



**TOWN OF TRURO**  
**ZONING BOARD OF APPEALS**  
Meeting Minutes  
November 6, 2023 – 5:30 pm  
REMOTE ZONING BOARD OF APPEALS MEETING

**Members Present (Quorum):** Chris Lucy (Chair); Darrell Shedd (Vice Chair); Art Hultin; Nancy Medoff; Dave Crocker (Alt.)

**Members Absent:** Joseph McKinnon (Alt.)

**Other Participants:** Barbara Carboni – Town Planner/Land Use Counsel; Bob Weinstein – Select Board Liaison; William Henchy (Attorney for Robert Martin – Applicant); Robert Martin (Applicant); Andrew Aiken (Owner); Alison Aiken (Owner); Lauren McKean (Planner at the Cape Cod National Seashore); Stephen Williams (Former Truro Building Inspector and Truro Resident); Shirley Smith (Truro Voter)

Remote meeting convened at 5:30 pm, Monday, November 6, 2023, by Town Planner/Land Use Counsel Carboni who announced that this was a remote meeting which is being broadcast live on Truro TV Channel 8 and is being recorded. Chair Lucy introduced the Members of the ZBA.

**Public Comment Period**

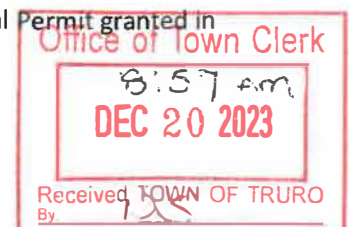
Chair Lucy invited the members of the public to offer public comments and there were none.

**Public Hearings (Continued)**

**2023-006/ZBA Robert J. Martin II and 100 Route 6 LLC** for property located at 100 Route 6 (Atlas Map 55, Parcel 12). Applicant appeals a cease-and-desist order issued by Building Commissioner on May 3, 2023, with respect to property located in the Seashore District.

Chair Lucy recognized Attorney Henchy who introduced Mr. Martin and Mr. Aiken. Attorney Henchy then presented a detailed update since the last meeting. Attorney Henchy reviewed a memorandum, dated November 6, 2023, that he sent to the ZBA with a list of removed materials from the site as well as a staff supplemental memorandum, dated November 3, 2023, that he and the Members had received from Town Planner/Land Use Counsel Carboni.

The following highlighted comments and topics were discussed by the Members, Town Planner/Land Use Counsel Carboni, Attorney Henchy, Mr. Martin, and Mr. Aiken: the continued sale of firewood as a pre-existing nonconforming use; Mr. Martin's comments which recently appeared in an article in The Independent if the ZBA decision did not favor his appeal of the cease-and-desist order, the cost of the site reporting and water testing over the next ten years, and the aspects of the Special Permit granted in 2004 for a period of 30 years.



Chair Lucy then recognized the following members of the public to comment on this topic: Mr. Williams and Ms. Smith.

**Member Hultin made a motion to close the public input in this hearing and move into deliberations.**

**Member Medoff seconded the motion.**

**ROLL CALL VOTE:**

**Vice Chair Shedd – Aye**

**Member Hultin – Aye**

**Member Crocker**

**Member Medoff - Aye**

**Chair Lucy - Aye**

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

Chair Lucy then led the deliberations with the Members and with input from Town Planner/Land Use Counsel Carboni. Members reviewed the draft findings of the appeal of the cease-and-desist and provided input on the draft findings. The draft findings discussion also included findings #1-#38, the removal of the original #14, the application of the Town of Bridgewater vs. Chuckran test to make a motion, and findings #42-#47.

Town Planner/Land Use Counsel Carboni provided additional guidance as to how the Members would apply the Chuckran test to this matter. The three questions were answered by the Members, by roll call vote, in the following three motions.

**Chair Lucy made a motion that the Board finds that the current nonconforming use does not reflect the nature and purpose of the original lawful pre-existing nonconforming use.**

**Member Hultin seconded the motion.**

**ROLL CALL VOTE:**

**Vice Chair Shedd – Aye**

**Member Hultin – Aye**

**Member Crocker - Aye**

**Member Medoff - Aye**

**Chair Lucy - Aye**

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

**Chair Lucy made a motion that the Board finds that there is a difference in the quality, character, or degree of use between the current nonconforming use and the original nonconforming use.**

**Vice Chair Shedd seconded the motion.**

**ROLL CALL VOTE:**

**Vice Chair Shedd – Aye**

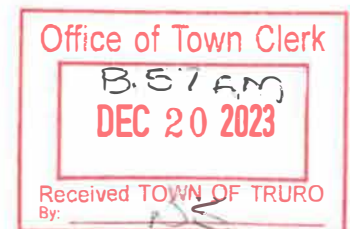
**Member Hultin – Aye**

**Member Crocker - Aye**

**Member Medoff - Aye**

**Chair Lucy - Aye**

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



Chair Lucy made a motion that the Board finds that the current nonconforming use is different in kind in its effect on the neighborhood than the original nonconforming use was.

Vice Chair Shedd seconded the motion.

**ROLL CALL VOTE:**

Vice Chair Shedd – Aye

Member Hultin – Aye

Member Crocker - Aye

Member Medoff - Aye

Chair Lucy - Aye

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

Vice Chair Shedd made a motion that in the matter of 2023-006/ZBA Robert J. Martin II and 100 Route 6 LLC for property located at 100 Route 6 that the Zoning Board of Appeals upholds the cease-and-desist order by the Building Commissioner on May 3, 2023, and attach the findings, dated November 1, 2023, the previous #1-#38 and the removal of previous #14 and including the aforementioned Chuckran questions, and the findings of continuous storage of materials or equipment under Zoning Bylaw section 30.3(C)(7) with respect to property located in the Seashore District.

Member Hultin seconded the motion.

**ROLL CALL VOTE:**

Vice Chair Shedd – Aye

Member Hultin – Aye

Member Crocker - Aye

Member Medoff - Aye

Chair Lucy - Aye

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

Town Planner/Land Use Counsel Carboni advised Chair Lucy that the Members can direct the Building Commissioner as to the enforcement in order to carry out the Planning Board's decision. Chair Lucy led the discussion with the Members on this topic. Highlighted topics included: allowing the Building Commissioner to decide how to enforce the Planning Board's decision and direct the zoning enforcement officer to oversee the removal of all nonconforming materials and uses from the property by January 15, 2024.

Member Hultin made a motion to direct the zoning enforcement officer to direct the removal of all nonconforming materials and uses from the property by January 15, 2024.

Vice Chair Shedd seconded the motion.

**ROLL CALL VOTE:**

Vice Chair Shedd – Aye

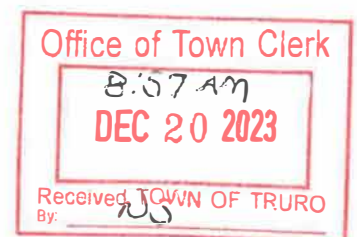
Member Hultin – Aye

Member Crocker - Aye

Member Medoff - Aye

Chair Lucy - Aye

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



Following the vote, Chair Lucy recognized Attorney Henchy who stated for the record that he did not believe that the Planning Board had the authority to take any enforcement action pursuant to Chapter 40A §14 which defines the power of the board. Attorney Henchy thanked the board and left the meeting.

**Vice Chair Shedd made a motion to adjourn at 7:01 pm.**

**Member Medoff seconded the motion.**

**ROLL CALL VOTE:**

**Vice Chair Shedd – Aye**

**Member Hultin – Aye**

**Member Crocker – Aye**

**Member Medoff - Aye**

**Chair Lucy - Aye**

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

Respectfully submitted,



Alexander O. Powers

Board/Committee/Commission Support Staff

