



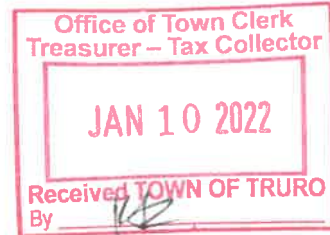
TOWN OF TRURO

PLANNING BOARD

Meeting Minutes

January 20, 2021 – 5:00 pm

REMOTE PLANNING BOARD MEETING



Members Present (Quorum): Anne Greenbaum (Chair); Steve Sollog (Vice Chair); Jack Riemer (Clerk); Paul Kiernan; R. Bruce Boleyn (joined after 2020-014/PB vote); Peter Herridge

Members Absent: One open membership on the Board

Other Participants: Barbara Carboni – Interim Town Planner and Counsel; Liz Sturdy – Truro Office Assistant; Adam Braillard – Attorney at Prince Lobel Tye LLP representing T-Mobile Northeast, LLC (Applicant)

Remote meeting convened at 5:05 pm, Wednesday, January 20, 2021, 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

Public comment, for things not on the agenda, was opened by Chair Greenbaum and she announced that the public hearings for 2020-006/SPR and 2020-011/PB were going to be continued so individuals who were on the line specifically for those hearings were welcome to stay or leave as they wished. There were no individuals who made public comments.

Public Hearing (Continued)

2020-014/PB – T-Mobile Northeast, LLC for property located at 344 Route 6 (Atlas Map 39, Parcel 172A). Applicant seeks a Special Permit under Section 40.5 of the Truro Zoning Bylaw to modify its existing antenna facility on the tower located at 344 Route 6 by replacing three (3) existing panel antennas with three (3) new panel antennas. The new antennas will be installed to be consistent with the original decision by the Planning Board. Chair Greenbaum welcomed Mr. Braillard who updated the Members with submitted written responses to the Members' concerns and questions from the last hearing. Mr. Braillard confirmed the protrusions and distances from the leg of the existing tower to where the antenna would be located under the proposal. Mr. Braillard stated that on the updated plans, submitted 1/11/2021, the proposed distance is 7'3" which is well below the maximum allowable distance of 20'. Additionally, Mr. Braillard confirmed that the applicant can provide photographs of the finished installation and will forward those photographs to Interim Town Planner and Counsel Carboni for the record. Mr. Braillard further stated that there was a condition to remove any replaced equipment, or abandoned materials, to include those owned by T-Mobile Northeast, LLC, or any other entity, would be disposed of properly by T-Mobile Northeast, LLC to the best of its ability in accordance

with the covenant requirement. Mr. Braillard did mention that the suspected abandoned equipment was not owned by T-Mobile Northeast, LLC but by Crown. Interim Town Planner and Counsel Carboni stated that those specifics could be written and submitted as a condition of approval. Member Kiernan thanked Interim Town Planner and Counsel Carboni for her work, and he further reiterated to Mr. Braillard the necessity of the proper grounding of equipment as the Truro Police Department recently experienced catastrophic loss of equipment due to improper grounding during a lightning strike. Mr. Braillard agreed in the affirmative. Chair Greenbaum asked Interim Town Planner and Counsel Carboni to screen share to show her draft decision, dated January 6, 2021, to the attendees. Chair Greenbaum asked Mr. Braillard to confirm the following characteristics of the proposal as:

1. The replacement of three panel antennas with three like kind panel antennas.
2. The replacement of three remote radio units (RRU) with three like kind RRUs.
3. The replacement of six tower mounted amplifiers (TMA) with three like kind TMAs.
4. The replacement of two radio cabinets with two like kind radio cabinets currently installed at the base of the tower.

Mr. Braillard confirmed to Chair Greenbaum and the Members that these were the characteristics of the proposal. Interim Town Planner and Counsel Carboni briefly covered the applicant's requested waivers which she opined that these seemed unnecessary as they were replacement parts; however, Interim Town Planner and Counsel Carboni stated that there could be another motion to grant waivers under Section 40.5(B)(1-8) separately. Interim Town Planner and Counsel Carboni also offered to exclude the applicant from responsibility for the removal of equipment that did not belong to the applicant. Interim Town Planner and Counsel Carboni also opined that it was not necessary for the applicant to request Approval of Eligible Facilities Request (EFR) but since the applicant submitted it as part of its application the Planning Board may want consider it and reconfirmed that the distance of the proposed project is 7'3" and Chair Greenbaum asked Interim Town Planner and Counsel Carboni to change the language to less than 8'. Mr. Braillard stated that he had no objection to changed language. Interim Town Planner and Counsel Carboni then reviewed the conditions of the draft decision to include the removal of T-Mobile Northeast, LLC equipment only and Mr. Braillard had no objection. At this point, Chair Greenbaum asked the Members if they agreed with the reviewed conditions and there was unanimous concurrence. Member Kiernan asked that in the event of adverse findings that the applicant notify the Town of Truro Planning Board, the Director of the Department of Public Works (DPW), and the Building Inspector and this was added to the draft decision without objection. Chair Greenbaum also asked that the requested photographs be provided to the Planning Board at the conclusion of the installation. Member Riemer requested that a photographic report would satisfy the condition and Mr. Braillard had no objection. Chair Greenbaum and Member Kiernan discussed the reporting of adverse findings by the applicant's subcontractor and agreed that such findings would require the subcontractor (not the applicant) to communicate those findings to the applicant, the Town of Truro's Planning Board, the DPW, and the Building Inspector so it was added into the draft decision. Chair Greenbaum asked for a motion to close the public hearing in this matter.

Member Herridge made a motion to close this public hearing in the matter of 2020-014/PB.

Member Kiernan seconded the motion.

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

Chair Greenbaum then asked for a motion to grant the waivers requested by the applicant, grant approval of the EFR, grant a special permit under Section 40.5 of the bylaw, and to approve the decision as amended during the hearing.

Member Herridge made a motion to motion to grant the waivers requested by the applicant, grant approval of the EFR, grant a special permit under Section 40.5 of the bylaw, and to approve the decision as amended during the hearing.

Vice Chair Sollog seconded the motion.

So voted, 5-0, motion carries.

Chair Greenbaum thanked Mr. Brillard and Mr. Brillard thanked the Planning Board before he left the meeting.

Chair Greenbaum announced that Member Boleyn had joined and welcomed him to the meeting.

2020-006/SPR – Anne Labouisse Peretz; William T. Burdick and Richard C. Vanison, Trustees, Dune House Nominee Trust. for property located at 112 North Pamet Road, Truro, MA, (Atlas Map 48, Parcel 1). Applicants seek a Residential Site Plan Review under Section 70 of the Truro Zoning Bylaw for demolition and removal of existing single-family dwelling in the Seashore Zoning District and the construction of a new smaller dwelling at a new location set back from the coastal bank. The existing dwelling is at risk of sudden destruction due to storm-driven coastal bank erosion in its current location. Chair Greenbaum asked Interim Town Planner and Counsel Carboni who informed the Planning Board that she had received a request for a continuance to February 3, 2021, from the applicant's attorney (Mr. Ben Zehnder) to gather additional information requested by the Members. Interim Town Planner and Counsel Carboni had no issue with the request, so a motion was made to move the hearing to February 3, 2021.

Member Herridge made a motion to continue this public hearing to February 3, 2021.

Member Kiernan seconded the motion.

So voted, 6-0, motion carries.

Chair Greenbaum announced the continuance of 2020-006/SPR to February 3, 2021 and opened the review of matter 2020-011/PB.

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 Subdivision of Land with respect to property at 23 Perry Road, Truro, MA, Map 45, Parcel 131. Chair Greenbaum asked Interim Town Planner and Counsel Carboni to update the Members. Interim Town Planner and Counsel Carboni stated that she had also received a request from the applicant's attorney for a continuance in this matter until February 3, 2021, for a hearing and for the Planning Board's action on February 17, 2021. Chair Greenbaum asked Members for their concerns and Vice Chair Sollog stated that he felt that the application should be withdrawn and resubmitted when the applicant has all the documentation to proceed. Member Kiernan then asked Interim Town Planner and Counsel Carboni what would happen if the Planning Board didn't have a quorum on February 3, 2021, and she opined that the Planning Board could still act on the decision based upon the Rule of Necessity which allows the process to continue under extreme circumstances, yet the decision could be challenged. Member Kiernan then asked how the Planning Board could best protect itself and could the Planning Board grant an extension for 30-45 days and Interim Town Planner and Counsel Carboni stated that she was unsure if she could get the applicant's attorney to sign such as an agreement, but she could try. Member Kiernan stated that would be good. Chair Greenbaum and

Vice Chair Sollog discussed if the applicant should withdraw the application as it didn't appear to progress and there may be an additional continuance. Interim Town Planner and Counsel Carboni stated that municipalities in the Commonwealth of Massachusetts, effective December 1, 2020, no longer had the protection previously afforded for the advantage of tolling under the State of Emergency Act. As of December 1, 2020, municipal boards are obligated to hear and act upon petitions as they had prior to the State of Emergency Act; however, permits permitted, as of March 10, 2020, are still tolled. Chair Greenbaum asked for a motion for continuance in this matter.

Member Herridge made a motion to continue this matter until February 3, 2021.

Member Kiernan seconded the motion.

So voted, 6-0, motion carries.

Chair Greenbaum announced that the matter of 2020-011/PB was continued to February 3, 2021.

Chair Greenbaum then led the discussion on the 2021 Annual Town Meeting (ATM) for potential articles and town reports. The warrant closes on February 26, 2021. Chair Greenbaum stated that all the 2020 ATM postponed warrant articles will be automatically added to the 2021 warrant. Chair Greenbaum then stated that Zoning Bylaw 40.6 (Growth Management Bylaw) was set to expire on December 31, 2021, so the question for the Planning Board is to either decide to not let the bylaw expire or let it expire. As mentioned by Chair Greenbaum, the core of the bylaw (passed in 2006) stated that there shall not be more than 40 building permits authorized for new single-family units within any calendar year. Chair Greenbaum provided historical data for the building permits issued for new single-family units over the last four years:

- 2020 – 12 permits issued
- 2019 – 3 permits issued
- 2018 – 20 permits issued
- 2017 – 12 permits issued

Chair Greenbaum asked Members if they had anything to offer on this subject and Member Herridge suggested that the number of building permits be reduced to 10 building permits authorized for new single-family units within any calendar year. Member Riemer stated that there are potentially 500 condominium units which could be converted to single-family units so perhaps this should be slowed down. Vice Chair Sollog pointed out that the condominiums are existing and not new so there could be challenges to this. Vice Chair Sollog suggested that the Planning Board extend the Growth Management Bylaw as written and put the discussion of the condominium conversions on a future Planning Board agenda with the ability to reword the bylaw as necessary. Members discussed the importance of the preservation of the Town's water tables as well as Truro supplying Provincetown with its water supply. Chair Greenbaum opined that it would not be responsible to hastily solve this issue by the warrant closure deadline of February 26, 2021. Chair Greenbaum also offered two other solutions: 1. reduce the permits to 20 building permits in any calendar year or 2. not reduce the 40 building permits in any calendar year as the issued building permits historically are nowhere near the maximum number cited in the Growth Management Bylaw. Member Riemer noted that there is also a rollover process to the next year already in place and Chair Greenbaum also added that they rollover by month. Member Kiernan suggested that a reasonable argument that the Planning Board state at the ATM that the Planning Board wishes to extend the bylaw but limit new single-family units to 25 building permits in any calendar year based on infrastructure and water. Vice Chair Sollog suggested that rollover (or carryover) language be included but that should be discussed further at a public workshop. Chair Greenbaum suggested that

this could be discussed at next week's work session as she and Member Kiernan will be able to provide data about the impact of the Residential District Bylaw. Vice Chair Sollog stated that the Planning Board should aggressively protect Truro and that the density of Truro should be discussed at the ATM. Member Riemer noted that the Planning Board has not identified an area that could serve as a public water supply if it became necessary. Member Herridge stated that the National Seashore may not allow that, and Member Riemer replied that the National Seashore does not allow mining of resources within the National Seashore. Chair Greenbaum asked Interim Town Planner and Counsel Carboni if there has been any movement with the Water Resource Oversight Committee (WROC) and she reported that nothing new has occurred over the last several months. Chair Greenbaum asked Interim Town Planner and Counsel Carboni to communicate with the WROC the Planning Board's strong desire to collaborate on this very important subject as soon as possible and she agreed.

Chair Greenbaum asked Truro Office Assistant Sturdy to provide context regarding the late submissions to the Planning Board and Planning Board Agenda. Truro Office Assistant Sturdy sought guidance from the Members as to how to proceed with an increased number of late submissions and Interim Town Planner and Counsel Carboni opined that a reasonable and enforceable rule could change an applicant's behavior and reduce the number of late submissions. With input provided by Truro Office Assistant Sturdy, Chair Greenbaum stated that it would be reasonable that material and items for a hearing must be received no later than 4:00 pm on the Tuesday prior to the following week's Planning Board meeting with no exceptions. Member Kiernan suggested that all the Town's boards/committees/commissions adopt the same standard to ensure uniformity. Member Kiernan further stated that failure to comply to this requirement would result in an applicant's automatic extension, but Interim Town Planner and Counsel Carboni opined that the Planning Board can continue a matter or deny the application. Interim Town Planner and Counsel Carboni further added that she was not comfortable with the Planning Board denying an application due to a late submission. Interim Town Planner and Counsel Carboni added that it would be difficult to defend the Planning Board's decision a year later so she recommended a progressive discipline approach since it affected the Town and the residents. Interim Town Planner and Counsel Carboni further opined those applicants do have due process rights, but she will listen to the Members' discussion on this issue. Member Riemer noted that the Truro Planning Board's Handbook and Policies in Appendix 1 addresses Planning Board agenda policy and Appendix 2 addresses policies regarding continuances of hearings. Chair Greenbaum said that the Members must do something to reduce the late submissions and Member Riemer replied that there are policies already established and the Members should be consistent in the way that it is enforced. Chair Greenbaum stated that the current policy is not very clear and that the applicants are not following it. Member Kiernan offered that there must be distinction between what is required versus what the applicant wants to add extra to their submission. Interim Town Planner and Counsel Carboni said that she was not in agreement with the Members establishing policies to differentiate between the two. Member Herridge also noted that attorneys also submit late and last-minute continuance requests as late as the day of the Planning Board meetings. Chair Greenbaum commented on her frustration for late submissions, but Interim Town Planner and Counsel Carboni responded with that is what the Members have signed up for and there are cases of legitimate late continuance requests. Chair Greenbaum concluded this discussion by stating that she would email the Board of Health to see if they have a policy that works, and she would let the Members know.

Chair Greenbaum asked Interim Town Planner and Counsel Carboni for a Cloverleaf update and Interim Town Planner and Counsel Carboni replied that the ZBA had voted to approve the Cloverleaf project with most of the waivers requested along with updated conditions pertaining to wastewater disposal and with a revised unit mix which were negotiated during the ZBA meeting. At the Members' request,

Interim Town Planner and Counsel Carboni provided a detailed explanation of the unit mix: 20 of the units will be affordable to households earning up to 80% of AMI, and of those 20 units, 5 of them will be affordable to households earning up to 30% of AMI. Additionally, 15 units of the remaining 20 units will be affordable to households up to 80% of AMI. There are 8 units at an affordability level between 80-120% of AMI and 6 of the units are determined to be market rate. The remaining units will be as determined by the subsidizing agency, and in this case, DHCD. Member Herridge asked if the wastewater waiver requested was approved and Interim Town Planner and Counsel Carboni said that the ZBA's vote was 5-0. Member Kiernan asked if the approval was available and Interim Town Planner and Counsel Carboni offered to circulate the draft decision to the Members only as it can still be edited. Vice Chair Sollog suggested that the draft decision circulation to the Planning Board be delayed until the ZBA signed off on it and Chair Greenbaum said that it was okay for her to distribute it as is.

Chair Greenbaum provided an update on the Housing Initiative and said that she and Member Kiernan are still collecting data. Chair Greenbaum asked the Members what type of colored maps would be useful to the Members and whatever decision is made the new Town Manager will have to approve the time set aside for the Assessor to create the map for the Planning Board.

Chair Greenbaum added the Growth Management Bylaw discussion as part of the upcoming workshop and she acknowledged that Member Riemer has contributed a document from Cambridge, Massachusetts for the Members to review.

Chair Greenbaum reviewed the agenda for the February 3, 2021, meeting and Truro Office Assistant Sturdy added that there is a new application for 40 Highland Road for a Site Plan Review that will also be on that agenda. Chair Greenbaum also announced the joint meeting with the Select Board next for Rich Roberts' interview for the vacancy on the Planning Board. Member Riemer commented that the Charter 6-2-1 stated that Planning Board minutes will be filed promptly with the Town Clerk and noted that there were no minutes to be reviewed for approval this evening. Chair Greenbaum said that she understood his concern, and she will check into solutions to get the Planning Board into compliance with the filing of minutes. Chair Greenbaum thanked Member Riemer for his input, and she then asked for a motion to adjourn the meeting.

Vice Chair Sollog made a motion to adjourn at 6:40 pm.
Member Kiernan seconded the motion.
So voted, 6-0, motion carries.

Respectfully submitted,



Alexander O. Powers
Board/Committee/Commission Support Staff

