

TRURO PLANNING BOARD

Meeting Minutes

December 8, 2015 - 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

Others Present: Bruce A. Bierhans, Esq.; Bonnie-Jean Nunheimer; Fred Gachter, Truro Conservation Trust; Esq.; Lester J. Murphy, Esq.; Chet Lay, Slade Associates; Reggie Donoghue, Coastal Engineering; Maria Kuliopulos; Jason Kuliopulos ; Deb Savarid; Mike Powers; Theodore A. Schilling, Esq.; Karen Snow; Jennifer Cohen; Carole Ridley, Planning Consultant; Shawn Grunwald

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

Public Comment Period:

Chester Lay, Slade Associates came forward and asked that the Planning Board review the requirements for notifying abutters as the Town's requirements are more restrictive than the state statutes.

6:00 pm Modified Definitive Subdivision Plan, Release of Covenant and New Covenant – Public Hearing

2015-011PB Malcom Meldahl seeks approval of a modification to Definitive Plan with the Clerk of the Town of Truro pursuant to MGL c41A, Section 81W and Section 2.5 of the Town of Truro Rules and Regulations Governing the Subdivision of Land with respect to their property known and numbered 3,6 8 & 10 Edgewood Way, Truro and shown on Assessors Map 51 Parcels 34, 86, 89 & 90; release of covenant recorded at the Barnstable County Registry of Deeds, Book 14411, Page 8, and a new covenant to cover construction of the road.

Representatives: Chester Lay, Slade Associates; Bruce Bierhans, Esq. for Castle Hill; Bonnie-Jean Nunheimer, Esq. for Mr. Meldahl

Abutter notification was affirmed by Carole Ridley, Planning Consultant.

Mr. Lay the distributed approved plan with the covenants from 2001 and he reviewed the changes that have occurred since then. The only modification being requested is for the road specifications; there are no changes to the lot lines. Mr. Lay reviewed the changes based on the modified site plan that was provided by Mr. Lay, including the changes to the road specifications and to address drainage concerns raised by one of the abutters. Mr. Lay explained that this was being done under the rural road alternative.

Mr. Bierhans stressed the urgency for the conveyance because a grant from Mass Cultural Council that will fund this is due to expire on January 13, 2016.

Ms. Nunheimer representing Mr. Meldahl reviewed the protection measures for the Town. To ensure that the work will be completed, a deposit of certified funds in the amount of one and one half the estimates received for all of the work will be deposited in lieu of a new covenant, totaling \$83,680.

Ms. Ridley read into the record the waiver request dated December 7, 2015 submitted by Mr. Lay via email which provided the explanation for the waiver request.

Ms. Tobia disclosed that she is a member of the Truro Conservation Trust and there was no objection by any of the representatives.

The release of the covenant is expected to take place January 5, 2016. Ms. Ridley requested the provision of a firm timeline for work completion. Mr. Lay confirmed the work will be completed by June 30, 2016.

The following conditions were identified:

- Conveyance to Castle Hill and the Truro Conservation Trust
- MESA filing
- Release of the old covenant
- Money in lieu of the new covenant, a performance guarantee of \$83,680 to be held in escrow
- Timeline for work completion to be provided in writing by Mr. Lay

Fred Gachter, President of the Truro Conservation Trust stated that the Trust is in support of the plan modification and has no issue with access to the lots.

On a motion by Mr. Sollog and seconded by Mr. Herridge, the Board voted to approve the modification of the definitive plan for Meldahl Realty Trust with the following conditions: MESA filing completion with a determination of no take of rare or endangered species, security deposit of work for performance guarantee established at \$83,680, release of the old covenant and that the sale to Castle Hill and Truro Conservation Trust occurs, so voted 7-0-0.

6:25 pm Modification to Definitive Subdivision Plan – Public Hearing

2015-009PB Nancy A. Dyer seeks approval of Modification of a Definitive Plan with the Clerk of the Town of Truro pursuant to MGL c.41A, Section 81W and Section 2.5 of the Town of Truro Rules and Regulations Governing the Subdivision of Land with respect to their property known and numbered 8 Sam's Way, Truro and shown as Parcel 13 on Truro Assessor's Map, Sheet 24.

Representatives: Lester J. Murphy Jr., Esq.; Chester Lay, Slade Associates

Evidence of abutter notification was provided.

Mr. Murphy reviewed the history of this application and the ZBA variance granting of Sam's Way as a proper road with proper frontage for a single residence even though it only has a 30 foot width. The modification is for the change in the length of the roadway that was set forth in the 1993 plan.

Ms. Tobia summarized the conditions identified:

- Board of Health compliance restricting to two (2) bedrooms unless granted a variance from the Board of Health
- Conservation Commission review and compliance
- MESA filing
- Release of old covenant and new covenant (performance guarantee)

On a motion by Mr. Sollog and seconded by Mr. Hopkins, the Board voted to grant the waiver from strict compliance with the design requirements of Section 3.6.8 pursuant to Section 3.7, Rural Road Alternative, of the Truro Subdivision Regulations, so voted 6-1-0 (Mr. Riemer opposed).

On a motion by Mr. Sollog and seconded by Mr. Hopkins, the Board voted to grant the modification to the definitive subdivision with the conditions noted above, so voted 6-1-0 (Mr. Riemer opposed).

6:45 pm Site Plan Review – Public Hearing

2015-007SPR Maria Kuliopulos seeks approval of a Commercial Development Application for Site Plan Review pursuant to §70.3 of the Truro Zoning By-law for demolition of a building containing 19 motel units damaged by fire and reconstruction of a replacement building containing 17 rentable units and a hospitality room in the same location. The property is located at 706 Shore Road, White Sands Beach Club, Atlas Map1 Parcel 1.

Representatives: Reggie Donoghue, Coastal Engineering; Maria Kuliopulos; Jason Kuliopulos

Mr. Donoghue reviewed the request and stated that it is a modification to a previously approved plan in 2010.

Mr. Boleyn requested clarification of the number of parking spaces and Mr. Herridge clarified that there would be replacement of a one story structure with a two story structure.

Mr. Hopkins asked about an accessible pathway from the handicapped parking space to the building. The applicant is willing to have this as a condition for approval. There was also a question about the storage of refuse. The plan is for trash storage to be located in the northeast corner with vegetative screening provided. Mr. Sollog asked for clarification of the setbacks. Mr. Riemer asked about the ownership of the condominium units that will be demolished and the parking spaces. Mr. Riemer also wanted clarification about flood plain issues and access to the property.

Deb Savarid, a direct abutter, expressed her grave concern that this may be another unfinished project, as a past project has been unfinished for 20 years. She is also very concerned about the parking situation in the front and fire and safety vehicle access. Mr. Donoghue responded that parking will be increased.

Mike Powers, an abutter, owner of a unit in the Beach Point Club. He questioned the past notification process because he was never notified for the past projects. He questioned the condominium documentation because the registry of deeds shows something different than what is being discussed at this meeting. He provided the book and page for Board members. He also questioned fire engine access based on the past fire as the fire truck had to access the fire by his unit. He is opposed to the height of the building to make it two story. He anticipates privacy concerns with the balconies. He asked that the two story part of the project be denied unless there are no balconies; he does not have an issue if it is one story. He also believes the parking is inadequate and he is very concerned about trash disposal.

Ms. Tobia reviewed the criteria and design guidelines as provided in the Board packet.

The Health/Conservation Agent and Conservation Commission comments were reviewed per memo dated November 3, 2015 and provided in the packet.

Ms. Ridley pointed out that the Board can impose a performance condition up to 10% of the cost of the project.

A number of issues have been raised and Board members believe they do not have enough information to make a decision at this time. These issues include:

- Need for input from the Fire Chief
- Lighting plan
- Landscaping plan
- Question of two versus one story option
- Compliance with Board of Health and Conservation identified issues
- ADA compliant path from parking to building
- Number of parking spaces required under bylaws for a condominium and transient lodging
- Water use
- Unfinished roof
- Refuse disposal and screening

On a motion by Mr. Boleyn and seconded by Mr. Herridge, the Board voted to continue the Application for a Site Plan Review to January 19, 2016 to address the above noted issues, so voted 7-0-0. Ms. Ridley will follow up with a letter to the applicant summarizing the issues.

There was a recess from 7:53 until 7:58.

Preliminary Subdivision

2015-010 Rose L. D'Arezzo, Charles S. Hutchings, et al seeks approval of a 5-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 4H Bay View Road and a portion of 3 Laura's Way, Assessors Map 39, Parcels 77 & a portion of 325.

Representatives: Chet Lay, Slade Associates and Theodore Schilling, Esq.

Mr. Lay reviewed the intent of the project. A letter was filed with MESA and a letter with no take was received back. Mr. Lay provided a MESA overlay.

Mr. Lay addressed the requirement for a second means of access for subdivisions with 30 or more lots. Mr. Lay referred to a letter 1/25/2005 written by the Planning Board concerning the two adjoining subdivisions that these are two separate subdivisions because they were subdivided separately, with separate notices and hearings in 1989. He would like the Board to consider this when addressing this new subdivision.

Karen Snow reviewed the original Planning Board decision from 1989 that created the Helen Mary Sawyer subdivision referred to in the letter raised by Mr. Lay and emphasized the concerns outlined in the minutes such as putting in a stop sign, enlarging the entrance and removal of bushes, covenant that roads are insufficient for access to any adjacent property. She reiterated the concern for safety and the piecemeal subdividing of property, keeping it to under 30 lots so there is not the requirement to provide a second means of access.

Mr. Lay stated that David Reed submitted a letter to the Board and Ms. Ridley stated it was given to the Board.

Mr. Lay requested that the Board look into the adequacy of the 20 foot road.

Ms. Tobia would like to see a traffic analysis, look at whether the extension of the road is consistent with the town's subdivision by-laws and the covenant. Mr. Lay is willing to do a traffic analysis as long as Town Counsel is comfortable with the extension of the road and the Board has also looked at the road.

Mr. Hopkins asked to see all the covenants on the three (3) subdivisions.

On a motion by Mr. Sollog and seconded by Mr. Roderick, the Board voted to continue the preliminary subdivision plan to January 19, 2015, so voted 7-0-0.

Site Plan Review – Public Hearing Continuance

2015-006SPR Michael A. Tribuna, Trustee, c/o Christopher R. Vaccaro, Esq., seeks approval of an Application for Commercial Development Site Plan Review pursuant to §70.3 of the Truro Zoning By-law for the filling of low area at 7 Parker Drive with related drainage improvements and erosion controls. There will be no new buildings or changes to existing buildings and structures. The property is also shown on Atlas Map 39 Parcel 168 & 169. Continued from September 8, 2015.

Representative: none

Ms. Tobia expressed her disappointment on how this has progressed since the last meeting. She stated that the abutters put forth a landscaping plan and submitted it to Mr. Vaccaro as had been discussed and agreed to at the last meeting. On October 30, 2015, the applicant submitted a residential change of venue without prior notification to anyone.

Other Board members also expressed their disappointment and frustration with the current situation.

Jennifer Cohen, an abutter, requested that the application be denied with mitigation. It was explained that this is not possible because an applicant is entitled to withdraw their site plan review, which is what is before the Board. The disposition of the commercial site plan review is the only thing the Board can act on.

Ms. Tobia noted that this has identified apparent loophole in the bylaws that will allow for an application of a residential building permit when there are past violations as a commercial property.

On a motion by Mr. Hopkins and seconded by Mr. Herridge, the Board voted to deny the withdrawal without prejudice and allow withdrawal of the application with prejudice, so voted 6-0-1 (Mr. Roderick abstained).

Temporary Sign Permits

Payomet Performing Arts Center, seeks approval for an Application for Temporary Sign Permit pursuant to §11 of the Truro Sign Code two (2) Temporary Signs (December 16 2015 - January 15, 2016) for various events in two locations (Route 6 at Noons Heights Rd and Route 6 at South Highland Rd).

On a motion by Mr. Hopkins and seconded by Mr. Herridge, the application for a temporary sign permit for the Payomet Performing Arts Center was approved, so voted, 7-0-0.

Mr. Sollog asked that the Board look into illuminated signage at a future meeting.

Review and Approval of Meeting Minutes: November 18, 2015

On a motion by Mr. Herridge and seconded by Mr. Roderick, the review and approval of the November 18, 2015 meeting minutes was tabled for review at the next meeting, so voted 7-0-0.

Reports from Board Members and Staff

- FY2017 Planning Board budget
Ms. Tobia requested that any comments and questions concerning the proposed budget directed to her.

On a motion by Mr. Sollog and seconded by Mr. Boleyn, the Board postponed approval of the budget until the next meeting, so voted 7-0-0.
- Liaison assignments
It is anticipated that there will several subcommittees forming in the future on issues such as accessory use and street definition. Mr. Herridge volunteered to be the liaison to CPC.
- Other
Ms. Ridley asked that Planning Board members sign the new roster for the Land Court and Registry of Deeds.

On a motion by Mr. Sollog and seconded by Mr. Herridge, the meeting was adjourned at 8:58 p.m., so voted 7-0-0.

Respectfully submitted,

Shawn Grunwald
Recording Secretary