

**TRURO PLANNING BOARD AGENDA
TUESDAY, September 19, 2017 – 6:00 p.m.
Truro Town Hall, 24 Town Hall Road, Truro**

Public Comment Period

The Commonwealth's Open Meeting Law limits any discussion by members of the Board of an issue raised to whether that issue should be placed on a future agenda. Speakers are limited to no more than 5 minutes.

Application for Determination that Plan Does Not Require Approval

2017-004PB Albert P. Groom, (by Jason C. Ellis, agent) seeks a determination that a plan showing a division of land into two parcels does not require approval under the Subdivision Control Law. The property is located at 44 Truro Center Road, Assessor's Atlas Map 50, Parcel 126.

Continued Public Hearing - Commercial Site Plan Review

2016-008SPR Maria Kuliopulos – White Sands Beach Club, Inc. seeks approval of a Modification to a Commercial Development Site Plan pursuant to §70.3 of the Truro Zoning By-Law for consolidation of units to reduce the number of units on the property by four. Plans include construction of a replacement building containing 17 rentable units and a hospitality room in the same location as a previously demolished fire damaged structure. The property is located at 706 Shore Road, White Sands Beach Club, Assessor's Atlas Map 39 Parcels 131, 158. Hearing continued from March 7, 2017, May 2, 2017, June 6, 2017, June 27, 2017 and August 15, 2017.

Open Discussion of Possible Zoning Bylaw Amendments

The Planning Board will consider possible amendments to the zoning bylaw, including, but not limited to, size restrictions for residential structures in all zoning districts. The Board will consider holding public forums and other means of outreach for obtaining citizen input and whether a subcommittee should be formed to review possible zoning amendments.

Review and Approval of Meeting Minutes

September 5, 2017 Regular Meeting

Reports from Board Members and Staff

Acting Town Planner report.

Meeting Dates and Other Important Dates

October 3, 2017 (Tues.) – Regular Meeting

October 17, 2017 (Tues.) – Regular Meeting

Adjourn



TOWN OF TRURO

Planning Department
P.O. Box 2030, Truro, MA 02666
Tel: (508) 349-7004, Ext. 127 Fax: (508) 349-5505
hterkanian@truro-ma.gov

To: Planning Board
From: Harry Sarkis Terkanian
Date: September 13, 2017
Re: Staff Report #1

2017-004PB Albert P. Groom (by Jason C. Ellis, agent) has applied for a determination that a plan filed with the Town Clerk on August 31, 2017, pursuant to MGL c. 41 §81P and Section 2.2 of the Town of Truro Regulations Governing the Subdivision of Land, does not require approval under the Subdivision Control Law. The subject property is known and numbered as 44 Truro Center Road, Truro and shown as Parcel 126 on Truro Assessor's Map, Sheet 50.

Planning Board action on this application is on the September 19, 2017 Planning Board agenda.

Description:

The applicant seeks to create two lots by dividing the above parcel. A total of 1.87 +/- acres is involved in the division. According to the filed plan and assessor's records the property is improved with a single family structure with two outbuildings all of which will remain on the proposed Lot 1. The proposed Lot 2 will be unimproved. The property has frontage on Truro Center Road, a paved public way (originally the 1925 state highway layout). Each of the lots has frontage in excess of the 150 foot frontage requirements of §50.1 of the Truro Zoning Bylaw. There appears to be a guardrail along much, if not all of the proposed frontage. Topography, as evidenced by the attached topo print from the Assessors' Maps, may affect access.

Completeness of Submission:

The applicant submitted the following materials on August 31, 2017:

1. Fully executed Form A Application for Determination That Plan Does Not Require Approval (ANR) dated August 21, 2017 signed by Jason C. Ellis as agent.
2. Filing fee of \$275.00.
3. Plan titled: "Division Plan of Land in Truro, MA Made for Albert P. Groom, Being a Division of Lot As Shown on a Plan Recorded in Barnstable County Registry of Deeds, Plan Book 651, Page 60" dated July 25, 2017, Scale 1" = 40' prepared by Laude Land Surveying.

The submission was reviewed against the requirements of the subdivision rules and regulations. Subsequently, a letter requesting additional information was sent to Jason C. Ellis of J. C. Ellis Design Co., Inc. on September 5, 2017 (copy attached.) Because the topography of the land suggests that physical access might be of concern, specific comment on whether such features are present was requested in the letter. See Truro Subdivision Regulations. §2.2.2.b.7.

Public Notice:

Applications for an ANR determination do not require public notice beyond the meeting posting required to comply with the Open Meeting Law.

Planning Staff Comments:

Board action is required by September 21, 2017. The application was filed on August 31, 2017. The Board must act within 21 days to avoid an automatic determination that approval is not required (see section 81P quoted below.)

The lots on the plan both front on Truro Center Road, a paved public way. Unless there are physical features which render that frontage presently unusable, the frontage requirement should be deemed satisfied. Note that the only requirement which an ANR plan must satisfy is set forth in MGL, chapter 41, section 81L, quoted below, that the proposed lots meet the frontage requirement imposed by the zoning bylaw by providing frontage on one of the types of roads listed in the definition. The courts have interpreted the statute to require that the frontage be presently usable, so, for example, frontage separated from the buildable portion of a lot by a physical barrier such as a topographic feature and/or a guardrail, may not satisfy the statute. Both conditions may affect the present application. The Board must make this determination. See the following excerpts from *Poulos v Planning Board of Braintree*, 413 Mass 359 (1992):

Chapter 41, Section 81P, provides, however, that anyone planning to divide his or her property and who "believes that his plan does not require approval under the subdivision control law, may submit his plan to the planning board . . . and, if the board finds that the plan does not require such approval, it shall . . . endorse thereon . . . the words 'approval under the subdivision control law not required' or words of similar import Such endorsement shall not be withheld unless such plan shows a subdivision." In this case, the plaintiff submitted a plan to the planning board of Braintree (board) under c. 41, Section 81P, and requested the board to endorse on it that the board's approval is not required. The board declined to provide the requested endorsement because of "lack of definition of proper access," and the plaintiff appealed to the Land Court pursuant to G. L. c. 40A, Section 17 (1990 ed.), and G. L. c. 41, Section 81BB.

Planning boards may properly withhold the type of endorsement sought here when the "access implied by the frontage is . . . illusory in fact." *Corcoran v. Planning Bd. of Sudbury*, 406 Mass. 248, 251 (1989), quoting *Fox v. Planning Bd. of Milton*, 24 Mass. App. Ct. 572, 574 (1987). The plaintiff argues that the access is not illusory in this case because, as the judge determined, the plaintiff could regrade the slope, and regrading would result in the DPW's removal of the guardrail, which would no longer be needed. The plaintiff also argues that, subject to reasonable restrictions, he has a common law right of access from the public way to his abutting lots that would require the DPW to remove the guardrail if it were not to do so voluntarily. See *Anzalone v. Metropolitan Dist. Comm'n*, 257 Mass. 32, 36 (1926).

We conclude, as did the Appeals Court, that c. 41, Sections 81L & 81M, read together, do not permit the endorsement sought by the plaintiff in the absence of present adequate access from the public way to each of the plaintiff's lots. It is not enough that the plaintiff proposes to regrade the land in a manner satisfactory to the DPW and that the DPW may respond by removing the guardrail. In an analogous situation, the Appeals Court upheld the refusal of a planning board to issue an "approval not required" endorsement where the

public way shown on the plan did not yet exist, even though the town had taken the land for future construction of a public street. The Appeals Court concluded that public ways must "in fact exist on the ground" to satisfy the adequate access standard of c. 41, Section 81M, *Perry v. Planning Bd. of Nantucket*, supra at 146, 150-151. While Perry dealt with nonexistent public ways, and this case deals with nonexistent ways of access, the principle is the same. There should be no endorsement in the absence of existing ways of access (emphasis added.)

In addition, we reject the argument, based on *Anzalone v. Metropolitan Dist. Comm'n*, supra, that, at least after regrading, the plaintiff would have a common law right of access that would entitle him to the requested endorsement. It is not a right of access, but rather actual access, that counts (emphasis added.) In *Fox v. Planning Bd. of Milton*, supra at 572-573, the Appeals Court held that abutting lots had adequate access to a Metropolitan District Commission (MDC) parkway, not merely because the abutter possessed a common law right of access, but because, in addition, the MDC had granted the landowner a permit for a common driveway to run across an MDC green belt bordering the parkway. In the present case, the plaintiff has not received such an approval.

Planning Board Jurisdiction

Pursuant to MGL Ch. 41 section 81P:

Any person wishing to cause to be recorded a plan of land situated in a city or town in which the subdivision control law is in effect, who believes that his plan does not require approval under the subdivision control law, may submit his plan to the planning board of such city or town in the manner prescribed in section eighty-one T, and, if the board finds that the plan does not require such approval, it shall forthwith, without a public hearing, endorse thereon or cause to be endorsed thereon by a person authorized by it the words "approval under the subdivision control law not required" or words of similar import with appropriate name or names signed thereto, and such endorsement shall be conclusive on all persons. Such endorsement shall not be withheld unless such plan shows a subdivision. If the board shall determine that in its opinion the plan requires approval, it shall within twenty-one days of such submittal, give written notice of its determination to the clerk of the city or town and the person submitting the plan, and such person may submit his plan for approval as provided by law and the rules and regulations of the board, or he may appeal from the determination of the board in the manner provided in section eighty-one BB. If the board fails to act upon a plan submitted under this section or fails to notify the clerk of the city or town and the person submitting the plan of its action within twenty-one days after its submission, it shall be deemed to have determined that approval under the subdivision control law is not required, and it shall forthwith make such endorsement on said plan, and on its failure to do so forthwith the city or town clerk shall issue a certificate to the same effect. The plan bearing such endorsement or the plan and such certificate, as the case may be, shall be delivered by the planning board, or in case of the certificate, by the city or town clerk, to the person submitting such plan.

MGL, Ch. 41, section 81L defines "Subdivision." There a number of exclusions from the definition. The exclusion applicable to the Groom application is: "provided, however, that the division of a tract of land into two or more lots shall not be deemed to constitute a subdivision within the meaning of the subdivision control law if, at the time when it is made, every lot within

the tract so divided has frontage on (a) a public way or a way which the clerk of the city or town certifies is maintained and used as a public way, . . .”

Findings

The Board should make findings with respect to the following requirements of subdivision regulations:

- Fulfillment of submission requirements
- Each proposed lot has existing, adequate physical access.
- Each proposed lot has frontage of at least 150 feet as required by the zoning bylaw

Waivers: Waivers are not applicable to a request for an ANR determination.

Possible Motions:

Affirmative Motion:

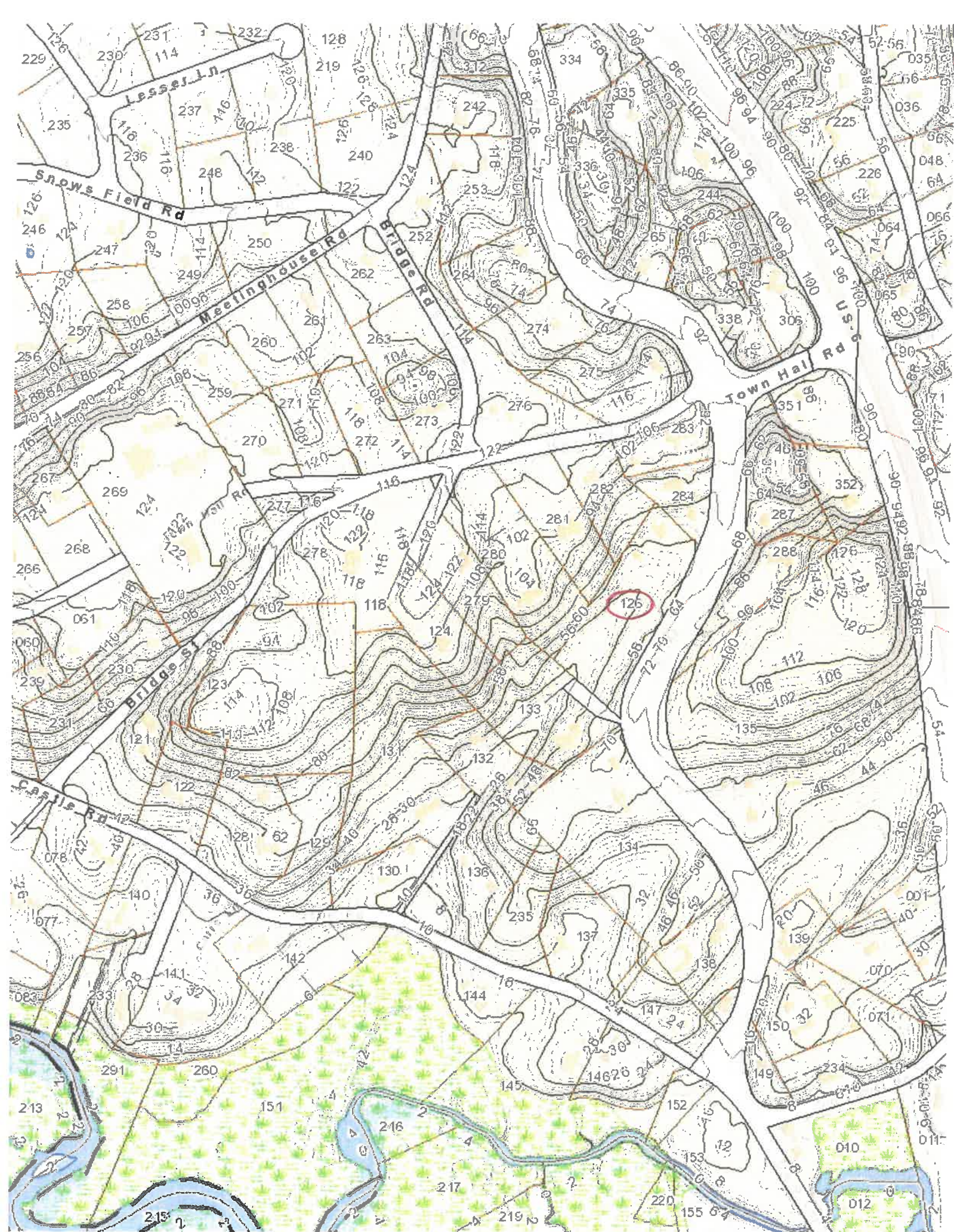
With respect to application **2017-004PB Albert P. Groom**, the Board determines that the plan entitled in part: “Division Plan of Land in Truro, MA Made for Albert P. Groom, Being a Division of Lot As Shown on a Plan Recorded in Barnstable County Registry of Deeds, Plan Book 651, Page60” dated July 25, 2017, Scale 1” = 40’, prepared by Laude Land Surveying does *not require* approval under the Subdivision Control Law.

If the affirmative motion is made, the Board shall forthwith endorse the plan.

Negative Motion:

If the Board determines that the plan does show a subdivision of land it should state the basis of its determination and the motion should include that basis and state that the Board determines that the plan *does* require approval under the Subdivision Control Law.

If the motion to deny an approval not required endorsement is made, the Board must give written notice of its determination to the Town Clerk and person submitting the plan not later than on September 21, 2017.





TOWN OF TRURO

Planning Department

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September 5, 2017

Jason C. Ellis
J. C. Ellis Design Co., Inc.
P. O. Box 81
North Eastham, MA 02651

RE: 2017-004PB, Albert P. Groom Approval Not Required Plan, 44 Truro Center Road

Dear Mr. Ellis:

The above will be on the Planning Board agenda for action on September 19, 2017. The meeting will begin at 6:00 PM at Truro Town Hall, 24 Town Hall Road, Truro, MA.

I have conducted an intake review of the application and plan and have the following comments (references are to the Truro Planning Board regulations for the subdivision of land):

1. §2.2.2.b.4 – Relevant zoning classification is missing. Please add a note identifying the zoning district in which the land lies.
2. 2.2.2.b.8 – Building setbacks are missing. I do not regard this as a significant omission as it is clear from visual inspection of the plan that the proposed new lot line will not create any setback violations.
3. 2.2.2.b.11 – Please add lines for the file number (2017-004PB) and the date the application was submitted (August 31, 2017).
4. 2.2.2.b.7 – Location and dimension of any natural features which might affect the use of the frontage for access. The plan does not show any. Assuming that there are none, please provide a statement to that effect for the file.
5. 2.2.2.b.9 – Location of any wetland on the land shown on the plan or within 100 feet of its boundaries. The plan does not show any. Assuming that there are none, please provide a statement to that effect for the file.

Respectfully yours

Harry Sarkis Terkanian, Acting Town Planner

Cc: Planning Board



TOWN OF TRURO

Planning Department

P.O. Box 2030, Truro, MA 02666

Tel: (508) 349-7004 Fax: (508) 349-5505

Memorandum

To: Planning Board
Fr: Harry Terkanian, Acting Town Planner
Date: September 14, 2017
Re: **2016-008SPR White Sands/Kuliopulos; Staff Report #3**

2016-008SPR Maria Kuliopulos seeks approval of a Modification to a Commercial Development Site Plan pursuant to §70.3 of the Truro Zoning By-law for consolidation of units to reduce the number of units on the property by four. Plans include construction of a replacement building containing 17 rentable units and a hospitality room in the same location as a previously demolished fire damaged structure. The property is located at 706 Shore Road, White Sands Beach Club, Atlas Map 1, Parcel 5.

Background

The Planning Board conditionally approved a site plan for this property on January 19, 2016. The site plan covered the reconstruction of a fire-damaged building. In accordance with an Order for Judgment, the applicant had until October 30, 2016 to complete the reconstruction of the units per the approved plan. The applicant was did not meet this timeline and the Town Board of Selectmen did not grant an extension. (Letter from Zisson & Veara to Christopher Snow, September 21, 2016) Upon the lapse of the time period for action, the applicant lost grandfathered zoning status with respect to number of units on the property. Accordingly, the applicant was instructed to submit a modified site plan to the Planning Board that complied with current zoning. This required a reduction in the number of units on the property from 51 to 47 units.

Under the Zoning Bylaw, the following section governs Modification of an Approved Site Plan:

H. Modification of an Approved Site Plan

Modifications to a project that has received Site Plan Approval shall be submitted to the Planning Board for further review. A filing of said modification shall be submitted in accordance with Section 70.3.D.

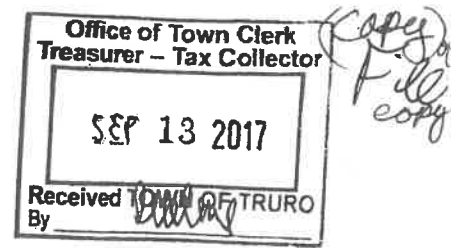
Zoning Status

The companion case (2016-007ZBA) was before the Zoning Board of Appeals on June 26, 2017. At that hearing the ZBA requested a complete and consistent set of plans and the matter has been continued on several occasions, most recently to September 20, 2017. On September 13, 2017 Ms. Kuliopulos filed a set of plans (see attached list) with the Zoning Board of Appeals. Later that day she filed the complete set of civil plans prepared by Coastal Engineering, Inc. (7 sheets). The zoning Board will further consider the matter on September 20, 2017

Planning Board Action

I recommend that this matter be further continued to a date certain to afford the Zoning Board of Appeals an opportunity to act on the companion zoning matter.

ZBA ADDENDUM : WHITE SANDS BEACH CLUB INC.



PACKET 1

A-6-0. Bruce Hamilton - Elevations :Beachfront units

A-2-0 Bruce Hamilton - East wing elevations - floor plans- finished roof plan

C1.2.1. Coastal engineering - existing site plan with building elevations and Setbacks.there are 2 set back non conformities . One at the corner Of unit 41 and the other at the other corner next to the Blue Sea Motel. Neither one is effected by the building plans

C2.1.1. Site plan approved by planning board on 1/19/16 and zoning table For 51 units

C2.1.1. Proposed site plan with zoning table for 47 units.

PACKET 2

Avalon Systems- new building plans approved on 1/19/16 .modular design.

Page 7- Exterior drawings

Page 6- building height

Page 5- Exterior drawings

Page 4- unit numbers on 2nd floor

Page 3- unit numbers on 1st floor

Page 2 -enlarged interior unit 2nd floor. Units are back to back and the same.

Page 1- enlarged interior unit 1st floor.units are back to back and the same.

Felco engineering plans- exterior elevations of house and apartment.

Coastal. Engineering : SK1 -unit plan layout and consolidation plan

Coastal Engineering. : SK2 -unit plan numbering the units

Bruce Hamilton :A10a -beachfront proposed first floor consolidation .

Bruce Hamilton :A20a -beachfront proposed 2nd floor consolidation .

RESPONSES AS OF:
"FINAL" SEPT. 29, 2016



TOWN OF TRURO

P.O. Box 2030, Truro, MA 02666

Please share your views on setting limits on the size of future houses in the Cape Cod National Seashore District in Truro by answering the following questions. Completed questionnaires can be dropped off in the Selectmen's Office located on the main level in Town Hall through Labor Day.

Q.1 Are you concerned about the potential for large-sized houses to be built in place of smaller homes in the Seashore District?

☐ Yes ☐ No ☐ No opinion

Q.2 Do you support setting limits on the size of future houses in the Seashore District?

☐ Yes ☐ No ☐ No opinion

Q.3 Should limits on house size depend on lot sizes in the Seashore District such that larger houses are allowed on larger lots?

☐ Yes ☐ No ☐ No opinion

Q.4 Should limits on house size depend on whether the house may be seen from a road or public access point?

☐ Yes ☐ No ☐ No opinion

Q.5 Do you think the size of new houses in the Seashore District should be treated separately than elsewhere in town?

☐ Yes ☐ No ☐ No opinion

Q.6 Do you have other concerns about protecting the Seashore District that you would like to raise? If yes, please specify.

☐ Yes ☐ No ☐ No opinion

Q.7. Do any of the concerns you have about protecting the Seashore District apply town-wide?

☐ Yes ☐ No

Q.8 Do you currently own property in the Cape Cod National Seashore in Truro?

☐ Yes ☐ No

Q.9 Do you vote in Truro?

☐ Yes ☐ No

Thank you for taking time to complete this questionnaire!

DRAFT

TRURO PLANNING BOARD

Tuesday, September 5, 2017

MEETING MINUTES

Truro Town Hall

Planning Board Members present: Bruce Boleyn, Peter Herridge, Paul Kiernan, Jack Riemer, Mike Roderick, Karen Tosh, Steve Sollog.

Other participants: Kevin Grunwald, Truro Housing Authority; Attorney Lester J. Murphy, Jr., William Rogers, PE, Eric Shapiro, Rae Ann Palmer, Town Manager; Christopher Clark, Attorney Ben Zehnder, Claire Perry, Ann Greenbaum. Harry Terkanian, Acting Town Planner

Mr. Sollog opened the meeting at 6:04 pm.

Public Comment Period

Kevin Grunwald, from the Truro Housing Authority, spoke about the Housing Institute training being offered to local elected and appointed officials. The six week training will occur on Thursdays, 2 - 4 pm, beginning October 12, 2017. The goal is to have someone attend from each Town organization that deals with housing issues. Topics include a basic introduction to housing, affordability, zoning and site selection, and general information around housing.

Mr. Riemer said he is interested in inclusionary zoning, regarding second homes being built in Truro.

Public Hearing – Commercial Site Plan Review

2017-007SPR Lexvest East Harbour, LLC seeks approval of a Commercial Development Site Plan pursuant to §70.3 of the Truro Zoning By-Law for consolidation of units to reduce the number of units on the property by combining units, proposal also includes some changes to site improvements. The property is located at 618 Shore Road, East Harbour Cottages and Condominium, Assessor's Atlas Map 5, Parcel 13. Hearing continued from August 15, 2017.

Mr. Murphy re-introduced the application and mentioned the drainage issues that have been discussed with the DPW director. Mr. Rogers will meet with him when there has been a significant rain event. Mr. Rogers said that he is concerned about why the client has to provide drainage calculations. Mr. Murphy explained that it will depend on where the water is coming from. Mr. Sollog said wanted to be clear on where the flood zone is. Mr. Kiernan spoke about his concerns regarding parking. There is also a question about the 2013 condominium conversion. The project may have already been approved by the Planning Board. Mr. Murphy provided a copy of the decision where a waiver was granted.

Mr. Herridge spoke about his own experience backing up onto Shore Road during the site visit, which he said did not present a problem. Mr. Murphy talked about the two parking spaces per unit. He had submitted the parking plan to the building commissioner, and the plan was

deemed acceptable. Mr. Murphy talked about impervious surfaces that would increase if parking was moved elsewhere. Discussion occurred about the roles of the Planning Board and the building commissioner in the approval process. The previous waiver didn't require two spaces per unit since they hadn't yet decided how they were going to use the property. Mr. Kiernan stated that the condominium conversion took place before the property was sold. The parking spaces are on state property which he said the Planning Board cannot approve. Mr. Murphy read from Mr. Braun's email explaining why he approved of the parking plan. Mention was made about the status of the property as condominiums as opposed to motel rooms. This property is "multi-family" now, not a motel. Mr. Kiernan asked for Town Counsel's opinion on the parking. Mr. Terkanian read from a letter regarding the Zoning Board of Appeals decision. Site plan review was waived.

Refuse disposal was discussed. Each unit will have trash pickup. Eric Shapiro stated that a trash company has been contacted and he is willing to provide confirmation of a contract if necessary. Mr. Riemer asked if they are using the dumpster across the street. Just for the time being, they are using the dumpster.

Mr. Sollog recapped that the Board would prefer that the applicant find parking spaces in other locations that would be safer than the current ones. They would also like to see a contract regarding refuse pickup. Mr. Shapiro said that they are adding kitchens so that tenants can cook safely. The property is geared towards seasonal rentals. Mr. Riemer brought up the issue of the property being in a flood zone and increasing usage of the property. The applicant stated that they are not in a velocity zone, and they are reducing the density, not increasing it, just adding a porch. They are not increasing usage, but actually decreasing usage. Mr. Riemer said that we should be concerned with storm surges.

Mr. Sollog asked for a path forward. Answers are needed on drainage and redesign of parking. Mr. Boleyn stated that he is concerned about parking. Ms. Tosh and Mr. Herridge are not. Mr. Riemer brought up the need for a bike rack. Mr. Kiernan said he would like to pass this by the Town attorney. Mr. Terkanian said he will let the Town manager know of this request. Mr. Boleyn moved to continue the hearing to October 3rd, Mr. Herridge seconded. So voted, 7-0.

Temporary Sign Permit

Truro Treasures by Gail Stephenson seeks approval for three banner signs for events on September 16 – 18, 2017: "Truro Treasures, A Gala Weekend", 8 feet by 3 feet at Route 6 and Town Hall Road; "Truro Treasures, Arts & Crafts Fair", 6 feet by 33 inches on Truro Central School fence; and "Truro Treasures Silent Art Auction" 8 feet by 33 inches at Route 6 at Standish Way. Signs to be placed on August 26 and removed on September 19, 2017.

This agenda item was listed in error. It should not have been posted.

Temporary Sign Permit

Truro Treasures by Kristen Roberts seeks approval for four signs for events on September 22 – 24, 2017: eight feet by 3 feet banners to be placed at Route 6 at Pamet Roads exit and Route 6 at the 6/6A split; and six feet by 33 inch banners to be placed on

Truro Central School fence and Route 6 at Standish Way. Signs to be place September 5 and removed September 25, 2017.

Mr. Terkanian said there was an issue with the application and provided the corrected form to the Board. Mr. Kiernan moved to approve the corrected application, Mr. Herridge seconded. So voted, 7-0.

Temporary Sign Permit

Vinegrass by Pete Fasano seeks approval for one sign for an event on October 1, 2017: 3 feet by 4 feet at intersection of Route 6 and Shore Road. Sign to be placed September 15 and removed October 1, 2017.

The Board limited this request to 30 days. Mr. Riemer asked about the details of the event. Ms. Palmer explained that the applicant had covered all of the concerns and received the proper approvals. Mr. Herridge made a motion to approve the application for the period September 15 to October 1, Mr. Boleyn seconded. So voted, 7-0.

Curb Cut Application

Scott Lee Deering seeks approval for a curb cut to provide additional driveway access for property at 20 Whitmanville Road, Map 43, Parcel 76.

Ms. Palmer explained that there was no action required by the Planning Board.

Residential Site Plan Review – Request for Opinion of Counsel and Review Status of Application

2017-006SPR Christopher and Jane Clark, Board review of opinion of counsel concerning the zoning status of the subject premises and possible further consideration of site plan review application. The property is located at 1 Higgins Hollow Road, Map 46 Parcel 289.

Mr. Terkanian reported on an August 28th memo regarding the Zoning Board of Appeals hearing, to address gross floor area within the Seashore, and new calculations of square footage. The Building Commissioner has reviewed the floor area calculations, and found that only a *de minimis* difference from the applicant's calculation, the application was acceptable as is. The stove in the barn is subject to the verification that it will be removed before the project is completed. Mr. Zehnder said that the Board should not be involved in conditioning the demolition. He asked the Board not to confuse the issue. Mr. Riemer brought up the definition of residential kitchen and asked why we don't use it. Mr. Sollog said that the original approval that the Board granted included the demolition. He thinks the Board should be clear on what they are approving. Mr. Zehnder said that the Board could put in a condition that agrees with the ZBA decision, endorsed August 21st. Ms. Tosh asked Mr. Terkanian about whether the Board is allowed to approve the amended plan. Mr. Terkanian said the differences in the plan are *de minimis*. None of the dimensions changed the project by more than a foot. Ms. Tosh asked how we can be procedurally correct. Mr. Terkanian replied that if you accept the ZBA's finding, you can add language referring to the partial demolition and retaining some of the original structure. Mr. Zehnder said that they would consent to the Board's holding the hearing open in order to substitute the

previously approved site plan with the site plan dated August 21, 2017, with the revised elevations and floor plans, to substitute a new description of the project as a partial demolition with the retention of the historic 23' X 27' Cape structure and with the addition of a condition as imposed by the Zoning Board of Appeals that prior to issuing a CO, the Building Commissioner must verify the stove has been removed from the studio and certify it back to the Planning Board.

Mr. Terkanian read the motion: the applicant agrees to the 8/21/17 site elevation and floor plan with a revised partial demolition and re-construction, with retention of the 23' X 27' Cape structure, with the Zoning Board of Appeals condition that prior to the issue of certificate of occupancy, the Building Commissioner must verify that the stove has been removed from the studio and certify it to the Planning Board. Mr. Boleyn so moved, Mr. Herridge seconded. Mr. Riemer asked about the conditions. The answer was that the original conditions are still listed. So voted, 7-0.

It was agreed to change the order of the agenda and review Ms. Perry's Road Maintenance agreement next.

Endorsement of Definitive Subdivision Plan and Approval of Road Maintenance Agreement

2017-002PB Claire A. Perry, Trustee, has filed an application for approval of a Definitive Subdivision Plan with the Clerk of the Town of Truro pursuant to MGL c.41, §81U and §2.5 of the Town of Truro Rules and Regulations Governing the Subdivision of Land with respect to property located 27 Perry Road, Map 45, Parcel 144. The plan was approved with conditions on July 18, 2017, a certificate of action filed on August 10, 2017 and appeal period expired on August 30, 2017.

Mr. Terkanian explained the new revised Road Maintenance agreement. Mr. Kiernan moved to approve the agreement, Mr. Herridge seconded. So voted 7-0.

The Perry definitive subdivision plan was endorsed by the Board.

Ten minute recess. Agenda was changed in order to go to the discussion of the zoning bylaw proposal.

Open Discussion of Possible Zoning Bylaw Amendments

The Planning Board will seek public comment and will consider possible amendments to the zoning bylaw, including, but not limited to, size restrictions for residential structures in all zoning districts and permitting year round occupancy of condominium units. The Board will consider holding public forums and other means of outreach for obtaining citizen input and whether a subcommittee should be formed to review possible zoning amendments.

Mr. Sollog talked about keeping this on the agenda indefinitely so that the public will have many chances to weigh in. Mr. Herridge spoke and then Mr. Kiernan, who brought up the fact that there two are separate items included in this agenda item. Mr. Sollog said he

agreed that they are separate, and he doesn't want them to be confused. Mr. Terkanian spoke briefly about the fact finding period we are getting into at the moment. Mr. Sollog asked for the Board's feelings regarding year round condominiums. The Town had a vote on the subject a year or two ago and it failed. He asked if the Board is going to vigorously address house size town-wide. Mr. Terkanian said deficiencies may be in what the town wants done in terms of planning and regulating. Mr. Herridge said that this is what people expect of us. It would be good if the numbers could come from the public. Mr. Riemer asked Mr. Terkanian about what happened in Wellfleet. Mr. Terkanian said that some citizens don't want anything that over-regulates. Mr. Riemer said that we got a lot of feedback about citizens wanting house size limits to be town-wide. Another issue is that there is a committee working on a comprehensive plan for the Town of Truro. Mr. Sollog said that there should be an extensive review of this issue. Maybe a survey questionnaire would be in order.

Ann Greenbaum came forward and said that the concept of working from the Seashore bylaw would be a good place to start and would provide consistency. A survey would obtain people's thoughts. Mr. Kiernan said it would be good to have the facts, how many houses of what sizes there are in Truro.

Mr. Sollog will look into a questionnaire, and then a public meeting at the library. Mr. Riemer and Mr. Kiernan expressed an interest in serving on a subcommittee. Questions or concerns could be submitted through the Town website. Ms. Greenbaum said maybe we can reach out to towns that have had this kind of bylaw for a few years. Mr. Sollog said that the initial subcommittee will be Mr. Herridge, Mr. Kiernan and himself for now. The subcommittee cannot exceed three in order to comply with open meeting law. Mr. Sollog said that the year-round condominium issue is something we will have to address as well. It will be brought up in an intense way, so we should be ahead of the curve. Most Board members are not interested in the condo issue right now.

Endorsement of Definitive Subdivision Plan and Execution of Covenant

2016-010PB Stephen Walsh, et al, have filed an application for approval of a Definitive Plan with the Clerk of the Town of Truro pursuant to MGL c.41, §81U and §2.5 of the Town of Truro Rules and Regulations Governing the Subdivision of Land with respect to property located on Walsh Way, Walsh Way Extension and Valentine Lane, Map 43, Parcels 7, 8, 9, 10, 134 & 135. The plan was approved with conditions on July 18, 2017, a certificate of action filed on August 10, 2017 and appeal period expired on August 30, 2017.

The Walsh definitive subdivision plan was endorsed and the covenant endorsed and notarized by the Board.

Review and Approval of Meeting Minutes

August 15, 2017 Regular Meeting

Mr. Kiernan made a motion to approve the minutes of the August 15th meeting as written, Mr. Boleyn seconded. So voted, 5-0-2. Mr. Herridge and Mr. Roderick abstained.

Reports from Board Members and Staff

Acting Town Planner report.

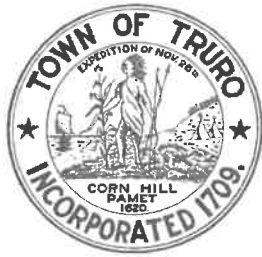
Mr. Terkanian listed the various hearings that will be coming before the Planning Board.

Mr. Herridge made a motion to adjourn, Mr. Boleyn seconded. So voted, 7-0.

Meeting adjourned at 8:25 pm.

Respectfully submitted,

Katherine Black



TOWN OF TRURO

Planning Department

P.O. Box 2030, Truro, MA 02666

Tel: (508) 349-7004, Ext. 127 Fax: (508) 349-5505

hterkanian@truro-ma.gov

To: Truro Planning Board
From: Harry Sarkis Terkanian, Acting Town Planner
Date: September 14, 2017
Re: Acting Town Planner Report

1. Pending Matters for October 3, 2017:
 - a. 2017-007SPR - Lexvest East Harbour. Continued public hearing
 - b. 2015-012PB – Ziller, Irving. Waiver request and complete release of covenant. Action required by October 20, 2017.
 - c. (No docket yet) – Provincetown Water Department. Request to waive commercial site plan review.
 - d. Review of proposed application for Accessory Dwelling Permit.
 - e. Continued discussion of amendments to zoning bylaw.
2. Pending Matters to be scheduled:
 - a. 2017-008SPR – Boyle, Brian. Application for Accessory Dwelling Permit.
 - b. Rose Hill Lane, Becker. 1997 definitive subdivision plan. See correspondence below.
3. Zoning Board of Appeals actions:
 - a. 2016-002ZBA – Cady, Stephanie. Granted one year extension to previously approved special permit.
 - b. 2017-012ZBA – Jansen, Eric. Granted special permit for construction of addition
 - c. 2017-013ZBA – Clark, Chris and Jane. Granted special permit for house size in the Seashore district and modified previously approved special permit for reconstruction of the house.
4. Correspondence:
 - a. Received September 14, 2017. Notice of October 19-21 “Sharing Housing” workshop sponsored by the Town of Yarmouth.
 - b. Received September 14, 2017. Letter from Jon Friedman et al requesting placement of the Becker subdivision on the September 19, 2017 agenda. I have forwarded the letter and a copy of the covenant to Town Counsel.
 - c. Response received from Town Counsel to questions raised during the Clark site plan review.

Honey

DECISION/MOTION OF THE ZONING BOARD OF APPEALS OF TRURO, MA.

Property Owner(s) and/or Applicant(s): Stephanie Cady

Property Location: 123 Shore Road

Atlas Sheet: 32 Parcel(s): 14 (2016-002/ZBA)

Hearing Date: Monday, August 28, 2017

Special Permit	<input type="checkbox"/>	Vote: <u>5</u> Approve
Variance (amendment)	<input type="checkbox"/>	<u>0</u> Disapprove
Building Commissioner Decision	<input type="checkbox"/>	___ Abstain
& Other	<input checked="" type="checkbox"/>	

Motion (Hultin, 2nd Perkel): In the matter of 2016-002, for Stephanie Cady, for property located at 123 Shore Rd., (Atlas Sheet 32, Parcel 14)(2016-002/ZBA))(Certif of Title: 206586, Land Ct. Lot #LCP111740V, Plan #59) the board approves a one year extension on Special Permit granted June 27, 2016.

I hereby certify this as a true and accurate record of the Zoning Board of Appeals:

Debra Perkel chair
Signature

9/8/17
Date

Received, Office of the Town Clerk:

Debra Perkel
Signature

September 8, 2017
Date

I hereby certify that this decision was filed with the Office of the Town Clerk on _____ and 20 (twenty) days have elapsed since the date of filing, and:

No Appeal has been filed.

An Appeal has been filed and received in this office on: _____

Signature

Date

NOTE: Any person aggrieved by a decision of the Zoning Board of Appeals may appeal to the Superior or Land Court by bringing action within twenty days after the decision has been filed with the Town Clerk of Truro. (Massachusetts General Laws, Chapter 40A, Section 17.)

NOTE (2): **APPLICANT/AGENT MUST ACT ON THIS DECISION WITHIN A YEAR**

THE COPY OF THIS DECISION PROVIDED BY THE TOWN CLERK MUST BE FILED WITH THE REGISTER OF DEEDS OF BARNSTABLE COUNTY BY THE APPLICANT.

DECISION/MOTION OF THE ZONING BOARD OF APPEALS OF TRURO, MA.

FB

Property Owner(s) and/or Applicant(s): – Eric Jansen, by agt S.M. Parsons Architects Inc.

Property Location: 7 Castle Road

Atlas Sheet: 50 Parcel(s): 137 (2017-012/ZBA)

Hearing Date: Monday, August 28, 2017

Special Permit	<input checked="" type="checkbox"/>	Vote: <u>5</u> Approve
Variance (amendment)	<input type="checkbox"/>	<u>0</u> Disapprove
Building Commissioner Decision	<input type="checkbox"/>	<u> </u> Abstain
& Other	<input type="checkbox"/>	

Motion (Todd, 2nd Brown): In the matter of 2017-012, for Eric Jansen, for property located at 7 Castle Rd., (Atlas Sheet 50, Parcel 137)(2017-012/ZBA) to approve/grant a Special Permit for the construction of a 30 ft.-6 in.x16 ft.-10 in. addition w/ref to to Secs. 30.7.A, 30.8.C of the Truro Zoning Bylaw, and ref. to C40A Sec. 6, and with ref. to Architectural Plans A-1.0,A-1.1,A-1.2., A-1.3, A-2.1 & A-3.1 by S.M. Parsons Architects, Inc., noting the non-conformity identified is 1 ½ ft. frontage w/ref. to 50.1.A of the Truro Zoning Bylaw. The ZBA Finds said Grant is in keeping with the intent of the Bylaw and not substantially more detrimental to the neighborhood.

I hereby certify this as a true and accurate record of the Zoning Board of Appeals:

Bart Seibel chair 8/28/17
Signature Date

Received, Office of the Town Clerk:

Beck September 8, 2017
Signature Date

I hereby certify that this decision was filed with the Office of the Town Clerk on _____ and 20 (twenty) days have elapsed since the date of filing, and:

No Appeal has been filed.

An Appeal has been filed and received in this office on: _____

Signature Date

NOTE: Any person aggrieved by a decision of the Zoning Board of Appeals may appeal to the Superior or Land Court by bringing action within twenty days after the decision has been filed with the Town Clerk of Truro. (Massachusetts General Laws, Chapter 40A, Section 17.)

NOTE (2): **APPLICANT/AGENT MUST ACT ON THIS DECISION WITHIN A YEAR**

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PB

(1) DECISION/MOTION OF THE ZONING BOARD OF APPEALS OF TRURO, MA.

Property Owner(s) and/or Applicant(s): – Christopher Clark & Jane Clark

Property Location: 1 Higgins Hollow Road

Atlas Sheet: 46 Parcel(s): 289 (2017-013/ZBA)

Hearing Date: Monday, August 28, 2017

Special Permit	<input checked="" type="checkbox"/>	Vote: <u>5</u> Approve
Variance (amendment)	<input type="checkbox"/>	<u>0</u> Disapprove
Building Commissioner Decision	<input type="checkbox"/>	___ Abstain
& Other	<input type="checkbox"/>	

Motion (Dundas, 2nd Thornley): To approve a Special Permit to Christopher Clark and Jane Clark for property located at 1 Higgins Hollow Road (Atlas Sheet 46, Parcel 289)(2017-013/ZBA) for the construction of a 23 ft. x27+/- ft. addition w/ref to to Secs. 30.3.1.A.2 of the Zoning Bylaw, with the Condition: the stove in the existing studio shall be removed; and this shall be certified before the issuance of the Certificate of Occupancy by the Building Commissioner. The ZBA Finds said Grant is in keeping with the intent of the Bylaw and not substantially more detrimental to the neighborhood.

I hereby certify this as a true and accurate record of the Zoning Board of Appeals:


Signature

9/8/17
Date

Received, Office of the Town Clerk:



Signature

September 8, 2017
Date

I hereby certify that this decision was filed with the Office of the Town Clerk on _____ and 20 (twenty) days have elapsed since the date of filing, and:

No Appeal has been filed.

An Appeal has been filed and received in this office on: _____

Signature

Date

NOTE: Any person aggrieved by a decision of the Zoning Board of Appeals may appeal to the Superior or Land Court by bringing action within twenty days after the decision has been filed with the Town Clerk of Truro. (Massachusetts General Laws, Chapter 40A, Section 17.)

NOTE (2): APPLICANT/AGENT MUST ACT ON THIS DECISION WITHIN A YEAR

THE COPY OF THIS DECISION PROVIDED BY THE TOWN CLERK MUST BE FILED WITH THE REGISTER OF DEEDS OF BARNSTABLE COUNTY BY THE APPLICANT.

(2) DECISION/MOTION OF THE ZONING BOARD OF APPEALS OF TRURO, MA.

Handy

Property Owner(s) and/or Applicant(s): – Christopher Clark & Jane Clark

Property Location: 1 Higgins Hollow Road

Atlas Sheet: 46 **Parcel(s):** 289 (2017-013/ZBA)

Hearing Date: Monday, August 28, 2017

Special Permit	<input type="checkbox"/>	Vote: <u>5</u> Approve
Variance (amendment)	<input type="checkbox"/>	<u>0</u> Disapprove
Building Commissioner Decision	<input type="checkbox"/>	— Abstain
& Other	<input checked="" type="checkbox"/>	

Motion (Todd, 2nd Dundas): The ZBA Finds the existing Special Permit decision filed on 6/1/17 (ref:2017-009/ZBA) was for a Building Addition of 28x24 feet; this Permit (ref: 2017-013/ZBA) is issued for an Addition of 23x27 ft. Any discrepancy is de minimus and does not need to be addressed again (ref: Felco Plan (Initially): March 25, 2017 with revisions.

I hereby certify this as a true and accurate record of the Zoning Board of Appeals:

Brad Campbell Clerk 8/8/17
Signature Date

Received, Office of the Town Clerk:

[Signature] September 8, 2017
Signature Date

I hereby certify that this decision was filed with the Office of the Town Clerk on _____ and 20 (twenty) days have elapsed since the date of filing, and:

No Appeal has been filed.

An Appeal has been filed and received in this office on: _____

Signature Date

NOTE: Any person aggrieved by a decision of the Zoning Board of Appeals may appeal to the Superior or Land Court by bringing action within twenty days after the decision has been filed with the Town Clerk of Truro. (Massachusetts General Laws, Chapter 40A, Section 17.)

NOTE (2): **APPLICANT/AGENT MUST ACT ON THIS DECISION WITHIN A YEAR**

THE COPY OF THIS DECISION PROVIDED BY THE TOWN CLERK MUST BE FILED WITH THE REGISTER OF DEEDS OF BARNSTABLE COUNTY BY THE APPLICANT.