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**ZONING BOARD OF APPEALS
TRURO, MASSACHUSETTS
MINUTES
THURSDAY, MAY 18, 2017
7 PM - TRURO TOWN HALL
24 TOWN HALL ROAD, TRURO**



QUORUM PRESENT: B. Perkel (Chmn); F. Todd (V. Chair); A. Hultin (Clerk); J. Thornley; J. Dundas, S. Areson (Alt).

Also present, Planner Ruffer, Town Counsel Silverstein. (S. Kelly, Recording Sec.)

Meeting convened at 7:20 PM by Chairman Perkel.

Continuation: 2016-010/ZBA – Adventure Bound Camping Resorts, for property located at 67 S. Highland Rd (Atlas Sheet 37, Parcel 15) & 10 Old Dewline Rd. (Atlas Sheet 37, Parcel 19) (Reg. of Deeds title ref: Book 26095, Page 3). Applicant is appealing the May 4, 2016 Stop Work Order of the Bldg. Com., for work related to construction and installation of state-mandated sewage treatment facility, per plans filed, as continued from Aug 22, 2016, Nov. 28, 2016, January 23, 2017, March 20, 2017, May 4, 2017 (w/time waivers).

Mr. Perkel said he would hear final comments from anyone regarding the petition, then would close the evidentiary portion and proceed. He said they had received a proposed decision from counsel. Addition comments were made by Conservation Commission Chair McCutcheon who said even though the property was not under the jurisdiction of the Conservation Commission, it was an extremely bad way to treat the land that has been “profitable” to Truro as a campsite, and voiced concerns of turning it into a ‘trailer park.’ Others including Mr. Burgess who noted the “primitive” campground area shown no longer exists; he suggested limiting the number of campsites to 228 and also suggested a limit to the number of recreational vehicles rented by Adventure Bound. In summary he felt they had disrespected the Town of Truro. He also showed various photos including aerial photos of the campsites. Other residents including Ms. Howe, Ms. Renan and Ms. Stahl, spoke of their concerns about the site.

At this point Chairman Perkel noted the evidentiary portion would be closed (7:42 PM). He noted those members participating would be: Todd, Hultin, Perkel, Thornley and Dundas.

He asked members if they felt Site Plan Review is appropriate; all concurred it was.

He said they would now deal with the decision of the Building Commissioner, and spoke of draft language for a decision. He noted in regard to Site Plan Review he would make a Motion: Move to affirm the Building Commissioner’s Stop Work order with respect to Truro Zoning Bylaw Section 70.1 D. and 70.3 A.1; second by Mr. Hultin. Voted in favor: Dundas, Thornley, Perkel, Hultin, Todd. Voted Against: None. Motion Carries: 5/0 Unanimous.

Mr. Perkel said they would now deal with the Stop Work order based on Sec. 30.2 Zoning Bylaw Use Table and 30.3.12 Seashore District, and permitted uses; this was not a permitted use; section of bylaw which said that lawfully non-conforming use shall continue but not be altered. Both counselors agree with the Powers case test which focuses on change of use and focuses on the original change of use and he spoke of the 3 issues to address. He said they have made a case of the existence of pre-existing use; the 2nd point is whether there is a difference in the quality and character as to the existing use and what previously existed. The clearing of the site radically changes the previous use and goes well beyond it. Members noted one cannot go by the site without noting the radical change as a result of the site alteration; they discussed whether this was affecting the quality of the campground itself. Members discussed the definition of “intensification,” and whether the wording, modernization/upgrade, was more of a symptom to the area. Mr. Dundas agreed with what had happened at the site is an alteration. Members cited the Powers case and said one could not look at camping there and say it has not changed; they spoke of the physical “stripping” of the area and the visual impact.

After further discussion, Mr. Perkel noted there were no conditions, per se; their vote would be "up or down," and they were dealing with the Building Commissioner's stop work order.

He also spoke of the 3rd part of the Powers case and spoke of the "before" and "after" pictures of the site, and the effect on the neighborhood, in this case, the National Seashore. He said where there was an area of green, there is now an "island" of sand in the middle of the green park. He felt there was a huge impact on the neighborhood (i.e. CCNS). Mr. Hultin referenced the zoning bylaw and the section which said "use shall not be altered....." He felt this use is different by observation and is intrusive. Mr. Thornley said the reason for the creation of the National Seashore "park" was to preserve Cape Cod and he agreed with the observations of Mr. Perkel and Mr. Hultin.

Mr. Perkel then asked Counsel Silverstein for recommendations on action on the three issues and drafting a Motion. Atty. Silverstein said they could take a vote, draft a decision for the ZBA to review; defer to taking a vote and have a work session.

Mr. Todd said they could vote but suggested making a decision within 14 days.

At this point Mr. Dundas made a Motion to defer to taking a vote and continue to a date and time certain.

Second provided by Mr. Thornley, 5/0 Unanimous.

Mr. Dundas then made a Motion to continue to within 10 [working] days of May 18, 2017; 2nd provided by Mr. Perkel, 5/0 Unanimous.

Atty. Silverstein suggested a continuation to a time certain; 2 weeks out would be June 1. Mr. Perkel then made a motion to continue to June 1, 2017 at 7 PM at Town Hall, 2nd by Mr. Thornley, 5/0 Unanimous for continuation.

Atty. Nagle then spoke; he said the ZBA must decide the issue of use and change of use; whether or not the proposal is to upgrade the number of campsites. He reiterated, they were not proposing a change of use; this proposal is not a change of use or substantial change of use; they must decide whether the upgrade is a change of use. In regard to the vegetation cleared in the upper area, there is a restoration plan before the Planning Board. He added they tried to establish recommendations in their draft decision including the agreement to keep the number of camp sites at 218, and he spoke of a number of conditions mentioned at previous meetings.

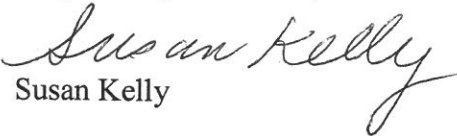
Mr. Perkel noted he was stating arguments which were made previously.

Since there was no other discussion, a Motion was made and seconded to adjourn at 8:22 PM.

(Continuation of Adventure Bound: June 1, 2017).

Next regular meeting May 22, 2017.

Respectfully submitted,


Susan Kelly