

TRURO PLANNING BOARD

Meeting Minutes

March 7, 2017 6:00 pm

Truro Town Hall

Planning Board Members Present: Bruce Boleyn, Peter Herridge, Paul Kiernan, Jack Riemer, Steve Sollog Absent: (excused) Mike Roderick

Other participants: Chet Lay, Nick Brown, Edward Patton, Attorney, Maria Kuliopulos, Jason Kuliopulos, Russ Braun, Building commissioner, Ben Zehnder, Attorney, Michael Winkler, Joe Longo, Kathleen Farley, Glen Passenon, Jeff Rose, Linda Rose, Peter Burgess, Carole Ridley, Planning Consultant

Public Comment Period

There was no public comment.

Definitive Plan - Public Hearing Continued

2016-010PB Stephen Walsh, et al, have filed an application for approval of a Definitive Plan with the Clerk of the Town of Truro pursuant to MGL c.40A, §81T and §2.5 of the Town of Truro Rules and Regulations Governing the Subdivision of Land with respect to their property located on Walsh Way, Walsh Way Extension and Valentine Lane, Map 43, Parcels 7, 8, 9, 10 134 & 135. The plan would widen existing roadways with no new lots created. Continued from September 6th, September 20th, November 2nd, December 6, 2016, and February 7, 2017.

Chet Lay reported that the applicant has received a special permit from the Zoning Board of Appeals.

Mr. Kiernan stated that he has been cleared to discuss but not to vote on this application.

Mr. Lay read a statement regarding the plan. Mr. Kiernan asked about the original plan compared with the current plan on Valentine Way. Mr. Lay responded that they had been asked to widen the road and add a cul-de-sac. Mr. Kiernan also asked about frontage on Walsh Way. A lot in the rear of the property has an easement, which is not new. As it stands there is a zoning violation regarding the curves and turn arounds. Mr. Riemer stated that State law does not allow the Planning Board to waive a bylaw. Ms. Ridley said that the Board could establish a condition, and still approve the plan tonight. Mr. Kiernan spoke about where the road meets Route 6 regarding the road radius. Mr. Riemer asked about 43-135. There are two buildings on one lot. Ms. Ridley said there is a new provision in State law, if there is non-conforming use going back ten years, it is allowed since there was no enforcement action. And the special permit addressed this through a widened road. Mr. Riemer asked about a paper road. Mr. Lay said there is a no need for a road profile because we are not constructing a road. Mr. Riemer wanted to know if the road can be built safely and if the lots be sold. They could be. Mr. Kiernan read from the requirements for a definitive plan. Ms. Ridley one possible solution would be to create a covenant that if a road were built in the future, a road profile would be required which would

meet certain specifications. It would have to come before the Board for a release of these lots. The key point is that any new road construction would comply with type B specifications, if a lot is sold. Mr. Riemer said he was not satisfied with the idea of adding a covenant. He needs to see a road profile. The Board then discussed a continuance. Mr. Herridge moved to continue the hearing to April 11, Mr. Boleyn seconded. So voted, 4-0-0. Mr. Kiernan abstained.

Public Hearing - Commercial Site Plan Review

2016-008SPR Maria Kuliopulos seeks approval of a Modification to 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 four. Plans include construction of a replacement building containing 17 rentable units and a hospitality room in the same location as a previously demolished fire damaged structure. The property is located at 706 Shore Road, White Sands Beach Club, Atlas Map 39 Parcels 131, 158.

Ms. Kuliopulos provided a new site plan, with landscaping and placement of air conditioner compressors included. She described the landscaping plans and what the Conservation Commission will allow. She has submitted the noise level reports regarding the AC compressors to the Planning Board. The compressors are very quiet.

Mr. Herridge read a letter from Peter E. (attached) regarding his disapproval of the White Sands project. Additional comments: he is concerned that there would be a lack of natural light on his property if a two story building were built close by, the lighting will shine on his property and there have been violations on Beach Point Club access to the beach. Ms. Kuliopulos replied that they have an easement for Beach Point Club access dating from 1970. Mr. Kiernan asked if their attorney had received the letter regarding site plan review and Zoning Board of Appeals requirements. Mr. Patton does not agree with the requirements. At most there may be two or three set back issues with the existing buildings, but not with the new buildings. There should be no special permit requirement. Mr. Sollog spoke regarding section 30.3— single story to two story application. Mr. Kiernan asked Town counsel, Mr. Veara to speak on this. Mr. Veara stated that where he disagrees with Mr. Patton is regarding other non-conformities on the property. There will still be non-conformities, even if what is proposed is conforming. This is why the applicant needs the special permit, not a variance. They could either have site plan review, you could condition your approval on ZBA special permit, or the applicant could go to the ZBA first and then return to the Planning Board. But it's possible that if they got conditioned approval from the Planning Board, and then went to the ZBA, something could change and they would have to return to the Planning Board.

Ms. Kuliopulos spoke about the second story issue. Mr. Kuliopulos said that in the past, they haven't had to deal with the ZBA. He would like to finish with the Planning Board, and then see if the Building Inspector requires them to go to the ZBA. Mr. Patton stated that the client hasn't been informed about what the non-conformities are. They don't appear on the plan. Therefore it is unfair to the applicant to require them to go to the ZBA. Mr. Veara talked about the non-conformities that Attorney Reid and the Building Commissioner wrote about in the letter.

Mr. Kuliopulos said that they are not asking for any new non-conformities. We would like to discuss what we are wanting to do going forward. Ms. Kuliopulos asked if she could get approval for the new construction. She doesn't mind going to the ZBA for the consolidation. Ms. Ridley asked if she is suggesting two separate site plans. Mr. Riemer asked Ms. Ridley if the applicants should respond about #3, #4, #5, lighting, and conservation commission planting. Approval can be sought when the building is 3/4 done. Mr. Kiernan brought up the special permit and what the options might be.

Room numbers have been noted on the new drawing. Discussion of air conditioners followed. Mr. Riemer brought up noise mitigation. Mr. Sollog said the screening addresses that. The data has been submitted. Mr. Riemer asked if when the AC is installed, it could be revisited. Mr. Riemer said there should be a condition regarding noise. Mr. Sollog read the report about the decibels.

David Ried, attorney for an abutter, said that some pieces of the application are missing. They no longer have a building to be replaced. There is no grandfathered status, since the two year deadline has passed. He described the non-conformities. He asked the Board not to make a decision with conditions tonight. The first criteria is not met because of the non-conformities. Rooms don't comply with the definition of a motel room. He contends it is not resolved regarding whether a motel room is more than one room. Sections 70.3 F2 , F11, compatible with surrounding neighborhood. The neighborhood is one-story small cottages. Why can't the AC units be at the front? The plan does not meet the standards of the bylaw or the comprehensive plan. Mr. Veara restated that there are two options with respect to Zoning Board of Appeals. On the question of rooms, Mr. Braun that there is no specific definition of motel room. He is satisfied that the applicants have designed motel rooms.

Mr. Kuliopulos asked what the Board needs. Mr. Riemer asked about heat source of the building that burned down. It was oil. He asked if there was an oil spill. Ms. Ridley said that we have an email statement from the Fire Chief that there was no oil spill during or after the fire. Mr. Sollog asked about the air conditioning unit and why they can't be placed in the front of the building. Discussion ensued about what is needed from the ZBA. Mr. Riemer asked if the new building is a duplex. He asked the building inspector to weigh in on whether or not it is a duplex. The original apartment was one unit. There was litigation settling this issue, and that is why the total number of units is set at 47 now. It is not a duplex, though, because one of the units is seasonal. Mr. Veara said they need to seek and obtain a special permit, 30.7.A for the proposed renovation, alteration and new construction at 706 Shore Road.

Mr. Braun talked about the condensing units with compressors outside, which are reasonably quiet. If they were mounted on the front, they would impact the walkway. Other options are to make the walkways wider, or install them outside the railing.

Mr. Herridge moved to continue the hearing to May 2, 2017, Mr. Kiernan seconded. So voted, 5-0.

Public Hearing - Commercial Site Plan Review

2017-002SPR Roberts Family Property LLC, seeks approval of an application for Commercial Site Plan Review pursuant to §70.3 of the Truro Zoning By-law for site renovations proposed to expand existing parking areas on the property from 39 to 69 spaces. The property is located at 11 Shore Road, Atlas Map 39 Parcels 131, 137, 158.

Ms. Roberts reported that two of her abutters are in favor of the new parking plan. Next there was an email from Karen Snow read into the record (see attached). Ms. Roberts said that the staff parking was a moot point. Mr. Riemer asked what was meant by the moot point. Ms. Roberts said that it is untrue that staff were already parking in the new proposed staff parking area. Mr. Riemer asked what will happen when they reach the tipping point. Ms. Roberts said they are working on it. She described how she came up with the number of parking spaces, using the number of how many people were there on the busiest day last summer. By and large, this plan would cover that. It was asked if a parking monitor could be provided by the Winery. The answer was yes, one will be provided. Mr. Kiernan asked what the Selectmen had decided at the meeting that was held recently. He also asked how would the parking ban along the road would impact the church. Ms. Roberts said the BOS said they would not go to all the way to the church. There is no parking at the park across the Stones Throw apartment currently. This is a site plan, and waivers are being requested. Drainage calculations are not needed. A waiver of a precise landscaping plan is reasonable. Mr. Boleyn said these folks want to be good neighbors and their solution is creative. They should be congratulated.

Ms. Ridley said the next step would be for them to consider the findings, review criteria and design guidelines, and make a determination. First voting regarding the three waivers. Then voting with conditions. Mr. Riemer asked if #6 adequately covers refuse disposal. Has there ever been a problem? Ms. Roberts said no. A bicycle rack doesn't appear on the plan. Mr. Riemer asked that the bike rack be included on the plan. Mr. Hultin asked that it be moveable. Mr. Riemer proposed the site plan be reviewed on a regular basis to see if the plan is working. Ms. Ridley said that what the Board has done in the past, is to have an applicant to come back in two years as a condition, for an administrative non-regulatory meeting.

Mr. Herridge moved to vote on the findings as written, Mr. Boleyn seconded, so voted, 5-0. Mr. Kiernan moved to waive drainage calculations, Mr. Boleyn seconded, so voted, 5-0. Ms. Ridley restated, a condition for an administrative non-regulatory meeting in November, a condition to have a parking monitor, showing the bike rack on the plan, natural heritage of either waiver or no take is pending, lighting compliant with the general bylaw, and recommendations in the drainage, annual cleaning and vegetative swale. Mr. Herridge moved to approve the application with conditions, Mr. Boleyn seconded, so voted, 5-0.

Public Hearing - Commercial Site Plan Review

2017-00SPR Winkler Route 6 Trust, Michael Winkler Trustee, seeks approval of an application for Commercial Site Plan Review pursuant to § 70.3 of the Truro Zoning By-law for

current condition and use of the property as a commercial staging area for a crane company, for storage of equipment and supplies, and for commercial landscaping/excavation business. The property is located a 1 Noons Heights Road, Atlas Map 39 Parcels 166.

Mr. Ben Zehnder gave a brief history of the application and why it has been refiled. It is an application for existing property. He provided an update of improvements that have been done since the last hearing.

Mr. Herridge talked about the complaints by abutters about noise. Mr. Zehnder reminded the Board that they are not here today for permission to operate. Mr. Kiernan asked if they have read the Horsley Whitten report. Mr. Zehnder said some of the suggestions have been taken care of. What they haven't done is to address drainage. It would be cost prohibitive for the applicant. Mr. Kiernan read from page 3 from HW group regarding stormwater treatment. He went on to express concern about a possible oil spill. Mr. Zehnder said that other regulations are in place to address oil spills. Joe Longo, with the Horsley Whitten group, introduced himself. They talked about the tank on the north of the building which was moved. Also an impervious barrier was installed. The run off question appears to have been bermed up so run off has been corrected, including ground water. Storm water treatment was discussed.

Mr. Sollog said that his main concern is well protection. There was discussion of Building #3 and Building #8, where you can smell diesel fuel. Applicant said it is actually a release, but the tank can be moved.

There is a condition that in Zone 1, there can be nothing with diesel fuel in it. Mr. Riemer said he read that there was 16 feet of fill. Mr. Longo said there was a change in elevation. It can't be confirmed it was clean fill. Mr. Winkler said it's all clean fill. Mr. Kiernan asked where the ABC material went when it left the site. No one knew. Mr. Riemer said that due to lack of pavement in the area, how do you eliminate contaminants in ground water and avoid contamination. Mr. Longo said the tank liner is helpful. Putting all fuel sources in one place also helps.

Mr. Boleyn asked about parking and safety. Mr. Zehnder explained that customers do not come to this site. It is only for the heavy equipment. Mr. Boleyn asked about the condemned buildings. Mr. Winkler said he's getting rid of those. Mr. Veara reported on the litigation regarding the ABC material. The applicants were asked to come to the Truro Planning Board for site plan approval. There is a hope that the litigation will not be necessary once a site plan is approved

Abutter, Kathleen Farley's major concern about the site plan is the storage of equipment and repair, and the increased use, noted in the plan as a landscaping business. The noise level is noticeable all times of day. She says she has researched on the internet the reduced noise back up alarms. Usage of the site has increased. She doesn't understand where it is on the new plan for egress. The curb cut was discussed. Mr. Riemer spoke about industrial uses as opposed to

commercial. A definition of industrial versus commercial was not available. It could be conditioned that there are no industrial uses.

Glen Passenen from Stones Throw, read a statement from the Board of Trustees, registering concern about the new site plan, which he said is essentially the same as the old plan. There are 42 housing units nearby, which are affected. One new use is landscaping and excavation. The bigger question is if this is the Route 6 general business district. Section 30, use regulations, allow activities such as landscaping and excavation.

Jeff Rose, abutter, said the property in question has always pitched down hill. He denied that the drainage was his fault. He said it still needs to be fixed. It has only been partially fixed.

Linda Rose said that at two of these meetings, we've had conversations about fixing this. It could have been fixed; it is a very simpler thing. A berm needs to be built on the Winkler property to keep the run off from our property.

Peter Burgess, who lives 900 feet from the property, asked if the front end loader belonged to Mr. Winkler. Since 2013 there has been a lot of noise. He fears that site plan approval will be "carte blanche to continue the noise. He has done research on the "white noise" back up alarms. They cost about \$350 per vehicle. He has heard that they are OSHA approved.

Mr. Zehnder stated that the installation of white noise back up alarms could be conditioned.

Ms. Ridley pointed out findings in the documents the Board was given that can be turned into conditions.

Mr. Winkler promised to bury a telephone pole to create a berm of take care of the Rose's issue.

Regarding hours of operation: Revisit in a year to see if the noise problem is taken care of by the white noise back up alarms.

Applicant asked for a waivers for the "Night Sky" regulations and drainage calculations.

A condition is to review the property in a year.

Mr. Riemer asked if the Board of Health has signed off on this application. Carole said it is not under the BOH purview. Performance standards can be conditions.

Ms. Ridley listed the conditions:

Site Uses and Activities:

1. No public onsite retail sales of landscaped materials
2. No buildings on the property will be used for residential purposes.

3. There will be no additional development of the site and no expansion of operation areas into currently unused portions of the site.
4. All future utilities will be located underground.
5. No storage of forms treated with a release agent or other petrochemical will be allowed on the site.

Noise:

6. Any vehicles or heavy equipment used or stored on the property that uses back-up alarms must be equipped with a white noise back up alarm
7. The applicant will appear before the Planning Board in one year in non-regulatory administrative public meeting to review noise conditions on the property.

Landscaping and Drainage:

8. The applicant will provide a letter stating that the fill used to elevate the north side of the property within the zone 1 by 16 ft is clean fill.
9. Trees planted along the northern property line will be maintained and replaced if necessary.
10. Berms 1 ft from the property line with JF Noons/Rose Family will be enhanced using telephone pole or other measures to divert run-off into a drain or vegetated area and prevent run-off onto the JF Noons property or onto Noons Heights Road.
11. The berm created in the former entrance to Noons Heights Road will be vegetated and maintained, and the entrance will no longer be used.

Fuel Storage and Handling:

12. No fuel storage or transfer will occur in the Zone 1
13. Fuel storage is centralized in one tank and relocated away from the Zone 1, and the protective pad for fuel transfer is maintained, and the unused fuel tank is removed from the property.
14. The property shall comply with all Board of Health rules and regulations

Glen Passenenspoke again and was concerned about the landscaping and excavating issues, which he said just came out 10 days ago. How does this change the use of the property?

Mr. Riemer asked Town counsel for a landscaping definition. Mr. Veara said if you see something out of line, you get enforcement involved. There is not a perfect answer.

Mr Burgess said that landscaping should be restricted to service not to providing retail sale. The Board should condition no retail sales on site.

Mr. Sollog said that what is existing now in terms of activities on the site is what we are approving. Mr. Herridge moved to close the public hearing. Mr. Kiernan seconded. So voted, 5-0. Ms. Ridley said that the Board could start with the findings, then the waivers and then conditions.

Mr. Herridge made a motion to accept the findings as written, Mr. Boleyn seconded. So voted, 5-0.

Mr. Herridge moved to approve the waivers, Mr. Boleyn seconded. So voted, 5-0

Mr. Herridge moved to accept the conditions, Mr. Boleyn seconded. So voted, 5-0

Mr. Herridge moved to approve the site plan with conditions, Mr. Boleyn seconded. So voted, 5-0.

Temporary Sign Permits

Payment Performing Arts Center, seeks approval for Applications for Temporary Sign Permits pursuant to §11 of the Truro Sign Code. The applications request permission to place two (2) temporary 48" high by 36" wide signs during successive 30-day periods from February 27 through October 26 for various events. The signs would be located at Route 6 at Noons Heights Road and Route 6 at South Highland Road.

Ms. Ridley stated that this is a season's worth of permits, which has been suggested so as to deal with once, instead of multiple meetings. They have been approved in the past.

Mr. Herridge moved to approve the application, Mr. Boleyn seconded. So voted, 4-0-0. Mr. Sollog abstained and recused himself, due to the fact that he works for Payomet.

Planning Board Discussion on §40.2 Affordable Accessory Dwelling Unit Zoning Bylaw, and Possible Vote

No action taken tonight since vote was taken at a prior meeting.

Planning Board Discussion on §30.3 Seashore District Zoning Bylaw, and Possible Vote

Mr. Herridge moved to send the bylaw to the Board of Selectmen for review and to be returned to the Board in order to be submitted for the Town Meeting Warrant, Mr. Boleyn seconded. So voted, 5-0.

Review and Approval of Meeting Minutes

February 7, 2017 Regular Meeting

February 21, 2017 Regular Meeting

Minutes were tabled due to the lateness of the hour.

Mr. Herridge made a motion to adjourn, Mr. Boleyn seconded. So voted, 6-0. Meeting adjourned, 11:55 pm.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Katherine Black".

Katherine Black

