

TRURO PLANNING BOARD

Meeting Minutes

January 5, 2016 - 6:00 pm

Truro Town Hall

Planning Board Members Present: Lisa Maria Tobia; Steve Sollog; Bruce Boleyn; John Riemer; Michael Roderick; Peter Herridge; and John Hopkins

Members Absent: None

Other Participants: Regan McCarthy; Chet Lay, Slade Associates; Bonnie Jean Nuneheimer, Esq; Bruce Bierhans, Esq.; John McElwee; Dick Seed; Danny Duarte; Carole Ridley, Planning Consultant

Ms. Tobia opened the meeting at 6:01 p.m.

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.

Regan McCarthy, Truro property owner came forward and suggested a resource for obtaining deed restrictions and easements and other historical documents related to property.

Modified Definitive Subdivision Plan Endorsement, Release of Covenant and Acceptance of Surety 2015-

011PB Malcolm Meldahl seeks endorsement of a Modification to Definitive Plan for Edgewood Way, approved by the Board on December 8, 2015 and following the expiration of a 20-day appeal period (no appeals were filed). The applicant also seeks a release of covenant recorded at the Barnstable County Registry of Deeds, Book 14422, Page 8, and acceptance of a new security deposit to cover road construction.

Representatives: Chet Lay, Slade Associates, Bonnie-Jean Nuneheimer, Esq.; Bruce Bierhans, Esq.

Ms. Tobia disclosed that she is a member of the Truro Conservation Trust and there was no objection to her participation.

Mr. Lay spoke to the conditions of the Board's December 8th approval of the plan Modification. He provided an update on communications with the Natural Heritage and Endangered Species Program and the status with respect to providing information and determining whether there are any conditions to ensure no take of endangered species. The designated lots have been conveyed to the Truro Conservation Trust.

Ms. Nuneheimer reviewed the release of covenant and work performance guarantee. The guarantee is a cash deposit equivalent to 150% of the cost of the proposed work to be held by the Town Treasurer until the terms of the bylaw are met with respect to release of security.

On a motion by Mr. Roderick and seconded by Mr. Herridge, the Board voted to accept a cash deposit of \$83,680 from Malcolm Meldahl Realty Trust, reference 2015-011PB, in accordance with section 2.5.5c of the Town of Truro Rules and Regulations Governing the Subdivision of Land, as a guarantee of performance of roadways and utilities as shown on a plan entitled "Edgewood Way Supplemental Plan made for Malcolm Meldhal" prepared by Slade Associates and dated September 10, 2015, and in accordance with the Planning Board's conditional approval of said plan, as set forth in a decision filed with the Town Clerk of Truro on December 9, 2015; and further that said cash deposit will not be released by the Town until satisfactory evidence of performance has been demonstrated in accordance with sections 2.5.6 and 2.5.7 of the Town of Truro Regulations Governing the Subdivision of Land, so voted 7-0-0.

On a motion by Mr. Herridge and seconded by Mr. Roderick, the Board voted in consideration of a subsequent modification to definitive plan and associated performance guarantee, to execute form F

Certification of Completion and Release of Municipal Interest in Subdivision Performance Security with respect to the covenant recorded with the Barnstable County Registry of Deeds, Book 14422, Page 8 only, so voted 7-0-0.

On a motion by Mr. Roderick and seconded by Mr. Herridge, the Board voted to endorse a Modification to Definitive Plan for Edgewood Way, conditionally approved by the Board on December 8, 2015 and following the expiration of a 20-day appeal period in which no appeals were filed, so voted 7-0-0.

Preliminary Subdivision Continuance

2015-008PB Secrest Family Trust, seeks approval of a 2-lot preliminary subdivision pursuant to MGL c.41, Section 81-S and Section 2.4 of the Town of Truro Rules and Regulations Governing the Subdivision of Land for property located at 54 Old Kings Highway, Assessors Map 47, Parcels 120 & 20. Continued from November 18, 2016.

Representatives: Duane Landreth, Esq. and John McElwee

Ms. Tobia read a letter from Diane LaFrance opposing approval. Ms. Ridley clarified that all letters are given to Planning Board members and are read into the record upon request.

Mr. Landreth reviewed the subdivision request, the questions raised at the meeting from November 18, 2015 and information provided to the Planning Board to address these questions.

Dick Seed, 37 Outermost Road, came forward to state that Old Kings Highway is a public road but crosses through the National Seashore.

Danny Duarte, 50 Old Kings Highway, reiterated his concern about the difficulty of navigating the road at times and is concerned that approval may set a precedent for bypassing certain zoning requirements. He is opposed.

Regan McCarthy asked for clarification on the impact of the juncture of Higgins Hollow Road and Old King's Highway. She also suggested alternatives to not improving Old Kings Highway. She feels the restriction on the deed is with the land and is intended to be permanent. Ms. Tobia referred to Town Counsel opinion that it does expire in 30 years. Ms. McCarthy disagreed. She also believes that there can be access gained through Union Field. She is very concerned about setting a precedent by allowing alterations to Old Kings Highway.

Attorney Landreth responded to the concerns raised by the public. He reinforced his opinion that the Secrest Family Trust does not have access through Union Field.

Ms. Tobia stated that the issue of the deed restriction is a private matter and not under the purview of the Board. Ms. Tobia also referred to a deed that appears to give a right of way through Union Field Road and suggested the need for a title search to clarify this.

Mr. Riemer would like further exploration of the access through Union Field Road. Attorney Landreth clarified Mr. Riemer's question about frontage and reinforced that the request is for one additional residence. Mr. Landreth further stated that travel on Old Kings Highway does not extend beyond Mr. Duarte's property. Mr. Duarte came forward to disagree stating that there has been increased travel from North Pamet Road direction. Mr. Riemer expressed his concern about safety and setting a precedent for future subdivisions.

Ms. Tobia referred to Town Counsel's opinion that ZBA relief would not be required as the frontage for the Secrest Family Trust does meet the zoning requirements. This was confirmed by Ms. Ridley.

Ms. Ridley also stated that Fire Chief Collins expressed no concerns for safety and fire vehicle access.

Mr. Sollog inquired about the grade and Mr. McElwee stated it is an 8% grade which flattens out at the cul de sac.

Mr. Hopkins asked about how many people own to the center of the road as a way of determining if the access road to the subdivision can handle the amount of traffic based on the number of abutters. He does not feel that the road is adequate and cannot be made adequate. He further stated that he does not see this as a subdivision but a re-division to address some of the historical issues with the property.

Mr. Herridge agreed with the comments made by Mr. Riemer and Mr. Hopkins and is also concerned about the inadequacy of the road in terms of safe access.

Mr. Boleyn also expressed his concern about the safety of the road.

Mr. Riemer moved and seconded by Mr. Herridge that the Board call for a vote for approval of the preliminary subdivision 2015-008PB Secrest Family Trust. Motion did not carry with a vote of 2-5-0. (Mr. Roderick and Mr. Sollog in favor, Ms. Tobia, Mr. Hopkins, Mr. Herridge, Mr. Riemer and Mr. Boleyn opposed, no abstentions).

Ms. Ridley reaffirmed that if there is a denial of the preliminary subdivision, the Board must cite specific reasons. She also noted that a denial would not preclude the applicant from submitting a definitive plan, nor would it bind the Board.

Board members reviewed their concerns around the application. David Seed came forward to express his extreme dismay regarding the Board's concerns as he resides on an unimproved road.

On a motion by Mr. Herridge and seconded by Mr. Riemer, the Board voted 5-2-0 to deny the preliminary subdivision 2015-008PB Secrest Family Trust for the following reasons:

1. The additional traffic from the proposed plan would exacerbate the safety concerns on Old Kings Highway which include a lack of a hardened surface, lack of shoulders, lack of adequate drainage and catch basins, the width of the road does not provide for future improvements such as underground utilities and there is no ability to adequately improve the road
2. Minimum sight distances are not met
3. Massachusetts General Law requires the Planning Board to provide due regard to ensure adequate access, less congestion and compliance with zoning bylaws and coordinate with ways that have a hardened surface when approving subdivisions.

Mr. Roderick, Mr. Hopkins, Mr. Herridge, Mr. Riemer and Mr. Boleyn in favor to deny, Ms. Tobia and Mr. Sollog opposed, no abstentions.

Mr. Landreth requested the Board to also state that one of the reasons for denial was that four of the members believe that access can be gained through Union Field Road despite the affidavit he has provided to the Board. The Board objected to this as a reason for denial and Mr. Boleyn stated for the record that he strongly objected to Mr. Landreth's characterization of his position.

Discussion on Possible Zoning Proposals for 2016 Annual Town Meeting

- Seashore District Zoning
 - o Dick Seed 37 Outermost Road is strongly opposed to the proposed and any possible Seashore District zoning changes.

- Ms. Ridley provided a brief summary of the history of the proposed change and status of the proposal.
- Ms. Tobia strongly urged Board members to solicit input from other members in the Seashore District.
- Ms. Ridley suggested a couple of approaches to solicit further input including holding a meeting or holding a public hearing. The proposed draft has not yet been received back from Town Counsel.
- The Board answered Mr. Seed's inquiry as to why the change is being proposed and thanked him for his input.
- Ms. McCarthy, property owner in the Seashore District spoke in support of the proposed bylaw and believes that this shows the need to address the street definition and general house size restriction. She also offered to assist in providing a forum for discussion on this topic if it is a topic that can be postponed until 2017.
- Growth Management Bylaw (Expires 12/31/16)
 - Ms. Ridley reviewed the growth management bylaw and how it has been implemented since 2006. If it is to continue, public hearings would need to be held in February. Mr. Boleyn would like to see a modification to the bylaw and will provide his thoughts to Ms. Ridley. Ms. Tobia would also like to see a statement of purpose added.
- Amendment to Temporary Sign Bylaw
 - Consideration to the size of temporary signs was discussed.

Review and Approval of Meeting Minutes:

On a motion by Mr. Herridge and seconded by Mr. Riemer, the December 22, 2015 onsite visit minutes were approved, so voted 4-0-3 (Mr. Roderick, Mr. Boleyn and Mr. Sollog abstained).

On a motion by Mr. Herridge and seconded by Mr. Boleyn, the minutes from the December 22, 2015 Planning Board meeting were approved, so voted 6-0-1 (Mr. Sollog abstained).

Reports from Board Members and Staff

Planned workshop with Rae Ann Palmer was confirmed for January 14, 2016 at 5:00 p.m.

Ms. Ridley distributed December building permit report and will bring more information forward regarding two other possible other bylaw proposals that were discussed previously at other meetings.

Ms. Tobia requested a follow up to the accessory use discussion. Mr. Sollog requested more information as to how the accessory use is implemented and Ms. Ridley will investigate.

On a motion by Mr. Sollog and seconded by Mr. Herridge, the meeting was adjourned at 8:31 p.m.

Respectfully submitted,



Shawn Grunwald
Recording Secretary

