

**TOWN OF TRURO  
PLANNING BOARD**  
Meeting Minutes  
June 3, 2020 – 6:00 pm  
REMOTE MEETING

Members Present (Quorum): Anne Greenbaum (Chair); Karen Tosh (Vice Chair); Jack Riemer (Clerk); R. Bruce Boleyn; Peter Herridge; Paul Kiernan; Steve Sollog

Members Absent: None

Other Participants: Jeffrey Ribeiro, AICP – Truro Town Planner

Remote meeting convened at 6:08 pm, Wednesday, June 3, 2020 by Chair Greenbaum. Town Planner, Jeffrey Ribeiro, reiterated that this is a remote meeting which is being broadcast live on Truro TV Channel 18 and is being recorded. He gave the details of where to watch this meeting, how to access it, and to provide comment during the meeting by calling toll free (877) 568-4106 and entering the access code 971-133-973. The telephone number and access code were repeated, and he noted that a slight delay of 15 to 30 seconds between the meeting and the live stream television broadcast might be experienced. He also noted that if you are calling in to please lower the volume on your computer or television during public comments so they may be heard clearly and to also identify yourself so multiple calls can be managed effectively. Citizens may provide public comment for this meeting by emailing [jribeiro@truro-ma.gov](mailto:jribeiro@truro-ma.gov) with your comments. The emails are being checked live during the meeting, so this is another way to contact us.

Chair Greenbaum took a roll call of members.

**Public Comment Period**

No public comment.

**Public Hearing – Continued**

Chair Greenbaum asked Town Planner Ribeiro for the status of the public hearings. He stated that they will be continued for now. The Fire Chief and John O'Reilly need to coordinate regarding the Schirmer matter. Also, for the Nickerson matter, we are keeping all the abutters updated on progress. The motions for both will be continued to the next meeting on June 17.

Chair Greenbaum asked for a motion to continue the Schirmer public hearing. Member Kiernan moved to continue this hearing to June 17, 2020. Member Boleyn seconded. Chair Greenbaum asked if there was any discussion; there was none. Voted all in favor by roll call vote. So voted: 7-0-0.

Chair Greenbaum asked for a motion to continue the Nickerson public hearing. Member Herridge moved to continue this hearing to June 17, 2020. Member Kiernan seconded. Chair Greenbaum asked if there was any discussion; there was none. Voted all in favor by roll call vote. So voted: 7-0-0.

### **Board Action/Review**

**Review of Revised Forms.** Town Planner Ribeiro put the forms up on the screen for viewing.

Application for Special Permit – Chair Greenbaum started with the Procedure for Submitting Application for Special Permit. Chair Greenbaum does not think a checklist is required for this; her other suggestion is to delete, under #2 Required Plan(s) and Other Information, the section that states “§40.2 Accessory Dwelling Unit” as there is a separate form for this. Town Planner Ribeiro will put a comment on the form for action. Cannot decrease the number of copies as this has not gone to Town Meeting yet for a vote; therefore, it will remain as is. No further discussion on the Procedure pages.

Town Planner Ribeiro put additional language regarding Planning Board handling of concurrent jurisdictions up on the screen for viewing. This language is to ensure applicants are aware of the other requirements they may have to meet. Chair Greenbaum suggested that this language should appear on all procedures, including those already approved, and the Board agreed. Town Planner Ribeiro will put a comment on the form for action.

On the Special Permit Application itself, the Board agreed with the changes as indicated.

### **Subdivision of Land Regulation Forms:**

- Form A (ANR) – Chair Greenbaum stated that the new language regarding regulations should be added to Procedures and verified that this language should be put on everything. Town Planner Ribeiro will put a comment on the form for action. Cannot decrease the number of copies as this has not gone to Town Meeting yet for a vote; therefore, it will remain as is. On the Form A (ANR) Application itself, Member Riemer commented on the form date at the bottom and what that date should be. Town Planner Ribeiro stated that, if the Board agreed, the date should reflect when the vote was taken, and the Board agreed. Also discussed was the need to have everything submitted electronically, and the Board agreed. On the Checklist, Town Planner Ribeiro believed the number of copies could be changed since it was not part of the Zoning Bylaws and did not require a Town Meeting vote. Member Kiernan stated that he thought at some time the Subdivision Regulations would have been voted in at Town Meeting and would be worthwhile checking. If so, altering the number of copies would have to be approved at Town Meeting. Member Riemer stated that in the Planning Board Handbook, Section VI – Changes to Planning Board Subdivision of Land Rules & Regulations, this question as to what can be done administratively is addressed. It states, “The Board may adopt and amend the rules and regulations from time to time not inconsistent with the subdivision control law or any other provision of applicable statutes or any town bylaw.” Member Riemer said, based on this statement, it is okay to change the number of copies. It was agreed that the number of copies on the Checklist could be reduced. Member Kiernan still believes that they

should check what went through Town Meeting, and Town Planner Ribeiro stated that he would check on that. There was no further discussion, and Chair Greenbaum stated that if the number of copies on the Checklist could be reduced it would be, otherwise it would remain the same.

- Procedure for Submitting Subdivision Plans for Pre-Submission Review – Chair Greenbaum indicated that this was a brand-new creation. In the past, the Planning Board has discussed encouraging applicants to do more informal consultations with the Town Planner and/or the Board. Chair Greenbaum said that this seems to be more informal, therefore she believes that the header language under #1 “Required” is unnecessary. Chair Greenbaum suggests simplified language, such as “any materials the applicant believes would be useful for discussion” rather than the more formal language, and the Board agreed.
- Form B (Preliminary Plan) – Chair Greenbaum stated that the new language regarding regulations should be added to Procedures. Town Planner Ribeiro will put a comment on the form for action. Cannot decrease the number of copies as this has not gone to Town Meeting yet for a vote; therefore, it will remain as is. Under #3 Certified Abutters List, Chair Greenbaum had a question regarding notification to abutters and whether it was the applicant’s responsibility or the Planning Office. Town Planner Ribeiro explained that there isn’t a requirement for the applicants, however he believes that there should be future discussion to move away from having the applicant mail out certified notifications. He also stated that he now believes Member Kiernan is correct in stating that the number of copies cannot be changed without Town Meeting vote. No further discussion on the Procedure pages. On the Form B (Preliminary Plan) Application itself, Chair Greenbaum noted that the date at the bottom of the page will need to be changed. Member Riemer asked if the number of copies would be twelve (12) or ten (10); Town Planner Ribeiro clarified that it would be twelve (12) as that reflects what is in the Bylaw. Chair Greenbaum furthered with the statement that there will be no changes to the number of copies for any of these forms until after Town Meeting. There was no further discussion on the Form or Checklist.
- Form C (Definitive Plan) – Chair Greenbaum stated that the new language regarding regulations should be added to Procedures. Town Planner Ribeiro will put a comment on the form for action. Cannot decrease the number of copies as this has not gone to Town Meeting yet for a vote; therefore, it will remain as is. Chair Greenbaum asked if there were any questions or comments to the Procedures. Member Kiernan asked when we are just talking about adding the comment to these things, in some cases we have within our Bylaw, and within Federal law, certain strictures. Are we saying that we can violate, e.g., in the Seashore, Federal Law? Can we, as a Board, approve something that would be in violation of Federal Law? Town Planner Ribeiro clarified the language being added. He stated that we have gone through this with the Merlini case. Whether or not something is in violation of Federal Law, it is not this Board’s jurisdiction to determine whether or not something is in conformance with Federal Law, and this Board cannot make decisions based on those grounds. Decisions should be based on the Zoning Bylaw and the Regulations before you. Ultimately, applicants have to meet all rules and regulations. You can approve something because it meets your requirements, and another commission can say no because it doesn’t meet their requirements. That doesn’t mean that you can say no because it doesn’t meet that commission’s requirements. The language being added is casual language suggesting the applicant read the Zoning Bylaw, rules and regulations, for this board and other boards and commissions. On the Form C (Definitive Plan)

Application itself, Chair Greenbaum asked the Board if there were any questions or changes on the form and there were none. However, Member Kiernan stated he did not have any comments specifically on the form as it reflects the current Bylaw, but in thinking of the Bylaw itself, when you have three fifty-year events within 10 years, at what point should we be asking for more? Chair Greenbaum stated that is a substantive conversation that we could, and probably should, have. Town Planner Ribeiro stated he will write that down for a future meeting discussion, and he thinks they should start compiling a list. Chair Greenbaum asked if there were any corrections to the Checklist. Member Riemer referred to items a.7 and a.8 and stated that these were changed effective 3/20/2018 and is recorded in the Planning Board Minutes for that date. It was a duly advertised meeting, and according to our Planning Board Manual, we followed the correct procedure to modify these two areas. For clarification, Chair Greenbaum asked Member Riemer if what was on the Checklist was incorrect. Member Riemer stated that on a.7 it refers to requested waivers from these Rules and Regulations consistent with §1.5, if applicable and the changes that were made to §1.5 are not even incorporated into the Subdivision Rules and Regulations. For a.8, it states a computer disk containing a file of the subdivision in either .DWG or .DXF file format – that was eliminated, and he doesn't believe that change was reflected in our Subdivision Rules and Regulations. As stated above, Town Planner Ribeiro thinks that should be noted and the changes should be incorporated; he will look into getting those changes made before posting it. Chair Greenbaum asked if there were any further corrections to the Checklist; there were none; no further discussion.

- Form D (Covenant) – Chair Greenbaum asked if there were any questions or comments to the Procedures or the Form. Member Riemer stated that he read in the Department of Community Housing and Development publication, an overview of the subdivision control law, on page 39 it states that in all cases the Planning Board should specify or require the applicant to specify the time period within which the construction of the ways and the installation of municipal services will be completed. He asked if that should be noted on the form? Chair Greenbaum asked Member Riemer to further explain what he thought was missing. Member Riemer stated that there is nothing in this covenant form that holds the applicant to any kind of timeframe and this publication which I referred to states that the Planning Board should require the applicant to specify a time frame. The question to the Board is whether we should include that on the form. Town Planner Ribeiro thinks that is a very good idea; however, he believes it should go on that list of changes as it was taken directly from the Bylaw and should be changed in the Bylaw, not just the form and would be the proper way to do it. Member Kiernan noted that the second page states “The following are further agreements and/or conditions of approval:” so there's a spot we can add in. Chair Greenbaum said temporarily. Member Riemer stated that any time we are including further conditions or agreements on a covenant, it should also appear on the plans because once the covenant has been released sometimes the argument is that we have released everything in the covenant. Unless it occurs on the plan as well, then it could get lost. Town Planner Ribeiro said that was a very good point and that the covenant not be in place of the conditions in your approval. Chair Greenbaum asked Town Planner Ribeiro to add this to the list of “housekeeping” items they are compiling. Chair Greenbaum stated she would like to see added on Form D itself the printed name above the two owner signature lines. Chair Greenbaum asked if there was any further discussion on the Subdivision Covenant; there were none; no further discussion.

- Form E (Modification/Amendment/Rescission of Definitive Subdivision) – Chair Greenbaum noted the new language added on the Procedure form regarding clarification and also regarding the Abutters List and asked the Board if they had any additions, questions, changes for the Procedure or Form itself. Member Riemer asked regarding the Procedure, why wouldn't we include on the top two bullets, a bullet notifying the Board of Health specifically because if you are modifying or amending a plan, it may need the Board of Health to check it out. Town Planner Ribeiro suggested using the same bullet language as was used on the Definitive Plan; it will be added to this form.
- Form F (Certification of Completion and Release of Municipal Interest in Subdivision Performance Security) – Chair Greenbaum asked if there were any comments, additions, changes, needs. Member Riemer said that he thinks it is worth noting that once this form has been received by the Clerk for the release, the Planning Board has 45 days to do so or it is deemed to be constructively approved. He did not believe this was well known. Town Planner Ribeiro stated that this language could be pulled from the MGL, and Chair Greenbaum said it could be added to the "Once a Completed Application has been Received" page. Member Riemer asked if it was worth noting under the area of Truro Planning Board signatures that when we sign this it does not vacate other further agreements and/or conditions of approval included on the plan and we could assign the Plan Book and Page to reference that. Town Planner Ribeiro agreed that it was a good idea and could be added.

Chair Greenbaum stated that they were done with the forms. Chair Greenbaum asked for a motion to approve as amended all of the forms they reviewed that evening. Member Sollog moved to approve as amended all the forms reviewed that evening. Member Herridge seconded. Voted all in favor by roll call vote. So voted: 7-0-0.

**Review of the Cloverleaf Truro Rental Housing Comprehensive Permit application under MGL Ch. 40B to formulate comments for submittal to the Zoning Board of Appeals.** Chair Greenbaum asked Town Planner Ribeiro for an update. The public hearing has been continued to June 25 as the applicant still has not submitted a revised septic; having that hearing depends on getting the materials far enough in advance for everyone to have time for review. If everything comes in within a timely fashion, the ZBA will move forward with a virtual hearing. On the 22nd the Zoning Board will hold their first virtual hearing on a Special Permit case. At this time, it is unclear when in-person hearings will take place again. He advises not opening and closing hearings in the same meeting. He thinks we should always continue hearings, and not close out hearings, in case there are issues getting through or providing comment; then we would have time to rectify that by making sure they can provide written comment or coordinate so that they can be at a subsequent hearing to provide input.

**Board update/discussion about the potential to hold public hearings remotely.** Regarding the potential to hold public hearings remotely, Chair Greenbaum asked Member Tosh to share her idea on holding meetings if possible, and if people were comfortable, at the COA using social distancing guidelines. She noted, however, consideration of ventilation problems and was not sure about holding meetings inside. Chair Greenbaum suggested hybrid meetings where people had the option of in-person or remote participation. Town Planner Ribeiro thinks hybrid meetings are a good idea, however they may present more challenges, especially with the social gathering limitation and believes virtual hearings are cleaner. Chair Greenbaum stated that virtual hearings

do allow for people to call in regardless of internet connection which makes it more inclusive. Town Planner Ribeiro stated that presentation materials on the screen can be seen by the public on Channel 18, so they see what we see. With a virtual hearing, the applicant material will need the ability to be seen on the screen, ensure the applicant can participate in full, video-link – all similar to this meeting. Town Counsel mentioned that viewing material might be easier seen on the TV or personal computer; packets on the website also include all materials and are available to the public online.

Chair Greenbaum stated that two public hearings have been delayed to the next remote meeting. She suggested tackling one case at a virtual hearing rather than trying to do two at the same meeting, and all agreed. Town Planner Ribeiro stated that it is reasonable to start with one and then move onto the next; it is important for them to be treated equally, but it would be fair to say start with the oldest case. Chair Greenbaum asked the Board how they felt about the next meeting being a virtual hearing with the Schirmer case. Member Kiernan sees it as problematic in reviewing new material – how will we see it? Town Planner Ribeiro stated the applicant would provide a copy to be shown on the screen and the materials will be in their packets. Member Riemer agreed with Town Planner Ribeiro's thoughts regarding not opening and closing hearings in the same meeting. Discussion, with examples, took place on this reasoning. Member Sollog stated that he thinks the Planning Board should try this with the applicant being well notified that this may fail, and they may not be able to have a definitive decision on their application and the case may have to be continued because of all the possible problems encountered on a regular basis doing these meetings. Chair Greenbaum agreed that the Planning Board should try as she does not know when they will be able to have in-person meetings, she would like to get on the learning curve, and agrees that making it our policy that no hearing will be opened and closed at the same meeting, and are building in that buffer, is her preference as well. Member Kiernan asked if a Member having a technical glitch occurs during a hearing, would that be a reason to stop at that point? Town Planner Ribeiro replied that if there were connectivity issues, including the public having difficulty, it would be reasonable to continue to the next. Chair Greenbaum stated that this should be treated the same way as if they were at a physical meeting; they would have to deal with it. She stated they should keep trying to make it as inclusive as possible, be flexible, and ensuring participation. Member Tosh agreed with the statements by Member Sollog and Chair Greenbaum and thinks that it should be tried as do Members Boleyn, Riemer, and Kiernan. Chair Greenbaum asked if Town Planner Ribeiro would reach out to Schirmer? He stated yes and that he would see who was ready to move forward and when. The Nickerson case still needs a site visit; however, it needs to be staked in order for a site visit to occur. Town Planner Ribeiro will speak with them as well. He brought up the scenario of live video stream for the site visit which is something he could do; it would be live for the Board as well as the public. Chair Greenbaum asked Town Planner Ribeiro to discuss with them the possibility of a remote hearing and, if so, staking the property. Member Kiernan asked, if this is problematic, would it be worthwhile to ask them to withdraw without prejudice and come back later when appropriate without cost? Town Planner Ribeiro stated that it is something that could be discussed with them.

**Discussion for setting dates for future Board public workshops.** Chair Greenbaum stated that there is a work session on Wednesday, June 10, at 10:30 am. Town Planner Ribeiro will be providing the Board with materials for their packet which include dimensional things from our Bylaws. He also had the Town Assessor look at the GIS data which has information on parcels

for frontage; he has a map of those properties for discussion. Member Kiernan asked if the workshop would be recorded. Town Planner Ribeiro stated that, included in the State's dispensation on virtual meetings, it is required these meetings be broadcast.

### **Approval of Minutes**

July 11, 2018 – Chair Greenbaum asked if anyone had any corrections to these minutes. Member Boleyn stated that on page 1, second paragraph “One or two public hearings were held” needs clarification which Town Planner Ribeiro stated would be checked. Member Sollog stated that there is a spelling correction on page 3 which should be “preferred” not “proffered”. Chair Greenbaum asked for a motion to accept the minutes as corrected. Member Boleyn moved to approved as amended. Member Sollog seconded. No further discussion. Chair Greenbaum stated that since she was not on the Board at that time, she would not be voting. Chair Greenbaum asked for a roll call vote. Voted all in favor; Chair Greenbaum abstained. So voted: 6-0-1.

February 5, 2020 – Chair Greenbaum asked if anyone had any corrections to these minutes. Member Riemer stated that a correction was needed on page 9: replace spelling “Reimer” with “Riemer”. Chair Greenbaum asked for a motion to accept the minutes as corrected. Member Boleyn moved to approved as amended. Member Riemer seconded. No further discussion. Chair Greenbaum asked for a roll call vote. Voted all in favor. So voted: 7-0-0.

February 12, 2020 Work Session – Chair Greenbaum asked if anyone had any corrections to these minutes. Member Sollog moved to approved as written. Member Riemer seconded. No further discussion. Chair Greenbaum asked for a roll call vote. Voted all in favor. So voted: 7-0-0.

February 19, 2020 – Chair Greenbaum asked if anyone had any corrections to these minutes. Hearing no changes offered, Chair Greenbaum motioned to accept the minutes as written. Member Boleyn seconded. Member Riemer stated he did have one change to page 1, “Member Kiernan would like to inform the Board that in his 27 years of familiarity with the Planning Board the Police Chief and the Fire Chief are always informed when asked their opinion” needs clarification which the Board approved as “Member Kiernan would like to inform the Board that in his 27 years of familiarity with the Planning Board, the Police Chief and the Fire Chief are always asked for their opinion.” Chair Greenbaum changed the motion to approve as amended. Member Sollog seconded. No further discussion. Chair Greenbaum asked for a roll call vote. Voted all in favor. So voted: 7-0-0.

February 26, 2020 Work Session – Chair Greenbaum asked if anyone had any corrections to these minutes. Hearing no changes offered, Chair Greenbaum stated that she had a correction on the bottom of page 3: replace language “venture housing” with “denser housing”. Chair Greenbaum asked for a motion to approve as amended. Member Riemer moved to approved as amended. Member Boleyn seconded. No further discussion. Chair Greenbaum asked for a roll call vote. Voted all in favor. So voted: 7-0-0.

Chair Greenbaum stated that minutes for their next meeting are listed on the current Agenda. The next Board meeting is June 17, 2020, but the work session regarding street definition is next week. Member Kiernan directed a question to Town Planner Ribeiro; he asked if his email regarding the

December 4 minutes was received and it was. Member Kiernan asked if it could be distributed to the other Board Members; Town Planner Ribeiro stated that it would be in the packet for the next meeting for everyone to review. Member Kiernan also stated that he had some questions for Town Planner Ribeiro for review at the work session which he would email and copy Chair Greenbaum. Chair Greenbaum stated that the work session would include the street definition conversation and asked Town Planner Ribeiro if he was putting together something regarding his concerns. Town Planner Ribeiro suggested they take a look at development in Truro, lots, frontage, size, and other ways to look at these things; what like/don't like in Truro. Chair Greenbaum suggested that it would be helpful for the Board to hear why he has concerns regarding the regulation as currently written.

Town Planner Ribeiro had another item to bring to their attention, which he will get them a copy of. He stated that the Governor recently issued a new Order regarding phased re-openings which included outdoor seating at restaurants which was broad and clear: basically regardless of what a zoning bylaw states, or special permit or other approval, restaurants can do outdoor seating with the approval of the Select Board through November of this year. As previously mentioned at the last meeting, Avenue D's wine bar is considering outdoor seating, and whether it should be brought back in front of the Planning Board again. It won't because this Order is specific, and the Select Board will be able to approve that; it is temporary and only through November. Member Kiernan asked if the Select Board would be notifying the people that had come to their meeting and opposed that? Town Planner Ribeiro was unsure as to the Select Board process, but he suggested keeping in touch with the Select Board Agendas.

Chair Greenbaum recapped the Agenda for their next Board meeting; she believes it will be Schirmer, then asked Town Planner Ribeiro what else could they expect on the next agenda. He stated that he will check with Schirmer, there is a possibility of a Cloverleaf update, and he will be speaking with Nickerson about a site visit when and how.

Chair Greenbaum asked if there were any other items for discussion but there were none. Chair Greenbaum then asked if she could have a motion to adjourn. Motion made by Member Tosh with a second by Member Boleyn. No further discussion. Chair Greenbaum asked for a roll call vote. Voted all in favor. So voted: 7-0-0.

Meeting adjourned.

Respectfully submitted,



Elizabeth Sturdy

