

TRURO PLANNING BOARD

Meeting Minutes

October 21, 2014 - 6:00 pm

Truro Town Hall

Members Present: Leo Childs, Bruce Boleyn, Michael Roderick, Chris Lucy, and Steve Sollog, William Worthington and Lisa Maria Tobia

Other Present: Charleen Greenhalgh ATA/Planner, Chester Lay

Mr. Childs opened the meeting at 6:01 pm

2014-003 Barnard & Jo-Anne Dickinson Approval Not Required Plan, 6 Gospel Path

Representative: Chet Lay

The applicants seek endorsement of a 2-Lot ANR plan for property located at 6 Gospel Path, Map 46, Parcel 72. Mr. Lay passed out a supplemental plan showing the proposed future use of the property, a proposed 2 lot division of land and a proposed driveway. The current owners do not want to construct the road at this point in time. When the house is to be built the new owners would install the driveway.

Mr. Childs asked if they want to disregard the subdivision road. Mr. Lay confirmed this. Mr. Boleyn visited the site. He has no particular objection. Mr. Sollog is caught up with the frontage problem. It is not a road way and it seems like there will no longer be frontage for the property. Mr. Lay suggested that the Board can simply not act on the ANR and it would be constructively granted. Mrs. Greenhalgh is not supportive of this option. Ms. Tobia expressed that this is a paper road and she is uncomfortable with the lack of construction and that the frontage doesn't exist. Mr. Worthington spoke to the matter, providing examples of roads off Depot Road where roads had to be constructed; he believes that the road should be constructed. Mr. Roderick believes that the driveway would be better suited for the driveway construction, if the 150 feet meets the adequate frontage. Mr. Lucy commented on the note on the plan "...endorsement of this plan indicates only that the plan is not a subdivision under MGL Chapter 41, Section 81-L and does not indicate that a lot is buildable or that it meets zoning..." He has some concerns; the previous Building Commissioner would not issue a building permit if the road was not built and it appears that the current Commissioner would also not issue a permit. Referencing the supplemental plan, the driveway would have a 14% slope. Mr. Lucy stated that the other roads of this type brought before this Board were not approved. Mr. Lay suggested a continuance.

Mrs. Greenhalgh suggested that the Board not allow for this to be continued, but rather it should be withdrawn. The Board cannot condition an ANR and the only way to ensure that the road/driveway is built is through a performance guarantee or surety, which can only be done through a subdivision. A modification plan, under c.41, §81W, would need to be submitted. The plan would provide the specification to which the road would be constructed. If approved by the Board a covenant or bond would be imposed to ensure the construction. Mrs. Greenhalgh would recommend that the fee be waived for the filing of a new ANR plan, provided it is submitted within one year. A fee would be required for the Modification application, as abutters would need to be notified, advertisements, notices, etc. The Board concurred about the filing fee.

Mr. Lay requested a withdrawal without prejudice of the ANR plan. Mr. Worthington moved to approve the request for the withdrawal without prejudice. It was seconded by Mr. Boleyn and so voted unanimously 7-0-0.

Continued Discussion on Development Agreement

Mr. Lucy compared the original bylaw that was approved, with the newer (2009) model bylaw. The new document was essentially a reorganization of the older bylaw. There were some deletions and some additions. It is a bit more streamlined. So far it is substantially the same. Mr. Lucy will complete his review and bring this back to the next meeting.

Continued Planning Board Discussion on:

Zoning to be reviewed: Mrs. Greenhalgh provided the Board with draft amendments for several zoning articles.

Article ____: To see if the Town will vote to amend the Truro Zoning Bylaw, Section 30.2 Note 4, by deleting the existing language and replacing it with the following:

4. Uses in this category are further subject to the special regulations set forth in §40.5 and the Planning Board shall serve as the Special Permit granting authority.”

Article ____: To see if the Town will vote to amend the Truro Zoning Bylaw, Section 30.2 Note 4, by deleting the last portion of the final sentence:

6. The Board of Appeals may approve activities which are necessary in connection with scientific research or scientific development or related production, and which are accessory to a permitted use, if the Board finds the proposed accessory use does not substantially derogate from the public good; ~~the proposed accessory use need not be located on the same parcel as the primary use.”~~

Article ____: To see if the Town will vote to amend the Truro Zoning Bylaw by deleting Section 50.1.H: ~~“H. Public accommodations shall not exceed two (2) habitable stories.”~~

It was the consensus of the Board that these were acceptable.

Mrs. Greenhalgh still needs to refer the question about §30.2 Note 5 and whether the Board of Appeals can legally make a finding about “or tends to reduce values” to Town Counsel.

Mr. Lucy spoke to Section 60.6.A. He spoke with the Attorney General’s Office (AG’s) office. The language is essentially the same as MGL 40A, Section 8. The AG’s office suggested that Town Counsel be asked the more specific questions such as “who can appeal the Building Commissioner”. AG’s office did say that the Town language cannot be more restrictive in the language; such as dictating how can appeal (limitations). Mrs. Greenhalgh will refer this to Town Counsel for review; Mr. Lucy will provide Mrs. Greenhalgh with the specific questions.

Definition of Street and Frontage: Mr. Childs believes that the Board should have some sort of responsibility in assisting property owners with the use of their property. Although there was discussion at the last meeting that the Board would create problems, there don’t appear to be problems in other towns, which use language such as “in the opinion of the Board.” Mr. Lucy spoke with the Building Commissioner. He informed Mr. Lucy that for lots that were already built on along dirt roads the property owner will have relief with a Special Permit from the Zoning Board of Appeals (ZBA). For lots with no buildings that are located on dirt roads, the Building Commissioner is not sure what relief might be necessary, perhaps a Variance. The Building Commissioner did suggest that there needs to be minimal standards presented in the Zoning Bylaw. For example a requirement for hardening (gravel.) Mr. Sollog agrees that there should be some minimal requirements. There are examples presented in the roads/street

definitions from other communities. Mr. Roderick, asked what happens to the property owner at the end of the road? How does he improve the rest of the road? Mr. Lucy suggested that the Home Owners Association might be of use in these situations. Sylvan Road was used as an example. The road is 40' wide, but has never been constructed, so there would be room for improvement. There are other roads that are no more than 8' wide. As it stands now, relief would/could only be issued through the ZBA for a variance. Mr. Sollog suggested going through the examples from other towns. Mr. Sollog and Mr. Lucy will work up some language for the next meeting and Mrs. Greenhalgh is happy to assist.

Review and Approval of Meeting Minutes: October 7, 2014

Mr. Lucy moved approval the October 7, 2014 minutes as written, seconded by Mr. Boleyn. So voted 5-0-2 (abstained Tobia and Worthington.)

Mr. Worthington asked if there should be an inspection of Knowles Crossing. Mrs. Greenhalgh will review the documents.

Meeting Dates and Other Important Dates:

- November 5, 2014 – Regular Meeting (NOTE: This is a **WEDNESDAY**)
- November 18, 2014 – Regular Meeting.
- December 9, 2014 – Regular Meeting
- December 17, 2014 – Regular Meeting(NOTE: This is a **WEDNESDAY**)

Adjourned at 6:51pm

Respectfully Submitted,

Charleen L. Greenhalgh
ATA/Planner