

Jeffrey Perkel

**ZONING BOARD OF APPEALS
TRURO, MASSACHUSETTS
ZBA MINUTES
MONDAY, OCTOBER 26, 2015
7 PM - TRURO TOWN HALL
24 TOWN HALL ROAD, TRURO**

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

Meeting opened at 7:08 by Chairman Perkel.

(Alt. Brown recused himself from the petition.)

Continuation: 2015-010/ZBA – Michael Tribuna, for property at 7 Parker Dr., (Atlas Sheet 39, Parcel 171). Applicant is appealing the decision of the Building Commissioner to issue Notice of Zoning Bylaw Violation and Order to Cease, Desist and Correct, as continued from July 27, 2015 and August 24, 2015, Sept. 28, 2015, w/time waiver.

Chairman Perkel noted they had received another request from Mr. Tribuna's attorney to continue the petition. He said they would accept no further future requests for a continuation. A Motion was made by Mr. Todd, 2nd by Mr. Hultin, to grant a continuation to November 23, 2015 at 7 PM at Truro Town Hall.

(Voted in Favor: Allee, Perkel, Hultin, Thornley, Todd. Voted Against None). Motion Carries: 5/0, Unanimous.)

It was noted there had been an Extension request for Elizabeth C. Roberts, by her agent/rep Malcolm Meldahl, for property located at 6 Pond Village Heights Road, Atlas Sheet 36, Parcel 99 (2014-0014/ZBA) which was a Special Permit w/ref. to Sec. 30.7.A. of the Zoning Bylaw for an addition to a pre-existing, non-conforming structure, as per plans filed and with supplemental diagram of setback by builder Meldahl dated October 27, 2014.

A Motion was made by Mr. Perkel, 2nd by Ms. Allee to grant an extension for one year from the current date of October 26, 2015 to October 26, 2016 to act on Special Permit granted. 5/0 Unanimous.

(Voted in Favor: Allee, Perkel, Hultin, Todd, Brown. Voted Against None). Motion Carries: 5/0, Unanimous.)

2015-014/ZBA – Philip Wolf & Carol Hutzelman, by Rep/Atty. Lester M. Murphy, Jr., for property located at 6 Huckleberry La., Atlas Sheet 47, Parcel 89), Reg. of Deeds title ref: Book 233, Page 153. Applicants are seeking a Special Permit w/ref. to Sec. 30.7.A. of the Truro Zoning bylaw for an addition to an existing single-family structure on a pre-existing, non-conforming lot as to frontage (ref. Sec. 50.1.A) on street not meeting Sec. 10.4 definition, as per plans filed. Atty. Murphy was present to explain the petition; he noted the applicants were out of the country on business; however their builder, Mr. Hopkins, was also present. Atty. Murphy provided background on the property, noting this was a lot from a 1969 subdivision of Ruth Dyer; it consisted of 1.07 Acres with 160 ft. of frontage on a cul-de-sac. He read the letter from Building Commissioner Braun regarding the denial and a letter from the fire department stating there was sufficient access for fire and rescue emergency vehicles; the police chief also concurred there were no access issues for police vehicles. Atty. Murphy added this was a lawful, pre-existing, non-conforming structure on a lawfully created lot in a 1969 subdivision of Ruth Dyer. The lot line distances were given and included: 25 ft. away from the front; 75 ft. on the west; 100 ft. from the rear and 40 ft. on the east side. He noted there was a new Title 5 septic system and he spoke of the adequacy of access, noting a new neighborhood association has just been formed and they were proposing a change to 14 ft wide road width and bringing the road into compliance with the 'rural roads' standards from the Design Standards section of the Truro Subdivision Rules and Regulations; dimensional requirements of the bylaw are met; furthermore, the addition itself complies with Truro zoning requirements; also, there is a significant amount of screening to the neighbor's property. Atty. Murphy concluded they were before the ZBA because of the sufficiency of the road for access; he added, Builder John Hopkins was also present to answer any questions. Members asked about safety issues with the road; the review by police and fire departments was repeated and Mr. Murphy noted he did not anticipate the addition would increase traffic on the road. Mr. Hopkins also spoke about the section of the road and standards of said road and other 'substandard' roads in Truro. There has been a contract to regrade the road to meet the rural road standards. Mr. Perkel spoke of potential damage to the roads from construction-involved vehicles and said he would like to see something in writing conditioning the Special Permit with reference to addressing any damage to the road caused by said vehicles. Abutter Dennis Murphy spoke in favor of the petition and abutter Pearl Engle spoke in opposition. Others in favor spoke including Ms. Connolly and Mr. Golden, who noted he was president of the road association.

Mr. Perkel closed the evidentiary portion at 7:37 PM and members discussed the petition. Mr. Hultin voiced concerns of conditioning the Special Permit in regard to the applicant's project bearing the responsibility for road damage, since there was a road association in place. After further discussion, the following Motion was made:

Motion (Hultin, 2nd Thornley): Move in the matter of Philip Wolf and Carol Hutzelman, for property located at 6 Huckleberry La., (Atlas Sheet 47, Parcel 89), Reg. of Deeds Title Ref: Bk. 233, Page 153, to grant a Special Permit, with reference to 30.7.A. of the Truro Zoning Bylaw for an addition to a lawfully pre-existing single-family structure on a pre-existing, non-conforming lot as to frontage, as per plans filed by RKTB Architects of New York City dated 9/9/15, and site plan by Schofield Brothers of Cape Cod dated 9/11/15. The ZBA Finds said Special Permit is not more detrimental to the neighborhood and is in keeping with the intent of the Truro Zoning Bylaw.

After discussion and withdrawal of a Motion to Amend the Motion by Ms. Allee for the applicant to be responsible for restoration on damage to the road (2nd by Mr. Perkel for Withdrawal of said Motion), the members voted on the Special Permit Motion.

Voted In favor of the Special Permit: Perkel; Todd; Brown; Hultin. Voted Against: Allee. Motion Carries: 4/Yes; 1/No.

2015-015/ZBA – Tim Dickey, applicant for owners Kenneth & Mary Baginski, for property located at 30 Parker Dr., (Atlas Sheet 42, Parcel 47), Reg. of Deeds Title Ref: Bk. 28807, Page 270. Applicant is appealing the decision of the Building Commissioner, and is also seeking a Special Permit w/ref. to Sec. 30.7.A. of the Zoning Bylaw to construct a 24x24 ft. addition to a pre-existing, non-conforming dwelling (w/208 ft. of frontage on Parker Dr.), as per plans filed. Mr. Perkel noted the regular members would be voting; Alternate Brown would not vote.

Mr. Dickey spoke and said the proposal was for a 24x24 addition to the back of the house; he provided history of the road and spoke of a subdivision plan from 1968 in regard to said history. He noted there is also a homeowner's association and he provided discussed the plot plan provided. Mr. Hultin asked about the adequacy of the drive and members noted they did not have additional concerns with the proposal. The following Motion was made:

Motion (Thornley 2nd Perkel): Move in the matter of Kenneth & Mary Baginski, for property located at 30 Parker Dr., (Atlas Sheet 42, Parcel 47), Reg. of Deeds Title Ref: Bk. 28807, Page 270, to grant a Special Permit to construct a 24x24 ft. addition to a pre-existing, non-conforming dwelling (w/208 ft. of frontage on Parker Dr.) w/ref. to Sec. 30.7.A. of the Zoning Bylaw, and w/ref. to Slade Associates, Plot Plan of Land dated Oct. 2, 2015, and Addition Plans by Tim Dickey Design Build. The ZBA Finds there is no increase to the non-conformity and said addition is not more detrimental to the neighborhood, and will be in harmony with the intent Truro Zoning Bylaw.

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

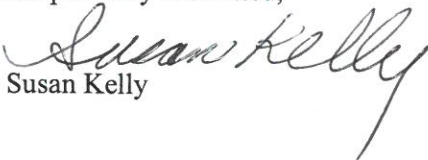
After a short recess, members voted on the following Slate: Chairman, Buddy Perkel; Vice Chairman, Art Hultin; Clerk, Fred Todd.

Next Regular Meeting: November 23, 2015.

December 7, 2015 Habitat hearing.

Meeting adjourned 8:15 PM

Respectfully submitted,


Susan Kelly

