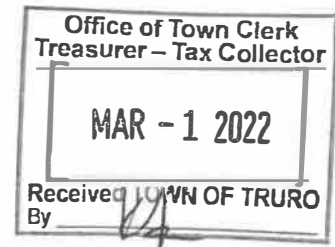




TOWN OF TRURO
ZONING BOARD OF APPEALS
Meeting Minutes
December 20, 2021 – 5:30 pm
REMOTE ZONING BOARD OF APPEALS MEETING



Members Present (Quorum): Art Hultin (Chair); Fred Todd (Vice Chair); Chris Lucy (Clerk); Heidi Townsend; Darrell Shedd, Virginia Frazier (Alt.)

Members Absent:

Other Participants: Barbara Carboni – Town Planner and Counsel; Liz Sturdy – Truro Office Assistant; Ben Zehnder (Attorney for Thomas P. and Kathleen Dennis, Jr. - Applicants); Thomas P. Dennis, Jr. (Applicant); Lauren McKean (Planner for the National Seashore); Justin Perrotta (Attorney for Sarah Lutz and John Van Rens – Applicants); Sarah Lutz and John Van Rens (Applicants); Scott Phillips, Fauzia Khanani, and Sera Ghadaki (Architects for Sarah Lutz and John Van Rens); Stephanie Sequin (Surveyor and Engineer for Sarah Lutz and John Van Rens); Fred Gaechter (Chair of the Truro Conservation Trust and Abutter to the Applicant)

Remote meeting convened at 5:30 pm, Monday, December 20, 2021, by Town Planner and Counsel Carboni who announced that this was a remote meeting which is being broadcast live on Truro TV Channel 18 and is being recorded. Town Planner and Counsel Carboni also provided information as to how the public may call into the meeting or provide written comment.

Public Comment Period

Chair Hultin asked if there was any member of the public who wanted to make a public comment and there were none.

Public Hearing - Continued

2021-006/ZBA (SP, VAR) – Cape Rental LLC and Thomas P., Jr. and Kathleen C. Dennis for property located at 127 South Pamet Road, Truro, MA (Atlas Map 48, Parcel 12; Certificate of Title Number: 222128, Land Ct. Lot #1C, Plan #16182-E and Land Ct. Lot #1D, Plan #16182-F) and 133 South Pamet Road, Truro, MA (Atlas Map 48, Parcel 8, Registry of Deeds title reference: Book 33550, Page 123). (Special Permit and/or Variance Applications) to add a second dwelling unit onto a lot from an adjacent lot.

Chair Hultin provided an overview of last month's hearing and stated that the ZBA had presentation by Mr. Zehnder, an extensive discussion, and the ZBA had now received two letters from the National Seashore on this matter. Chair Hultin invited Mr. Zehnder to provide an update and Mr. Zehnder announced that his clients had purchased the property at 127 South Pamet Road from Cape Rental LLC last Friday. Mr. Zehnder noted that Mr. Dennis was also participating in tonight's hearing. Mr. Zehnder further stated the Applicants decided to purchase the property as it was the best option to save the

dwelling located at 133 South Pamet Road. Mr. Zehnder stated that ZBA had indicated at last month's hearing that both a Special Permit and Variance were required. Mr. Zehnder stated that he had reviewed case law in Massachusetts regarding hardship. Mr. Zehnder noted that he did not disagree with Town Planner and Counsel Carboni's interpretation of the same case law. It was Mr. Zehnder's hope was that the ZBA would grant the Special Permit and Variance to preserve such a historical structure and allow the Applicants to keep the dwelling in a safe location.

Chair Hultin opened the discussion with Mr. Zehnder specifically on the point of whether this was a case of change of use for two-family use on the property. Mr. Zehnder argued that the structures were not being combined such they are multi-family dwellings, and that the zoning Bylaw allows one dwelling per lot. Mr. Zehnder added that this is a use classification as the same number of dwellings are in the area, being operated in the same way, and being lived in the same way. Town Planner and Counsel Carboni said that she and Mr. Zehnder on most aspects of the Bylaw but that the addition of the second dwelling on the lot makes it a multi-family situation. Town Planner and Counsel Carboni agreed with Mr. Zehnder that a use Variance was required. Member Shedd asked why the Applicants needed a second dwelling on the property and Mr. Dennis answered that he wanted to safeguard the home and prevent it from being demolished. Member Shedd expressed concern that the ZBA is being asked to create a precedence for a Special Permit or Variance under a condition of hardship in the National Seashore. Vice Chair Todd stated that he shared the concerns expressed by Member Shedd and the hardship affects 133 South Pamet Road and not 127 South Pamet Road. Vice Chair Todd also expressed concerns about the septic system and utilities as more land is naturally eroded. Member Townsend shared the same concerns as Member Shedd and asked if the two properties could be combined or subdivided by the same owner. Mr. Zehnder noted that the septic systems was designed to handle the anticipated erosion and that the properties could be combined to eliminate the lot line but there could still be an issue of two dwellings on the same property. Town Planner and Counsel Carboni added that she would want an opinion from the Building Commissioner in terms of how he interpreted the Bylaw. Mr. Zehnder was unsure if subdivision of the lots would be permissible due to setback requirements. Member Frazier noted that this matter was very confusing and expressed that a closer examination of what permit would be required. Mr. Zehnder stated that there would be a shortage of 6.45' of the required 300' frontage for two lots. Vice Chair Todd stated that the two dwellings would also push the allowable of gross floor square footage in the Seashore District and would have to go in front of the Planning Board. Mr. Zehnder replied that the Building Commissioner stated that this matter did not require a review by the Planning Board as no new structure was being built nor was there an increase in either dwelling's gross floor area square footage. Mr. Dennis commented that they had only seven days to purchase the property and was hopeful that an acceptable solution would be approved by the ZBA. Chair Hultin commented that based upon the questions and concerns expressed by the Members that a Variance nor a Special Permit would be granted. Chair Hultin asked Mr. Zehnder if he would like to request a continuance to explore other solutions or withdraw the applications without prejudice. Mr. Zehnder stated that he would be in favor of a continuance for thirty (30) days in this matter. Ms. McKean asked to be recognized and noted that the multi-family use is still an issue for the National Seashore. Member Shedd asked if the most recent letter from the National Seashore was added into the record and Town Planner and Counsel Carboni confirmed that it was and it was included in the Members' packet for this evening's hearing. Chair Hultin offered Mr. Zehnder to request a continuance to January 24, 2022, at 5:30 pm and Mr. Zehnder made the request to do so.

Chair Hultin made a motion to continue the hearing of 2021-006/ZBA to January 24, 2022.

**Vice Chair Todd seconded the motion.
So voted, 5-0, motion carries.**

Chair Hultin announced the continuance in the matter to January 24, 2022, and Mr. Zehnder thanked the Members before his departure. The Applicants thanked the Members and left the hearing.

Member Lucy joined the meeting prior to the start of the Public Hearing for **2021-007/ZBA (SP)**.

Public Hearing

2021-007/ZBA (SP) – 32 Cooper Road LLC (Managing Agent Sarah L. Lutz) for property located at 21 Cooper Road, Truro, MA (Atlas Map 58, Parcel 4; Certificate of Title Number: 204275, Land Ct. # N/A, Plan #41832-A). The Applicant seeks a Special Permit under M.G.L. Chapter 40A, §6 and §30.7 of the Truro Zoning Bylaws for the reconstruction of a pre-existing, nonconforming dwelling.

Chair Hultin invited Mr. Phillips to speak who introduced the other architects and representatives for the Applicant. Mr. Phillips provided his professional background along with his ties to coastal Massachusetts.

Mr. Phillips then reviewed the Applicant's packet and noted that the proposed project will not be detrimental to the current neighborhood, nor will traffic be increased in the area. Mr. Phillips stated that the density of the new home will be smaller than the current home. According to Mr. Phillips, the project will not increase the current number of three (3) bedrooms, the current gross floor area square footage is 2,280 square feet and the proposed gross floor area is 2,314 square feet, and the proposed garage will be a 700 square foot 2-car garage replacing a current 900 square foot 3-car garage and therefore decrease the gross square footage of the structure by a total of 170 square feet. Mr. Phillips added that the proposed home will be further away from the road and the design of the new modest home will maintain the character and charm of Cape Cod. Mr. Phillips said that the new updated septic system will be further away from the wetlands. Mr. Phillips then provided an overview of the Site Plan along with comments about problematic characteristics of the home and garage to include the poor original construction of the home in 1962 as well as the obstruction of beautiful views.

Mr. Phillips said during his presentation of the new Site Plan, the proposed new home will be 71' further away from the road, the Applicant will reuse most of the driveway and that will save existing trees and vegetation, and the relocation of the septic system that is further away from the wetlands.

Chair Hultin commented that proposed plan was architecturally pleasing but the issue for a Special Permit surrounds the adequacy of the street. Mr. Perrotta replied that the issue with Cooper Street created the nonconformity as it is not wide enough. Mr. Perrotta added that both existing and new structures were compliant with the Bylaw. Mr. Perrotta commented that there will be no additional traffic on the road. Chair Hultin, along with Mr. Perrotta, noted almost unanimous letters of support from the Abutters and not one letter of objection. Vice Chair Todd noted that the police chief had no concerns when given the opportunity to comment on the project so Vice Chair Todd would support granting of the Special Permit. Member Shedd said that this was a wonderful project and that he would also support the project. Member Frazier stated that she would have no problem to grant a Special Permit. Member Townsend said that the presentation was very good and that the neighbors are supportive of the project. Member Lucy commented that Cooper Road is a 40' wide road and that the issue was the original construction, drainage, and pitch of the road. Member Lucy added that he was in

favor of the granting of the Special Permit. Chair Hultin also expressed support for the granting of the Special Permit in this matter.

Chair Hultin then asked if there was a member of the public who would like to voice opposition to the granting of the Special Permit in this matter and there were none. Mr. Gaechter asked Chair Hultin to be recognized to voice his support for the granting of the Special Permit as an Abutter. Mr. Gaechter favorably commented that the Applicant was doing great things to improve the property while preserving the environment.

Chair Hultin announced that only the regular Members of the ZBA would vote on a motion to grant a Special Permit in this matter.

Vice Chair Todd made a motion to grant a Special Permit in the matter of 2021-007/ZBA (SP) and due to the nonconformity of Cooper Road, the Board finds that Cooper Road is adequate to access for first responder vehicles such as in past cases, the proposed project does not add traffic, the proposed project will be nominally larger than the existing structure, the relocation of the septic system will be further away from the protected wetlands, and therefore, the granting of a Special Permit will not be substantially more detrimental than the current structure to the neighborhood and the alteration will exist in harmony within the general purpose of the Bylaw.

Chair Hultin seconded the motion.

So voted, 5-0, motion carries.

Chair Hultin announced the granting of the Special Permit and the Applicant's representatives thanked the Members and departed the hearing.

Board Action/Review

Chair Hultin opened the discussion for the Election of Officers. Chair Hultin confirmed with Vice Chair Todd that he did not wish to be nominated as the Chair due to health reasons. Chair Hultin announced the position of Vice Chair would also be elected tonight and the position of Clerk would be postponed. Member Shedd commented that in his viewpoint that he would nominate Chair Hultin for one more year and Member Lucy seconded it. Vice Chair Todd noted what a great job that Chair Hultin has done and Chair Hultin said that he was humbled by the supportive comments, and he would accept a nomination to lead the ZBA for another year as there was still a vacancy for an alternate Member. Vice Chair Todd then nominated Member Lucy to succeed him as the Vice Chair. Chair Hultin asked if there were any other nominations for Vice Chair and there were none.

Vice Chair Todd make a motion to nominate Member Lucy as Vice Chair of the ZBA.

So voted, 5-0, motion carries.

Member Shedd made a motion to nominate Chair Hultin as the Chair of the ZBA for another year.

So voted, 5-0, motion carries.

Chair Hultin announced the election of Vice Chair Lucy and his re-election as Chair. Chair Hultin then reiterated the postponement of the election for the Clerk position on the ZBA without objection as the Members could vote on this anytime in the future after it was determined that it was part of the Board.

Approval of Minutes

Chair Hultin stated that he didn't have an opportunity to review the minutes for approval but noted that they were very extensive and old. Speaking for himself, Chair Hultin said that he didn't want to approve the minutes. Member Shedd announced that he had read the minutes and was comfortable to vote. Member Todd said that he was comfortable and happy to approve the minutes. Vice Chair Lucy said that he could vote on the minutes for those meetings for which he was in attendance. Member Townsend stated that she would be comfortable as well voting for approval of the minutes for the meetings for which she was in attendance. Member Frazier, as an alternate and newly elected to the ZBA, would not vote on the motion for the approval of minutes.

Member Shedd made a motion to approve the minutes for July 22, 2020, July 27, 2020, August 24, 2020, September 21, 2020, October 26, 2020, and November 23, 2020, as presented.

Vice Chair Lucy seconded the motion.

So voted, 4-0-2 (Chair Hultin and Member Frazier)

Chair Hultin announced the approval of the aforementioned minutes, the next meeting was scheduled for January 24, 2022, at 5:30 pm, and that there may be new material in the matter of **2021-006/ZBA (SP, VAR)** at the next meeting. Chair Hultin wished everyone a Merry Christmas and a Happy New Year.

Chair Hultin made a motion to adjourn at 6:49 pm.

Vice Chair Lucy seconded the motion.

So voted, 6-0, motion carries.

Respectfully submitted,



Alexander O. Powers
Board/Committee/Commission Support Staff

