned.

Chair Hultin asked Atty. Huggins-Carboni to address Member Shedd's point about the proper timing of the acceptance of submittals. Atty. Huggins-Carboni stated that at any point that the Board sees conditions, the Board can say that those are conditions they'd like to see in a permit. She continued, stating that before the Board would accept a recommendation, they would have to give the public a chance to comment.

Member Todd mentioned that a concern had been raised about the congregate housing of Building #21 in terms of viruses such as Covid. He asked if the Board of Health had discussed this and did they have any concerns. Health Agent Beebe said that they look at a variety of different situations in Town buildings and businesses and apply the standards that the State has passed down for community areas. Their approach would be something similar to what they would find in any common area, for instance, signing up to use the space for certain periods of time. A space like that during times like these should also have adequate ventilation.

Planning Board Letter

Anne Greenbaum, Chair of the Planning Board, proceeded to give the ZBA the Planning Board's input.

- The Planning Board opposes the requested waiver of the requirements to post a bond. It's a critical protection for the Town of Truro, and it's required for any subdivision.
- There needs to be very clear written agreement as to who is responsible to make repairs.
- The central location of the Cloverleaf raises concerns about the impact of adding quite a number of vehicles to that site, and should a traffic study be done?
- Given that none of the units are self-contained, they all share a heating system. If the system is a forced hot air system, that would be of major concern.
- Is there a designated playground area? If so, the Planning Board thinks the ZBA would need to see it laid out clearly on the plans to make sure it's not in the same space as the snow storage or a swale.

In term of water quality and health:

- There's an issue around making sure the pH of the water is appropriate for the system. Will the water that comes out of the ground in Truro, for the Cloverleaf, be treated or will it not go through the treatment system?
- What if it doesn't work? Who's responsible for fixing it?

- What's the long-term backup plan if the system does fail?
- In the supplemental information on the septic system design it states that if utilized, the reserves area will be developed using a drip disposal leaching facility. The Planning Board's reading of that is if the reserves area will not be developed in the construction of the development. Is the Planning Board reading the supplemental information accurately?
- If the reserves area and backup system aren't installed during construction, how will it be dealt with if the system were to fail?
- The Planning Board had suggested earlier that the ZBA get comment from Provincetown Water and Sewer Department as to whether the project would negatively impact water pressure in the surrounding area, including if there were more than one fire event at the same time.

Site Design:

- Regarding the need for the 2nd egress access; because of its access to Route 6, it's subject to Mass DOT approval. The Planning Board would recommend getting that letter from Mass DOT before they vote, but it may not be realistic timewise. They could instead condition that the letter be received by the Town before any site disturbance or building take place.
- There should be a plan that shows the full route of the access road, including the distance to the abutters property, included with the submission.
- The Planning Board is concerned about access for pedestrians. They are suggesting a second pedestrian path.
- The applicant has not requested a waiver of parking and the Planning Board believes a waiver is needed. They recommend that in applying for a waiver, the applicant should include a very clear parking plan.
- There are concerns about the safety of some of the obstructed parking spaces in the event of an emergency.
- There are quite a few spaces that are within feet of the access road. They are concerned about vehicle to vehicle accidents and vehicle to pedestrian accidents.
- The Planning Board echoes the Cape Cod Commission's comment that the more vegetation there can be, in terms of a buffer between Route 6, the better.

Mr Malone responded to the Planning Board comments.

- There will be multiple visitor spots that delivery drivers can use for parking.
- The issue regarding the pedestrian path access during a snowstorm he feels could easily be rectified by ensuring the path gets plowed rather than plowing a path through the woods.
- The obstructed parking spaces are designated for a unit where one car would park behind another. Those spots would only be occupied by that household or their guests.
- As far as a second egress for emergency vehicles, that was requested by the Public Safety Facility and was incorporated. It would be the Town's responsibility to get that Mass DOT approval.
- As for water pressure concerns, Mr. Malone stated that if anything, water pressure will be improved.

Mr. O'Reilly stated they would like some direction from the Planning Board if these requests are going to be asked for by the ZBA so they can prepare some documents.

Mr. Malone continued.

- The repair and maintenance of the septic is the responsibility of the property owner and manager. A contract will be made up with an operator/inspector.

- Each of the small buildings have private yard areas, there is no designated playground.
- As for the question regarding shared heating systems, they are not looking at forced hot air in any of these systems. The only shared systems would be through a closed system such as refrigerant and that does not exchange air through anything.
- The responsibility for repairs for buildings will be the property owner and property manager.
- Road maintenance will be the responsibility of the Town.
- The systems will be maintained by owner and manager of the property.

Mr. O'Reilly included some additional information on some of the topics Mr. Malone mentioned. He, and Atty. Huggins-Carboni also addressed questions regarding a bond that Member Shedd asked about.

Member Townsend asked if any of her Board members know how this project was approved at Town Meeting for 12-16 units, but the RFP jumped to 40 units. Mr. Malone's understanding is that the mapping that was done of the site, subsequent to the Town Meeting vote, identified that the site was outside of the zone of contribution for the public water supply well and that allowed more bedrooms and more units. Chair Hultin asked Atty. Huggins-Carboni to look into that and give the ZBA definitive information on the process.

Caller Elizabeth Bradfield asked, as an abutter to the project, if there is a failure of the septic system what is the process for notifying abutters that there was a failure? Mr. O'Reilly stated that the Board of Health would be notified on a monthly basis when the project first starts as to the performance of the septic system. There will also be two monitor wells installed which will give a water quality test to the Board of Health as well. He continued, stating that what the Board of Health does with that information will be up to the Board of Health. Ms. Bradfield would like the Town of Truro to be responsible to let people know if there is a failure of the septic system. She also pointed out that Truro now has the large parcel of land behind the Truro Central School and she asked, what is the plan with that? The Cloverleaf is smaller than the Walsh property and she feels the Town is not looking at this holistically. Chair Hultin stated it's a good question but it's beyond what they are discussing right now. He emphasized that she stays involved, and that the Town was actively looking for applicants to serve on the Walsh Property Committee. Health Agent Beebe said that the system will be monitored monthly, up front, in a way that will allow the system to operate properly to address the wastewater flow specific to that community. What happens normally is the operations and monitoring of the system will scale back to a less frequent rate of collecting data but will constantly monitor data. Ms. Bradfield asked, if there were a problem with the septic how would the abutters who are downstream of the outflow be notified? There should be a process. Mr. Nelson stated that the flow from the wastewater treatment plant is headed West/South West and with the land it has to cross before it hits any property where there is a private well is somewhere between 400 and 600 feet. The groundwater will be flowing at approximately one foot per day. If there is an issue with the wastewater treatment plant it will be identified in a round of testing and then there will be time to correct that. It would be more than a year before any downgradient well would see any impact from something that's not going right. There will also be those testing wells which will add another layer of opportunity to see impacts. Ms. Bradfield asked if there was an alert system. Chair Hultin stated there was not.

Energy Committee Letter

Chair of the Energy Committee, Mr. Brian Boyle presented their recommendations to the ZBA.

- It is recommended the Developer provide an Energy Efficiency and Sustainable Design plan as part of the Developer's application for a Town Building Permit.

- It is recommended the Developer provide a rooftop solar energy system cost-benefit analysis as part of the Developer's application for a Town Building Permit.
- The proposed hip roof design is sub-optimal for maximizing roof area available for locating solar panels. Their recommendation is that the cost-benefit analysis recommended above include a sensitivity analysis using the more traditional Cape Cod gable roof design.
- In the event a solar energy system is not included in the original construction plan, the Energy Committee recommends that the Developer install all necessary internal electric conduits from rooftop to ground level for each occupied structure for potential future solar energy system development. In addition, the roof structural design should assure sufficient capacity for a solar system weight loading and wind uplift loading.
- Provide independent unit metering as an inexpensive and important incentive for occupants to conserve energy, thereby further enhancing the affordability of each unit. Metering solar production independently of metering electrical usage by each unit is also recommended.
- It is recommended the Developer pursue a fossil-fuel-free project by utilizing HVAC electric "mini-splits" for each individual unit.
- Pursue a fossil-fuel-free project by utilizing electric heat pump water heaters for domestic use.
- Provide an electric vehicle (EV) charging system design as part of the Developer's application for a Town Building Permit. Initiate a process with the incumbent electric utility to develop and implement an infrastructure design to allow for the installation of electric vehicle (EV) charging stations on the property for no less than ten vehicles.
- Participate in Truro's Green Community energy usage tracking program, along with the other large facilities in town.

Member Shedd stated that he does not know the design temperature for Truro and asked if a heat pump was capable of generating 100% of the heat necessary through the winter. Mr. Boyle said that the heat pumps are capable. They used to have limitations, but through increased engineering the temperature has improved.

Member Lucy said that while the Energy Committee has recommended putting in mini splits, those are electric. Electric heat is cost prohibitive unless you have solar panels. Are there incentives out there that will assist in the cost of the panels and the mini splits? Mr. Boyle stated that the solar panels are heavily subsidized in the State of Massachusetts. The thinking that mini splits are an expensive mode of heating is outdated. Electric baseboard heating is very inefficient, and heat pumps are highly efficient. The incentives for solar panels change every year and what's applicable is what's available at that time that the contract is written. Mr. Boyle can't really say what will be available next year or the year after.

Member Todd asked, if the buildings are stretch code insulated, wouldn't that reduce the size of the heating unit? Mr. Boyle stated that it would, compared to what it would have been.

Chair Hultin asked Mr. Malone, who is doing the home energy rating/energy analysis on the buildings and is that totally developed or under development? Mr. Malone stated that Cape Light Compact is offering energy assessments. Cape Light Compact will be providing a rebate for its energy assessment of approximately \$5,000 on the large 15-unit building. They have also offered to do an assessment on one of the two-unit buildings as well. Mr. Malone has also been in touch with a solar installer, and he discussed roof shape and solar shingles with the Board.

Climate Action Committee Letter

Mr. Higgins-Steele began by stating that the Climate Action Committee endorses the recommendations by the Energy Committee. They believe the recommendations should be added as conditions. The Climate Action Committee had identified several concerns and recommendations regarding projects such as the Cloverleaf but are not prepared to offer those at this time. They are pleased that Community Housing Resources adopted two of what would have been the Climate Action Committee's recommendations.

- Their sustainability report mentioned native grasses and plantings along with using deciduous trees to shade buildings in summer.

Chair Hultin stated that there were some letters which would be added to the record, one from Senator Cyr, one from Pamela Wolff, and one from Stephen Williams. He encouraged the Board members to read those letters if they had not already done so.

Member Shedd wished to make some comments. He appreciates the public's comments, he appreciates everyone's First Amendment rights, and as an individual he is offended in this critique of this project by the words "ghetto", "concentration camps", and "slum". He doesn't feel that this has anything to do with this project whatsoever.

Chair Hultin then opened up the meeting to public comment.

Pamela Wolff appreciates the incredible stamina of the group of people on the ZBA. She proceeded to read the letter which Chair Hultin mentioned earlier.

Christopher Clark stated that as the Chair of the Local Comprehensive Plan Committee he's very encouraged by the Energy Committee, and Mr. Malone's reconsideration of solar panels. On a personal note, he stated that he'd renovated a 1719 home which now has solar panels and geothermal.

Jack Reimer is a Planning Board member however his comments tonight are of a citizen of Truro. He is interested in achieving the best possible result for this project. He asked Atty. Huggins-Carboni if the October 2014 Weston and Sampson Integrated Water Resource Management Plan Phase 1 was incorporated into this plan? Atty. Huggins-Carboni did not know the answer to that question but said that if Chair Hultin would like, she will find out. Chair Hultin wished to know more about the nature of the question. Mr. Reimer stated that the plan identifies the one and only available source of detailed information on hot spots that are both East and West of the Cloverleaf site. It also has specific recommendations based upon our current bylaws on what it would cost the Town going forward should there be abuses to our groundwater. Mr. Reimer then asked if the Truro-Provincetown Aquifer Assessment and Groundwater Protection p Plan on page 78 of the Town of Truro's Zoning Bylaw as of April 2019 was incorporated into this plan? Atty. Huggins-Carboni is not sure. She's fairly new to the Planning duties in Truro but again, whatever the Chair would like her to explore she's happy to do so. Mr. Reimer would be interested in finding out whether the Cloverleaf falls within the contribution zones. Mr. O'Reilly stated he'd have to do some research as well.

Member Lucy stated that in one of the first couple of meetings it was determined that the project is not in a Zone 2 zone of contribution to the well fields. In addressing Mr. Reimer's first question, he does not believe anything in that Weston and Sampson Integrated Water Resource Management Plan Phase 1

was acted upon in the past 6 years. Chair Hultin asked if Atty. Huggins-Carboni could verify that through the Cape Cod Commission or otherwise.

Mr. Reimer also wanted to follow up on the feasibility study. He stated it was the opinion of Mr. O'Reilly that it "appeared" that the site was not within Zone 2 and there was no supporting information per Mr. Reimer.

Health Agent Beebe looked at the maps for Zone 2 and she stated that the site is clearly outside of the mapped Zone 2.

Mr. Reimer asked Mr. Malone to identify where the playground was. Mr. Malone stated that all of the family units have their own yard areas. It was determined that a specific playground was not necessary.

Mr. Reimer stated that as the 11/1/2019 site plan there were now 39 units. He asked how many bedrooms were there. Mr. Malone stated there were now 68 bedrooms. Mr. Reimer said that the original RFP called for 30-40 units. He asked, due to site specific issues, is Mr. Malone willing to reduce the number of units and bedrooms? Chair Hultin stated that might be a good question but it is not one that the ZBA would require Mr. Malone to answer.

Mr. Steve Sollog had a question regarding the funding. The developer has stated that the water infrastructure will be undertaken by the Town of Truro. Tonight, Mr. Sollog learned that the roadway infrastructure seems to be, also, part of the Town of Truro's responsibility. He feels the Town of Truro is taking on an enormous amount of the infrastructure construction costs. He cannot understand why Truro would take on these upfront costs as those costs will be passed on to the Truro residents in increased taxes. The Barry Bluestone survey of July 2018 indicated that more than 50% of seniors (55 and older) state that the reason for leaving Truro is rising taxes. The ZBA should examine this from a "protect Truro" point of view. Chair Hultin said that one of the reasons why increased density housing works is because people pay less in taxes and are able to stay in that housing. Member Lucy wished to interject, stating that it was his understanding that the water line infrastructure would be paid for with a grant from the State.

Elizabeth Bradford spoke next. She is an abutter to the development, and she is concerned with the Cloverleaf project. She then listed her concerns.

- Wastewater runoff concerns.
- She's concerned about the smaller footprint/greater density of that parcel.
- The neglect of the additional land behind Truro Central School. It will be a huge parcel of land and would be better for residents.
- We should think holistically about how to better provide residents who work in Provincetown, Truro, Wellfleet, and Eastham better housing, better facilities.
- Light pollution.
- Traffic.

Chuck Steinman was next to speak. He is on the Historical Commission but called as a citizen of Truro. He initially thought the congregate building of #21 was a great idea for Truro but at this point, with Covid, it's a game-changer. He is concerned about the responsibility for building #21 and the common spaces for cleaning and maintenance. A group of town homes was originally proposed that got eliminated. Mr. Steinman stated that current knowledge shows town homes will be a much more attractive and marketable source for affordable housing and he would think that within the same

footprint one could put in 3-5 town houses. Another of his concerns is the steps to all the entrances. You don't need to have steps to get into buildings these days. Accessibility issues need to be looked into.

It was agreed upon to continue this public hearing to their next meeting on August 20, 2020 at 5:30pm.

Chair Hultin made a motion to adjourn the meeting at 8:30pm.

Member Thornley seconded.

So voted; 5-0-0, motion carries.



**Respectfully Submitted,
Noelle L. Scoullar**

