

TRURO PLANNING BOARD

Meeting Minutes

July 19, 2016

Truro Town Hall

**Planning Board Members Present:** Bruce Boleyn, Jack Riemer, Mike Roderick, Steve Sollog, Lisa Maria Tobia. Absent (excused) Peter Herridge, John Hopkins.

**Other participants:** Chet Lay; Ben Zehnder, Attorney; Mike Winkler; Jeff Rose; Kathleen Farley; Linda Noons Rose; Jamie Veara, Attorney; Tim Brady; Regan McCarthy; Glen Pasenen; Carole Ridley, Planning Consultant.

Ms. Tobia opened the meeting at 6 pm.

There was no public comment.

**Temporary Sign Permits**

Mr. Boleyn made a motion to approve the application submitted by the Friends of Truro Library for a temporary sign permit to install two signs including a 2.5' high by 6' wide banner on the frame at Rt 6 and 6A, and a 18" high by 27" wide yard sign at Snows Park across from Jams, to publicize a Book Sale to be held on August 10, 2016. Mr. Sollog seconded. So voted, 5-0.

Mr. Boleyn made a motion to approve the application submitted by Payomet (#1) for a temporary sign permit for two double faced signs, each measuring 48" high by 36" wide. One sign to be located on Route 6 at Noons Height Road and the other on Route 6 at South Highland Road. The signs would be in place from Sept 16-Oct 15, 2016. Mr. Roderick seconded, so voted, 5-0.

Mr. Boleyn made a motion to approve the application submitted by Payomet (#2) for a temporary sign permit for a double spaced 39" wide by 9" high (on a post for a total height of 48") directional sign. The sign is to be located at the South Highland Road and Old Dewline Road intersection. The sign would be in place from Sept 16-Oct 15, 2016. Mr. Roderick seconded, so voted, 5-0.

**Approval Not Required - Continuance**

**2016-006PB Dorothy M. Nearen and Marilyn B. Cubberly**

Mr. Sollog made a motion to continue the consideration of the ANR application 2016-006PB Dorothy M. Nearen and Marilyn Cubberley to the meeting of August 16, 2016, by request of the applicant. Mr. Boleyn seconded, so voted, 5-0.

**2016-008PB Leslie A. Williamson, Lynn T Williamson and Merle T. Olson**

Mr. Chet Lay explained the applicant's request. The ANR would add lot area to Parcel 39-101. Mr. Sollog made a motion to approve that Priest Road shown on the ANR plan, provides safe and adequate access and to endorse the plan entitled "Division Plan of Land in Truro" made for Leslie A. Williamson, Jr., Lynn T. Williamson, Merle T. Olson by Slade Associates, Inc., dated February 26, 2016, revised June 6, 2016 and July 12, 2016 at scale 1"=20', signed by Chester

Nimitz Lay on July 12, 2016, as Approval Not Required, and to file said decision with the Town Clerk. Mr. Boleyn seconded. Mr. Riemer declined comment since he said he owns property on Priest Road. So voted, 4-0-1, Mr. Riemer abstained.

#### **2016-009 Richard McArdle**

Mr. Lay explained the applicant's request. Ms. Tobia stated that the Planning Board's endorsement is only to confirm that this is not a subdivision. Mr. Riemer asked whether informational requests raised in a letter from Ms. Ridley to Mr. Lay had been addressed. Mr. Lay reviewed the issues and how they had been addressed, regarding location of the buildings, setbacks, access to N. Pamet Road from Route 6, and AE zone labeled. Mr. Boleyn made a motion that North Pamet Road and State Highway/Route 6 shown on the ANR plan, provide safe and adequate access and to endorse the plan entitled "Division Plan of Land in Truro" made for Richard McArdle by Slade Associates, Inc., dated March 17, 2016 at scale 1"=50', signed by Chester Nimitz Lay on July 12, 2016, as Approval Not Required, and to file said decision with the Town Clerk. Mr. Roderick seconded, so voted 5-0.

#### **Public Hearing - Commercial Site Plan Review - Continuance**

##### **2016-001SPR Winkler Route 6 Trust, Michael F. Winkler, Trustee**

This is a continuance of a public hearing that was opened on May 3, 2016. The applicant requested to extend the period of Board action to 14 days following the July 19th meeting. If this matter is continued further, an additional extension request will be needed from the applicant. Ms. Tobia noted that the following Planning Board members participated in the hearing when opened on May 3, 2016: Tobia, Sollog, Riemer, Herridge, Boleyn and Roderick.

Mr. Zehnder spoke about Ms. Ridley's memo to the Board to recap the issues. The abutter at the Cape View Motel had issues with the sand pile, which was moved. The storage bins were moved off the property line; documentation has been provided. The owner of the motel asked for screening trees to be planted along the northern lot line. The plan will be revised to show the screening trees.

#### **Public Comment**

Jeff Rose, abutter, raised an issue about run-off from the Winkler property on to his property, and requested that the issue be addressed. Mr. Zehnder noted that, due to natural grade, there has always been run-off from the Winkler property and that recent work on Mr. Rose's property has exacerbated the issue of erosion from the run-off. Mr. Rose noted that at a 2014 Town Meeting, (April 29) a by-law was approved, Article 27, such that drainage shall not damage any existing well field or public water supply. Mr. Rose wants to be sure his bark mulch won't continue to be washed out. Mr. Boleyn asked Mr. Rose what solution he would propose. Mr. Rose indicated that he would like a berm to be placed by Mr. Winkler, a foot and a half high. Mr. Sollog suggested that the two parties resolve this between them. Since this is not a new problem, there may not be anything the Planning Board can require. Ms. Ridley will research the regulation of article 27 from the 2014 Town Meeting.

Mr. Zehnder stated that Mr. Rose dropped the grade by five feet and blocked access to a road, without letting Mr. Winkler know, thus creating the problem.

Kathleen Farley asked about commercial use regarding noise level and operations on Sundays and holidays. Ms. Ridley said there are no Truro regulations governing hours of operation. Ms. Farley also asked about the curb cut onto Route 6 and whether it is permitted. Mr. Zehnder responded regarding the curb cut. The June 9, 2009, Planning Board meeting was noted at which time Mr. Winkler was advised to apply for a curb cut permit. Discussion was held regarding noise of back up alarms and holiday and Sunday hours of operation. Mr. Winkler said that he would limit operations on Sundays and holidays. It was noted that this could be a condition of approval.

Linda Noons Rose asked further about their request for a berm. She stated that she and her husband did not create the problem. Everyone was sent information before the work was done on the grade. Ms. Rose discussed the history of the drainage issue. Mr. Zehnder stated that Mr. Winkler will regrade that side of the property and put in a berm so that the run off is redirected into the vegetation. It will be documented on the plan by the next meeting.

Mr. Roderick asked that the berm be included in the list of conditions. Mr. Riemer asked if everyone had reviewed the 2009 approved plan. Ms. Ridley will send out copies to all Board members.

Mr. Riemer asked about the uses that are an issue of the case in Superior Court. Mr. Zehnder explained that the court case is regarding a use that is no longer occurring. Mr. Veara spoke on the two issues before the court, the violation of grinding ABC materials, and items on the site are different than what was originally approved. The case doesn't turn on the use, since the grinding of ABC materials is no longer occurring. The case is on hold until the applicant can get site plan approval. Mr. Zehnder stated that with a new site plan approval, the court case will be dismissed. Ms. Ridley stated that, in order to meet the criteria 70.3.F.1 of Site Plan Review, the Board should be convinced that the current activities occurring are allowed or that they are a pre-existing nonconforming use.

The storage bins, setbacks and building #11 issues are not yet resolved. Ms. Ridley will check with the building inspector on the setbacks of the bins and building #11. .

Ms. Tobia read from the following:

F. Review Criteria/Design Guidelines

The Planning Board will review applications and their supporting information based on the following:

**1. The proposal is in conformity with all applicable provisions of the Zoning Bylaw.**

Ms. Tobia noted that the Site appears to conform to lot area, frontage, building height, and parking.

Setbacks are not met with respect to the storage bins (25 ft required) and building 11 (25 ft required). Building 11 and bins would need to be moved in order to comply with setbacks.

- 2. The proposal provides for the protection of abutting properties and the surrounding area from detrimental site characteristics and from adverse impact from excessive noise, dust, smoke, or vibration higher than levels previously experienced from permitted uses.**

Ms. Tobia noted that the vegetative buffer within the 185' private well radius should be restored. The applicant has agreed to additional vegetative screening along the northern property line, and this will be shown on a revised plan. Along the southwest buffer, run-off concerns voiced by adjacent property owner at 6 Noons Heights Road will be addressed by a berm to be added to a revised plan. Regarding noise, she noted that reasonable limitations on the hours of operation for heavy equipment (excluding Sundays, holidays and excessively early or late hours) could be considered.

- 3. The proposal provides for the protection of adjacent properties and the night sky from intrusive lighting, including parking lot and building exterior lighting. Lighting must be consistent with Chapter IV, Section 6 of the General Bylaws of the Town of Truro.**

Ms. Tobia noted that outdoor lighting has been added to the plan. A list of fixtures documenting compliance with dark sky requirements for outdoor lighting and Chapter IV, Section 6 of the General Bylaws of the Town of Truro should be provided to the Planning Board.

- 4. The proposal provides for the protection of significant or important natural, historic, or scenic features.**

Ms. Tobia noted that the applicant has provided a letter from NHESP indicating that site activities do not result in a take of rare or endangered species

Regarding scenic concerns, additional screening could be provided along Route 6. Ms Tobia requested that the applicant consider removal of trailers or other unsightly bins/units if not in use. Mr. Zehnder stated that many of these bins have been removed.

- 5. The building sites shall minimize obstruction of scenic views from publicly accessible locations; minimize tree, vegetation, and soil removal and grade changes; and maximize open space retention.**

- 6. The proposal adequately provides for refuse disposal.**

Ms. Tobia noted that no dumpster is shown on the plan. Request that applicant describe refuse handling on the site and show on the plan as appropriate. Mr. Winkler responded and will take care of this.

- 7. The proposed sewage disposal and water supply systems within and adjacent to the site shall be adequate to serve the proposed use.**

Ms. Tobia noted that the Cape Cod Commission has noted that sanitary facilities may not be available across the entire site. The applicant should confirm that all applicable Board of Health requirements for sanitary facilities and wastewater treatment on the site are met. Mr. Zehnder and Mr. Winkler pointed out the Title V leach field/ pit on the plan.

- 8. The proposed drainage system within the site shall be adequate to handle the runoff resulting from the development. Drainage run-off from the project shall not: damage any existing wellfield(s) or public water supply; damage adjoining property; overload, silt up or contaminate any marsh, swamp, bog, pond, stream, or other body of water; or interfere with the functioning of any vernal pool.**

Ms Tobia noted:

- The site is within a Zone 2 and a portion of the property is within a 185-foot radius of a private well. There are numerous private wells serving surrounding properties.
- There are three fuel storage tanks. The applicant should meet all requirements of Truro Board of Health Regulations Section II, Fuel Storage Regulations, and Massachusetts Wellhead Protection Regulations 310 CMR 22.21(2). Documentation of compliance with these regulations, in the form of a letter from the Health Department and/or MassDEP, and documentation of fuel tank inspections should be provided to the Planning Board as part of the site plan application. Fuel tanks should be inspected as required under these or other state or town regulations.
- Long term storage of demolition material should not occur in the Zone 2. If demolition is a regular part of the business, the applicant should maintain construction demolition notification forms. If construction materials that could contain lead paint or pressure treated wood are stored on the site, these materials should be covered so that rainfall does not result in leaching.

Discussion was held about inspections. Mr. Brady responded to these issues and referenced a letter from him. Documentation is needed, which Ms. Ridley will follow up on with the Fire Chief and DEP.

Mr. Boleyn asked about the four parking spaces in front of the garage doors. If the doors are in use, the parking is not safe. Mr. Zehnder and Mr. Brady responded that the work site is adjusted to prevent an issue. Employees park elsewhere when the doors are in use. This is not an area where members of the public come to park. Using bumper stops could cause a safety problem because they could be moved or become a plowing hazard.

Mr. Riemer brought up the issue of retail activities on the property. There is no retail at this time.

- 9. A soil erosion plan shall adequately protect all steep slopes within the site and control runoff to adjacent properties and streets both during and after construction.**

Ms. Tobia noted that building material, soils or rocks/stones stored or stockpiled on the site should be covered to avoid siltation, or leaching from the rainwater on the materials.

**10. The proposal shall provide for structural and/or landscaped screening or buffers for storage areas, loading docks, dumpsters, rooftop or other exposed equipment, parking areas, utility buildings and similar features viewed from street frontages and residentially used or zoned premises.**

**11. Buildings and structures within the subject site shall relate harmoniously to each other in architectural style, site location, and building exits and entrances. Building scale, massing, materials, and detailing should be compatible with the surrounding area.**

Ms. Tobia noted that the site contains numerous types of structures, some of which are in a dilapidated state. The applicant is asked to remove any trailers or other buildings not currently in use.

**12. Electric, telephone, cable, and other such utility lines and equipment shall be placed underground.**

Ms. Tobia noted that some but not all utilities are located underground. The Board could condition any future work on the site to the placement of utilities underground.

**13. The project shall not place excessive demands on Town services.**

**14. The location and number of curb cuts shall be minimized to reduce turning movements and hazardous exits and entrances. Where appropriate and allowable, access to adjoining properties shall be provided. Joint access driveways between adjoining properties shall be encouraged.**

Ms. Tobia noted that an abutter has requested documentation of the curb cut on to Route 6. Existing curb cuts on to Noons Heights Road and Route 6 are shown on the plan and should not be altered without proper permits from the Board of Selectmen and/or MassDOT, and modification of site plan review.

Mr. Winkler stated that he did not create the curb cut on Route 6. He can block it if necessary.

**15. Convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent and other ways serving the project shall be maximized. Traffic patterns for vehicles and pedestrians must show safe and adequate circulation within and access to and from the site.**

Note: The plan shows a total of 30 parking spaces: 10 spaces including 1 dedicated handicapped space along the eastern face (front) of building 3; 8 spaces between building 3 and buildings 1&2 and 12 spaces between buildings 1&2. A sign should be installed to mark the handicapped space. Since buildings 1&2 house retail activities, it would make sense to have a handicapped space in that area of the site. Since parking spaces cannot be striped,

bumper stops should be provided. Parking space should remain in the area designated on the plan and not relocated on the site.

Mr. Riemer asked if parking places will be marked or curb stops placed. Mr. Zehnder stated that the property doesn't lend itself to marking spaces, and curb stops are not appropriate. Mr. Zehnder stated that he feels the parking situation is safe. Mr. Riemer asked if the changes have been recorded at the Registry of Deeds.

**A bicycle rack(s) shall be provided on the site and shall be located near the entrance to the building(s)**

Ms. Tobia noted that this condition does not appear applicable, and could be waived if a waiver is requested.

Mr. Zehnder reviewed the issues they are taking care of: the berm, vegetation on the norther boundary, bins meeting set back requirements, the dumpsters, fuel tank issues, lighting, fence blocking curb cut, and requests for waivers.

Ms. Regan McCarthy asked for clarification about the 2009 plan and how it relates to the 2016 plan. Ms. Ridley explained that the current plan will be considered for approve-ability with conditions. Ms. McCarthy went on record to say that she feels the curb cut is a safety issue, especially in the winter. She then asked about the potential for retail on the site. Mr. Winkler stated that any new tenant would comply with zoning law. Ms. McCarthy asked further about commercial versus retail and asked if retail is being conditioned in this site plan. Ms. Ridley retail is permitted within this zoning district.

Mr. Riemer discussed the changes on the 2016 plan from the 2009 plan. He also brought up the pending court case, the Cape Cod Commission involvement and water issues.

Mr. Boleyn asked about the letter of April 22 and if all questions were answered. Ms. Ridley brought up the need for certain waivers. The waivers would need to be provided in writing. She also said she would need an extension request from the applicant and a date for a continuance. She also brought up the need for another site visit. It was agreed that a site visit would occur once changes had been made, and prior to the next meeting.

Mr. Glen Pasenen, from Stones Throw Condos, asked for further clarification about what it will mean if this new plan is approved. He wanted to know why the court case has not been resolved. The Planning Board responsibilities were explained, as were those of Zoning, by Mr. Zehnder and Mr. Veara. Mr. Riemer asked for buildings that have been condemned be listed that way on the plan

Ms. Ridley asked for an extension request from the applicant and a date for continuance. September 6th was agreed upon for the meeting date, and September 20th for the extension of Board action.

Mr. Sollog moved that the public hearing be continued to September 6, Mr. Boleyn seconded. So voted, 5-0.

### **Review and Approval of Meeting Minutes**

June 21, 2016 Planning Board Meeting. Corrections: on page 3 at the top there is need for a period. Mr. Boleyn's name is misspelled on the first page, first paragraph. On the 4th page, #9, fifth line, an abstract period needs to be removed. Mr. Sollog made a motion to approve the minutes with corrections, Mr. Boleyn seconded. So voted 5-0.

### **June 28, 2016 Planning Board Joint Meeting with Board of Selectmen**

Ms. Ridley made a correction to add the time, 5:00 pm. Mr. Boleyn moved to approve the minutes as amended. Mr. Sollog seconded. So voted, 5-0.

### **July 12, 2016 Planning Board Joint Meeting with Board of Selectmen**

Mr. Boleyn moved to approve the minutes, Mr. Sollog. So voted, 3-0-2. Mr. Riemer and Mr. Roderick abstained.

### **Reports from Board members and staff**

Ms. Ridley waived her report. Ms. Tobia asked if the Board would consider moving the meeting time to 5:00 pm instead of 6:00 pm. Ms. Ridley asked if the Board would be interested in changing the day. Ms. Ridley will explore options for changing the meeting time to 5 pm..

### **Meeting Dates and Other Important Dates**

August 2, 2016 – Regular Meeting

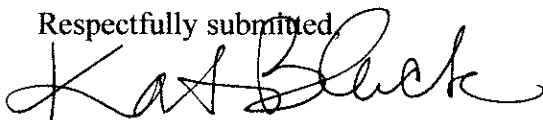
August 16, 2016 – Regular Meeting

September 6, 2016 – Regular Meeting

September 29, 2016 – Regular Meeting

Mr. Sollog made a motion to adjourn, Mr. Boleyn seconded. So voted, 5-0. Meeting adjourned at 8:17 pm.

Respectfully submitted



Katherine Black

