

## **TRURO PLANNING BOARD**

### **Meeting Minutes**

**October 7, 2014 - 6:00 pm**

**Truro Town Hall**

**Members Present:** Leo Childs, Bruce Boleyn, Michael Roderick, Chris Lucy, and Steve Sollog

**Members Absent:** William Worthington and Lisa Maria Tobia,

**Other Present:** Charleen Greenhalgh ATA/Planner, Marion Averback, Chester Lay, Tim Dickey, Daniel Klasnick, Paul Kiernan

Mr. Childs opened the meeting at 6:00 pm

### **The Truro Group – Temporary Sign Permit Request**

Representative: Marion Averback

The Truro Group seeks approval of a Temporary Sign, a banner, for October 3 – 30 to be located on Route 6, just south of Standish Way. There were no comments. Mr. Boleyn moved to approve the requested permit, seconded by Mr. Lucy, so voted unanimously 5-0-0.

### **2005-011 Czyoski Family Trust, Covenant Release & As-Built Plan for Laura's Way**

Representative: Chester Lay

A full release of covenant and acceptance of the as-built plan is requested. The Board Members held an on-site on September 23, 2014. Mr. Lay explained a brief history of the road and reported that there is power to the site, a question raised by the Board at the on-site. There were no additional questions from the Board. Mr. Boleyn moved to approve the complete release of covenant and to accept the as-built plan, seconded by Mr. Lucy, so voted unanimously 5-0-0.

### **Development Agreement Bylaw (DAB) Public Meeting**

The DAB is authorized under the Cape Cod Commission (CCC), Chapter D, Development Agreement Regulations Governing the Provisions for Development Agreements, Barnstable County Ordinance 92-1 (Revised May 2009.) The Town of Truro adopted such a bylaw in 2002; however the bylaw was inadvertently omitted when the General Bylaws were re-codified in 2005. The Board now seeks input from the public.

Mr. Lucy spoke to the model bylaw. The DAB provides the opportunity for a developer to work with the Town to come up with an agreement that would be advantageous to the Town. This allows for developments that may differ from the CCC regulations. It would allow for a series of public hearings and ultimately would require a vote of the town meeting. At any time either party can back out of the agreement and would then need to go through the Development of Regional Impact (DRI) process.

Mr. Kiernan spoke to the DAB and the history of how this got on the Town Meeting Warrant. He expressed that this would be to the benefit of the Town as it could allow for a development that is better suited for the Town. The DAB would allow for less open space which would be more in keeping with the needs of the Town. He would like to know what the differences are

between the version adopted in 2005 and with the revision to the DAB approved by the CCC in 2009.

Mr. Lucy will compare the two documents to see what the particular changes are and he will report back to the Board. Mr. Kiernan asked that if there are differences that would be detrimental to the Town can it be amended. Mr. Lucy and Mrs. Greenhalgh do not believe that it can be substantially different from what the model bylaw provides.

**2014-004 Kinsail Realty Trust, c/o Tim Dickey, Waiver of Site Plan Review, 39 Route 6**

Representative: Tim Dickey

The applicant seeks a Waiver of Site Plan Review pursuant to §70.9 of the Truro Zoning Bylaw to allow for the construction of a garage within the Seashore Zoning District at property located at 39 Route 6, Map 60, Parcel 28.

Mr. Dickey explained the site was previously approved by the Board; however the garage was not included in the approval. Mr. Childs went to the site and had no comments or issues. Mr. Sollog commented that it was a large garage. The second floor will be used as an office or a studio, per Mr. Dickey. Mr. Lucy commented that it is down in a hollow and would not be seen from the road. He does not see this as an issue. Mrs. Greenhalgh reported that she had spoken with Lauren McKean from the CCNS and she had no problems. Mr. Lucy moved to approve the request of Kinsail Realty Trust, c/o Tim Dickey, for a Waiver of Site Plan Review pursuant to Section 70.9 of the Truro Zoning By-law to allow for the construction of a garage within the Seashore Zoning District at property located at 39 Route 6, Map 60, Parcel 28. This is based on the fact that the new garage will not have a significant impact: within the site or in relation to adjacent properties and streets; on pedestrian and vehicular traffic; on public services and infrastructure, or on unique environmental and historic resources, abutting properties; or community needs. Mr. Boleyn seconded the motion and it was so voted to approve on a vote of 5-0-0.

**CCATT LLC Pre-Application Conference for Wireless Communication Tower, 344 Route 6**

Representative: Daniel D. Klasnick, Esq.

CCATT LLC has requested a consultation with the Planning Board pursuant to §40.5.B.17 of the Truro Zoning Bylaws to install two (2) additional wireless communication antennas, two (2) remote radio heads and appurtenant cabling and equipment on the existing Public Safety Facility Tower at 344 Route 6, Map 39, Parcel 172.A.

Attorney Klasnick spoke to the pre-application. Sprint has two antennas on the tower. Additional equipment is necessary for broader more enhanced service and 4G and a fiber cable will be added and tied into the existing cabinet. Sprint has provided a comprehensive set of plans. Mr. Klasnick ran through the plans. The existing antennas will remain and the additional antennas would be added. The Board reviewed the checklist. Based on that consultation, the Board agreed that the plans presented were acceptable and additionally that the following information would need to be filed for a Special Permit pursuant to §40.5:

1. §40.5.B (19.f). Be sure to include in the narrative a statement of the services to be supported by the proposed communications structure, building or appurtenance.

2. §40.5.B (19.h). Be sure to include language in the narrative that the applicant has complied.
3. §40.5.B (20.a). A plan/statement needs to be included indicating that the applicant will be responsible to remove equipment if and when the applicant leaves the tower.
4. §40.5.b (20.b). Items i – iv are already shown on the plan.
5. §40.5.B (22). Be sure that all plans and statements requiring certification by an appropriate licensed professional are so certified.

There were no further questions or comments. Mrs. Greenhalgh will prepare a letter outlining the results of the conference. Attorney Klasnick thank the Board and Mrs. Greenhalgh.

Mr. Kiernan then spoke to the tower and the construction of the tower.

### **Planning Board Discussion on Zoning Items**

30.2 Note 4 – Mr. Roderick at the previous meeting suggested simply referencing Section 40.5. Mrs. Greenhalgh will draft a bylaw for this.

30.2 Note 5 – Does the ZBA have the right? Mrs. Greenhalgh will ask for an opinion from Town Counsel.

30.2 Note 6 – Mrs. Greenhalgh will draft up an amendment to delete the last sentence.

50.1 will be left as is for now.

50.1.H – Mr. Boleyn does not believe that this is needed. Mrs. Greenhalgh will draft an article.

60.1.D should stay, per Mr. Lucy relative to the time in which the Building Commissioner has to respond.

No action on the Cluster Bylaw at this time.

**Definition of Street:** Mr. Childs likes the definition from Yarmouth. Mr. Lucy asked how that would get passed. He expressed that the Board needs to explain to the public the need for the change in the definition. Also, need to get the Selectmen on board. There has been great confusion. He agrees that the Yarmouth bylaw suits what we need; however getting this through Town Meeting will be difficult. Mr. Childs opened it to the floor.

Mr. Kiernan provided with Board with some history and stated that the town bylaws can be more restrictive, but not less restrictive than the state laws. In 1936 the town had a requirement for 40 foot wide roads. In 1960 the definition of street was more restrictive than the state, eliminating the language regarding a determination or opinion of the Planning Board. In 1986 it came back to the Annual Town Meeting and was defeated. He expressed his concerns for allowing only 4 Board members to opine on the status of a road. Many of the roads have never been surveyed. Over time the “road” can move due to plowing, grading, etc. resulting in a Board having the ability to make a legal determination on a road that may be in the wrong place. Who ultimately has responsibility of the care of the road? Any Board could find a 12 foot wide road as adequate.

A requirement of law vs. the opinion of 4 people is a concern to him. Mr. Kiernan would request that the existing definition of Street be amended to reflect the new Subdivision regulations.

Mr. Lucy stated that the Board is looking at any and all roads that have not been constructed to the design standards of 1989. This results in properties requiring Board of Appeals relief. The Board is not looking at just 8' roads; it is looking at all roads that have not been constructed in accordance with the requirements from 1989. He does not see an excess number of homes being built when the determination of the opinion of the Board is that a road is adequate, which is language used consistently across the Cape. Mr. Lucy used Sylvan Lane as an example.

Mr. Kiernan responded explaining the history of Sylvan Lane and that all the lots are buildable. Mr. Lucy disagreed stating that the inadequacy of the road means that it is not a buildable lot, as expressed in the Kline case. Mr. Kiernan then spoke to single lot protection (50' of frontage and 5,000 sf.) Mr. Kiernan then spoke at length the Kline case. Mrs. Greenhalgh asked for a point of order in that the current discussion was not about the definition of Street, Mr. Childs agreed and stated that the conversation had gone far-a-field. Mr. Kiernan then stood up and continued by asking "if this is an attempt to change the definition of street to make that building legal", at which point Mr. Lucy asked if he was "serious", Mr. Kiernan replied "just asking, what else would you be doing." Mr. Childs then ended the discussion.

**Review and Approval of 2015 Hearing/Meeting Schedule:** The Board was good with the schedule.

**Review and Approval of Meeting Minutes**

September 2, 2014 – Mr. Roderick moved to approve the minutes as written, seconded by Mr. Boleyn, so voted 5-0-0.

September 15, 2014 – Mr. Lucy moved to approve the minutes as amended, seconded by Mr. Roderick, so voted 5-0-0.

September 23, 2014 – Mr. Lucy moved to approve the minutes as written, seconded by Mr. Boleyn, so voted 5-0-0.

The meeting adjourned at 7:45pm

Respectfully Submitted,

Charleen L. Greenhalgh  
ATA/Planner