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

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

Meeting opened at 7:08 by Chairman Perkel.
(Alt. Brown recused himself from the hearings.)

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, 10/26/15 w/time waiver.
Chairman Perkel noted they had received a request from the applicant to withdraw the petition without prejudice.

Ms. Cohen spoke as president of Tru-Haven, and said it would eventually go back before the board and gave the reasons. Mr. Perkel suggested it would be inappropriate to deny the application based on the applicant's request for withdrawal.

Motion (Hultin, 2nd Thornley): Move in the matter of Michael Tribuna, for property located at 7 Parker Dr., (Atlas Sheet 39, Parcel 171) (2015-010/ZBA) to allow the Withdrawal of the petition without prejudice.
(Voted in Favor: Allee, Hultin, Thornley, Todd, Perkel. Voted Against None). Motion Carries: 5/0, Unanimous.)

2015-016/ZBA Habitat for Humanity of Cape Cod, Inc. for property located at 143 Rte. 6, (atlas Sheet 51, Parcel 33). Applicant is seeking a Comprehensive Permit under MGL C. 40B, §s 20-23 & 760 CMR 56.00 in order to build three new affordable homes as per plans filed.
Habitat representatives present were Leedara Zola and Atty. Warren Brodie; and J.M. O'Reilly engineers representative, Keith Hernandez; Carl Brotman, for the Truro Housing Authority, was also present.

It was noted there had been Town Meeting approval of \$250,000+/- towards affordable housing; Ms. Zola spoke and said they wished to build three affordable homes and had a Purchase and Sales Agreement, dated Aug. 3, 2015. The site contains 58,000 sq. ft. and is vacant and moderately wooded; to the east is land owned by Castle Hill; west was Meldahl property; the south is town-owned land and the parcel is zoned residential. There will be individual wells and septic systems; the 2 and 3-bedroom homes will have traditional septic systems; they are proposing a composting toilet for the 1-bedroom home; since they are eager to build an extra home, this toilet system allows 3 homes rather than 2 homes for the site if they weren't using a composting process; prices at the 3 lots are \$95,000; \$96,000 and \$140,000; there is open space at the site and the area contains a 'sensitive' area designation from National Wildlife.
Plans were outlined by Atty. Brodie; homes will have 3 bedrooms; 2 bedrooms and 1 bedroom with 2 ranch-style homes and one Cape-style; the homes can be adapted to disabled individuals; they are looking into the possibility of solar panels; however, they are not in the plans currently. He continued, they had received the relevant documents from DHCD and DHCD has issued the project eligibility letter (ie: endorsement).

It was noted at this time Truro has 27 affordable units which equals 2 1/2 % of affordable dwellings; DHCD requires 10% allocation for affordable housing in a town. Waivers requested were listed with statute references (Tab E), and he explained under the subdivision regulations, the ZBA can waive subdivision regulations rather than the Planning Board. Habitats use of the selection lottery had been approved by DHCD with preference given to Truro residents. There is 250 hours of "sweat equity" required; furthermore, there is an "affordable housing" rider with the deed; the homes qualify for LEED standards and they also qualify for energy star appliances. He noted these were quality homes for those not served by other housing programs. He added, Habitat has been involved with the construction of 94 affordable homes on the Cape; residents will work; their children will attend local schools and live in Truro 'year round.

ZBA members addressed the project; Mr. Todd asked about grading and retaining walls; a walk-out area was discussed and it was noted by the engineer a lot of the land is pretty steep and the slope of the lot is more suited for a walk-out basement; the southward slope is a possibility for solar panels; He continued, the northeast corner of the lot is a "no touch" area for endangered species. Members spoke of traditional septic systems and also asked about the design of the entrance and exit of the property from Route 6. It was explained Mass. Dept. of Transportation has access requirements to state highways such as Route 6. There will be berms for sound barriers and heat pumps with air conditioning in the summer; tree planting was not finalized at this time.

In response to a question about an abutting way, it was noted there were "no rights" to said way. In regard to a landscaping plan, it was explained Habitat works with the homeowners to plan landscaping for individual yard areas; they try to maintain a natural state; landscaping information would be provided. In regard to the "common area," Ms. Allee said it would be nice if there were trees there to buffer noise from the highway; Ms. Zola explained the area between the lot and Rte 6 will not be touched/cleared; she added there will also be a homeowner's association for the road and added Habitat projects involve education as well as 'sweat equity,' and Habitat stays involved - they like to see a homeowner's association; however, they (Habitat) stay in touch with homeowners as a referral point, providing information, etc., to them.

Mr. Thornley asked about the plan from the fire chief which showed extension of the driveway by 5 feet, and the road was discussed by members. Ms. Zola explained they were seeking approval with a subdivision plan to be provided later; she added, the extension of the driveway will be the only change; the "site plan" is the plan the board acts on. Town Planner Ridley spoke about the plans and explained the preliminary and definitive plans from the Planning Board will be in essence condensed and will be provided showing the modification. Mr. Hultin suggested approval with a condition on D.O.T approval regarding curb cut, etc.

Others speaking included Mr. Brotman, Chair of the Housing Authority; he noted they were responsive to the wish that homes be possibly solar powered; also, he noted there had been a lot of research completed on composting toilets; also \$250,000+/- for affordable housing had been voted by the Town. Ms. Ridley noted the Planning Board met earlier in the day and had approved by 6/0 vote a motion to urge the ZBA to approve the Comprehensive Permit.

Abutters to the Yellow Brick Road affordable housing project spoke in support, as did a member of Highland Affordable Housing group, as well as citizen R. Wood.

At 8 PM a short recess was taken and the meeting reconvened at 8:10 PM.

Voters designated were: Todd, Hultin, Dundas, Allee, Thornley. (Mr. Brown and Mr. Perkel were not voting).

Since there was no further discussion, the following Motions were framed:

Motion: (Perkel, 2nd Hultin): Based upon the findings of fact, the Board moves to grant a Comprehensive Permit in Case #2015-016 in accordance with MGL Chapter 40B, §§20-23 for the development proposed by Habitat for Humanity of Cape Cod, Inc., subject to conformance to the following conditions, terms and restrictions:

1. Development of the site shall be in substantial conformance with the Zoning Board of Appeals [Site] Plan "143 Route 6, Truro, MA" dated 11/6/2015 drawn and stamped by Keith E. Fernandes, P.E. of JM O'Reilly & Associates, Inc., consisting of one sheet.
2. The dwelling units shall be constructed in substantial conformance with the elevations and floor plans entitled "proposed 1 Bedroom Cape for Habitat for Humanity of Cape Cod," dated 10/28/15, drawn by David F. Alten, consisting of six sheets; and "proposed 2 Bedroom Ranch for: Habitat for Humanity of Cape Cod" dated 5/7/14, drawn by David F. Alten, consisting of five sheets; and "Proposed 3 Bedroom Ranch for: Habitat for Humanity of Cape Cod" dated 3/1/2015, drawn by David F. Alten, consisting of five sheets.
3. The applicant shall prepare detailed development and construction plans consistent with this decision, all applicable town standards and recommendations except those waived by this decision, all engineering standards and all applicable building and fire codes. Prior to issuance of building permits or any construction, all plans shall be reviewed and approved for consistency with this decision by appropriate Town agencies and departments.
4. Applicant shall apply for and receive approval of a Nitrogen Aggregation Plan and Composting Toilet/Greywater System from the Truro Board of Health. Applicant shall apply for and receive approval of access from the Massachusetts Department of Transportation (MassDOT).
5. Applicant shall meet all conditions listed in the Massachusetts Natural Heritage and Endangered Species Program letter dated September 10, 2015 for Program File No. 15-34657 and ensure that the development will not result in a prohibited "take" of a state-listed species.
6. The applicant shall prepare a subdivision plan suitable for endorsement by the Board and filing at the Barnstable County Registry of Deeds. The Zoning Board of Appeals shall endorse such plan if the Board finds it is consistent and within acceptable limits with the preliminary plan presented for the division of the land and that all applicable conditions have been met. The plan shall reference this Decision.
7. Prior to issuance of a Certificate of Occupancy, the Applicant shall landscape the property using drought-tolerant plants and loam and seed, at a minimum, any disturbed area of the site.
8. All three units shall be affordable units under the Department of Housing and Community Development Local Initiative Program. Upon initial sale to eligible and qualified households, Applicant shall record a Department of Housing and Community Development Local Initiative Program Affordable housing Deed Rider. All units shall be for sale as single-family units. Ownership and Re-sale shall be as outlined in the Department of Housing and Community Development Local Initiative Program Affordable Housing Deed Rider.
9. To the extent allowable by law, 70% of the affordable units, in this case 2 (two) shall be Local Preference units. Upon approval by the Department of Housing and Community Development, current residents of the Town of Truro, municipal employees of the Town of Truro, Employees of businesses in the Town of Truro and households with children attending Truro schools will be given a preference in the initial lottery.
10. The project shall comply with a Local Initiative Program requirements and any conditions the Department of Housing and Community Development, in its role as Subsidizing Agency, may require as part of Final Approval under 760 CMR 56.04.

11. A Regulatory Agreement pursuant to the Local Initiative Program and consistent with the terms of this Comprehensive Permit, in form and content approved by the Town of Truro, shall be executed by the Subsidizing Agency, the Town of Truro, and the Applicant. Said Agreement shall be filed at the Barnstable County Registry of Deeds prior to the issuance of any building permits.
12. The Applicant shall prepare an Affirmative Fair Housing Marketing Plan (AFHMP), prepared in accordance with Section III of the 40B Guidelines and approved by the Department of Housing and Community Development prior to the commencement of marketing of the units. A copy of this plan will be provided to the Zoning Board of Appeals prior to the start of Marketing.
13. This Comprehensive Permit is issued to the applicant, Habitat for Humanity of Cape Cod Inc. It shall not be transferable without the prior written approval of this Board.
14. Prior to the issuance of any permits for the development, this Comprehensive Permit shall be filed at the Barnstable County Registry of Deeds. A copy of the recorded document shall be submitted to the Zoning Board of Appeals file.
15. The Applicant shall prepare a revised plan(s), to be submitted to the Zoning Board of Appeals and filed with this decision, to reflect the following: (1) the extension of the driveway past the northern-most dwelling located on Lot #3 by a minimum of 5 feet in response to a request by the Chief of the Truro Fire Department for the purposes of safe access of emergency vehicles; (2) proposed walk-out basements for each of the three dwelling units.
16. The Applicant shall prepare a landscape plan to be submitted to the Zoning Board of Appeal showing areas to be seeded and planted with native plants, trees and shrubs and drought-resistant grasses suitable for the Cape Cod region.

Voted in Favor: Todd, Hultin, Dundas, Allee, Thornley; Voted Against: None. Motion Carries 5/yes; 0/no, Unanimous.

The Second Motion was made:

Motion (Hultin, Thornley 2nd): With respect to the Applicant's request for relief from local rules and regulations, the Board finds that certain requested waivers may be granted without adversely affecting the public health and safety of occupants in the development, the surrounding neighborhood, and the residents of the Town of Truro, provided the conditions imposed in this permit are strictly followed. Therefore, the following waivers are granted to Habitat for Humanity for the development of the Route 143 Route 6 housing development project as enumerated in Exhibit E of Exhibit A, the Application for Comprehensive Permit MGL Chapter 40B, Sections 20-23 and 760 CMR 56.00, as described below:

Town of Truro Zoning Bylaw

§10 General Provisions

§10.4 Definitions - Mean Ground Level

Waive the provision included in the definition of Mean Ground Level that requires finish grade of fill, within one hundred feet of the building, to have a grade not steeper than ten percent.

§50 Area and Height Regulations

§50.1 Regulations Table

Dimensional	Required: All	Waiver
Minimum Lot Size	33,750 sq ft	yes
Minimum Lot Frontage	150 ft	yes
Minimum Frontyard	25 ft	yes
Minimum Sideyard	25 ft	yes
Maximum Building	2 stories/30 ft	no
Minimum Backyard	25 ft	yes
Lot Shape	Frontage to frontline	yes

Waivers are requested from the previously listed dimensional requirements to subdivide as per submitted plans and to build the access road and homes as shown on the submitted plans. We also request a margin of plus or minus 5% to allow for insubstantial changes that may be needed based on field conditions.

§60.0 Appeals and Judicial Review

Waive §60.6 as any appeal or judicial review of a comprehensive permit would be pursuant to 760 CMR 56.

§70 Site Plan Review

Waive requirement for Site Plan Review, §70.2A3 requiring Site Plan Review for developments which, among other items, trigger the need for five (5) or more additional parking spaces under the standards of §30.9. Under MGL Chapter 40B the Comprehensive Permit process provides for a municipal review and the Zoning Board of Appeals sits in the place of all local boards.

Town of Truro Board of Health Regulations

Section VI — Article 7 — Innovative/Alternative Technology

Waive prohibition on Innovative/Alternative Technology for new construction

Section VI Article 12 — Nitrogen Loading Limitations

Waive limitations on nitrogen loading and allow; allow increase per Code of Massachusetts Regulations for

composting toilet (310 CMR 15.280) and grey water regulations (310 CMR 15.262)

Section XVII — Fee Schedule

Waivers are requested from Board of Health fees.

Town of Truro Rules and Regulations Governing the Subdivision of Land

§1 General Provisions

§1.3 Applicability

Waive the requirement that a definitive plan be submitted to and approved by the Planning Board. Under MGL

Chapter 406 the Zoning Board of Appeals sits in the place of all local boards.

§2 Submission and Approval of Plans

§2.1 — §2.5.2 Applicability

Waive all requirements of Plan submission, including but not limited to pre-submission review, preliminary subdivision plans, definitive subdivision plan. Under MGL Chapter 40B the Zoning Board of Appeals sits in the place of all local boards.

§2.5.3 Staking of Proposed Subdivision

Waive the requirement to stake and brush cut to a minimum of three (3) feet wide the centerline of all proposed ways in the subdivision and shall stake all points where lot lines intersect rights-of-

way.

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Comprehensive Permit — Habitat for Humanity of Cape Cod, Inc.-143 Route 6 Community Housing)

§2.5.4 Approval/Disapproval and Endorsement of a Definitive Plans

Waive the requirement of endorsement of a definitive plan. Under MGL Chapter 40B the Zoning Board of

Appeals sits in the place of all local boards.

Design Standards

§3.2 Conformance with zoning

Waive the requirement that the size, shape, frontage and use of all lots comply with applicable zoning requirements.

§3.4 Monuments

Waive the requirement of installation of monuments; monuments exist for the original lot.

§3.4 Utilities

As applicable, waive the requirement that utility wires, pipes, and tubing shall be underground and located within the road layout but outside the edge of the improved road service. Lot 4 contains a private driveway; utilities will be underground but may be located inside the improved driveway surface area.

§3.6 Street Design

As applicable, waive all street design requirements, including, but not limited to 3.6.6 Dead-end streets and 3.6.8 Design Standards. While lot 4 contains a private drive, and not a roadway, the drive meets or exceeds design standards in terms of minimum roadway width, minimum radius at street centerline, minimum vertical curve, minimum and maximum grade, all intersection standards, is less than the maximum length for a dead-end street, and meets all pavement and storm frequency standards with the exception that storm frequency for drainage calculations was based on 25-year storm.

§4 Specifications for Construction of Roads

As applicable, waive the specifications for construction of roads. Lot 4 contains a private drive, and not a roadway.

Fee Waivers — Under MGL Chapter 40B, the Zoning Board has the authority to grant fee waivers. Habitat typically requests waivers from local fees such as Building Department, Health Department and Fire Department. Habitat respectfully requests the Zoning Board of Appeals waive all local fee payments to the Town of Truro. In the alternative, at the Board's preference and request, Habitat would approach the Selectmen to approve these waivers.

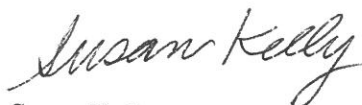
In addition to the above list, Habitat for Humanity of Cape Cod, Inc. requests waivers from any and all local provisions that would prohibit or impede development of the project as submitted, and reserves the right to add to the above list of waivers as needed.

Vote: The Board (Hultin, Allee, Thornley, Todd, Dundas) so voted to grant the requested waivers. (5/0 Unanimous).

Meeting adjourned at 8:11 PM

Next meeting: January 25, 2016.

Respectfully Submitted,



Susan Kelly