

TRURO PLANNING BOARD

Meeting Minutes

May 3, 2016 — 6:00 pm

Truro Town Hall

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

Members absent: John Hopkins (excused)

Other participants: Ben Zehnder, Attorney; Michael F. Winkler and Katherine Winkler, Winkler Route 6 Trust; Glen Pasenen; Mac Hay; Samuel Bradford; Jeff Rose; Jamie Veara, Attorney; Carole Ridley, Planning Consultant

Ms. Tobia opened the meeting at 6:00 p.m.

Public Comment Period

None

Site Plan Review: 2016—001SPR Winkler Route 6 Trust.

Mr. Sollog read the public notice. Mr. Zehnder, representing Mr. and Mrs. Winkler, talked about the history and background of the property in question. A year and a half ago, there was an application to add the use of grinding construction materials. The Town objected and the application was withdrawn. There was activity on site of storing construction materials. The Town initiated a lawsuit to enjoin or stop this activity. The Winklers are applying for the approval of a new site plan to conform with the current situation. There have been some site changes. A structure was removed, as well as a concrete slab. Another structure was removed that was too close to a set back line. Storage bins will be removed in the future and a fuel containment system will be created. Notation for a future office building will be removed, and notations for buildings 5, 6 and 7 will be added. Building 7 will be demolished, 5 and 6 are movable. Certain waivers are being requested, including drainage calculations. Approval of the site plan is not being asked for today.

Mr. Veara discussed more of the site history. In 2009 there was a site plan. There were complaints about the use of this site in 2013. The Town filed suit over a violation regarding the breaking of concrete. There is a court order against crushing of A, B, C material. A new site plan has been submitted and there is an effort to get a clear picture of what is on the property, what is permitted and what is not. There is not yet a final site plan. There is a June date for the court case.

Mr. Herridge said he doesn't have access to the 2009 site plan, so he is not able to see what has changed in this new plan. He asked for details of the lawsuit.

Mr. Veara stated that the lawsuit was brought to put an end to the crushing of A, B , C concrete. Part of the property was in Zone 1 and part in Zone 2. The property needs to be brought into zoning compliance. The Winklers did stop the activity.

Mr. Herridge asked about the many complaints of noise and smell, as well as a nearby motel losing business.

Mr. Zehnder explained that they are not requesting changes in use. The only changes to the site are the addition of fill and grading on the backside of the property near the Motel. A waiver regarding the location of parking spaces is being requested.

Public Comment

Glenn Pasenen, 6 Shore Road, the Stones Throw Condominiums, stated that he feels there needs to be discussion of the Planning Board 72-page packet. There are 42 homes within 500 feet of this site. There are issues of hazardous material. This is a highly residential area. Stones Throw has 28 units that are served by two wells. Mr. Pasenen requested that the Truro Health Agent report on how the industrial property might affect their wells. Mr. Pasenen urged that a decision not to be made too quickly.

McGregor Hay stated that he is one of the owners of the Cape View Motel next door, which they purchased in December 2014. They want to protect the interest in their property, primarily their well. The Winklers have been working with them over complaints of noise. Sam Bradford, partner at the Cape View, stated that the motel is still operating as a motel, not as housing.

Jeff Rose, an abutter, brought up issues about water running off the property in question. He has changed the contour of his property recently. Now water from the Winkler property comes down on his property. Mr. Rose wants that to be taken care of. He asked about the current condition and commercial use of the property.

Ms. Tobia asked if Mr. Rose was going to take measures to stabilize banking. Mr. Rose said yes, but he also wants to put in bark mulch which would be washed out if water continues to run from the Winkler's property.

Mr. Hay said he thinks it should be made clear how much set back is required between properties.

Mr. Herridge thanked Carole for her work on this issue. He stated that the best guideline on this request is expressed in the letters Ms. Ridley wrote to the Winklers, where numerous deficiencies in the site plan were noted.

Mr. Herridge read from the Zoning By-Law. He reminded the Board that if a new site plan is approved, we are saying the site is safe and appropriate and complies with the laws. This site

deals with potentially dangerous substances. At the very least, diesel oil. Provincetown Select Board should be notified on this since it could affect their water.

Mr. Riemer stated his concerns about issues below ground that can't be seen. He stated that the Board does not have expertise on water supply regulations. He discussed the role of the Planning Board in approving site plans. Any contamination would concern both Truro and Provincetown. In order to guide the development of this site, and protect the water supply of Truro and Provincetown, he made a motion that we seek a discretionary referral to the Cape Cod Commission. Mr. Herridge seconded the motion.

Ms. Tobia asked to have the motion withdrawn until the end of the hearing, due to other points that need to be made. Mr. Riemer withdrew the motion.

Ms. Ridley stated that the bylaw allows the Board to hire a consultant, at the applicants' expense. Short of discretionary referral, it is possible to consult with the water specialists at the Cape Cod Commission, and bring specific questions to them or to MassDEP regarding water resources or ground water.

Mr. Riemer expressed further concern for the public water supply, and the Board's lack of expertise on water safety.

Mr. Zehnder stated that they are not asking for permission to do anything new on the site. He said they could restore the site to the condition of the approved site plan of 2009. He discussed the purpose of the site plan review, and the request for certain waivers.

Mr. Herridge read Section 70.3 F2 of the Zoning By-Laws regarding the excessive noise of backup alarms of heavy equipment. A brief discussion ensued.

Mr. Riemer asked the applicants to review photos of the ABC activities and asked if they consider these "best practices." Mr. Zehnder replied that these photos were taken by one aggrieved abutter and those practices have been stopped. Ms. Tobia stated that these documents can be considered at a continuance of the hearing.

Mr. Riemer brought up MassDEP Source Water Assessment and Protection (SWAP) document and asked why Winkler's property isn't listed in this document. The Board agreed to include applicant's response in the continuance of the hearing.

Ms. Tobia stated that the hearing will need to be continued. She summarized the concerns before the Board:

1. Provide current conditions and proposed condition plans and provide a tabular and descriptive comparison of each of those with the approved 2009 plan. Meet all requirements of existing

conditions 70.3(d)(b) (1-8) and proposed conditions 70.3 (d)(c) (1-16) plan including response to comments on the zoning table provided in the letters dated 2/11/16 and 4/22/16.

2. Existing conditions plan should incorporate missing elements, such as the two trailers, located on the SE corner, fuel tanks.
3. Show Zone 2 on the current site plan and proposed conditions plans and document how you have or will achieve compliance with all requirements of Zone 2 and the 185 foot protective radius to the private well.
4. Identify on site plan all locations where petroleum products or other hazardous materials are stored on the site. Demonstrate compliance with 310 CMR, 22.21 (2)(b) (1-7) and any other applicable requirements of the Truro Fire Department. Provide documentation for each container that describes the type, size and volume of container, size and material of pad, material stored, schedule of use and filling of material, whether this is a new, existing or replacement container and a photo. Describe best management practices for replenishing or drawing from the storage tank. Describe the emergency spill protocol.
5. Provide documentation from Natural Heritage as to whether activities have occurred within NEHSP PH15 since the 2009 site plan was approved are considered a take of rare species. It shown to be a take, how will this be remediated.
6. Show to where and by when the storage bins encroaching on the property boundary will be located.
7. Identify specific steps or measures to protect against encroachment of sand pile near the north property line and 185-foot well protective zone.
8. Provide a landscape plan with adequate vegetative screening and buffers to adjacent properties on all sides of the property, including restoration of vegetation on protective radius of the private well. Make notes on the above.
9. Identify parking spaces for commercial structures and provide for the marking and reservation of those spaces on the property.
10. Provide building plans for the proposed office building or remove from the proposed conditions plan.
11. Provide project estimates for all site work and if applicable the proposed office building.

Additional comments:

- Details of the 2009 decision needed.
- Requested that Pat Pajaron, Health Agent, be present at the next meeting.
- Citizens asked for more definitive site set backs and lines.
- Some clarity needed on current condition use and commercial use.
- Drainage around the boundaries to prevent run off on the adjacent properties needs addressing.
- A water specialist consultant: Ms. Ridley recommended to the Board that she contact Cape Cod Commission Water Resources Department and ask them to review the plan and comment.

Mr Zehnder asked to see and review the response from the Commission prior to the next meeting. He asked that the waivers that have been requested be considered or at least noted.

- First, the waiver for the drainage calculations was discussed. Applicants should consider measures, berms, retaining areas for water to address abutters concerns about run-off.

- Waiver request on parking and walkways. Parking is not delineated on the plan. Parking is all over the site. Indicate on the plan where parking is located. Note the handicapped parking. Marking the parking places is not possible on dirt.
- Waiver on lighting. Lights need to be off or low at night.
- Waiver on utility lines. The well needs to be shown on the plan.
- Waiver on conditions plans and notations on buildings.
- Waiver on landscaping and natural vegetation, which could be added to the site plan. Ms. Ridley spoke about the condition of speaking with Natural Heritage re: endangered species priority habitat area which could affect landscaping on the northern side where the well perimeter is located, if they are seeking restoration of that area.
- Waivers for building plans and project estimates.

Mr. Sollog made a motion to continue the hearing to July 19th, 2016, 6 p.m. Mr. Boleyn seconded, the hearing was continued, so voted, 6-0-0. The applicant agreed to send a written request to extend the period of the Board's action.

Temporary Sign Permit

Payomet Performing Arts Center, seeks approval for two Applications for Temporary Sign Permit pursuant to #11 of the Truro Sign Code two (2) temporary 48" high by 36" wide signs (March 16—April 15, 2016) for various events in two locations (Route 6 at Noons Heights Road and Route 6 at South Highland Road), and one (1) temporary 9" x 39" located 48" off the ground at the intersection of So. Highland and Old Dewline Roads.

Mr. Sollog mentioned that the dates are incorrect and offered to recuse himself since he works for Payomet, if necessary. Mr. Herridge made motion to approve the signs, Mr. Boleyn seconded, so voted, 6-0-0. However there was still public comment to be heard.

Public Comment

Jeff Rose stated that one of the signs obstructs the view coming out of Noons Heights Road onto Route 6. After discussion, Mr. Herridge retracted his original motion. Ms. Tobia moved to reconsider the vote and approve the signs with the condition that the Noons Heights sign should be moved to the north to improve the site line. Mr. Herridge seconded, so voted, 6-0-0.

Review and Approval of Meeting Minutes

April 12, 2016 Planning Board Workshop

April 12, 2016 Planning Board Meeting

Mr. Boleyn made a motion to approve the workshop minutes, Mr. Herridge seconded, so voted, 6-0-0. Mr. Sollog moved to approve the meeting minutes as amended; page 3, 6th paragraph add the word "meeting" to read Annual Town Meeting. Mr. Herridge seconded, so voted, 6-0-0.

Reports from Board Members and Staff

- Discussion of FY17 Planning Board Goals

- Board of Selectmen meeting to discuss goals — May 24, 2016
- Workshop with Town Counsel

Mr. Herridge made an addition to the Board Goals to reconsider the issue of the Zoning amendment for the Seashore District.

Ms. Ridley spoke about the meeting Tuesday, May 24th. The Board of Selectman has invited the chairs of the Town Boards to meet with them to discuss goals. It would be important to have the Planning Board goals available for that meeting.

Mr. Herridge moved to approve the reports with the addition of the issue of the Zoning amendment. Mr. Boleyn seconded, so voted 6-0-0.

Workshop with the Town Counsel, May 25th at 3:00 pm, might be at the Public Safety room. Requested that there could be air conditioning. Mr. Riemer asked if the Building Commissioner could be invited. Ms. Ridley will ask the Town Administrator. Case studies for subdivisions will be discussed at this meeting, and at a subsequent meeting site plans can be addressed.

Mr. Herridge moved to adjourn, Mr. Boleyn seconded, so voted 6-0-0, at 7:45 pm.

Respectfully submitted,



Katherine Black
Recording Secretary

