

**ZONING BOARD OF APPEALS  
TRURO, MASSACHUSETTS  
ZBA MINUTES  
MONDAY, NOVEMBER 24, 2014  
7 PM - TRURO TOWN HALL  
24 TOWN HALL ROAD, TRURO**

QUORUM PRESENT: B. Perkel (Chmn); F. Todd (Clerk); J. Thornley; J. Allee; A. Hultin , (Absent); J. Dundas (Alt.). Also present: S. Kelly, Recording Sec.

Meeting was opened by Chmn. Perkel at 7:06 PM.

**2014-015/ZBA – R. & B. Rentel, by applicant/agt Tim Dickey**, for property located at 2 Sturdy Way (Atlas Sheet 58, Parcel 58)(Reg. of Deeds title ref: Book 28207, Page 22). The applicant seeks a Variance and/or Special Permit w/ref. to Sec. 30.7.A. and MGL C40A, Sec 6, and Sec. 50.1.A frontage, regarding alteration/extension of a pre-existing, non-conforming residential structure (porch addition and deck expansion) as per plans filed with the ZBA. Mr. Dickey was present to explain the petition; he said there were no setback issues and he asked about the requirement for site plan. Mr. Perkel explained they could waive the site plan requirement. Mr. Dickey continued the work consisted of adding a screened porch and expansion and work on an existing deck. He had also gone to the Conservation Commission because part of the decking is within the buffer zone. The application had been referred to the ZBA because of the street definition; Mr. Hultin noted the ZBA needed to know what relief from the zoning requirements is requested; he explained the burden is on the applicant to show why a property/dwelling has pre-existing, non-conforming status. It was noted the house was built in 1985; there is a pre-existing, non-conforming issue because of the frontage – the radius is the issue. Members discussed a continuation to December. Mr. Hultin noted the applicant should be able to prove this was a legal subdivision created in 1985; he added, there are non-conforming roads all over town and the applicant needed address these issues with the ZBA. A Motion was made and seconded to Continue the Petition to December 15, 2014, by 5/0 Unanimous vote

**2014-016/ZBA - Thomas Whitman/Mira Rabin, by applicant/agt Tim Dickey**, for property located at 8 Horseleech Rd., (Atlas Sheet 62, Parcel 2)(Certif. of Title #174382). Applicants are requesting a Variance and/or Special Permit w/ref. to Sec. 30.7.A of the Truro Zoning Bylaw, pre-existing non-conforming uses and structures in order to remove/replace existing deck with porch and repair deck, as per plans filed. Members reviewed the engineered plan with elevations provided by Mr. Dickey; he explained they were asking for relief from the frontage requirements. Mr. Hultin noted they might need clarification on what exists on the proposal, and he asked about the smaller dwelling on the property; he added, the plan is clear but what is requested of the ZBA is not clear and he also spoke of the criteria for granting a Variance as well as a Special Permit and said the ZBA doesn't offer advice to the applicant; they acted on an applicant's request. A Motion was made to continue to December 15, 2014 by Mr. Hultin; 2<sup>nd</sup> by Ms. Allee; 5/0 Unanimous to Continue.

**2014-017/ZBA – Ansel Chaplin**, for property located at 8 High Pamet Rd.(Atlas Sheet 50, Parcel 13)(Reg. of Deeds title ref: Book 10253, Page 252). Applicant is seeking a Variance and/or Special Permit w/ref. to Sec. 50.1.A. and Sec. 10.4 for a bathroom addition as per plans filed. Mr. Chaplin was present to explain the petition. He noted he had provided a Certified Plot Plan and asked if the ZBA would consider said plan as acceptable; members concurred they did not have a problem with the plot plan and verified Mr. Chaplin was requesting relief from zoning for a proposed addition not within the setback. Mr. Chaplin explained this was a non-conforming lot with a frontage/street issue. He continued he was proposing a 12x12 bathroom addition and was requesting a Variance, if a Special Permit request was denied. The Board reviewed the plans and noted the house is over 100 years old, therefore it pre-exists zoning; the lack of frontage is the reason for the non-conformity issue since the property consists of approximately 2.32 acres; the lot to the east is owned by Mr. Chaplin's daughter and he owns the lot with the house with the requested renovations. Members discussed the petition and spoke of providing evidence that it the house is pre-existing, ie: pre-dating zoning. Mr. Chaplin spoke of records and assessors' field cards, and ZBA members agreed to a continuation to December 15 to meet their request. Mr. Todd made a Motion to Continue the hearing to December 15, 2014 at Town Hall at 7 PM, 2<sup>nd</sup> provided by Mr. Perkel, Unanimous vote, 5/0, to Continue to 12/15/14.

A short recess was taken and the meeting resumed at 8:25 PM.

**2014-020/ZBA – Robert Shafnacker (owner)**, by applicant/agt. Christopher Correa, for property located at 14 Whitmanville Rd., (Atlas Sheet 43, Parcel 78)(Reg. of Deeds Title Ref: 5122, Page 22, Plan# Bk. 628, Pg.75). Applicant is seeking a Variance or Special Permit w/ref. the Sec. 50.1 of the Zoning Bylaw (min. lot size and road frontage requirements), in order to construct a single-family residence, as per plans filed. Jason Ellis, who was representing Mr. Correa, said Mr. Correa had a Purchase and Sale for the property in question. He explained the lot had previously contained a dwelling which had burned down in 1978; and he traced the deed succession to 1948. He continued a one-bedroom single-family residence would meet the septic requirement approved for the lot, which contained less than 10,000 sq. ft.; he cited a section of the bylaw which addressed an exemption regarding the requirement for 33,000 sq. ft. lots and 100 ft. of frontage. Mr. Perkel spoke of the abandonment issue and Mr. Hultin noted they could have granted relief with a variance and the criteria needed; there is no problem with the topography; rather, the problem is with the lot area. Special Permit relief was discussed as well. It was noted there were letters of support received; support was voiced by Mr. Sateriale, who was present for another petition. After further discussion, members concurred they were ready to act on a Special Permit and the following Motion was made:

**Motion (Hultin; 2<sup>nd</sup> Todd):** Motion to Grant a Special Permit to Christopher Correa, for property located at 14 Whitmanville Rd. (Atlas Sheet 43, Parcel 78) w/ref. to Sec. 50.1 (Note 2) of the Truro Zoning Bylaw to construct a single-family residence with reference to Jason Ellis Design Plan dated Oct. 1, 2014 and house plans by Aline Architecture dated 9/12/14 and designated PD1.1, and PD1.2. The Board Finds said Special Permit is not substantially more detrimental to the neighborhood, and is in keeping with the spirit and intent of the Truro Zoning Bylaw.

Voted in Favor: Perkel, Hultin; Todd; Allee; Thornley. Voted Against: None. Motion Carries 5/Yes; 0/No, Unanimous.

**2014-019/ZBA – Thomas Kidrin/Deborah Rivlin**, by applicant/agt Tim Dickey, for property located at 21 Fisherman's Rd., (Atlas Sheet 42, Parcel 66)(Certif of Title #159802). Applicants are appealing the Bldg. Commissioner's refusal to grant a permit and requesting a Variance and/or Special Permit w/ref. the Sec. 30.7.A. of the Truro Zoning Bylaw in order to replace an existing carport with an addition, as per plans filed. Mr. Dickey explained they wished to remove the existing carport and add living space to the site; the applicants had already received approval from the Board of Health. They were before the ZBA because of the lot area which was a conforming lot at the present time; Mr. Hultin noted he did not have a problem with the request and noted there was no increase in non-conformity and the applicants had appeared before the Board of Health regarding the number of bedrooms. It was also noted Sec. 30.7.A. does give leeway to the Building Commissioner to issue a building permit. After further discussion the following Motion was made:

**Motion (Hultin; 2<sup>nd</sup> Allee):** Motion to Grant a Special Permit to Thomas Kidrin/Deborah Rivlin, for property located at 21 Fisherman's Rd. (Atlas Sheet 42, Parcel 66)(Certif. of Title #159802) w/ref. to Sec. 30.7.A. of the Zoning Bylaw to replace an existing carport with an addition as per plans filed and dated 9/23/14 by Tim Dickey Design/Build, Pages 1,2, 3. The Board Finds there is no increase in non-conformity on the lot and said proposal is not substantially more detrimental to the neighborhood and is in keeping with the spirit and intent of the Truro Zoning Bylaw.

Voted in Favor: Perkel, Hultin; Todd; Allee; Thornley. Voted Against: None. Motion Carries 5/Yes; 0/No, Unanimous.

At this point the ZBA addressed the following matter which had been included in the posting notice.

**(Ref: ZBA 2014-003 (Pamela C. Coelho) decision)** – discussion and review and possibly act on change of property ownership; plan reference correction.

Atty. Murphy was present and explained this was, in essence, an issue of correcting a land court plan number and he provided background on the change of ownership and land court procedure.

This was not a new petition, rather it was a matter of "housekeeping."

After further review the following Motion was made:

**Motion (Todd; 2<sup>nd</sup> Hultin):** Move in the matter of Pamela C. Coelho, Trustee of South Wind Court R.E. Trust, and Michael W. Roderick and Fred E. Sateriale, III, as Trustees of the South Wind Court Real Estate Trust for property located at 121 Shore Rd., (Atlas Sheet 32, Parcel 15) to grant the Special Permit to Pamela C. Coelho, Trustee of South Wind Court R.E. Trust, and also Michael W. Roderick and Fred E. Sateriale, III, as Trustees of R & S Realty Trust, and w/ref. to Sec. 40.3 of the Truro Zoning Bylaw for conversion of a cottage colony to multi-family use under Condominium form of ownership, as per plans submitted to the ZBA.

The ZBA Finds the applicant has obtained the required approvals from the Building Commissioner, Board of Health and Board of Selectmen. Furthermore the ZBA Finds said Special Permit is not more detrimental to the neighborhood and is in keeping with the general purpose and intent of the Truro Zoning Bylaw. The ZBA Finds this is a pre-existing non-conforming use.

The ZBA references the new Certificate of Title: #203528, Land Ct. Lot #54, Plan #11740-T).

**2014-018/ZBA – Jeremy Gold**, for property located at 3 Marshall Lane, (Atlas Sheet 50, Parcel 163).(Certif. of Title #172974, Land Ct. Lot #5, Plan #22032-A). Applicant is seeking a Variance and/or Special Permit w/ref. to Zoning Bylaw Sec. 50.1.A, lot size, and 30.7.A., non-conforming use in order to install full basement and foundation and construct addition, as per plans filed. Mr. Gold was present to explain the petition; he explained he had previously requested relief from the ZBA about 5 years ago; he wished to increase the size of the structure from 23x23 to 23x36 on the ¼-acre lot. Members spoke about the pre-existing issue and Mr. Gold spoke of providing pictures of the site. Members discussed procedure and the increase of the non-conformity status; the Bylaw section dealing with alteration/extension of a pre-existing, non-conforming structure or use was read, and members suggested perhaps they could reopen the hearing later in the evening in order for the applicant to provide additional information.

At 9:10 PM the 2014-18 petition was reopened and Mr. Gold provided further information which established the fact the structure pre-dated zoning. The ZBA also noted the proposed deck increases the non-conformity in an innocuous way. Abutter Miller spoke of vacant land owned in the back and side of the property and voiced concerns about the addition going onto that property. Members noted they could condition their decision to address said concerns.

After further review the following Motion was made:

**Motion (Allee; 2<sup>nd</sup> Perkel):** Motion to Grant a Special Permit to Jeremy Gold for property located at 3 Marshall Lane (Atlas Sheet 50, Parcel 163) (Certif. of Title #172974, Land Ct. Lot #5, Plan #22032-A) to install a full basement and foundation and construct an addition, w/ref. to Sec. 30.7.A. of the Zoning Bylaw, as per plans filed with reference to Felco Site Plan Dated 10/16/14 and Renovation Plans A1 and A2 dated Oct. 16, 2014. The Board makes the following Condition: There will be no damage to the abutting property in the process of construction and owner Gold will fix any damage incurred at his cost. The ZBA Finds said permit is not more detrimental to the neighborhood and will exist in harmony with the general purpose and intent of the Truro Zoning Bylaw.

Voted in Favor: Perkel, Hultin; Todd; Allee; Thornley. Voted Against: None. Motion Carries 5/Yes; 0/No, Unanimous.

Next regular meeting: December 15, 2014 at 7 PM at Truro Town Hall.

Meeting adjourned at 9:20 PM.

Respectfully submitted,



Susan Kelly