

## Minutes of the Truro Board of Health, Tuesday September 7, 2021

### Remote Public Hearing

Board members in attendance: Chair Tracey Rose; Vice Chair, Jason Silva, members Helen Grimm , and Alternate member Candida Monteith. Member Tim Rose joined the call at 5 PM. Also Present: Health and Conservation Agent Emily Beebe; The Public Hearing was opened at 4:31 by the Chair. The Chair announced the procedures for remote participation by the public and the Board.

### Public Comment Period:

Barbara Allen was present and stated that the matter concerning the Yacht club on the agenda was under appeal with the DEP.

Title 5 – Nitrogen Aggregate for an ADU: 12 Hart Rd, map 33, parcel 46; The engineer for Dig-it construction, Keith Fernandez was present representing the owner, Jonah Swain, Mr. Fernandez presented his proposal for nitrogen credit for the ADU, using the process of nitrogen aggregate under title 5. The credit property is across the street at #13 Hart Road, and belongs to Jonah's mother, Janet London. The proposal in front of the Board was for approval of the ADU using nitrogen credit, the use of nitrogen aggregate, and the use of the I/A system.

The Agent framed the elements for the Board to consider. There are no variances for this proposal, but the Board would need to approve the nitrogen credit process, issuance of a covenant for the nitrogen aggregate, and well deed restrictions for both Jonahs property (for the new apartment unit as an ADU that is yearround) and also for the credit property. The house at #13 is 2 bedrooms with a studio in the barn, for a total of 3 bedrooms, and it is 36,888 sf; 6,889 SF available at #13 Hart road will be used as credit by #12 Hart Road, leaving 30,000 sf for the 3 bedroom use at 13 Hart Road.

The Chair suggested that there should be some documentation from the owner of #13 Hart Road. Alternate Board member Candida Monteith expressed concern about the use of an easement, rather than having the lot sizes changed which would be neater in the long run. The Chair responded that the nitrogen aggregate covenant would be a perpetual easement. The engineer commented that the covenant and easements would be recorded in Barnstable, and run with the property. Board member Jason Silva agreed that the ADU process can work, and because it's recorded in Barnstable any new party would be aware of the limitations on the property, including the use of the ADU as yearround. He also indicated that he thought that a letter from the owner of #13 would be appropriate.

The Agent commented that the nitrogen aggregate covenant and the other deed restrictions can only be released by the local Board of Health. Board member Tim Rose suggested that any letter should be notarized, unless the deed restrictions were enough.

**Motion:** Tim Rose moved to accept the deed restriction for 3 Bedrooms on 13 Hart Road, along with a notarized letter from the property owner, and a deed restriction for 12 Hart Road for no more than 5 bedrooms to include the ADU requirements of the bylaw; and approval of the nitrogen aggregate proposal.

**Second** from Helen Grimm.

In discussion of the motion the Agent suggested that the motion be clear that the deed restriction must reference the responsibilities of the owner to maintain the ADU unit as a year-round unit as required.

There was brief discussion about what details required additional submittal. There were additional details on the plan, the water test; the nitrogen aggregate covenant, and the office will assemble the deed restrictions, all in accordance with the discussion of the Board. Should there be obstacles or items not discussed the applicant will return to the Board. The Chair expressed appreciation that the process allowed creation of a new housing unit.

**The vote:** The roll-call vote was in favor of the motion, which carried, 4-0-1.

**Title 5 – Local Upgrade Approval:** 2 Ryder Hollow Rd, map 63, parcel 14; Laura Schofield from Schofield brothers Engineering represented the owner, Lawrence Cebula. The property is just east of the Ryder Beach parking lot. It is a 36,155 sf lot, with a 2 bedroom house that was built in 1967; cesspools serve the house. The property is for sale.

There is a single local upgrade request to exceed the maximum cover over the system. Variance requests for this project are from Truro Board of Health regulations: setbacks to wetlands, which are the vegetated wetland to the north and east of the property. The proposal includes removing the cesspools and installing a new well to obtain the required minimum setback of 100 feet.

The Agent suggested that the Board evaluate whether the plan proposes a level of environmental protection that is at least equivalent to what is required by title 5 and whether or not the variances requested can be granted. Candida asked why I/A would not be required in this case. The Agent was asked to respond and pointed out that the lot size is more than 36,000 sf, but only 2 bedrooms exist. Our local regulations restrict this property to 2 bedrooms although title 5 would allow 3 bedrooms, so the situation on the property actually puts the Board ahead. Board member Tim Rose appreciated the plan and how well thought out the design was

**Motion:** Tim Rose moved to accept the plan as presented;

**Second** from Helen Grimm; the roll call vote was unanimously in favor, and the motion carried, 4-0-1; Tracey Rose abstained.

**Title 5 – Local Upgrade Approval:** 7 Yacht Club Rd, map 50, parcel 37; David Lajoie, from FELCO engineering represented the Pamet Harbor Yacht Club, Inc. and presented a revised design plan for a septic upgrade. Mr. Lajoie described the design previously approved by the Board as a standard septic system with gravity distribution to the leaching area, which was elevated and contained by a “shoreguard” retaining wall. The neighbor appealed the Conservation Commission’s approval of the system. During the appeal the DEP requested that the wall be removed since it was in a Coastal Dune. This was done, and resulted in a reduced separation to groundwater which triggered I/A treatment. A fast system is now proposed to mitigate for the reduction.

The Chair asked the Agent for comments. The Agent asked the engineer if the SOC (superceding Order of Conditions) had been issued by the DEP. He replied it had been issued based on the revised FELCO plan dated 2-17-2021. The Agent then asked if an appeal of the SOC had been made? The Engineer responded that he had not been in contact with DEP. The Board had in front of them the latest plan revision, which included variances to wetland resources and the request to approve the use of the I/A in this location to mitigate the separation to GW. The plan shows the components in essentially the same (lateral) locations as previously approved.

The Agent suggested that the Board continue the matter to the next meeting to verify the process with the DEP, which the engineer stated was fine.

The Chair asked for comments from the abutter, Mrs. Barbara Allen. She confirmed that they had filed another appeal. The chair asked what she was aggrieved by? Mrs. Allen responded that it was the location, and the endangerment to the water, but also the placement of a retaining wall in a dune. They (the Allens) had been denied a retaining wall by the DEP, but Felco had proposed a retaining wall in the dune which was approved by ConComm. She expressed concern that the system was not as far away from the water as possible, and it was close to their property line. She did agree that the Yacht Club needed a new system. When asked for a technical opinion of the system, the Agent replied that it qualified as maximum feasible compliance.

Board member Jason Silva agreed and commented that the system was centrally located, and could be approved at this meeting. The Chair agreed and commented that there was no changes to the use of the property or proposed increases in flow. Board member Tim Rose agreed with Mr. Silva.

**Motion:** Jason Silva moved to accept the plan as presented, pending a positive outcome from the DEP appeal;

**Second** from Helen Grimm; the roll call vote was unanimously in favor, and the motion carried, 5-0;

**Request for waiver of time for property transfer and upgrade:** 69 Old County Rd, map 54, parcel 43; Mr. Bill Proia was present, and spoke for the "69 Old County Road 2019 Realty Trust"; he explained that the applicant for the waiver was the buyer, and that he represented the seller. Noone was on the call to speak for the buyer.

Mr. Proia described why they qualified for a waiver. He said the closing was scheduled for December 1, and the buildings were not heated, and not able to be occupied until about Mid-October 2021, and until the spring, at least. He anticipated a design being produced quickly. The Board explained that they would want to condition any approval of this waiver with no occupancy until installation and certification, as well as a walk-through before a septic permit was issued. Board member Tim Rose suggested that this matter be postponed.

**Motion:** Tim Rose moved to continue this matter until the next meeting;

**Second** from Jason Silva; the roll call vote was unanimously in favor, and the motion carried, 4-0-1, with Tracey Rose abstaining.

### **DISCUSSION ON WATER RESOURCES**

The Agent updated the Board that the well sampling program was underway; the program was targeting collection of samples from the recharge area of the Village Pond. The analysis will be done at the Barnstable County lab, and will be paid for by the Town; sampling will continue til late October. The Village Pond watershed study being conducted by the Cape Cod Commission is wrapping up and will be completed before the end of the month of October. The watershed study will inform/support work being done by the Horsley Witten Group on stormwater management plans under development for the Pond Road area.

Scott Horsely's contract has been signed and he is reviewing the many Truro water resources reports to develop a road map for Truro water resources management planning.

Report of the Chair included a thank-you to the participants of the water recharge area sampling effort; an announcement of the upcoming Provincetown Water and Sewer Board on September 13 with the Provincetown Select Board and their new Town Manager Alex Morse.

Health Agent's Report included an update on COVID-19, such as the case count. The Agent suggested the Board consider a revised and more relaxed mask order, in keeping with what neighboring towns are doing with their mask orders and policies. Also, the Agent suggested that based on some questions from and discussion with Candida the Board may want to discuss the standard Beach Point wastewater management condition /title 5 at the next meeting.

**Motion:** Helen Grimm moved to adjourn the meeting;

**Second** from Jason Silva; the roll call vote was unanimously in favor, and the motion carried, 5-0.

**Meeting adjourned at 5:51 PM.**

Minutes prepared by Emily Beebe



