



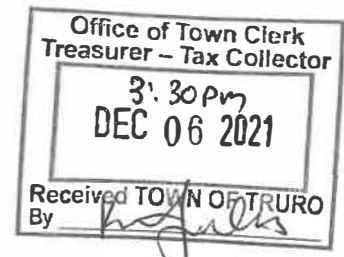
TOWN OF TRURO

PLANNING BOARD

Meeting Minutes

December 2, 2020 – 5:00 pm

REMOTE PLANNING BOARD MEETING



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

Members Absent: Karen Tosh (Vice Chair) – Resigned; Peter Herridge

Other Participants: Barbara Carboni – Interim Town Planner and Counsel; Liz Sturdy – Truro Office Assistant; Ben Zehnder – Attorney for Samantha Perry; Nathan Nickerson III – Applicant; Don Poole – Outermost Land Survey and representative for Nathan Nickerson III; Keith Fernandes – GFM Enterprises; Chris Fiset – Attorney for Nathan Nickerson III; Shelly Fischel – Abutter and opponent to Mr. Nickerson's application via letter; David Reid – Attorney for Shelly Fischel; Bill O'Brien – Abutter and opponent to Mr. Nickerson's application via email; Gary Cooper – Abutter and opponent to Mr. Nickerson's application via letter; Diedra Dietter and Michael Schulz – Abutters and opponents to Mr. Nickerson's application via letter.

Remote meeting convened at 5:02 pm, Wednesday, December 2, 2020, by Chair Greenbaum who announced that this was a remote meeting which is being broadcast live on Truro TV Channel 18 and is being recorded. Interim Town Planner and Counsel Carboni also provided information as to how the public may call into the meeting or provide written comment.

Public Comment Period

Chair Greenbaum asked callers to identify themselves. Chair Greenbaum for Caller #3 to identify himself and Don Poole introduced himself and Judith Czyoski identified herself as Caller #2.

Public comment, for things not on the agenda, and there were none.

Board Action/Review (Continued)

2020-011/PB – Samantha Perry, Hillside Farm, LLC seeks approval of Form A – Application for Determination that Plan Does Not Require Approval (ANR) pursuant to Section 2.2 of the Town of Truro Rules and Regulations Governing the Subdivision of Land with respect to property at 23 Perry Road, Truro, MA, Map 45, Parcel 131.

Chair Greenbaum asked the Members if it was okay to consider the matter of **2020-011/PB – Samantha Perry, Hillside Farm, LLC** ahead of the public hearing as the matter will be continued. Members agreed and Interim Town Planner and Counsel asked if Mr. Zehnder if he would like comment or move to a Planning Board's motion to extend this matter, with the applicant's approval, with a date certain of January 6, 2021. Mr. Zehnder stated that he would like a motion only to give him more time to gather more facts.

Member Sollog made a motion to continue the matter until January 6, 2021.

Member Boleyn seconded the motion.

So voted, 5-0-1, motion carries.

Immediately following the vote, Chair Greenbaum announced that Member Herridge was absent due to a recurring medical issue.

Mr. Zehnder thanked the Board for the continuance and left the meeting.

Public Hearing

2020-001/PB – Nathan A. Nickerson III seeks approval of a Definitive Subdivision Plan of Land, pursuant to M.G.L. c. 41, §81L and §2.5 of the Town of Truro Rules and Regulations Governing the Subdivision of Land with respect to property at 4-H Bay View Road and 3 Laura's Way, Truro, MA, Map 39, Parcels 77 and 325. Chair Greenbaum opened the hearing in this matter and stated that any public hearing will go across two meetings so no Planning Board decision will be rendered tonight. Chair Greenbaum asked for individuals who are speaking on behalf of the applicant to identify themselves. Mr. Fiset introduced himself, as did Mr. Poole, and Mr. Fernandes. Chair Greenbaum asked Mr. Fiset to begin, and he stated that this is an application for one single-family residential home on a 6.3-acre lot. Mr. Fiset and Mr. Nickerson were present during the Planning Board's site visit and heard the Members' and the abutters' concerns. The applicant withdrew his original application and has now submitted a new application which addresses the abutters' concerns and is heavily scaled down. Mr. Fiset respectfully requested approval of this new application as it includes the construction of one single-family home and not six homes. Chair Greenbaum asked Interim Town Planner and Counsel Carboni to provide her summary and opinion. Interim Town Planner and Counsel Carboni opined that Mr. Fiset is correct that there is not a legal impediment to approve the application but that it is within the Board's discretion under Subdivision Management law and the Board's regulations to determine if the application meets safety concerns. Chair Greenbaum asked Members if they had concerns, and none were stated. Chair Greenbaum asked Mr. Fiset for clarification on a "kin to a driveway". Mr. Fiset replied that during this process and discussions with the fire chief and the neighbors that the applicant would be willing to reduce the width of the driveway to 14'. Mr. Fernandes added that the plans that were submitted the right of way is 40' and the driveway is 14' wide for pavement as required for this lot size under the Subdivision regulations. Member Sollog asked if there was a previous condition that prohibited additional subdivision of the land and Interim Town Planner and Counsel Carboni commented that there had been a previous covenant that did include that condition, yet that covenant was released later. Member Riemer asked for a clarification from Mr. Fiset as to what the scaled down part of the new application is, and Mr. Fiset responded that it relates to the fact that it is only one lot and one structure and so he stands with his previous comment that it is a scaled down plan. Chair Greenbaum asked for abutters who oppose the application to comment. Chair Greenbaum asked Mr. Reid for his input and Mr. Reid stated that he represented Ms. Fischel of 15 Sawyer Grove Road who is opposed to the application approval. Mr. Reid cited two previous letters that were submitted to the Planning Board, and he asked that Members review the substance of those letters prior to the next hearing. Mr. Reid noted that in 2006 the Planning Board had denied a similar application, although it was overturned on appeal, Sawyer Grove Road was determined to be inadequate to support 17 lots but today supported 32 lots. Mr. Reid noted that even today that Sawyer Grove Road is still very inadequate to support additional traffic and the Planning Board should consider this in the new application process. Additionally, Mr. Reid also noted that in the current application there is still 300' of frontage so that the applicant could apply

for an ANR later to build a 2nd structure on the lot. Finally, Mr. Reid also noted that under local bylaws (1.3 - Applicability) that the 30-lot limitation is in play and that it does require a second means of access to this property. Mr. Reid further stated that this property had been before the Planning Board, scheduled for hearing, some fourteen times since 2016. For all those reasons, Mr. Reid said the application should not be approved. Chair Greenbaum asked the Members if they have comments or questions for Mr. Reid and there were none. Chair Greenbaum then asked for the abutters for comments and she recognized Mr. O'Brien. Mr. O'Brien stated that he was unaware until this evening that the scaled down application now consisted of only one single-family home and that he would like to take some time to review the application closer. Mr. O'Brien will speak at the next meeting and verified his address as 13 Sawyer Grove Road to Chair Greenbaum. Chair Greenbaum then invited Nathan Nickerson to speak and he stated that he has a history with the Planning Boards in Truro, Wellfleet, and Eastham. Mr. Nickerson said it would be wrong to deny the application. Chair Greenbaum thanked Mr. Nickerson and then called on Mr. Cooper who stated that he has tried to follow this, and he resides on 9 Laura's Way and won't directly affect him or his partner. Mr. Cooper proposed that the driveway be constructed off Laura's Way and then wouldn't trigger the need for a second means of access to the property. Chair Greenbaum thanked him for his creative proposal and then called upon Mr. Nickerson who said that it would be impractical to build a driveway off Laura's Way. Chair Greenbaum then recognized Ms. Dietter who stated that she and her husband had submitted a letter of opposition that should be in the record and speak for itself. Chair Greenbaum thanked her and then asked Members for their questions or concerns. Member Kiernan commented that he had been on the Board back in 1992 and cited that at that time Mr. Nickerson had no opposition to the limit of the number of lots the road would serve. Member Kiernan noted in 1995 his signature did not appear on the covenant release and that the Board did not vote to release all aspects of the covenant and that in 2008 the Planning Board later tried to rescind the covenant release, but the courts decided otherwise. Member Kiernan opined that he had safety concerns. Chair Greenbaum announced that she had just received a message, via the GoToMeeting chat function, from Mr. Poole who can now only listen to the discussion and unable to comment. Chair Greenbaum asked Interim Town Planner and Counsel for her opinion as to whether the meeting should be stopped and continued to the next Planning Board meeting. Mr. Fiset asked that the meeting be continued to the next meeting because Mr. Poole's input is very important to this discussion. Interim Town Planner and Counsel Carboni asked the Members for any issues which they would want her to pursue and any deficiencies in the application which Members would want to see cured. Member Kiernan commented that he is concerned that when this layout was originally created, in 1989, it showed two spurs coming off Sawyer Grove Road and connecting Sawyer Grove Road to the neighboring properties which was a requirement under the bylaw at that time. Member Kiernan said that currently, and for the last twenty years, the bylaw requires a 25' space between the road and abutting properties so he is unsure if the current spur is sufficient for development today under the current Subdivision Rules and Regulations. Interim Town Planner and Counsel Carboni thanked Member Kiernan and will look at it. Member Riemer commented that according to Subdivision Rules and Regulations 2.51B that the applicant shall copy the Board of Health, which the applicant has done, but that the Members don't know what the Board of Health said. Member Riemer also noted that the Planning Board will also contact the Conservation Commission, the Board of Health, Building Commissioner, the Select Board, the DPW superintendent, the police chief, the fire chief, and other town boards and Member Riemer said that he was unaware if the Planning Board has done this. Truro Office Assistant Sturdy stated that she indeed had previously sent a copy of this packet to the commissions, boards, and individuals via email. Member Riemer then stated that he would have concerns over increased traffic on a substandard road to which Chair Greenbaum said that she would not want to continue this conversation on road widths as Mr. Poole was not available to comment. Chair Greenbaum then asked the Members if the Members would like Interim Town Planner and Counsel

Carboni to obtain written opinions from those commissions, boards, and individuals. Member Riemer reiterated Interim Town Planner and Counsel Carboni's concerns as mentioned in her staff memorandum to include the incompleteness of the application. Mr. Fiset added that he would contact Mr. Poole to revise the plan, address the issues in Interim Town Planner and Counsel Carboni's staff memorandum, and address the request for the waiver of 1,000'.

Member Kiernan made a motion to continue this matter to December 16, 2020.

Member Sollog seconded the motion.

So voted, 5-0-1, motion carries.

Chair Greenbaum thanked the participants and callers in this matter for their input. The participants and callers thanked the Planning Board and left the meeting.

Chair Greenbaum noted that the Members had already addressed the Perry matter, so she announced that the next item is to approve the replacement of Appendix 3 in the Rules and Regulations Governing the Subdivision of Land as there were old forms on the Truro website and replace those with new forms and the whole packet. Chair Greenbaum asked Truro Office Assistant Sturdy to confirm her explanation and Truro Office Assistant Sturdy confirmed. Chair Greenbaum asked Members if her explanation made sense and there were no questions or concerns.

Chair Greenbaum made a motion for the replacement of Appendix 3 in the Rules and Regulations Governing the Subdivision of Land with the corresponding new forms approved by the Board earlier this year.

Member Kiernan seconded the motion.

So voted, 5-0-1, motion carries.

Chair Greenbaum announced that Member Herridge, due to health reasons, had resigned as the Planning Board representative to the Community Preservation Committee (CPC) and the Water Resources Oversight Committee so the Planning Board must identify interested Members to backfill Member Herridge's role. Chair Greenbaum expressed interest in the CPC role. Member Sollog commented that the Water Resources Oversight Committee has not yet met but is expected to be very busy soon. Chair Greenbaum also announced the resignation of Vice Chair Tosh from the Planning Board.

Member Kiernan made a motion to appoint Chair Greenbaum as the Board representative to the CPC.

Member Boleyn seconded the motion.

So voted, 5-0-1, motion carries.

Chair Greenbaum reiterated Member Sollog's concern about the Water Resources Oversight Committee not yet meeting but commented that it will soon be very busy. Member Sollog expressed interest in the Board's role to the Water Resources Oversight Committee but didn't want to be appointed this evening. Chair Greenbaum will review this role with the Members at another meeting in advance of the first scheduled Water Resources Oversight Committee meeting.

Chair Greenbaum then asked Interim Town Planner and Counsel Carboni for a brief Cloverleaf update. Interim Town Planner and Counsel Carboni stated that the ZBA has a hearing tomorrow night and there will be a discussion of waiving the Board of Health regulations (Article 14) that requires 10,000 square feet of land for bedrooms. The ZBA has a recent report from Mark Nelson of Horsley Witten Group that

recommended that additional treatment be required of the applicant as the water treatment system can be improved to exceed the minimum standard. Interim Town Planner and Counsel Carboni will have a draft decision prepared for tomorrow night's meeting and that was publicly announced previously. Interim Town Planner and Counsel Carboni announced that Mr. Nelson will attend the ZBA meeting tomorrow night. Member Kiernan asked the Interim Town Planner and Counsel Carboni about the regulations regarding the replacement representative to a Town multi-committee body and Interim Town Planner and Counsel Carboni stated that she will let the ZBA chair know tomorrow evening but not as a part of the public meeting as it wouldn't be on the agenda. Chair Greenbaum has added this topic to the agenda for the next Planning Board meeting.

Chair Greenbaum led the discussion on the update on the Housing Initiative Work Session invitations and she reported that she had reached out to the Highland Affordable Trust and Habitat for Humanity. Chair Greenbaum reported that both entities were excited about participating with the Planning Board. Chair Greenbaum further stated that Habitat for Humanity would like to attend the next Housing Initiative Work Session and that she would serve as the organization's Executive Director and Director of Land Acquisition and Projects. Chair Greenbaum asked the Members if January 13, 2021, is an acceptable date for Members for the next Housing Initiative Work Session at 2:30 pm. Truro Office Assistant Sturdy booked that date as there were no schedule conflicts. The questions which Chair Greenbaum asked of Habitat of Humanity were how they receive the land for units and how do they identify the clients to occupy the units. Chair Greenbaum asked if any Members had anything to add and Members did not. Chair Greenbaum also spoke with Kathleen at the Highland Affordable Trust and Chair Greenbaum will listen in on the group's next meeting in January 2021 to see how the Planning Board and the Highland Affordable Trust can work together.

Chair Greenbaum announced the next Planning Board's meeting agenda will include the replacement of a Member, the election of a new Vice Chair, and if there will be a Water Resources Oversight Committee meeting. Chair Greenbaum asked Truro Office Assistant Sturdy to comment on agenda items for the Planning Board's next meeting on December 16, 2020, and Truro Office Assistant Sturdy announced that the continuance of Nickerson and possibly the approval of meeting minutes would be on the agenda. Member Kiernan asked Truro Office Assistant Sturdy if 36 or 38 Cliff Road would be on the agenda, and she confirmed that 38 Cliff Road will be on the agenda as well, but it had not yet been put on her working document. Truro Town Assistant Sturdy thanked Member Kiernan for his observation. Member Riemer asked that an agenda item be added to the next Planning Board meeting that was a concern of Interim Town Planner and Counsel Carboni's staff memorandum and Chair Greenbaum approved.

Member Boleyn made a motion to adjourn at 6:31 pm.

Member Sollog seconded the motion.

So voted, 6-0-1, motion carries.

Respectfully submitted,



Alexander O. Powers
Board/Committee/Commission Support Staff

