

**Truro Planning Board  
Meeting Minutes- November 26, 2013  
Truro Town Hall- 6:00pm**

**Members Present:** Karen Snow (Chair), Bill Worthington, Leo Childs, Nick Brown, John Pendleton, Chris Lucy and Bruce Boleyn

**Others Present:** Charleen Greenhalgh (ATA/ Planner), Steven Sollog, John O'Reilly, Elbert Ulshoefer, John Hopkins, Peter Burgess

Ms. Snow called the meeting to order at 6:00pm

**2013-011 Eleanor A. Widdison, ANR, 40 S. Highland Road**

Representative: John O'Reilly & Associates, Inc.

Mr. O'Reilly stated that this is a reconfiguration of three lots, two of which front on South. Hollow Road. Mr. O'Reilly stated that there are electrical lines located on the property which currently bisect one of the lots. The lots will be reconfigured to allow a ten foot strip of land containing the electrical lines and poles be drawn on the plan. Mr. Brown stated that he has walked the site and understands the reconfiguration. Mr. Worthington asked if the right of way will in the future be used as access to a lot. Mr. O'Reilly stated that is not the intention, this strip is to be used as access for utilities only. The Board discussed the access. Mr. Worthington moved to endorse the Plan of Land in Truro, Massachusetts as Surveyed and Prepared for Eleanor A Widdison, dated November 13, 2013 at 1" = 50', by J. M. O'Reilly & Associates, Inc. as Approval Not Required, and to file said decision with the Town Clerk. Seconded by Mr. Brown voted on and approved 7-0-0.

**Elbert Ulshoefer, Interim Building Commissioner, Zoning Discussion**

Mr. Ulshoefer stated that he is retired but has found a niche providing his services to Towns that find themselves needing a temporary Building Commissioner. He continued, stating that he is not here to change interpretations and/or policies that the Building Department was operating under, that is why he is before the Planning Board to seek the Boards input. Mr. Ulshoefer stated he would like to offer suggestions and one request. There are two places in the Truro Zoning Bylaw that are problematic where people are petitioning for certain uses which are not allowed and yet have been permitted in the past. The first is habitable studio and the second is working studio. Both terms are defined within the definitions but not allowed in the use regulations. There is a long history of allowed accessory use in spite of the bylaw or possibly before the bylaws were changed. His suggestion is to include the accessory uses which are allowed as (incidental or customary use). Mr. Ulshoefer gave examples of the troubling sites he has already visited. He then stated that habitable means "living in", while occupy-able is something else, you can occupy it but you can't live in it.

Mr. Ulshoefer stated a bigger problem is the definition of street; he would like a letter of intent to clearly indicate/state which criteria need to be adhered to for a building permit to be issued. He stated that it is possible to create further or future litigation if a permit were denied using this definition. Mr. Ulshoefer stated that he needs a letter of intent for clarity to determine the conformity of the application and that he will use the entire 30 days available to him in order to make a decision as to the conforming nature of any application that comes before him. He stated that in certain instances he will be very reluctant to issue building permits but he doesn't think

that that was the Planning Boards intent to deny building permits. Mr. Ulshoefer stated he will be working for at least one more month and would like to be able to give specific answers if the intent is clearly stated to him. It could be called a Memorandum of Understanding or a Letter of Intent to make a determination if (it goes to the ZBA or Town Administrator or Town's Attorney), without a decision he will use the grandfathering rights of the lot to make a determination. Mr. Brown stated in some cases the matter is no longer in the Planning Boards hands and he would prefer having the Zoning Board of Appeals make the determination for approval of an application. Mr. Pendleton stated his dismay that this Board has not been able to provide the clarity requested. Mr. Ulshoefer asked the Board to find where the intent was. Ms. Snow stated the Board worked long and hard to provide an answer yet it was not approved by the Town. Ms. Snow further stated that in her opinion it was not the place of the current Planning Board to make a statement regarding the intent of the bylaw that was written, and accepted by the town many years prior to current Planning Board members tenure on the Board. Mr. Ulshoefer stated that the words (not increasing the non-conformity) will be part of his decision making but when a subdivision was laid out showing it did have the required frontage, a permit will be issued. It is the new house that will be caught in this snafu. Mrs. Greenhalgh stated there are many streets that are non-conforming and when building permits are held up because of the street definition the public may finally realize that the Board was acting in the Town best interest as far as the intent to solve this situation. A new house will be captured by this new by-law and be sent to the ZBA. Mr. Ulshoefer stated the only other avenue would be to have the Town Counsel form a letter to provide direction and clarify where the Town stands. Mrs. Greenhalgh stated that she will work with the Building Commissioner to draft a letter to Town Counsel to seek direction for this problem. Ms. Snow asked that the Planning Board and the Board of Selectmen should be in the loop so that the Board of Selectmen may begin to grasp why coordinating a solution to this conundrum is so important.

John Hopkins stated that he owns a parcel of land containing two lots that were created by an ANR. He has a letter that was written prior to his purchase of the land from the building commissioner that stated the lot is buildable. He stated that he also has a note from the building inspector that states the land is grandfathered for a building permit. Mr. Hopkins stated he is still waiting for a permit, if the Town has issues to clear up it should not hold him up any longer. Tom Wingard (former Building Commissioner) has not issued a permit Mr. Ulshoefer has not issued a permit and he has been patient and even if this is a test case he still asks for a permit. Ms. Snow stated again that the Planning Board cannot speak for the intent of the letters or the laws, there are other powers in the Town of Truro that need to understand the seriousness of the issues and then get behind making some changes. Mr. Ulshoefer stated that he will try to make a determination on this case, yet he would still urge the Board to provide some guidance as far as the intent of the existing laws.

#### **David DeWitt, Chairman, Agricultural Commission, Discussion Agriculture Definitions**

Mrs. Greenhalgh stated that Mr. DeWitt had a family emergency is out of town. He asked to move the discussion to Dec. 10, 2013. Ms. Snow asked to move it to Jan.7 as she will not be at the Dec. 10 meeting and she has many concerns with the definitions. Mr. Lucy moved to have the discussion with the Truro Agricultural Commission put on the January 7, 2014 agenda. Seconded by Mr. Brown, voted on and approved 7-0-0.

#### **Review & Discussion of Proposed Zoning Amendments**

**Sign Code Review** Ms. Snow began a discussion on the proposed new §11 Sign Code by reading the changes and making edits with Boards approval. Mr. Worthington asked if the Board has decided to not address the special event definition. Mr. Burgess asked the Board to discuss a case where a vehicle is being used as a sign. Ms. Snow discussed the legality of the issue stating that the vehicle is a commercial vehicle and signage is allowed. Mr. Brown agreed that this should be addressed. Ms. Snow stated that it could be a case of enforcement of the parking plan as shown on the plan. The Board agreed to send the proposed Temporary Sign provisions to Town Counsel for review.

#### **Site Plan Review & Draft Rules and Regulations following Town Counsel's Review**

Mrs. Greenhalgh stated that the Rules and Regulations language will have to be included in the Site Plan Review document. Town Counsel has opined that the Rules and Regs cannot be a separate document outside the Zoning Bylaw. She then began an in depth review of the inclusion of the rules and regulations and the language into the Site Plan Review. Mrs. Greenhalgh worked with the Board to edit the language to effect that change.

**Review of Definitions:** "Retail or wholesale business service"; "Retail Sales"; and, "Industrial or manufacturing use" Light and Heavy industry. The Board discussed the definitions for light industry and manufacturing. Mrs. Greenhalgh suggested that the Board clearly define the crossover point where light industry becomes heavy industry and then make changes to the use table to accommodate the definitions. Ms. Snow asked the Board to pick out a definition by reviewing all the examples and selecting those which best suit the Town of Truro. Ms. Snow stated that some language will be drawn up to provide a usable definition.

**Review and Approval of FY15 Budget:** The board reviewed the budget Ms. Snow made a motion to accept the budget for Fiscal Year 2015. Seconded by Mr. Brown, voted on and approved 7-0-0.

**Review and Approval of Meeting Minutes 11/6/13** Mr. Worthington moved to approve the minutes for 11/06/2013 as amended. Seconded by Mr. Lucy, voted on and approved 7-0-0.

#### **Mr. Brown's Last Meeting**

Ms. Snow thanked Mr. Brown for his years of service to the Truro Planning Board stating that his knowledge, perspective and experience have been invaluable. His presence will be sorely missed. Mr. Brown expressed his gratitude for the eighteen years that he has had the privilege to serve the Town of Truro. The Planning Board wishes it to be known in these minutes that Mr. Brown has served the Town of Truro in an exemplary fashion for many years.

**Adjourn** Ms. Snow adjourned the meeting at 8:04pm

Respectfully Submitted

Steven Sollog