MINUTES
TRURO ZONING BOARD OF APPEALS
JOINT MEETING WTH PLANNING BOARD
MONDAY, DECEMBER 7, 2015 - 5 PM
TRURO TOWN HALL, 24 TOWN HALL ROAD, TRURO, MA

PB Members present: L. Tobia, PB Chair, S. Sollog, J. Hopkins, J. Riemer, B. Boleyn, P. Herridge.
ZBA Members present: B. Perkel, ZBA Chair, F. Todd, A. Hultin, J. Allee, J. Thornley, J. Dundas, N. Brown.
Also Present: R. Weinstein, J. Coburn; Atty. B. Zehnder, R. MCCarthy, P. Kiernan
Meeting convened at 5:05 PM.

Mr. Perkel stated he felt it was inappropriate to be involved in "crafting" a bylaw when they (the ZBA) act on appeals to the bylaw; he felt it was the PB decision and felt the ZBA could not give an advisory opinion; however, they were acting as a resource to the Planning Board, in that they could help "think it through."

Ms. Tobia said she felt they wanted to have a joint meeting to help facilitate the process of acting on amendments and she spoke of Sec. 40.2 the bylaw regarding affordable accessory dwelling units, and asked if there were any comments.

Mr. Weinstein spoke and noted although he was a Selectman, he was speaking as a private citizen. He spoke of the "Use Table" in the Zoning Bylaw and suggested change the "N" in the Seashore District to a SP.

Mr. Coburn spoke and said he was liaison to the ZBA and PB and hoped they could share information on accessory affordable apartments. He said the Cape Cod Commission has crafted a bylaw and the Wellfleet bylaw is nearly identical to Truro's Bylaw; he suggested input on letting more people know about that aspect of the bylaw.

Atty. Zehnder noted he had a couple of comments regarding Sec. 40.2.A. and the buildable lot aspect; he noted if they restrict said housing to a currently buildable lot, it is too restrictive; and he felt people are hestitant to use the bylaw. In terms of pre-existing, non-conforming status of a lot, it makes sense to go to the ZBA for relief. If an applicant has to go to two boards for relief, it is onerous.

Ms. McCarthy, as a member of the TNRTA, spoke of the need for the right balance and protection, and spoke of financial incentives for a property owner to change from a summer rental to a year 'round rental.

Mr. Perkel noted there seemed to be a lot of resistance to the bylaw and the income threshold is problematic in that many people are above that amount when they use two incomes; he felt they have to look at the affordable housing issue in a larger sense; he also said the 600 sq. ft.measurement is just not large enough and they have to look at the kind of housing that can be provided.

Mr. Todd noted it seemed that Wellfleet's bylaw has been used much more than Truro's, and was curious about that; also tax incentives were important; he added this was a property-specific issue and felt the ZBA should be the grantor of the Special Permit.

Mr. Riemer spoke of guidelines for qualification and earnings requirments.

Mr. Hultin clarified the affordable accessory dwelling is 1400 sq. ft.; a SP for conversion to an accessory apartment is 600 sq. ft.(such as space over a garage), and asked why there is a limit on square footage. Since Truro has a lot of ¾-acre lots, people might want to use a big house as an affordable dwelling and move to a smaller house on their property; he said he was not sure what was meant by the wording of the bylaw in that sense.

Mr. Perkel spoke of those with a combined income of $75,000 still needing affordable housing. He added there should be incentives for people to create affordable housing and they have to look at all kinds of solutions to affordable housing. He felt income amounts should be raised, ie: $125,000; there could be yearly leases; not seasonal use; and they should start with criteria and perhaps create a bylaw around criteria, ultimately they need involvement with friends and neighbors; and he felt the Planning Board is capable of drafting a bylaw.

Mr. Coburn spoke of the HUD income level which is 80% and he spoke of a $54,000 figure; he noted there is an affordability gap in income; he continued there are CPC funds for affordable housing but there are not a lot of subsidy programs above the 80% amount. Atty. Zehnder spoke of the program in Wellfleet, where one could have a second dwelling on a lot; he mentioned a small affordable home with a figure of $125,000. Mr. Hopkins spoke of marketing toward existing buildings and suggested making property owners aware of tax credits available; he noted the expensive process of going to the zoning board and suggested making an easier process. He noted the Lower

Cape Devel. Corporation has relevant programs in place. Parcticipants discussed CPC funds with revolving loans, possible future use of CDBG funds and bringing existing units up to code. Mr. Perkel suggested a professional committee to deal with Section 8 funding; other topics considered were street definitions, issuance of permits on "old ways," and drafting a question to the Building Commissioner such as if all other criteria regarding affordable housing are met, rather than sending an application to the ZBA, can the Building Commissioner decide to issue or not issue a permit. Mr. Hopkins noted he felt there should be a mechanism in place that helps with permitting and "substandard" roads and he spoke of the definition of street and background on the street aspect of the zoning bylaw.

Nick Brown spoke of the research done by the Planning Board and noted the 40-foot right-of-way serves as a vehicle right of way for utilities, etc; said 40-ft.right-of-way defines what was established in the 30s. He continued, 8 ft. And 10-foot ways are already developed; there is a 50% range that has to go for a Special Permit which means expenses and uncertainty; for example, someone came to the ZBA and objected because of the size of the house rather than road compliance; he noted, Union Field Road is a "non-compliant" road. Atty. Zehnder spoke of Planning Board approved plans and noted research could be done on whether lots were "compliant" based on regulations in hand; lots are non-compliant because of the non-conforming aspect and voters could address these issues.

Mr. Kiernan thanked the board members for the time, effort and information provided; he noted in the 90s almost all "affordable housing" was illegal and he spoke of the issue of Title 5 which he felt was a big issue. He provided background on road creation in Truro and said the 220+/- roads labeled illegal was not true; since 1936, he continued a 40-foot wide easement was needed; in 1956 the state zoning map was created and in 1956 Chapt. 40A Sec. 6, Para. 4 was put into effect. He continued 212 roads have buildable lots; and he noted he was on the Planning Board when the 1989 bylaw came into effect which addressed a 40-foot wide with a 20-foot radius and a turn-around at the end of the road; he spoke of legally created roads and added lots continue to be buildable under state law with reference to C. 40A, Sec. 6. Of 350 roads, 212 were created under Subdivision Regulations and 140 were created by the Board of Selectmen; if a lot created in 1956 (w/ref. to C41 Secs. 81-A-G-S, those lots created were deemed buildable; the town has "ancient ways" one of which he said was Stephen's Way; those were created as "easements," and with reference to the Supreme Judicial Court he spoke of "unrestricted right-to-pass" determination.

In summary, of 140 roads in Truro some were created by the Board of Selectmen; some were "ancient ways" and some had no information available on their creation at all.

Art Hultin then spoke of duplexes and apartments in relation to affordability and Ms. McCarthy asked about any impact of the Kline decision on the town as to the legality/standard, etc. In terms of streets; she wondered if they could ask the Atty. General for an opinion. It was noted the AG is not qualified to render that decision; Ms. McCarthy asked about questions that were beyond the scope of the Planning Board for a determination, and she felt there had to be guidance on this matter.

Ms. Tobia asked for other questions or comments; Mr. Hultin said affordable dwellings such as duplex houses might be a topic for another meeting; lot size was also discussed as was the avenue for relief from the Zoning Board rather than Planning Board in some cases; apartments are limited to 600 square feet, and it was suggested eliminating that number; it was noted there are still requirements from the Board of Health that need to be met, and currently only 2 bedrooms are allowed on a 3/4-acre lot.

After further discussion on apartments and lot size, a Motion was made by Mr. Boleyn; 2nd by Mr. Thornley to adjourn the Meeting.

Meeting adjourned at 6:45 PM.

Respectfully submitted,

Susan Kelly

Susan Kelly, for ZBA

Office of Town Clerk
Treasurer – Tax Collector
JUL 19 2016
10:00am
Received TOWN OF TRURO
By