



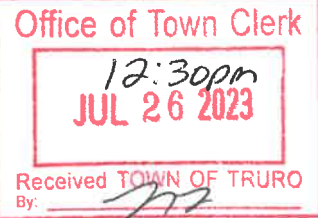
# TOWN OF TRURO

## ZONING BOARD OF APPEALS

Meeting Minutes

June 26, 2023 – 5:30 pm

### REMOTE ZONING BOARD OF APPEALS MEETING



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

**Members Absent:**

**Other Participants:** Barbara Carboni – Town Planner/Land Use Counsel; John Dundas-Select Board Liaison; William Henchy-Attorney for Susan Hanway (Applicant); Susan Hanway (Applicant); Ezra Ambrose-Project Manager for Susan Hanway (Applicant); Paul Kopicki-Resident of 59 South Pamet Road; Ben Zehnder-Attorney for Bruce Jacobson-Trustee (Applicant); Ilana Quirk-Attorney for Ross Zachs (Applicant); Ross Zachs-Owner of Big Monkey LLC (Applicant); Mike Miller (Owner of Big Monkey LLC); Jamy Buchanan Madeja-Attorney for Katherine A. Burroughs Trust; Lori Burroughs-Trustee; Katherine Burroughs-Trustee; John Koch-Resident and Abutter to Susan Hanway (Applicant)

Remote meeting convened at 5:30 pm, Monday, June 26, 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 18 and is being recorded. Due to technical issues with Chair Hultin's audio, Vice Chair Lucy took over the meeting until Chair Hultin's return.

**Public Comment Period**

Vice Chair Lucy invited the Members and the public to offer public comments, and there were none.

Chair Hultin returned to the meeting.

**Minutes**

Chair Hultin led the review of the minutes from the April 24, 2023, meeting for corrections or edits and there were none. Member Townsend and Member McKinnon abstained from voting as they were not present at that meeting.

**Vice Chair Lucy made a motion to approve the minutes of April 24, 2023, as written.**

**Chair Hultin seconded the motion.**

**ROLL CALL VOTE:**

**Member Townsend - Abstained**

**Member Medoff – Aye**

**Member Shedd – Aye**

**Vice Chair Lucy – Aye**

**Member Crocker - Aye**

**Member McKinnon – Abstained**

**Chair Hultin - Aye**

**So voted, 5-0-2, motion carries.**

Chair Hultin led the review of the minutes from the May 22, 2023, and Member Crocker noted that Member McKinnon joined the meeting after the introduction of the Members and Member McKinnon stated that he did not vote on matters due to technical issues but those issues were now resolved.

**Chair Hultin made a motion to approve the minutes of May 22, 2023, as written and amended.  
Member Shedd seconded the motion.**

**ROLL CALL VOTE:**

**Member Townsend - Aye**

**Member Medoff – Aye**

**Member Shedd – Aye**

**Vice Chair Lucy – Aye**

**Member Crocker – Aye**

**Member McKinnon - Aye**

**Chair Hultin - Aye**

**So voted, 7-0-0, motion carries.**

**Public Hearings (Continued)**

**2023-004/ZBA (SPs) - Truro Atlantic View Realty Trust, Bruce A. Jacobson, Trustee** for property located at 12 Ocean Bluff Lane (Atlas Map 37, Parcel 6). Applicant seeks: (1) Special Permit to approve construction on non-conforming lot, including (completed) construction unauthorized by earlier permit, and additional square footage; and (2) Special Permit to exceed Gross Floor Area in Seashore District.

Chair Hultin announced that the Applicant had requested a continuance in this matter until July 24, 2023. There were no objections. Chair Hultin abstained from the vote due to technical issues with his internet connection so Vice Chair Lucy took over the meeting until Chair Hultin's return.

**Vice Chair Lucy made a motion to continue this matter to July 24, 2023, at 5:30 pm.**

**Member Shedd seconded the motion.**

**ROLL CALL VOTE:**

**Member Townsend - Aye**

**Member Medoff – Aye**

**Member Shedd – Aye**

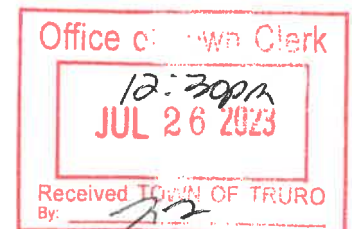
**Vice Chair Lucy – Aye**

**Member Crocker - Aye**

**Member McKinnon - Aye**

**Chair Hultin - Abstained**

**So voted, 6-0-1, motion carries.**



**2023-003/ZBA (SP) - Susan Hanway** for property located at 59 South Pamet Road (Atlas Map 51, Parcel 51). Applicant seeks Special Permit approval to exceed Seashore District Total Gross Floor Area (4,252 sq. ft.) in two residential structures.

Before the start of this hearing, Member Crocker recused himself from this matter and left the meeting.

Due to technical issues, Chair Hultin asked Vice Chair Lucy to take over the rest of the meeting.

Vice Chair Lucy recognized Attorney Henchy who introduced the Applicant and the Applicant's representatives. Attorney Henchy then provided an update on this matter including approval by the Planning Board as well as conditions and restrictions set by the Planning Board. Town Planner/Land Use Counsel Carboni reviewed the Planning Board's reasonable conditions for an Applicant to receive a Certificate of Occupancy and any changes to go through the Building Commissioner to disincentivize Applicants from changing what was approved in the permit to what was built.

A brief discussion among Members ensued about the configuration of the building (single family use) and Town Planner/Land Use Counsel share screened and read aloud the Building Commissioner Rich Stevens' email (dated 5/15/23) that determined that "no separate dwelling unit/ADU shown" regarding this project.

Ms. Hanway stated that her disabled brother would be living with her family and reiterated that there was no intention to rent any part of the building.

Members discussed pros and cons of the project prior to Vice Chair Lucy recognizing members of the public who wished to comment on the project.

Vice Chair Lucy recognized Mr. Koch who stated that the house is visible from their property and that he and Ms. Sharon Basco had previously emailed the Applicant regarding their concern about the mass and the height of the structure. Mr. Koch noted that there had not been recent contact with the Applicant and that he and Ms. Basco had learned of recent developments through the Planning Board and ZBA hearings.

Attorney Henchy announced that the Applicant would be agreeable to the condition of not renting the habitable studio but that the height was still below the limit as defined in the Bylaw.

**Member Shedd made a motion in the matter of 2023-003/ZBA (SP) that a Special Permit be approved to exceed the Seashore District total gross floor area in two residential structures with the condition of limiting the habitable studio to a non-rental capacity and finding that the project is in harmony with the general public good and the intent of the Bylaw.**

**Member Medoff seconded the motion.**

**ROLL CALL VOTE:**

**Member Townsend - Aye**

**Member Medoff - Aye**

**Member Shedd - Aye**

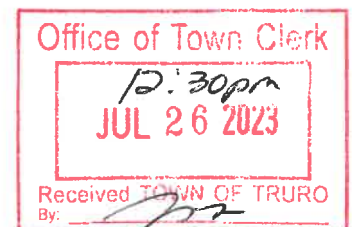
**Vice Chair Lucy - Aye**

**Member Crocker - Aye**

**Member McKinnon - Aye**

**Chair Hultin - Aye**

**So voted, 7-0-0, motion carries.**



### **Public Hearing (New)**

**2023-005/ZBA (SP) Ross Zachs, Manager - Big Monkey LLC** for property located at 590 Shore Road (Atlas Map 5, Parcel 19). Applicant seeks Special Permit to demolish and reconstruct nonconforming structure (setbacks) on nonconforming lot (lot area) in the Beach Point Limited Business District.

Vice Chair Lucy recognized Attorney Quirk who introduced the Applicants and provided historical background of the property and the proposed project. Town Planner/Land Use Counsel Carboni had no initial questions or comments after Attorney Quirk's presentation.

Members discussed with Attorney Quirk the following highlighted topics: if a structure is built upon pilings and whether it can be built over the septic system, proposed elevations, and the status of four onsite parking spots.

Vice Chair Lucy asked if any member of the public wished to comment and he recognized Attorney Madeja. Attorney Madeja introduced herself as the attorney representing the direct Abutters and hoped that the Applicants' application would be eventually approved. Attorney Madeja expressed her client's concerns and hoped for a resolution regarding a walkway that exists on her client's property.

Town Planner/Land Use Carboni noted that the proposed resolution of attaching a note to the decision (if approved) was unnecessary.

After a discussion ensued among the Members and the Members were not supportive of Attorney Madeja's proposed resolution, Attorney Madeja stated that she could not support this project.

Members then discussed the overwhelming support of the project by the other neighbors as well as the proposed reconstruction.

Prior to the motion below being seconded, Vice Chair Lucy announced that Chair Hultin has left the meeting due to continued technical issues and would not vote on this matter. Vice Chair Lucy then announced that the remaining present Members would vote on this matter.

**Member Crocker made a motion in the matter of 2023-005/ZBA that a Special Permit be granted and that the alteration or extension will not be substantially more detrimental to the neighborhood than the existing nonconforming use or structure and that the alternation or extension will exist in harmony with the general purpose and intent of this bylaw.**

**Member Townsend seconded the motion.**

**ROLL CALL VOTE:**

**Member Townsend - Aye**

**Member Medoff – Aye**

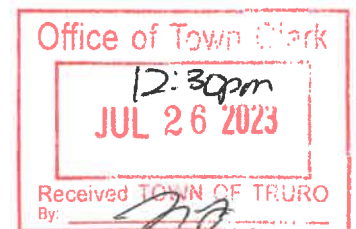
**Member Shedd – Aye**

**Vice Chair Lucy – Aye**

**Member Crocker - Aye**

**Member McKinnon - Aye**

**So voted, 6-0-0, motion carries.**



**Board Action**

Prior to the discussion regarding the election of the ZBA officers, Chair Hultin texted Vice Chair Lucy that he would accept any nomination except for chair. Members voiced their support to delay the election of officers until the next meeting as the Select Board has not yet decided on new ZBA Members. There were no objections so the elections will be held during the July 24, 2023, meeting.

## **Topics of Discussion**

### ***Discussion of Special Permit Criteria; M.G.L. Chapter 40A – Zoning Act***

Members discussed a suggestion that the issuance of a Certificate of Occupancy would occur only after an engineer had stamped a verification (certified) that the project had been built and completed in accordance with the granted Special Permit. If the project has not been built in accordance with the granted Special Permit, the consequence would be a return of the Applicant to the Planning Board and the ZBA. This would be to create a culture of accountability rather than ask for forgiveness after the project had been completed. The Planning Board can do this already as a condition for every application, but if it were added to the Bylaw, it would have to pass at Town meeting by a 2/3 majority vote.

Members then discussed with Town Planner/Land Use Counsel Carboni the process for a Bylaw amendment.

## **Future Topics of Discussion**

Town Planner/Land Use Counsel reminded the Members that an appeal of a decision will be heard at the next meeting on July 24, 2023.

Members discussed with Town Planner/Land Use Counsel Carboni the need to review zone maps and districts. Town Planner/Land Use Counsel Carboni will coordinate the distribution of maps with Town Principal Assessor Jon Nahas so Members may discuss at a later meeting.

**Member Shedd made a motion to adjourn at 6:50 pm.**

**Member Medoff seconded the motion.**

### **ROLL CALL VOTE:**

**Member Townsend - Aye**

**Member Medoff – Aye**

**Member Shedd – Aye**

**Vice Chair Lucy – Aye**

**Member Crocker - Aye**

**Member McKinnon - Aye**

**So voted, 6-0-0, motion carries.**

Respectfully submitted,



Alexander O. Powers

Board/Committee/Commission Support Staff

