

TRURO PLANNING BOARD

Meeting Minutes

October 3, 2017 – 6:00 p.m.

Truro Town Hall

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

Other participants: Amy Rolnick, Joanne Barkan, Cody Salisbury, Provincetown Water Superintendent; Chet Lay, Slade Associates; Attorney Lester J. Murphy, Jr.; John Friedman, Katherine Black, Harry Terkanian, Interim Town Planner; Cally Harper, Town Planner.

Mr. Sollog opened the meeting at 6:03 pm.

Public Comment Period

Amy Rolnick asked whether public comment would be allowed on the Rose Hill Lane agenda item. Joanne Barkan asked whether the first thing in the discussion of the Rose Hill Lane project would be whether or not to continue the discussion to a future date. Mr. Sollog said that he understood their concern and didn't want them to have to wait, if there would be no opportunity to speak tonight. However, he wasn't able to provide an answer one way or the other.

Request for Waiver - Commercial Site Plan Review

2017-009SPR Town of Provincetown Water Department requests a waiver of Commercial Site Plan review pursuant to §70.9 of the Truro Zoning By-Law. This property is located at 143 Shore Road, Assessor's Atlas Map 19, Parcel 1.

Cody Salisbury, with the Provincetown Water Department, explained the request for waiver and the need to enclose the water treatment plant. Mr. Sollog asked whether it is in a habitat area, and whether there is an intention to cut trees. Mr. Salisbury said no trees would be disturbed. They will put in a gate, and an 8 foot chain link fence. Mr. Kiernan brought up the need to coordinate with the Health and Conservation Departments. There could be issues for endangered species. Ms. Harper suggested granting the waiver and conditioning that they work with the Conservation Commission. Mr. Kiernan said he has a hard time approving the project without having the paperwork in front of him. He asked the applicant if he is willing to go to the Conservation Commission and Board of Health, and then come back before the Planning Board. Mr. Herridge said he would also like the documentation first. Mr. Sollog asked if there is anything else the Board might need from the applicant. Mr. Kiernan made a motion to continue the hearing until Nov 8, 2017, Mr. Boleyn seconded. So voted, 7-0.

As Built Plan Approval, Waiver Request and Covenant Release Request

2015-012PB Irving Ziller seeks approval of as built plan including as built road grade, waiver of one year growth requirement and complete release of covenant. The property is located at 1 & 1A Quail Ridge Road, Assessor's Atlas Map 43, Parcels 27 & 28.

Chet Lay spoke about the release of covenant being requested by his client. A letter was read by Mr. Sollog from Jarod Cabral, DPW director, regarding Ziller Path, stating that there is adequate drainage for this road. Mr. Kiernan talked about wording regarding the Building Commissioner's statement. There is a waiver for the construction of a circular turn around; a T-turn is planned instead. This involves a zoning bylaw, not a regulation, which Mr. Kiernan stated the Board cannot waive. It is not only a driveway, but a road to be used for frontage. Mr. Sollog said this was discussed at previous Planning Board meeting and was approved. Mr. Kiernan said there are safety issues. Mr. Sollog countered that the DPW Director has given his approval. Mr. Riemer said he would rather not be "nose down" at an intersection. Mr. Lay said that his client has an approved plan and his is a perfectly safe driveway. Ms. Harper made reference to Carole Ridley's file on this plan and her meeting with the Building Commissioner. Mr. Riemer said that some of the Planning Board were at a workshop when Town Counsel stated that he does not favor a Building Commissioner making such decisions. Mr. Lay reminded them that this is just about a driveway. Ms. Barkin came forward and said she thinks the solution is to follow the bylaw as closely as possible, because otherwise the Town gets into trouble. Mr. Sollog said that some Board members feel that this driveway has to be asphalt. He objects to "paving" Truro. He reiterated that this plan was already approved.

Mr. Sollog made a motion that the "as built" for Ziller Path as prepared by Slade Associates, August 28, 2017, be approved, Ms. Tosh seconded. Mr. Boleyn asked about the difference between a road and a driveway. A partial vote was taken, i.e., three voted in favor of the motion (Mr. Sollog, Ms. Tosh and Mr. Roderick), but there was not a call at this time for those who were opposed. Further discussion occurred. Mr. Herridge said he thinks we should adhere to the rules. Mr. Lay said we are just asking for the covenant to be released. Mr. Kiernan said that as approved, the plan doesn't provide frontage. Mr. Terkanian said the plan is an approved plan. The question came up again as to whether the Planning Board can waive a by-law.

Mr. Riemer said there is a question about the driveway shoulder construction. Mr. Herridge said it would not be good to try to reverse a Board decision. Mr. Herridge talked about the general principle that rules have not been strictly enforced in the past. Given that this plan has been approved, we should follow through. The point made by Mr. Kiernan is a very good one, however. The turn-around should be a circular one. Mr. Sollog spoke about the bylaws being rewritten. Mr. Lay asked for a revote. Ms. Tosh made a motion to reconsider the vote. Mr. Sollog seconded the motion. Mr. Riemer said he wants to return to the discussion of the circular turnaround. He thinks we should reconsider the approval the Planning Board granted. We should not be in violation of a zoning by-law. Ms. Tosh asked if the lot has been sold. The answer was that it has been transferred. Mr. Lay asked what the Planning Board wants. Mr. Kiernan read the by-law. Mr. Kiernan said he would be satisfied if the client is willing to meet

the minimum requirements of the by-law and prove that it is safe. The driveway serves one lot and is called a road, but it behaves as a driveway. Mr. Boleyn said that if it is driveway, it can't be used as frontage. Mr. Herridge said if we don't have the right to waive a by-law, that would be a problem. Discussion continued about cul-de-sacs and dead-end streets. The Board does not have the legal right to waive the cul-de-sac.

Mr. Terkanian said there is a 45 day limit for the Board to act, so by October 20th the Board must act on this, otherwise it is deemed to be released by operation of law. Mr. Kiernan asked how further waiver requests come into play. Mr. Terkanian said that it is simply a matter of law. Further discussion occurred. Mr. Lay asked if his client put in a cul-de-sac, puts a negative grade in and knocks the hump off, would they be satisfied. Mr. Kiernan and Mr. Herridge said they would, although Mr. Herridge said it would make the road uglier. Mr. Kiernan would also like hardening put on the shoulders. He also mentioned that the road lacks drainage and may be extended at a future date. He would like for this road to be safe.

Mr. Kiernan moved to continue the hearing to Oct. 17, Mr. Herridge seconded. Mr. Sollog said he thinks the Board is putting itself in jeopardy. So voted, 7-0. Mr. Kiernan asked if we could send our current definition of street to the Town Attorney for clarification. It refers to three design standards. If there is no turn around, there is no frontage because there is no road. Mr. Sollog said he thinks that the Board has been unfair to this applicant. Mr. Kiernan made a motion to ask Counsel for clarification on the definition of streets, Mr. Herridge seconded; discussion continued. Mr. Riemer referenced the workshop last year, the definition of street that b, c and d are part of the by-law. Town Counsel said they are part of the by-law, even though they are referenced as design standards.

Mr. Kiernan said that we have a motion to send this to Town Counsel. Mr. Herridge said we may have made mistakes in the past, we need to know what we can waive and what we cannot. Mr. Kiernan called for a point of order, which would stop all discussion. Mr. Terkanian explained what a point of order is and what it is not. The individual should state his point of order and the chair should make a decision. Mr. Kiernan said there is a motion and a second, can we have a vote? Mr. Terkanian said that that is not a point of order. Mr. Sollog then called for a vote to pass the request to have an opinion from Town Counsel on to the Town Manager. So voted, 4-3. (Mr. Sollog, Ms. Tosh, and Mr. Roderick opposed.)

Continued 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 and September 5, 2017.

Attorney Lester Murphy spoke briefly about the request to continue the hearing to October 17, in order to redesign parking that is safe and adequate. Mr. Kiernan asked if we had heard back from Town Counsel on the request regarding condominiums and motel rooms. Town Counsel has not responded as of yet. Mr. Herridge made a motion to continue the hearing to October 17, 2017, Mr. Boleyn seconded. So voted, 7-0.

Discussion of Letter from Abutters – Rose Hill Lane

Discussion of correspondence from abutters regarding status of approved subdivision.

Continuance request received from property owner. The property is located at 3, 5, 7 Rose Hill Lane, Assessor's Atlas Map 54, Parcel 33.

Ms. Harper spoke and said she had reached out to the Beckers about the letter from the abutters. The son of Mr. Becker asked for a continuance. They said they won't do any work until it is cleared by the Planning Board. They don't have engineering plans yet. Mr. Riemer said he needs to recuse himself. Mr. Kiernan mentioned that he is an abutter to an abutter, within 300 feet. Mr. Terkanian has recused himself, due to having represented the applicant in the past. Mr. Kiernan recused himself and Mr. Boleyn recused himself.

Ms. Tosh said it seems we are continuing just a discussion. She brought up the subject of whether this project should instead be subject to a public hearing, so we have something to act on. The question was, should we amend or rescind this plan. She said she was willing to make a motion to this affect or to allow the abutters to come forward and make such a request for a public hearing. Mr. Herridge agreed. Ms. Harper weighed in on the Board options. Ms. Tosh spoke again about whether the plan would need revisions in order to comply with current by-laws. She reiterated that continuing a discussion would not be an efficient use of anyone's time.

Joanne Barkan asked if they can petition tonight to trigger the Public Hearing process. She explained that they are asking for a complete review of the 20 year plan in order to determine if it is still valid. They want the plan reviewed. She asked about the 45 day limit. Mr. Terkanian answered that until they open the public hearing there is no time constraint. Ms. Barkan asked what would be the correct procedure for them as abutters. She was told that she should file with the Town Clerk. Mr. Herridge moved that we rescind or revoke the subdivision plan and trigger a public hearing, Ms. Tosh seconded. Mr. Roderick said that if we rescind the plan, at least we will get their attention. Ms. Harper said that then you would have a public hearing in which you would move to amend or rescind the plan. She also wanted to let the Board know that the Beckers have been responsive, but they couldn't be here tonight. The Planning Board has decided to trigger a Public Hearing. The abutters can petition, but they need a mechanism. Voted was taken, 4-0-3 in favor of the motion. (Mr. Boleyn, Mr. Kiernan and Mr. Riemer abstained.) John Friedman asked about the role of the abutters and how they can participate. He was concerned about the timeline, since he and others may not be in town when the public hearing is scheduled. Amy Rolnick came forward and asked for equity.

5 minute break

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. Review questionnaire.

Mr. Herridge spoke about the new draft for a survey on Town-wide house size limits. Mr. Kiernan talked about the research that he will do with the assessors' data. Rae Ann Palmer is helping with this, as well.

There was discussion about whether to mail out the survey or possibly hand it out at the Transfer Station. Mr. Sollog said he would like the Selectmen to give it their blessing.

Mr. Herridge talked about the other zoning districts which would not be affected by the new by-law. A Planning Board member could go to the Selectmen's meeting. Mr. Terkanian said that it is not practical to put the survey in the tax bill, for a variety of reasons.

Accessory Dwelling Unit Application

Review and possible approval of Accessory Dwelling Unit Application Form

The current application form was reviewed. Mr. Kiernan pointed out an inconsistency of number of copies the applicant needs to provide. In one place it asks for the original and 14 copies and in another place, 11 copies. We should know who the abutters are. We could ask the applicant if the lot we are talking about is a preexisting nonconforming lot. Yes, no, don't know. Many people won't know. We would need to know the square footage, which would be on the staff report. Whether or not the property in the Seashore.

There was discussion about what sort of a check list might be provided to the applicant. Mr. Kiernan brought up how the Zoning Board of Appeals is involved.

Katherine Black, Planning Board recording secretary, was asked about what she thinks would be helpful, since she is the one person who applied for the AADU permit. She agreed to help with the check list. The septic requirement and the two ingress/ egress are two areas of concern that are not generally understood.

Review and Approval of Meeting Minutes

September 19, 2017 Regular Meeting

Mr. Herridge made a motion to accept the minutes as written, Mr. Boleyn seconded. So voted, 7-0.

Reports from Board Members and Staff

Town Planner report

Ms. Harper spoke about upcoming agenda items and training opportunities.

Mr. Kiernan said we have a response from Town Attorney about the site plan review process. The Board would benefit from discussing the response, so maybe a workshop could be scheduled. Possibly a Friday, 9:00 am to 11:00 am.

Mr. Herridge moved to adjourn, Mr. Kiernan seconded. So voted, 7-0. Meeting adjourned at 9:00 pm.

Respectfully submitted,



Katherine Black

