

**TOWN OF TRURO  
ZONING BOARD OF APPEALS  
MEETING MINUTES  
August 20, 2020  
Remote Meeting**

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

**Others Present:** Atty. Barbara Huggins-Carboni, Julia Lester, Ron Fichtner, Pamela Wolff, DPW Director, Jarrod Cabral, John O'Reilly, Jessica Snare, Jack Reimer, Chuck Steinman, Ted Malone

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

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

**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.**

Chair Hultin noted that traditionally, public comment is held for the end of a meeting but since some of their meetings run approximately three hours long, he is going to switch public comment to start at the beginning of this meeting.

Caller-Julia Lester

She has no objections to the project as it was initially presented. At this point she feels it's way too big for the acreage. She would like the ZBA to look at the water flow further as she has concerns about it flowing toward where she lives.

Caller-Ron Fichtner

He's submitted a letter to the ZBA because he believes the Town can, and should, do better. Mr. Fichtner proceeded to read his letter. He also encouraged the Board to read three relevant documents which he included with his letter.

Member Shedd noted that he's read a lot of the public comment that've come before the Board which refers to the Walsh Property. He feels the Board should make it clear that the Walsh Property will be considered for affordable housing along with the Cloverleaf. He does not think they should entertain either Walsh Property or Cloverleaf. The Cloverleaf is what they are discussing now, and the Walsh Property will be on a future agenda.

Caller-Pamela Wolff

Ms. Wolff read a letter which she sent to the ZBA. She also had two questions.

- Can anyone on the ZBA answer the question of the total actual number of variances that have been sought for this project?

- Why isn't this proposal being brought back to Town Meeting for a vote on the greatly expanded project?

Chair Hultin stated the answer to the first question was fairly straightforward. There are no variances. This is a 40B Application and variances are not part of a 40B Application. Rather than variances, the applicant can seek a waiver. The list of waivers has not been compiled yet and they are working on that subject matter for the next agenda. As for her second question, Chair Hultin said that responses may be forthcoming from the Town Manager.

Chair Hultin reminded everyone that the letters referenced are in their packet are viewable on the Town of Truro website.

DPW Director Cabral had an update for the ZBA.

- The water main installation was reviewed and approved by the Select Board, the Board of Health and the Provincetown Water and Sewer Board.
- The Provincetown Water Department performed a system-wide hydraulic analysis. As part of the analysis the proposed housing project was investigated for available fire code.
- The water main engineered plans have been reviewed by Mass DOT and the Provincetown Water Department.
- The Town has complied with all comments and concerns generated by Mass DOT and the Provincetown Water Department.
- The construction access permit for geotechnical boring samples has been issued by Mass DOT.
- The Town has completed geotechnical investigation on Route 6 and Highland.
- The water main installation will consist of the following:
  - Water main install from Shore Road to 22 Highland and will continue through the Cloverleaf site under Route 6 and looped into Firehouse Road.
  - The access from Highland and the roadway within the Cloverleaf will be rough-cut in and stabilized with standard roadway base material.
  - Erosion control will be installed before and after the water main installation.
  - At the completion of the water main installation phase the project will be transferred to Community Housing Resource Inc. and Mr. Ted Malone.
  - Language in the water main bid documents and contract documents will be specific regarding construction sequence, supervision and required meetings.
  - The Town will require a project manager, project superintendent and a job site foreman.
  - Meetings will consist of an initial construction kick-off meeting, daily meetings with the DPW Director and job site superintendent.
  - In addition, there is a requirement to hold a project team meeting every two weeks with the project manager, job site superintendent, DPW Director and Town Consultant.
  - In the absence of the DPW Director, the Town's Health and Conservation Agent will attend meetings as needed.
  - The means and methods of the water main installation, and site work proposed by the lowest responsive bidder, will be submitted to and reviewed by Town Staff and the Town Consultant before work begins.
- After review of the updated Cloverleaf site plan, it has been determined that drainage as proposed will contain stormwater runoff onsite and will meet regulatory standards.
- The property, as proposed, will not result in negative impact to Town or Mass DOT infrastructure.

- The Cloverleaf layout, as proposed, will provide adequate open storage space for snow removal. Snow amounts will not result in delayed access or block fire hydrants or catch basins.
- Snow and ice removal would be something negotiated in a Land Management Agreement or lease.
- The specifics of roadway maintenance and responsibilities will be specified in the lease. We anticipate performance services much like what is done at Sallie's Way.
- The overall cost estimate for the water main install and some site work is 1.1 million dollars.
- Funding is all grant funded.

Chair Hultin asked if there were any deficiencies in the plan that DPW Director Cabral can point to that the Board should be aware of. DPW Director Cabral stated that Chief Collins, Mr. O'Reilly, and Mr. Malone are working on the turn radius.

**Discussion of response by J.M. O'Reilly & Associates, Inc. to the Cloverleaf Project Second Peer Review by the Horsley Witten Group.**

Chair Hultin asked what the understanding was of the consideration of a playground in the RFP. Mr. Malone said that the RFP did not require a playground. It was listed as "encouraged". They chose not to include it because many of the units have yards and there is plenty of open space on the site.

John O'Reilly started his discussion about the plan modifications. He stated the Board should have a memorandum which was a response to the second Peer Review by the Horsley Witten Group.

- The Peer Review talked about a contingency plan. Mr. O'Reilly thought he'd highlight a typical process that might be applicable to this project. The process of enforcement and guidelines of the O & M of the wastewater treatment plant will be dictated by the Board of Health as well as Mass DEP.
- Mr. O'Reilly outlined the process and timeline for if a sample is taken on the effluent of discharge and it exceeds any of the discharge requirements.
- The DEP would also be involved in the process. They would be included on any exceedance that the plant would have.
- In order to track the groundwater quality as it exits the property, they have added two monitor wells. Samples from those wells are taken quarterly.
- Based on comment from Horsley Witten, they've rectified minor discrepancies which were:
  - One of the drainage facilities was too close to one of the leeching facilities. They have moved that back towards the West.
  - Horsley Witten also brought up the roof drains, dry well for the roof runoff, and the setbacks to the foundation areas. Mr. O'Reilly has added information on how they are going to rectify any issue with the dry well appearing to be too close to the foundation.
  - As for the comment on groundwater, Mr. O'Reilly simply does not have soil testing done yet, so that is an outstanding component.
  - With regards to storm water they have taken the additional step and prepared a Massachusetts Storm Water Management Report which identifies/involves most of the comments Horsley Witten made on their second peer review. Mr. O'Reilly has designed storm water in compliance with those requirements of the Massachusetts Storm Water Handbook Volumes 1-3. That's under review by Horsley Witten now.
  - They addressed some of the contributory area.

- With regards to the size and capacity of the roof runoff within the storm water calculations that've been submitted to Horsley Witten, they've provided them a rationale on their design of the 12-foot diameter 6-foot deep leech pits. That's also under review by Horsley Witten.
- The Storm Water Management Plan and Report (submitted to Horsley Witten) addresses the 2 ten and one-hundred-year storm requirements.
- The sheet flow issue has been resolved through the Storm Water Management Report and has been submitted to Horsley Witten for review.
- They went back to check one of the catch basins to be sure it was not backing up. They resolved that issue.
- They have edited the elevations on the drainage design.
- They added some boulders along the eastern entrance off of Highland where a drainage swale is.
- Mr. O'Reilly addressed the question regarding lighting over the leeching facility.
- The project will need to be worked out in terms of phasing in the water main work and the site work with the Town. Mr. O'Reilly feels the coordinating still needs to be finalized, and the DPW is aware of the need to coordinate the erosion controls along with the water main work.
- Mr. O'Reilly added an Erosion Control Plan.
- They provided the Board with an updated Cuts and Fills.
- Regarding screening on the western side, they took a look at the elevations of the highway and the actual travel lane is about 125 feet west of the project area and is about 8-10 feet below in elevation from the western property line. Mr. O'Reilly believes the landscape plan addresses how to enhance the screening along that western line.
- Mr. O'Reilly touched upon landscaping around the leeching area, snow removal areas, and invasive species.

Mr. Malone wished to share modified roof structures with the Board for reaction. The modifications would be to accommodate solar panels or solar shingles. The hip roof structure now has a gable end which allows the entire south facing end to be employed with solar shingles. The roof on the wings of the larger building (#21) would be flat to enable solar panels as well. Member Shedd asked for clarification on why a flat roof is better than a gable. Mr. Malone gave an explanation. Member Lucy agrees with the flat roof on the larger building, as it brings down the bulk. He asked if it's been investigated which shape for which building will give the maximum amount of solar. Mr. Malone stated that the analysis done by the designer/installer noted a significant difference in the amount of solar generated with the gable vs. hip roof. There is an area on the hip roof where the panels or shingles have to stay away from on the ridge and there is a lot of area lost. Mr. Todd asked if any of the other Energy Committee recommendations were reviewed and if Mr. Malone has a response to those. Mr. Malone said that they would be having an energy efficiency assessment done through Cape Light Compact and get a consultant for a passive house rating. Regarding the recommendation about electric charging stations he thinks it makes sense to wire some of the buildings for car charging.

Member Thornley brought up the question about utilizing more town houses instead of the larger apartment building. Mr. Malone stated that they have not considered it, based upon the significant amount of money being put into the sewage treatment plant. Moving to a town home style of buildings would reduce the number of available apartments.

There was more in-depth discussion regarding the roof style between Mr. Malone, Ms. Snare, and the ZBA members. An informal poll was taken among the ZBA members regarding the roof style for building #21.

Member Shedd prefers the original hip roof design. He thinks esthetically, it's the best and is not a fan of flat roofs.

Member Thornley agrees with Member Shedd's comments and preference for the hip roof design.

Chair Hultin personally agrees and prefers the hip roof design.

Member Dundas prefers the hip roof design.

Member Todd prefers the hip roof design.

Member Townsend thinks the flat roof with the architectural design on the edges looks nice. From what they've heard over the past couple of months, people do have a problem with building #21 being so large and if it can look smaller by using a flat roof and maximize the solar that can be a benefit for the overall project.

Member Lucy believes they should stay with the hip roof design as designed originally.

Chair Hultin would like to propose the next meeting date for two weeks from tonight (September 3, 2020).

Member Lucy had a question regarding the access road. There is a small triangular island that he'd like to know if it needs to be kept. Mr. O'Reilly said that although he and Mr. Malone have not discussed it, he's envisioning a cobble strip or a painted island. He doesn't think it would be a landscaped island. Someone could drive over it if needed.

Member Todd stated that public comment often includes questions around project management and Town's liability. He suggested perhaps a memo or a comprehensive description of all those aspects regarding management, long term liability, etcetera.

Caller-Pamela Wolff

She agrees with Chuck Steinman in that she'd prefer the apartment building to disappear altogether. Assuming that the Town is stuck with that building she does not see architecturally a reason why the apartment building has to be in keeping with the town houses. Couldn't it have a flat roof for the entire building with a parapet or cornice running the full length across the face of the building, to be an honest statement that it is not a private dwelling or town house but more in keeping with apartment buildings generally. That would give a vast opportunity for solar.

Caller-Chuck Steinman

Given the responsibility for the operator and the manager to take care of all the common rooms and common spaces for the liability of people possibly getting sick (due to Covid) he thinks a row of town houses on the same footprint as the apartment building should seriously be considered. He also went back to the issue of steps to the entrances. As mentioned in his letter, he feels they should be removed and replaced by a ramp.

Member Shedd wished to comment. He spends a lot of time in New York City and there's no place with more congregated living than NYC. Right now, there is no place in the Country that's responding to the Covid pandemic better than New York. That shows that we can have safety and we can have this type of living without them being mutually exclusive.

Caller Jack Reimer-

He is a Planning Board member, but he is calling tonight as a citizen. He wished to refer to the RFP under *General Design Construction Guidelines*. He doesn't know if these general construction guidelines envisioned building #21 as we know it. Mr. Reimer would strongly support making the building smaller, and he commends Mr. Steinman for coming up with a reasonable alternative. Mr. Reimer also wanted to point out that under *General Design Construction Guidelines*, bullet #7, did not get the same weight as building #21, but it does state that outdoor common areas are encouraged, such as; gathering areas, playground areas and garden areas. Mr. Reimer also wished to note that on the same RFP, page 5, the first bullet item says, "The selected respondent will be responsible for site and unit design for constructing the housing units, and any ancillary facilities, and will be responsible for the necessary onsite infrastructure.". He believes that infrastructure includes the roadway. He would imagine the cost to install a roadway for this project will be upwards of \$300,000. With all these town amendments being offered to this development, Mr. Reimer asked if there was a quid pro quo that could be negotiated to incorporate at least some minor improvements?

Chair Hultin stated there seems to have been a progression of improvements to the site and infrastructure. Mr. Malone said that the whole center island is a common area and a landscaped space. The individual units that have yard space have as much yard space as any million-dollar condominium in Provincetown. The whole community process directed them towards this larger building. What had first been proposed was a smaller building. As soon as the desire to see it have single level living, the building evolved. Ms. Snare read the definition of *congregate* and emphasized that these are individual apartments with no shared cooking, living spaces.

**Member Todd made a motion to adjourn at 8:00pm.**

**Member Thornley seconded.**

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

Alternate Townsend asked if they get a chance to converse as a board privately, or is all conversation open to the public? Atty. Huggins-Carboni stated that everything the Board does, involving this project, is a public discussion. At the end of a public hearing the Board doesn't take in anymore information from the applicant or the public. Its deliberations as to whether to grant the permit, what should be in the permit and voting on a final decision or denial has to take place in public. Alternate Townsend then asked, since she is an alternate member is it a guarantee that she won't get to vote or is that determined the day of the vote? Chair Hultin stated that alternates have a possibility of voting, but the main voting will be the five regular members of the Board unless, for whatever reason, somebody is disqualified or absent.



**Respectfully Submitted,**

**Noelle L. Scoullar**

