

**TOWN OF TRURO  
ZONING BOARD OF APPEALS  
Meeting Minutes  
June 24, 2019, 5:30 PM  
Truro Town Hall**

**Board Members Present**

**Chair A. Hultin  
Vice Chair F. Todd  
Clerk C. Lucy  
Member J. Thornley  
Member J. Dundas  
Alternate D. Shedd**

**Board Members Absent**

**Alternate H. Merlini**

**Other Participants**

**Atty Robin Reid  
Clinton Kershaw  
Padric Meagher  
Interim Town Planner Jessica Bardi  
Town Counsel Atty Jonathan Silverstein  
Atty Ben Zehnder  
Laura French**

**Meeting convened at 5:30 pm by Chair Hultin.**

**1. Continued Public Hearing**

**2019-003 ZBA – Ellen and Emily Lanigan, for property located at 588 Shore Road (Map 5, Parcel 20).**  
Applicant seeks a Special Permit w/ref to section 30.7A of the Truro Zoning Bylaw for the construction of a seven (7) foot, nine (9) inch addition to the front of an existing non-conforming dwelling.

Chair Hultin says that the applicants have asked for this item to be continued.

Member Thornley makes a motion to continue the hearing to July 29, 2019 at 5:30 pm. Clerk Lucy seconds. So moved, 6-0-0. Motion carries.

**2. Public Hearing**

**2019-004 ZBA – Clinton Kershaw, for property located at 9 Highland Ave., (Atlas Map 22, Parcel 35).**  
Applicant seeks approval under Section 30.7A of the Truro Zoning Bylaw for the change in use of a non-conforming structure, from an artist studio to an accessory dwelling unit.

Clerk Lucy recuses himself from the hearing.

Attorney Robin Reid and Clinton Kershaw come forward.

Atty Reid gives an overview of the process her and her client has gone through. The applicant is seeking a septic system variance because the current has a capacity for two bedrooms and Mr. Kershaw believes leaving the existing system in place is appropriate. Ms. Reid notes that the health agent does not agree with this.

Chair Hultin clarifies with Atty Reid that the ADUs will be developed with existing floorplans with no additional rooms and that one of the structures with a grandfathered second bedroom will be used as a one-bedroom dwelling.

Chair Hultin asks if anyone in the audience wishes to speak in favor of the proposal.

Padric Meagher, an abutter, comes forward. He believes it is an enhancement to the neighborhood and is in favor.

Chair Hultin asks Interim Town Planner Jessica Bardi and Town Counsel Atty Jonathan Silverstein if the Board can amend a decision from 5 years ago or is this is considered a completely new application. Town Counsel says that whether it is a modified permit or a new one, it goes through the same process.

**Member Thornley makes a motion to grant a Special Permit at 9 Highland Avenue for a change in use of a lawful pre-existing, non-conforming structure from a non-habitable artist studio to an accessory dwelling unit as per plans filed with the Board in accordance with section 30.7.A of the Truro Zoning Bylaw. Motion is pending.**

Atty Reid suggests removing the word accessory from the motion, believing that the Planning Board will find the larger pre-existing structure as the primary dwelling unit and not wishing for the structure in question to be dictated as the accessory one. The Board agrees and the motion is amended so it is as follows:

**Member Thornley makes a motion to grant a Special Permit at 9 Highland Avenue for a change in use of a lawful pre-existing, non-conforming structure from a non-habitable artist studio to a dwelling unit as per plans filed with the Board in accordance with section 30.7.A of the Truro Zoning Bylaw based on the following findings of fact. The proposed use will not be substantially more detrimental to the neighborhood than the existing non-habitable studio use, and the proposed use is in harmony with general intent and purpose of the bylaw. This will modify the 2014 Special Permit 2014-002 ZBA issued to Clinton Kershaw. Said structure shall be habitable only for the purpose of an accessory dwelling unit on the property, otherwise the structure shall continue to be used as non-habitable studio. Motion is pending.**

Atty Reid suggests striking the word accessory from the language of the motion. Atty Silverstein agrees to take a look at the language.

It is agreed to amend the language of the motion as follows:

**Member Thornley makes a motion to grant a Special Permit at 9 Highland Avenue for a change in use of a lawful pre-existing, non-conforming structure from a non-habitable artist studio to a dwelling unit as per plans filed with the Board in accordance with section 30.7.A of the Truro**

**Zoning Bylaw based on the following findings of fact. The proposed use will not be substantially more detrimental to the neighborhood than the existing non-habitable studio use, and the proposed use is in harmony with general intent and purpose of the bylaw. This will modify the 2014 Special Permit 2014-002 ZBA issued to Clinton Kershaw. Said structure shall be habitable only for the purpose of allowing an accessory dwelling unit on the property, otherwise the structure shall continue to be used as non-habitable studio as per site plans by Ladue Land Surveying dated April 2, 2019, revised May 10, 2019 and floor plan dated March 15, 2019, page 1 and page 2. Vice Chair F. Todd seconds. So voted, 5-0-0. Motion carries.**

### **3. Public Hearing**

**2019-005 ZBA – Daniel Carbonneau and Melinda Tuffy, Tr., for property located at 157 Slough Pond Road (Atlas Map 62, Parcel 5, certificate of title number 218045, land court lot number 19, plan number 10613-L).**

**Applicant seeks a Special Permit under section 30.3.1 of the Truro Zoning Bylaw for the demolition and reconstruction of a single-family dwelling and habitable studio, which exceeded the as-of-right total gross floor area limitations within the Seashore District.**

**Chair Hultin recuses himself from the hearing.**

Attorney Ben Zehnder comes forward on behalf of the applicants. He gives a brief overview of the plans and the project's history before boards.

Clerk Lucy clarifies with Atty Zehnder that the habitable dwelling space was calculated exterior wall to exterior wall, based on the architectural designs. They discuss the possibility of construction bringing the dwelling over the square footage limit.

Vice Chair Todd asks if anyone in the audience wishes to speak on the matter.

Laura French, a neighbor, comes forward. She discusses with the Board where the construction vehicles will enter because of damage they will cause to the roads. Atty Zehnder says that the applicant will be taking care of the cost of repairing any deteriorated roads as a result of the increased traffic. Ms. Bardi reads out that it was previously conditioned that the applicant will repair Slough Pond road specifically to the state that it was when construction began. Mr. Zehnder suggests expanding that to include all of the roads in the area. Atty Silverstein says that if the applicant agrees to the condition then it can be added, as long as the roads are private and the applicant has the rights to carry out repairs, which Mr. Silverstein doesn't currently see as an issue.

**Clerk Lucy makes a motion to grant a Special Permit for property located at 157 Slough Pond Road, for the demolition and reconstruction of a single-family dwelling and habitable studio which exceed the as of right total gross floor area limitations within the Seashore District, in accordance with Sections 30.3.1 and 30.8 of the Truro Zoning Bylaw and as per plans filed with the Board based on the following findings of fact: that the proposed reconstruction of the residence is in harmony with the general public good and intent of the bylaw, the proposed reconstruction is subject to the 2019-002 Special Permit issued by the Zoning Board of Appeals on May 20, 2019. The proposed reconstruction is subject to the 2019-004 SPR Residential Site Plan issued by the Planning Board on May 22, 2019 and the repair and reconstruction of roads leading to the property. Member Thornley seconds. So voted, 5-0-0. Motion carries.**

**4. Town Counsel Update**

**Town Counsel will update the Board on the Massachusetts Appeals Court's recent decision in the case of Joanne Barkan, et al. v. Zoning Board of Appeals of Truro, et al., Docket No. 18-P-365.**

Atty Silverstein recommends skipping this agenda item, because there is continued litigation and the Board will be updated in executive session.

Chair Hultin notes that discussing the cases in open session could lead to a detrimental effect in the litigation process and that the Board will reconvene after the Executive Session.

**Chair Hultin makes a motion that the Board go into Executive Session to discuss the aforementioned cases. Vice Chair Todd seconds. So voted, 5-0-0. Motion carries.**

**The Board convened into an executive session.**

**Motion to conclude Executive Session. Motion accepted 5-0-0.**

Respectfully submitted,



Paxton Green

