



## TOWN OF TRURO CONSERVATION COMMISSION

P.O. Box 2030  
Truro MA 02666-0630

### **Conservation Commission Meeting Minutes: March 5, 2018**

**The meeting and public hearings were called to order at 6:00 P.M. in the Selectman's Meeting Room. Commissioners Present:** Chair, Deborah McCutcheon; Diane Messinger, Larry Lown; Jack McMahon; Henry Lum. **Others Present:** Emily Beebe, Conservation Agent

**Public Hearing** – Proposed revisions to the Truro Conservation regulations include adding a buffer zone to Vernal Pools and Isolated land subject to flooding. The Chair confirmed that the matter had been properly advertised and posted, and asked if there were any questions from the public or the Commission regarding the proposed changes. Commissioner Lown asked if the jurisdictional areas were clearly spelled out and there was brief discussion that some isolated wetlands may support breeding amphibians as vernal pools do, but may not be certifiable. **Motion to change the regulations in Chapter two, section A as printed; Motion by Commission Chair McCutcheon; seconded by Commissioner Messinger; vote was 4-0-0 in favor.**

(Commissioner Lum joined the meeting at 6:05.)

**Notice of Intent for 42 Corn Hill Rd, SE #75- 1033; Henry Morfit & Jane Bunker;** (Map 45, Parcel 52)(*continued from February 5, 2018*) Notice of Intent for relocation of existing dwelling, and to upgrade the septic system; work proposed on a Coastal Dune and in Land subject to Coastal Storm Flowage. Jason Ellis appeared before the Board with a revised plan that showed the dwelling to remain in its existing location, but elevated above the flood plain. He described the proposal, which included elevating the house where it stood above the 12 foot floodplain and adding fill to the area to approximately 10 feet.

The property was not staked prior to the Commission site visits. The Chair asked Mr. Ellis about the alternatives for the well and septic as discussed and requested at the previous meeting. Mr. Ellis said the well is old, and he did not think moving it would improve the water quality. The Chair commented on the extent of the work limit shown on the plan, and that an access corridor for the septic installation had not been shown. The Agent asked if the leaching area might be smaller or stone-less. Mr. Ellis said he would look into it. The Commission asked for a grading plan that shows the extent of the filling. Commissioner Lown asked if the seller was going to do the work. Mr. Ellis said no, they propose a project a buyer can visualize. There was a question by Mr. McMahon about why the septic leaching area was on the highest part of the lot. Mr. Ellis stated that they need to maximize the separation to groundwater and maintain 100' from well.

The Conservation Agent asked Mr. Ellis to consider how the elevation of the building will change the stairway access into the building and show it on the plan.

There was a motion to continue the hearing to April 2; Motion by Commission Chair McCutcheon; seconded by Commissioner Messinger; Vote was in favor 4-0-1.

**Notice of Intent for 0 Tom's Hill Rd, Truro Conservation Trust; SE#75-1035** (Map 50, Parcel 1). The proposed project includes vista pruning in the buffer of a Coastal Bank, and in the outer 100 feet of Riverfront area. The project was presented by Bill Worthington of the Truro Conservation Trust. He described that they were working with an abutter who is looking to improve the views from his home. The Trust is sympathetic as they are looking for ways to improve the meadow habitat in this area. 15 pitch pines have been flagged in the jurisdictional areas and will be flush cut and removed. The view improvement will be assessed at that point, and further cutting may be required, but the goal of the second cut is to improve the views by limbing as much as possible. Additional trees may need to be removed. The work is detailed in the project narrative. Commissioner Lown asked about the TCT's goals for the project, Mr. Worthington stated that vista pruning is a fine concept, and a way to return the land to an earlier habitat type, as long as it's managed. **A motion was made to approve the project with the narrative included as a special condition; also, prior to cutting or limbing an onsite meeting must be held with the Trust, the Agent and the licensed arborist hired to do the work. Motion by Commissioner McMahon; seconded by Commissioner Lown; vote was unanimously in favor 5-0-0.**

**Administrative review permit: 25 Pond Road; removal of dwelling by Truro Conservation Trust.** The work is 98' from the inland bank of Pilgrim Pond across the street. A work limit will be in place. This was described by Mr. Worthington, as part of the Twinefield project. **Motion by Commissioner Lown; seconded by Commissioner McMahon; vote was unanimously in favor 5-0-0.**

**Notice of Intent for 66 Depot Rd, Mike Miller; SE# 75-1034** (Map 50, Parcel 28). Proposed project includes additions to an existing dwelling with planting as mitigation; Resource areas include Riverfront, and the buffer zone to a Coastal Bank. John Schnaibel from Coastal Engineering Company described the three-season porch to be constructed in the location of an existing deck. Also, a 52 square foot addition on a slab will be built on the east side of the house, and the front porch and entry will be redeveloped. A total of 224 square feet will be changed, and 312 square feet of native plants will be added on the east side after bamboo in the area is removed. The access to the project will be from Depot road and the materials will be stored in the driveway. **There was a motion to approve the project with the construction protocol and notes on the plan added to the special conditions; Motion by Commissioner McMahon; seconded by Commission Chair McCutcheon. The vote was unanimously in favor 5-0-0.**

**Notice of Intent for 405 Shore Rd, Kenneth Shapiro** (no DEP # had been issued yet) (Map 10, Parcel 5) The proposed project includes demolishing the existing garage and constructing a dwelling on a Barrier Beach and in Land Subject to Coastal Storm Flowage. This project was represented by Attorney Ben Zehnder with Jason Ellis. The property has a detached garage on it, and the plan proposed removal of the garage and replacement with a single family dwelling with a garage underneath. The Chair asked if there was an issue with the lot being buildable. Mr. Zehnder replied that zoning relief is

required in order to build, but that he believes it is buildable. The agent asked if they had already applied to the zoning board and the answer was “not yet.”

The Agent pointed out that there was no file number from DEP, no protocols and a very preliminary plan submitted. Mr. Ellis replied that he wanted feedback from the Commission. The site had not been staked.

The Chair responded that she was concerned about proceeding without any information about action from other Boards. She was also concerned about proceeding without 2 members, which is potentially a problem. Commissioner Lown asked how they could proceed without knowing from the building Commissioner if the lot was even buildable.

The Chair reiterated that she did not want to split up the hearings and have board members become ineligible to vote.

Abutter David Ditachio from 412 Shore Road spoke about the fact that they own two abutting lots which have been taxed as unbuildable, and that they have been repeatedly told that they were unbuildable.

The Chair stated to the applicant that the Commission had heard an informal statement from them, and that the Commission was not going to hear the matter further. She directed that the site be staked and that the Commission and representatives were to meet on site at 3 PM on April 2. After the site visit, it is incumbent upon the parties going forward to explain the substantive issues to the Commission.

**It was agreed by all parties to continue the matter to April 2.**

**Administrative review permit:** 32 Cooper Road; planting native vegetation as a screen. Karen Tosh was present to answer questions the Commission may have on the applications. **Motion to approve by McCutcheon and seconded by Commissioner Lum.** Mr. Lown asked about the types of plantings proposed and the reason. There was brief discussion about the need for screening vegetation at this location. **The Commissioners voted unanimously (5-0-0) to approve the Administrative permit.**

**Request of Determination of Applicability:** 8 Hatch Rd, John Rice; demo pool building, fill in pool, create outdoor living area; buffer zone to man-made freshwater pond. (Map 51, Parcel 31) Dave Lajoie from FELCO appeared to present the RDA, which was originally proposed and approved in 2014. The approval expired. The owner will be doing the work. **Motion to approve as a negative 3 by McCutcheon with the same terms and conditions as the previous approval; seconded by Commissioner McMahan; the vote was unanimously in favor (5-0-0).**

**Request of Determination of Applicability:** 40 Cliff Rd, Andrew Clemons; construct dwelling & appurtenances; buffer zone to a Coastal Bank. (Map 32, Parcel 19A) Ben Zehnder and Jason Ellis were present to discuss their application. The Commission reviewed the plan that shows the private well located 98’ from the Top of the Coastal Bank. There was discussion about the delineation of the Coastal Bank as determined by Mr. Ellis and Outermost Land survey. Cliff road is a private road.

Commissioner Messenger asked about the lot size, and Mr. Zehnder replied that it was grandfathered as an isolated lot; she then asked what it meant for a lot to be isolated. Mr. Zehnder replied that it had been isolated since the 1920’s, and that it was protected under MGL Chapter 40, section 6 which says that if a lot is isolated from ownership with the adjacent lots, with at least 5000 square feet of area, and 50 feet of frontage it is protected

as a buildable lot.

Commissioner Lown summarized that the Commission needs to determine whether the designation of the top of the Coastal Bank is correct, in which case the Commission can go ahead and approve the well location. The Commissioners discussed what they saw on site, and how it corresponds with the plan of record. The property was not staked, nor was the resource area. The Agent reiterated how important it is for the applicant to stake the resource area. The Agent noted that there were 2 pieces of correspondence about the project; one from the Cape Cod National Seashore, and the other from a friend supporting the project. **Motion to approve the plan as submitted (in essence, a determination of a negative 3); Motion by Commissioner Lown; seconded by Chair McCutcheon; the vote was 5-0-0 in favor.**

**Notice of Violation** for work without a permit in the buffer zone to a Coastal Bank; **Jared Colley, contractor for Lawrence Gottesdiener, owner of 39 Bay View Road** (map 39, parcel 65). Mr. Colley was unable to attend. Mr. Zehnder was present for the owners; he said that he had reviewed the Agent's letter of February 27, and understood that there was an open order for a beach-stair replacement that had been filed last fall. He said in his opinion there was no question that they were in violation, and reported that the work had ceased. The owner had hired a landscape architect and they were proceeding with an after the fact filing of a Notice of Intent. The Chair told Mr. Zehnder that he needed to return to the next meeting of the Commission either with the filing or with a status report, but that the matter must be filed in time for the May hearings.

**Emergency certification – for bulkhead repairs at 476 Shore Road, William and Janice Bazyk,** (map 8, parcel 26) The certification had been issued by the Chair, and the Commission was asked to ratify the issuance, and sign the certificate. **Motion to issue by Chair McCutcheon; second by Commissioner Lown; voted unanimously in favor.**

**Request for Certificate of Compliance: SE #075-1010; 314 Shore Road unit 1, Diane Vergnani:** **Motion to issue by Chair McCutcheon; second by Commissioner Lown; voted unanimously in favor.**

**Truro Public Works Project Notifications:**

- North Pamet road culvert between 83 & 91 North Pamet Road
- 56 North Pamet Road dead tree removal
- South Pamet Road culverts- maintenance to clear obstructions at 3 locations- #5 & 10; #31 & 31; #59 & 60
- Old County Road, slip-lining the culvert south of Prince Valley Road

**Motion to approve by Chair McCutcheon; second by Commissioner Messinger; voted unanimously in favor.**

**Motion to adjourn the meeting by Commissioner McCutcheon; seconded by Commissioner Lown; the vote was unanimously in favor, 5-0-0. Meeting adjourned at 7:57 PM.**

**Site visits:**

On Monday March 5, 2018, the following Commissioners met at 1:00 PM at the Cobb library: Diane Messinger, Larry Lown, Jack McMahon

The Commissioners proceeded to:

- 1) 8 Hatch Road; 2) 0 Tom's Hill Road;
- 3) 66 Depot Road; 4) 39 Bay View Road; 5) 40 Cliff Road; 6) 405 Shore Road; 7) 476 Shore Road

Minutes prepared by E. Beebe