

TRURO PLANNING BOARD AGENDA
WEDNESDAY, November 8, 2017 – 6:00 p.m.
Truro Town Hall, 24 Town Hall Road, Truro

AMENDED

Public Comment Period

The Commonwealth's Open Meeting Law limits any discussion by members of the Board of an issue raised to whether that issue should be placed on a future agenda. Speakers are limited to no more than 5 minutes.

Temporary Sign Permit

Kathleen Henry – seeks approval of 15 day Temporary Sign Permits pursuant to §11 of the Truro Sign Code for two 45" by 25" wide signs to be placed along Route 6 at the intersection with Aldrich Road and along Route 6 at the intersection with Standish Way from November 26 to December 10, 2017.

Continued Public Hearing – Commercial Site Plan Review

2017-007SPR Lexvest East Harbour, LLC seeks approval of 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 combining units, proposal also includes some changes to site improvements. The property is located at 618 Shore Road, East Harbour Cottages and Condominium, Assessor's Atlas Map 5, Parcel 13. Hearing continued from August 15, September 5, 2017, October 3, 2017 and October 17, 2017.

Public Hearing – Accessory Dwelling Unit Application

2017-008PB Brian Boyle - seeks approval of an Accessory Dwelling Unit with the Clerk of the Town of Truro pursuant to §40.2 of the Town of Truro Zoning Bylaw with respect to property 3 Tom's Hill Path, Truro and shown on the Truro Assessor's Map, Sheet 45, Parcel 72. Continued from October 17, 2017.

Application for Determination that Plan Does Not Require Approval

2017-005PB Kevin Shea, Judith Richland, Barbara Rybeck and Joan Siniscalco seeks a determination that a plan showing a division of land into two parcels does not require approval under the Subdivision Control Law. The property is located at 402 and 408 Shore Road, Assessor's Atlas Map 10, Parcel 22 and 41.

Discussion of Possible Site Visit – 12 Ocean Bluff Lane

The Planning Board will consider scheduling a site visit to 12 Ocean Bluff Lane, as requested by the applicant's Attorney, Ben Zehnder. This property is tentatively scheduled for the December 6, 2017 Planning Board meeting for a Residential Site Plan Review.

Open Discussion of Possible Zoning Bylaw Amendments

The Planning Board will consider possible amendments to the zoning bylaw, including, but not limited to, size restrictions for residential structures in all zoning districts. The Board will consider holding public forums and other means of outreach for obtaining citizen input and whether a subcommittee should be formed to review possible zoning amendments.

Review and Approval of Meeting Minutes

October 17, 2017 Regular Meeting

Reports from Board Members and Staff

Town Planner report

Next Meeting Agenda

November 21, 2017 – consider cancelling the meeting as discussed on 10/17/17

Meeting Dates and Other Important Dates

December 6, 2016 (Wednesday) – Regular Meeting

December 20, 2016 (Wednesday) – Regular Meeting

Adjourn



Office of Town Clerk
 Treasurer - Tax Collector
 85.00 PAID
 NOV - 1 2017
 Received TOWN OF TRURO
 By *[Signature]*

TOWN OF TRURO



PLANNING BOARD

Application for Temporary Sign Permit

Pursuant to Section 11 of the Truro Sign Code

Fee: \$25.00

Applicant Name: OUTER CAPE CADRALE Date: 11/1/17

Applicant Contact Information: % KATHLEEN HENRY 88 WHARF ST. #213
Mailing Address MILTON MA 02184
857-544-2937 khenry15@comcast.net
Phone Email

Number of Signs Requested: 2

Temporary Sign Dimensions: Height 45" Width 25" Please attach a "to scale" copy of the proposed sign(s).

Location(s) of Proposed Temporary Sign(s): ALONG RTE. 6 NORTH BOUND
AT INTERSECTION WITH ALDRICH RD. and
RTE. 6 NORTH BOUND AT INTERSECTION WITH (OPPOSITE) STANDISH WAY
 Map(s): _____ Parcel(s): _____ Please use additional sheet(s) for multiple locations

Date(s) of the Event in Which the Sign is Intended: Dec. 8 & 9, 2017

Date When Sign(s) will be Installed: 11/26/17 Removed: 12/10/17

Name and Address of Property Owner(s) Where Temporary Sign(s) to be located:

Name J Mailing Address _____

Phone _____ Email _____

Kathleen Henry 11/1/17
 Applicant Signature Date

Owner Signature (which also authorizes the use of the property) _____ Date _____

Planning Board Action: Approved _____ Approved w/Conditions _____ Denied _____

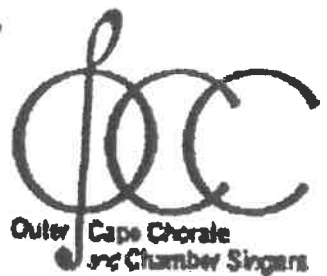
Conditions: _____

Board Signature: _____ Date: _____
Title

CC: Building Commissioner, Board of Selectmen



Outer
Cape
CHORALE



Outer Cape Chorale
& Chamber Singers

Dec. 8 & 9
P-Town Hall
7 PM Free



TOWN OF TRURO

Planning Department

P.O. Box 2030, Truro, MA 02666

Tel: (508) 214-0928 Fax: (508) 349-5505

charper@truro-ma.gov

Memorandum

To: Planning Board

Fr: Cally Harper, Town Planner

Date: November 1, 2017

Re: **2017-007SPR Lexvest East Harbour, LLC Staff Report #5**

2017-007SPR Lexvest East Harbour, LLC seeks approval of 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 combining units, proposal also includes some changes to site improvements. The property is located at 618 Shore Road, East Harbour Cottages and Condominium, Assessor's Atlas Map 5, Parcel 13. Hearing continued from August 15, September 5, 2017, October 3, 2017 and October 17, 2017.

On October 17, 2017, the Planning Board asked the applicant for the following items:

- Photographs of trash containers. Applicant submitted a new plan showing the locations of the trash receptacles
- An updated plan with handicap parking spaces or a Memo from Building Commissioner with regard to the handicap spaces (memo is included in the packet to the Planning Board)
- Copy of the ZBA decision (included in the packet to the Planning Board)
- Memo from the Fire Chief Tim Collins of the Truro Fire Department describing whether or not fire trucks can maneuver in between parking spaces #4 and #5 and the overhang of the building containing units 10-14. Copies of this memo will be distributed at the November 8th Planning Board meeting.

DECISION/MOTION OF THE ZONING BOARD OF APPEALS OF TRURO, MA.

Property Owner(s) and/or Applicant(s): Sonja Soderberg, by agt/atty Lester J. Murphy, Jr

Property Location: 618 Shore Rd. (East Harbor Motel)

Atlas Sheet: 5 **Parcel(s):** 13 (2015-008/ZBA) Land
(ref: Reg. of Deeds Certif. of Title # 96279, Plan #40948-A).

Hearing Date: Monday, July 27, 2015

Special Permit	<input checked="" type="checkbox"/>	Vote: <u>4</u> Approve
Variance	<input type="checkbox"/>	<u>0</u> Disapprove
Building Commissioner Decision	<input type="checkbox"/>	<u> </u> Abstain
& Other	<input type="checkbox"/>	(Motion Carries)

Motion (Todd; 2nd Hultin): Move in the matter of 2015-008/ZBA request by Sonja Soderberg for property at 618 Shore Rd. (Atlas Sheet 5, Parcel 13)(Reg. of Deeds Certif. of Title #96279, Plan #40948-A), for the conversion of cottage colony and motel to multi-family use under a Condominium form of ownership (w/ref. to Sec. 40.3. of the Zoning Bylaw) and with reference to Plans submitted to the Planning Board. The ZBA Finds: All appropriate filings have been completed and approved by the BOH, Building Commissioner, and Planning Board. Furthermore said Special Permit is in keeping with the intent of the bylaw and not substantially more detrimental to the neighborhood.

I hereby certify this as a true and accurate record of the Zoning Board of Appeals:

Rachel chair 8/5/15
 Signature Date

Received, Office of the Town Clerk:

[Signature] AUGUST 5, 2015
 Signature Date

I hereby certify that this decision was filed with the Office of the Town Clerk on AUGUST 5, 2015 and 20 (twenty) days have elapsed since the date of filing, and:

- No Appeal has been filed.
- An Appeal has been filed and received in this office

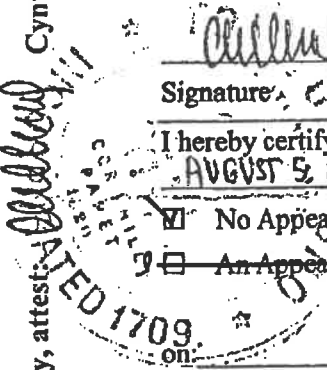
[Signature] SEPTEMBER 4, 2015
 Signature Date

NOTE: Any person aggrieved by a decision of the Zoning Board of Appeals may appeal to the Superior or Land Court by bringing action within twenty days after the decision has been filed with the Town Clerk of Truro. (Massachusetts General Laws, Chapter 40A, Section 17.)

THE COPY OF THIS DECISION PROVIDED BY THE TOWN CLERK MUST BE FILED WITH THE REGISTER OF DEEDS OF BARNSTABLE COUNTY BY THE APPLICANT.

BARNSTABLE REGISTRY OF DEEDS
John F. Meade, Register

A true copy, attest: *[Signature]* Cynthia A. Slade, Town Clerk, Town of Truro / September 4, 2015
** alkla Sonya Segura*



From: [Russ Braun](#)
To: [Cally Harper](#)
Subject: East Harbour
Date: Wednesday, October 25, 2017 10:07:29 AM

Billy Rogers contacted me and forwarded a revised site plan for the above referenced project. There were two items he asked me to review.

First is the requirement for handicap parking. Our zoning bylaw bylaw has changed the use of the property to one and/or multifamily use. Under 521 CMR, the accessibility guidelines, existing multifamily buildings require handicap parking when the number of multifamily units exceeds 12. In our case there are five units. The others are one and two family buildings. It is my opinion, in this case, that the addition of handicap parking spaces is not required.

Secondly, he asked whether or not the revised parking layout satisfies the bylaw. Apparently the PB requested the preexisting parking to be removed from the street layout. (By the way, contrary to certain comments made, Shore Rd. is not a state road.) It appears that the number of spaces is adequate but there is insufficient information to determine if the aisle width at spaces 1,2,3 and 29 is adequate.

Let me know if you have further questions.

Russell Braun
Building Commissioner

508-349-7004 Ext 133

Model # RSS2001L Internet #204201525



[Share](#)

[Save to List](#)

[Print](#)

Leisure Season 65 in. x 38 in. x 53 in. Cedar Large Horizontal Refuse Storage Shed

★★★★ (21) [Write a Review](#) [Questions & Answers \(10\)](#)

\$354⁰⁴ /each

Product Overview

Large horizontal outdoor storage shed for trash, recycling, food and yard waste. Unlike your grandfather's outdoor shed and far better than your neighbor's plastic storage container, this triple-door horizontal refuse storage center provides a sturdy, stylish solution. Includes all the same great features as our... [See Full Description](#)

- Elegantly designed: attractive, functional, durable
- Weather resistant solid wood from cypress tree family, as cedar
- Tongue and groove boards
- Stained and finished with protective coating
- Outdoor grade hardware
- Curved lid to prevent snow and ice build up
- Holds multiple bins of various sizes
- Keep trash and recycling bins organized and tidy
- No floor - easy to roll bins in and out
- Designed for year round outdoor use
- Reinforcing corner braces enhance structure's integrity
- Pneumatic lid allows one hand operation; lid stays up to independently
- Lockable doors and lid to prevent critter intrusion

Info & Guides

- Instructions / Assembly
- Use and Care Manual
- Warranty

You will need Adobe® Acrobat® Reader to view PDF documents. Download a free copy from the Adobe Web site.

Specifications

Dimensions

Assembled Depth (in.)	38 in
Assembled Height (in.)	53 in
Assembled Width (in.)	65 in
Coverage Area (sq. ft.)	14
Exact Width x Depth	5 ft 5 in x 3 ft 2 in

Details

Color Family	Browns / Tans
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Door Type	Double Door and Lid
Features	Lockable,Pneumatic Lid Assists,Weather Resistant
Included	Assembly Instructions
Material	Wood
Product Weight (lb.)	95lb
Returnable	90-Day

Warranty / Certifications

Manufacturer Warranty	1 year limited warranty for manufacturing defects
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How can we improve our product information? Provide feedback.

Recently Viewed Items



Leisure Season 65
in. x 38 in. x 53 in.
Cedar Large

(21)

\$354⁰⁴ /each



TOWN OF TRURO

Planning Department
P.O. Box 2030, Truro, MA 02666
Tel: (508) 349-7004, Ext. 127 Fax: (508) 349-5505
charper@truro-ma.gov

To: Planning Board
From: Cally Harper, Town Planner
Date: November 2, 2017
Re: Staff Report #2

2017-008PB Brian Boyle - seeks approval of an Accessory Dwelling Unit with the Clerk of the Town of Truro pursuant to §40.2 of the Town of Truro Zoning Bylaw with respect to property 3 Tom's Hill Path, Truro and shown on the Truro Assessor's Map, Sheet 45, Parcel 72. Continued from October 17, 2017.

Documents submitted by the Applicant:

Under the procedural requirements in §40.2 of the Town of Truro Zoning Bylaw, item (g) states the following:

Building plans at a scale no less than 1/8" = 1'0", including floor plans and front, side, and rear elevations of the ADU and principal dwelling or structure.

During the meeting, the Board interpreted item (g) as the applicant must submit building plans including floor plans and front, side and rear elevations for both the ADU and the principal dwelling. To fulfill that request, Mr. Dickey photocopied the existing plans for the principal structure from the Truro Building Department and submitted copies to the Planning Department on October 20, 2017. These documents are included in the packet to the Planning Board.

Site Visit:

The Planning Board visited the site on Monday October 23, 2017 at 3 pm. The following members were present: Mr. Sollog, Mr. Reimer, Mr. Kiernan, Mr. Herridge, and Mr. Boleyn along with Mr. Boyle, Mr. Dickey and the Town Planner. The site visit started at 3 PM on site and concluded at 3:22 PM. Members of the Board observed the exterior of the ADU and entered into the ADU and the garage, with permission from Mr. Boyle.

Possible Motions:

Affirmative Motion:

With respect to application **2017-008PB Brian Boyle**, the Board finds that the provisions of §40.2 of the Town of Truro Zoning Bylaw with respect to property 3 Tom's Hill Path, Truro and shown on the Truro Assessor's Map, Sheet 45, Parcel 72 have been met and approves the ADU permit subject to the following conditions:

1. Once an ADU has been added to a dwelling, structure or lot, the ADU shall not be enlarged beyond the square footage specified in the permit granted pursuant to this

section without first obtaining a subsequent permit from the Planning Board, and in no case shall an ADU be permitted to exceed the square footage allowed by §40.2 of the Town of Truro Zoning Bylaw

2. The principal dwelling and ADU and lot on which they are located shall remain in common ownership, and shall not be severed in ownership, including that the lot, buildings or units thereon shall not be placed in a condominium form of ownership.
3. Either the ADU or the principal dwelling on a lot with an ADU must be leased for a term of at least twelve (12) months. Rental of said unit for a period of less than twelve (12) months (including, but not limited to, seasonal rental and rental through vacation rental services and websites) is prohibited. Proof of year-round rental shall be provided annually to the Building Commissioner by the owner in the form of a lease and a signed affidavit from both the owner and renter stating the unit is being rented accordingly and is used as a primary residence
4. ADUs permitted under this section shall be inspected annually or as frequently as deemed necessary by the Health and Building Departments for compliance with public safety and public health codes. The owner of the property shall be responsible for scheduling such inspection and shall pay any applicable inspection fees

{If the Board does not want to read Conditions 1-4, the Board can simply reference Conditions 1-4 in the Motion as stated in the Planner Report dated November 2, 2017}

Negative Motion:

With respect to application **2017-008PB Brian Boyle**, the Board finds that the provisions of §40.2 of the Town of Truro Zoning Bylaw with respect to property 3 Tom's Hill Path, Truro and shown on the Truro Assessor's Map, Sheet 45, Parcel 72 have not been met for the following reasons *{please specify}* and denies the ADU permit



TOWN OF TRURO

Planning Department
P.O. Box 2030, Truro, MA 02666
Tel: (508) 349-7004, Ext. 127 Fax: (508) 349-5505
charper@truro-ma.gov

To: Planning Board
From: Cally Harper, Town Planner
Date: November 3, 2017
Re: Staff Report #1

2017-005PB Kevin Shea, Judith Richland, Barbara Rybeck and Joan Siniscalco seeks a determination that a plan showing a division of land into two parcels does not require approval under the Subdivision Control Law. The property is located at 402 and 408 Shore Road, Assessor's Atlas Map 10, Parcel 22 and 41.

Planning Board action on this application is on the November 6, 2017 Planning Board agenda.

Description:

The submitted plan shows two lots located in the Limited Business Beach Point District. The properties have frontage on Shore Road (Route 6A), a paved public way. According to the filed plan, Lot 1 has an area of 18,383± square feet with 154 feet of frontage and Lot 2 has an area of 13,956± square feet with 112 feet of frontage. Lot 2 is an undersized lot and lacks the required frontage. On November 3, 2016, the applicant sought a variance from the Truro Zoning Board of Appeals and they granted relief to Kevin Shea and Judith Richland to construct a single family house on the pre-existing, non-conforming lot (Lot 2, 408 Shore Road) which lacks the required frontage (see ZBA decision in packet). The Zoning Board of Appeals also granted a variance to Barbara Rybeck and Joan Siniscalco to construct a single family house on Lot 1, 402 Shore Road (see ZBA decision in packet).

Completeness of Submission:

The applicant submitted the following materials on October 19, 2017:

1. Fully executed Form A Application for Determination That Plan Does Not Require Approval (ANR) dated October 19, 2017 signed by Kevin Shea, Judith Richland, Barbara Rybeck and Joan Siniscalco as owners and William N Rogers II as agent.
2. Filing fee of \$275.00.
3. Plan titled: "Plan of Land in (North) Truro, MA as Surveyed for Kevin R. Shea ET UX & Barbara D. Rybeck and Joan Siniscalco," dated August 2017, Scale 1" = 20' prepared by William N. Rogers Professional Civil Engineers and Land Surveyors.

The applicant also submitted the following documents:

1. Decision/Motion of the Zoning Board of Appeals of Truro, MA. 408 Shore Road, 2016-017 ZBA granting a variance by the ZBA to construct a single family dwelling on 408 Shore Road.
2. Decision/Motion of the Zoning Board of Appeals of Truro, MA. 402 Shore Road, 2016-013 ZBA granting a variance by the ZBA to construct a single family dwelling on 402 Shore Road
3. A copy of the letter dated September 3, 2003 from then Town Counsel, Edward E. Veara to Linda Maloney, Deputy Assessor advising her that the two parcels are distinct and should be separately assessed.

Public Notice:

Applications for an ANR determination do not require public notice beyond the meeting posting required to comply with the Open Meeting Law.

Planning Staff Comments:

The Board must act within 21 days to avoid an automatic determination that approval is not required (MGL Chapter 41, Section 81P). The Plan was submitted on October 19, 2017 and the Board must act by November 9, 2017.

Waivers:

Waivers are not applicable to a request for an ANR determination.

Possible Motions:

Affirmative Motion:

With respect to application 2017-005PB Kevin Shea, Judith Richland, Barbara Rybeck and Joan Siniscalco, the Board determines that the plan entitled “Plan of Land in (North) Truro, MA as Surveyed for Kevin R. Shea ET UX & Barbara D. Rybeck and Joan Siniscalco,” dated August 2017, Scale 1” = 20’ prepared by William N. Rogers Professional Civil Engineers and Land Surveyors does *not require* approval under the Subdivision Control Law.

If the affirmative motion is made, the Board shall forthwith endorse the plan.

Negative Motion:

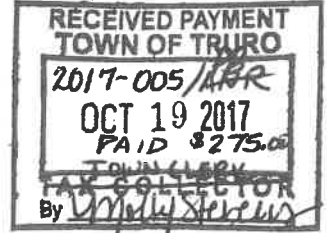
If the Board determines that the plan does show a subdivision of land it should state the basis of its determination and the motion should include that basis and state that the Board determines that the plan *does* require approval under the Subdivision Control Law.

If the motion to deny an approval not required endorsement is made, the Board must give written notice of its determination to the Town Clerk and person submitting the plan not later than on November 9, 2017.

TOWN OF TRURO



PLANNING BOARD



FORM A
APPLICATION FOR DETERMINATION THAT
PLAN DOES NOT REQUIRE APPROVAL (ANR)

Date: OCTOBER 19, 2017

To The Planning Board of the Town of Truro Massachusetts,

The undersigned owners of all the land described herein submitted the accompanying plan entitled:
PLAN OF LAND IN NORTH TRURO AS SURVEYED FOR KEVIN T. SHEA ET UX &
BARBARA D. RYBECK AND JOAN SANCALDO and dated AUGUST, 2017, requests a
determination and endorsement by said Board that approval by it under the Subdivision Control Law is not
required.

Property Location: 402 & 408 SHORE ROAD Map(s) and Parcel(s): MAP 10 PARCELS 22 & 41
LOT 1 = 18,383 +/- SQ. FT.

Number of Lots Created: 2 Total Land Area: LOT 2 = 13,956 +/- SQ. FT.

The owner's title to said land is derived under deed from 408 SHORE ROAD - NORFOLK HOLDINGS CORP
402 SHORE ROAD - HENRY B. MILLER JR. ET AL
dated OCTOBER 10, 1991 and recorded in the Barnstable Registry of Deeds Book and Page: 2711/69
JANUARY 2, 2000 13 530/12

or Land Court Certificate of Title No. registered in Barnstable
County.

The undersigned believes that such approval is not required for the following reasons: (Check as appropriate)

- checkbox The accompanying plan is not a subdivision because the plan does not show a division of land.
checkbox The division of the tract of land shown on the accompanying plan is not a subdivision because every lot
shown on the plan has frontage of at least such distance as is presently required by the Truro zoning by-law
under Section 50.1 (A) which requires 150 feet for erection of a building on such lot; and every lot shown on
the plan has such frontage on:
checkbox a public way or way which the Town Clerk certifies is maintained and used as a public way, namely
checkbox a way shown on a plan theretofore approved and endorsed in accordance with the subdivision
control law, namely on and subject to the following
conditions; or
checkbox a private way in existence on December 8, 1955, the date when the subdivision control law
became effective in the Town of Truro having, in the opinion of the Planning Board, sufficient width,
suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the
proposed use of the land abutting thereon or served thereby, and for the installation of municipal services
to serve such land and the buildings erected or to be erected thereon, namely

checkbox The division of the tract of land shown on the accompanying plan is not a "subdivision" because it shows a

proposed conveyance/other instrument, namely _____ which adds to/takes away from/changes the size and shape of, lots in such a manner that no lot affected is left without frontage as required by the Truro zoning bylaw under Section 50.1 (A), which requires 150 feet.

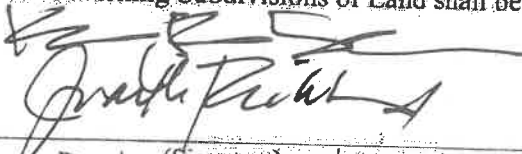
The division of the tract of land shown on the accompanying plan is not a subdivision because two or more buildings, specifically _____ buildings were standing on the property prior to December 8, 1955 the date when the subdivision control law went into effect in the Town of Truro and one of such buildings remains standing on each of the lots/said buildings as shown and located on the accompanying plan. Evidence of the existence of such buildings prior to the effective date of the subdivision control law as follows:

Other reasons or comments: (See M.G. L., c.41, §81-L)

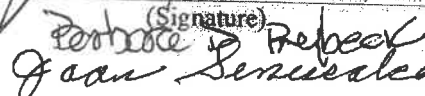

PLEASE SEE ATTACHED TWO (2) VARIANCES,
FROM ZONING BOARD OF APPEALS
(2016-017/ZBA & 2016-013/ZBA)

All other information as required in the Rules and Regulations Governing Subdivisions of Land shall be submitted as part of the application.

KEVIN R. SHEA &
* JUDITH RICHLAND
(Printed Name of Owner)

* 
(Signature)

Barbara D. Rybeck
* JOAN SMISCALCO
(Printed Name of Owner)

* 
* 
(Signature)

47 STUDIO ROAD
AUBURNDALE, MA 02466
(Address of Owner(s))

* Barbara D. Rybeck
* JOAN SMISCALCO
(Address of Owner(s))

*1 WILLIAM N. ROGERS II
(Printed Name of Agent)


(Signature)

4 LOFF CEMETERY ROAD, P.O. BOX 631, TRURO TOWN, MA 02657
(Address of Agent)

File twelve (12) copies each of this form and applicable plan(s) with the Town Clerk

2/30/17
not

DECISION/MOTION OF THE ZONING BOARD OF APPEALS OF TRURO, MA.

Property Owner(s) and/or Applicant(s): Kevin Shea and Judith Richland.

Property Location: 408 Shore Rd.

Atlas Sheet: 10 Parcel(s): 41 (2016-017/ZBA) (Reg. of Deeds Title Ref: Book 7711, Page 069.)

Hearing Date: Monday, January 23, 2017 (as continued from 11/28/16 & 12/19/16 w/time waiver)

Special Permit	<input type="checkbox"/>	Vote: <u>5</u> Approve
Variance	<input checked="" type="checkbox"/>	<u>0</u> Disapprove
Building Commissioner Decision	<input type="checkbox"/>	___ Abstain
& Other	<input type="checkbox"/>	

Motion (Huitin, 2nd Todd): Move to grant a Variance to Kevin Shea and Judith Richland for the construction of a Single-Family Residence on a pre-existing, non-conforming lot which also lack required frontage with ref. to Sec. 50.1. of the Truro Zoning Bylaw for property located at 408 Shore Rd. (Atlas Sheet 10, Parcel 41(2016-017/ZBA) and based on the following Findings and Conditions approved:

(w/ref. to MGLC40A § 10: The circumstances relating to the soil conditions, shape or topography of such land and structures but not affecting in general the Beach Point Limited Business District are:

A) the unique legal proceedings and circumstances giving rise to the creation of the subject shape and size of the lots distinguish them from every other lot in the Zoning District;

B) in addition, the unique coastal dynamics influencing topographical size and shape of the lots and their soil conditions contribute to the financial and other hardships;

C) the two lots were defined by the structures constructed on 408 Shore Rd. and 402 Shore Rd. in 1945 and 1962 respectively, confine and dictate the lot lines and lot size;

D) Absent the Grant of Variance relief, the lots will continue to remain unbuildable and potentially result in the degradation of the resource and surrounding areas;

E) The intent of the Bylaw is not being derogated as the introduction of a single-family use eliminates the possibility of more intensive uses such as cottage, motel and condominium conversions.

The Board accepts the findings subject to the following Conditions: (1) Any landscape or privacy fencing be limited to three (3) feet in height; (2) the proposed seawall at 408 Shore Rd. shall be maintained in accordance with the Conservation Commission Order of Conditions.

The ZBA notes it would be preferable to have two distinct lots diligently processed by an application to the Planning Board for ANR endorsements.

I hereby certify this as a true and accurate record of the Zoning Board of Appeals:

B. Huitin
Signature

1/30/17
Date

Received, Office of the Town Clerk:

[Signature]
Signature

JANUARY 30, 2017
Date

ZBA Decision pg 2

2016-017/ZBA

I hereby certify that this decision was filed with the Office of the Town Clerk on JANUARY 30, 2017
and 20 (twenty) days have elapsed since the date of filing, and:

No Appeal has been filed.

An Appeal has been filed and received in this office on: _____

[Handwritten Signature]

FEBRUARY 03, 2017

Signature

Date

NOTE: Any person aggrieved by a decision of the Zoning Board of Appeals may appeal to the Superior or Land Court by bringing action within twenty days after the decision has been filed with the Town Clerk of Truro. (Massachusetts General Laws, Chapter 40A, Section 17.)

THE COPY OF THIS DECISION PROVIDED BY THE TOWN CLERK MUST BE FILED WITH THE REGISTER OF DEEDS OF BARNSTABLE COUNTY BY THE APPLICANT.

28 1/2
1-23

2nd DECISION/MOTION OF THE ZONING BOARD OF APPEALS OF TRURO, MA.

Property Owner(s) and/or Applicant(s): Barbara Rybeck & Joan Siniscalco, by Atty. Kevin M. Kirrane,

Property Location: 402 Shore Rd.

Atlas Sheet: 10 Parcel(s): 22 (2016-013/ZBA) (Title Ref: Book 13530, Page 012).

Hearing Date: Monday, January 23, 2017

Special Permit	<input type="checkbox"/>	Vote: <u>5</u> Approve
Variance	<input checked="" type="checkbox"/>	<u>0</u> Disapprove
Building Commissioner Decision	<input type="checkbox"/>	___ Abstain
& Other	<input type="checkbox"/>	

Motion (Hultin, 2nd Todd): Move in the matter of 2016-013/ZBA – Barbara Rybeck & Joan Siniscalco, for property located at 402 Shore Rd., (Atlas Sheet 10, Parcel 22)(title ref: Book 13530, Page 012). to Grant a Variance w/reference to Sec. 50.1. lot size for the construction of a new Single Family Residence, as per plans filed with the ZBA. The ZBA grants said variance based on the following Conditions and Findings: (w/ref. to MGLC.40A § 10: The circumstances relating to the soil conditions, shape or topography of such land and structures but not affecting in general the Beach Point Limited Business District are:

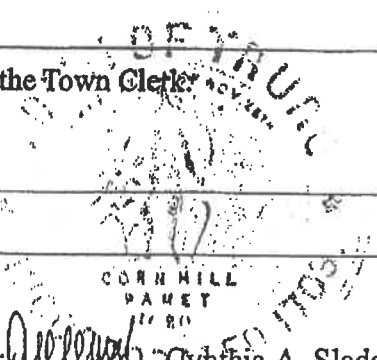
- A) the unique legal proceedings and circumstances giving rise to the creation of the subject shape and size of the lots distinguish them from every other lot in the Zoning District;
- B) in addition, the unique coastal dynamics influencing topographical size and shape of the lots and their soil conditions contribute to the financial and other hardships;
- C) the two lots were defined by the structures constructed on 408 Shore Rd. and 402 Shore Rd. in 1945 and 1962 respectively, confine and dictate the lot lines and lot size;
- D) Absent the Grant of Variance relief, the lots will continue to remain unbuildable and potentially result in the degradation of the resource and surrounding areas;
- E) The intent of the Bylaw is not being derogated as the introduction of a single-family use eliminates the possibility of more intensive uses such as cottage, motel and condominium conversions.

The Board accepts the findings subject to the following Conditions: (1) Any landscape or privacy fencing be limited to three (3) feet in height; (2) the proposed seawall at 408 Shore Rd. shall be maintained in accordance with the Conservation Commission Order of Conditions. The ZBA also notes the parties shall obtain and process an application to the Planning Board for ANR endorsement.

I hereby certify this as a true and accurate record of the Zoning Board of Appeals:

Barbara Rybeck _____
Signature Date 1/30/17

Received, Office of the Town Clerk _____
[Signature] _____
Signature Date JANUARY 30, 2017



A true copy, attest: [Signature] Cynthia A. Slade, Town Clerk, Town of Truro / February 22, 2017/ pages 1-2

1 0 / 20
KRS

I hereby certify that this decision was filed with the Office of the Town Clerk on JANUARY 30, 2017
and 20 (twenty) days have elapsed since the date of filing, and:

No Appeal has been filed.

An Appeal has been filed and received in this office on: _____

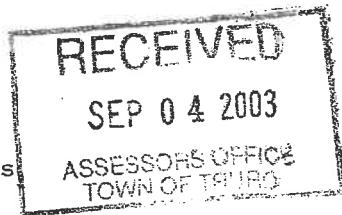
<i>[Handwritten Signature]</i>	FEBRUARY 22, 2017
Signature	Date

NOTE: Any person aggrieved by a decision of the Zoning Board of Appeals may appeal to the Superior or Land Court by bringing action within twenty days after the decision has been filed with the Town Clerk of Truro. (Massachusetts General Laws, Chapter 40A, Section 17.)

THE COPY OF THIS DECISION PROVIDED BY THE TOWN CLERK MUST BE FILED WITH THE REGISTER OF DEEDS OF BARNSTABLE COUNTY BY THE APPLICANT.

ZISSON AND VEARA
ATTORNEYS AT LAW

RICHARD L. ZISSON
EDWARD E. VEARA
JILL J. BROFSKY
E. JAMES VEARA
PAUL V. BENATTI
SARAH A. TURANO-FLORES
BENJAMIN E. ZEHNDER
LORI CURTIS KRUSELL
ALANNA D. BRAVMAN
LISA M. WESTERVELT*
MICHAEL I. FLORES
MARY E. PYLES**



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*ALSO ADMITTED IN NEW YORK
**ALSO ADMITTED IN ARIZONA

September 3, 2003

Linda Maloney, Deputy Assessor
Town of Truro
P. O. Box 2030
Truro, MA 02666

Re: 402 Shore Road (former For'N Aft Motel)

Dear Linda:

I am writing in response to your August 27, 2003 inquiry concerning the above-referenced property and how the Board of Assessors should assess it. Once under single ownership, the parcel now consists of Lot "A," on the plan recorded at Book 438, Page 48, and the combined Lots C, D, E and F on that said plan. In rendering this opinion, it was necessary that I review our closed litigation files involving the U.S. Trust/Norfolk and Stephen Williams, as the Building Commissioner. This civil action was commenced in 1988 in the Barnstable Superior Court, and it was ultimately settled by an "Agreement for Judgment" in June of 1991. I will give you a brief history of what resulted in the situation we now have, but at the outset, I would advise that, because there has been a severance of ownership due to a foreclosure of a mortgage, the assessors can and legally should separately assess to the current owner what was formerly shown as Lot A (the motel property). This parcel is distinct from the combined lot which is the site of four cottages.

This matter started when previous owners drew a plan of the property and presented it to the Truro Planning Board for an "approval not required" endorsement. The owners at that time were able to convince the Planning Board that, because there was an old subdivision of lots laid out on Beach Point and because a provision of Massachusetts General Laws provides that, if there is a lot created prior to the adoption of subdivision control law and on which there stood a

structure, the division of the parcel was not a "subdivision." The owners obtained the ANR endorsement for what then became the plan recorded in the Barnstable Registry of Deeds in Book 438, Page 48. This plan was recorded on September 14, 1987.

When he discovered this plan, Stephen Williams, then the Building Commissioner and zoning enforcement officer of the Town, took the position that this plan did not follow the original lot lines of the old subdivision plan of this Beach Point area but, instead, created new lines (which you can see on the copy of the plan that you provided in the materials you mailed to me). All of the old lots have a specific width of 50'. Therefore, Mr. Williams concluded that the creation of the lot lines in this plan ran afoul of zoning due to sideline set-backs, distances between buildings, and a number of other zoning constraints. This position and the owners' redrawing of those lines led to the 1988 lawsuit in the Barnstable Superior Court. In that litigation, the Building Commissioner sought a declaration that the Planning Board was not compelled to approve, and in fact erred in approving, the plan that was recorded in Book 438, Page 48. The owners, he contended, did not benefit from that provision of law concerning pre-existing lots and buildings. The Building Commissioner also sought a binding declaration that the lots and structures on that plan created violations of the zoning bylaw, and he sought to enjoin the landowners from either using any of the structures or conveying them into separate ownership until there was either full compliance with the zoning bylaw or a determination by the Superior Court.

Thereafter, the Town sought and obtained an order of the court called a *lis pendens* which was recorded in the Barnstable Registry of Deeds. This is in essence a notice to all the world that there is litigation concerning this plan and the lots shown on the plan. Potential buyers are put on notice that they may in fact have their conveyance set aside as a result of the declaration sought in the Superior Court action. Unfortunately, by the time this all was discovered by Mr. Williams, certain mortgages had been placed on the property for each of the lots shown on the plan at Book 438, Page 48.

The mortgages entailed a first mortgage or senior mortgage granted to a gentleman by the name of Siniscalco. There was, in addition to his mortgage, a second mortgage which covered all of the lots and which was granted to the U.S. Trust Norfolk Bank. It was the placement of these mortgages that ultimately led to the problem we have today.

During the course of the litigation, the original defendants did not defend, and because of the lawsuit, the U.S. Trust Norfolk considered the mortgagee to be in default of the terms of their second mortgage. The Bank commenced a foreclosure action. This foreclosure action ultimately resulted in the entire property being acquired by U.S. Trust Norfolk. Nevertheless, the U.S. Trust Norfolk ownership was subject to the to a first mortgage on Lot A. This was the mortgage held by the Siniscalco group.

The U.S. Trust Norfolk did not want to litigate the issue of the legitimacy of the plan that created the various sub-lots, and therefore, it negotiated with the Town a settlement wherein the Bank agreed, as the owner of the property, to re-combine all of the lots by virtue of a plan which was created in October of 1990. The plan was prepared by William Rogers for the Norfolk Holdings Corporation, a subsidiary of U.S. Trust Norfolk, and it was recorded in the Barnstable Registry of Deed in Book 482, Page 43. The document you provided me, the "Agreement for Judgment," in essence sets forth the agreement reached with the Bank which had been substituted as a defendant after its foreclosure. It was agreed that the lawsuit would be settled by re-combining of all of the lots from the plan at Book 438, Page 48. This unification is shown on the new plan which was recorded in Plan Book 482, Page 43. The Bank also agreed that it would, after combining the lots into a single lot, not convey less than its full interest in the premises depicted on the perimeter plan of the consolidated parcel.

Nevertheless, the problem with the agreement was the pre-existing mortgage held by the Siniscalco group. That mortgage was superior to the mortgage of U.S. Trust Norfolk. The parties' agreement provided that, if the mortgage was foreclosed and the land was not acquired by U.S. Trust Norfolk, then, as a matter of law, the superior title arising from the foreclosure on Lot A would inevitably lead again to the severance of Lot A. As provided in paragraph three of the agreement, the remaining lots C, D, E, and F, which were controlled by U.S. Trust Norfolk and were not encumbered by a superior mortgage, would always remain combined and could not be conveyed separately.

That was the circumstance at the time the "Agreement for Judgment" was filed in June 1991. Following the settlement, the Bank conveyed all of the land depicted on the consolidated plan, including Lot A, to Kevin Shea and Judith Richman; however, Lot A remained subject to the Siniscalco mortgage. This parcel remained in unified ownership for a period of some ten (10) years until February 1, 2001, when the Siniscalco Group began the foreclosure of the mortgage it still held on Lot A. By virtue of a deed in lieu of foreclosure, the property was conveyed to Siniscalco and Rybeck, as tenants in common. This action severed the title/ownership of Lot A from the combined Lots C, D, E, and F. This is the circumstance which exists now.

You will see from this history that, because the Town did not promptly learn of the mortgages based upon the Approval-Not-Required endorsement, there was only a tenuous legal impediment to a foreclosure. When U.S. Trust Norfolk foreclosed its second mortgage on the subject property, we were able to negotiate the settlement and, in essence, undo in the later plan what the earlier ANR plan had done. The problem, however, was the previous Lot A mortgage held by the Siniscalco Group. This was not something that either Truro or the U.S. Trust Norfolk could control, and this was so recognized in the "Agreement for Judgment."

Accordingly, it appears that, by virtue of the foreclosure of the superior mortgage, title to Lot A stands in persons different from the titleholders of the combined Lots C, D, E & F.

Therefore, these two parcels should be assessed in that fashion.

I am sure this is a rather unique circumstance which will not likely occur again. The Planning Board has been advised not to endorse any future ANR plans which purport to change the old lot lines so as to create new lots with a single structure located on each new lot.

I trust this answers your inquiry; however, should you need further information, please do not hesitate to contact me.

Cordially,



Edward E. Veara
Town Counsel

EEV/mp

cc: Roland Breault, Town Administrator
Truro Board of Selectmen



TOWN OF TRURO

Planning Department
P.O. Box 2030, Truro, MA 02666
Tel: (508) 349-7004, Ext. 127 Fax: (508) 349-5505
charper@truro-ma.gov

To: Planning Board
From: Cally Harper, Town Planner
Date: November 3, 2017
Re: Memo

Discussion of Possible Site Visit – 12 Ocean Bluff Lane

The Planning Board shall consider scheduling a site visit to 12 Ocean Bluff Lane, as requested by the applicant's Attorney, Ben Zehnder. A Site Plan Review for this property is tentatively scheduled for December 6, 2017.

Mr. Kuchin seeks approval of a Site Plan Review pursuant to §70.3 of the Truro Zoning By-law for removal and replacement of an existing cottage dwelling with a new dwelling and construction of a new garage accessory structure. This property is tentatively scheduled for the December 6, 2017. Property is a 2,689 +/- pre-existing, non-conforming developed residential parcel in the Seashore zoning district. The property is located at 12 Ocean Drive, Map 37, Parcel 6.

On October 20, 2017, on behalf of his client, Ben Zehnder sent an email and requested that the Board schedule and conduct a site visit to 12 Ocean Bluff Lane (see below):

Would you be able to request of the Planning Board at their November 8 meeting that they schedule and conduct a site visit for Ken Kuchin's 12 Ocean Bluff Road Site Plan Review matter in advance of the December 6, 2017 hearing date? You can coordinate the visit with either myself or their builder Deb Paine, tagged above. Thanks.

Complete copies of the application are available in the Planning Office or can be passed out at the meeting if needed for the site visit.

TRURO PLANNING BOARD
October 17, 2017 – 6:00 p.m.
Meeting Minutes
Truro Town Hall

DRAFT

PLANNING BOARD MEMBERS PRESENT: Bruce Boleyn, Peter Herridge, Paul Kiernan, Jack Riemer, Mike Roderick, Steve Sollog, Karen Tosh

Other participants: William Rogers, Eric Shapiro; Tim Dickey, Brian Boyle, Katherine Black, Ben Zehnder, Attorney; David Reid, Attorney; Joanne Barkan, Joan Holt, Harry Terkanian, Interim Planner; Cally Harper, Town Planner

Steve Sollog called the meeting to order at 6:02 pm.

Public Comment Period

There was no public comment.

Temporary Sign Permit

Erik Spencer – seeks approval of 2 applications for 30 day Temporary Sign Permits pursuant to §11 of the Truro Sign Code for a 36” by 24” wide sign to be placed on the southeast corner of Route 6 and Union Field Road on town land from October 23 to November 24 and November 24 to December 25, 2017.

Mr. Boleyn moved to approve the two applications for temporary sign permits, Mr. Herridge seconded. So voted, 5-0. (Mr. Kiernan and Mr. Riemer were not present as of yet at the meeting.)

Mr. Kiernan and Mr. Riemer joined the meeting at 6:08 pm.

Continued Public Hearing - Commercial Site Plan Review

2016-008SPR Maria Kuliopulos – White Sands Beach Club, Inc. 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, Assessor’s Atlas Map 39 Parcels 131, 158. Hearing continued from March 7, 2017, May 2, 2017, June 6, 2017, June 27, 2017, August 15, 2017 September 19, 2017 and October 3, 2017.

Ms. Harper recommended the Commercial Site Plan Review to be continued due to the related Zoning Board of Appeals hearing to be held on October 30th. She suggested and the applicant

agreed to request a continuance to December 6, 2017. Mr. Boleyn moved and Mr. Herridge seconded the motion to continue the Kuliopulos hearing until December 6, 2017. So voted, 7-0.

Continued Public Hearing – Commercial Site Plan Review

2017-007SPR Lexvest East Harbour, LLC seeks approval of 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 combining units, proposal also includes some changes to site improvements. The property is located at 618 Shore Road, East Harbour Cottages and Condominium, Assessor's Atlas Map 5, Parcel 13. Hearing continued from August 15, September 5, 2017 and October 3, 2017.

Ms. Harper mentioned documentation in the staff report about drainage, a contract for trash removal, as well as a revised site plan.

William Rogers talked about the revised the parking, trash locations and a bicycle rack. Mr. Sollog mentioned the letter about the catch basin. Mr. Kiernan asked if there had been a response from Town Counsel on the Board's question regarding motel rooms and condominiums. Ms. Harper said no. Mr. Kiernan asked for clarification on the new parking plan. He asked the applicant if he is asking for a waiver of the "ten feet from property line" regulation. Mr. Rogers said he wasn't aware of this rule. There was further discussion about various parking spaces. Mr. Rogers stated that the building inspector had approved the plan.

Mr. Kiernan asked the applicant to describe the trash containers. The answer was that they will be contained within a wooden structure with a hinged lid. Mr. Kiernan asked if the applicant knew if the Board of Health approved of this structure. Mr. Riemer asked for pictures of the trash cans and structure. Mr. Kiernan then asked to return to the discussion about parking space regulations. He said there are six parking spaces that are in violation of the bylaw, including rules about 90 degree parking, design criteria, overhangs and aisles. Mr. Sollog pointed out that the parking in question is parallel parking, not 90 degree. Mr. Sollog said that the Board had them change the parking so no one would back onto Rt. 6.

Mr. Kiernan brought up the fact that state law says that when you have 25 parking spaces, you have to have a handicap parking space. For 26-50 spaces you have to have 2 handicap parking spaces. They are no handicapped parking spaces marked on this plan. Mr. Sollog asked the applicant if he could provide a handicapped space. Mr. Rogers said he would mark # 4 and # 5 for handicapped. Mr. Kiernan asked if there wasn't a two-way road there. Mr. Kiernan would like to ask a state official to approve the new plan since he doesn't think the Board is equipped to determine the legal status. Mr. Sollog said he would like the building inspector to look at the handicapped parking proposal. Mr. Kiernan asked if there is a time constraint on this site plan. Ms. Harper said there is no time constraint. She asked the Board to be specific in what they want the applicant to provide. Mr. Sollog said he would like a new approved plan by the Building Commissioner and a photo of the trash receptacles.

Mr. Riemer said he is unwilling to approve a plan that involves, walkers, bicycles, etc. that does not meet the minimum standards. Mr. Sollog said the reality is that these parking places are off the road and they are far off the pavement. Mr. Herridge, Ms. Tosh and Mr. Boleyn said they will approve a plan that Town Building Inspector approves of, once handicap parking is added.

Eric Shapiro, Principal of Lexvest, expressed his feelings that it pains them to have come back and not please the Board. He understands that it is their responsibility to follow the regulations. The property is approved for 17 parking spaces. Their intent was to reduce the density and increase the parking capacity, and to remove parking from the street. If it is not approved today, it will continue in the way it has been with more density and with parking on the street.

Ms. Harper asked Mr. Riemer what he wants to see from the applicant. Mr. Riemer wants the Fire Chief to approve the parking plan, including access space 4 and 5 and the nearby buildings. Ms. Harper said the Fire Chief has this plan but hasn't responded. She will reach out to him and ask him. Mr. Riemer brought up the subject of illegal parking on the road. Mr. Shapiro said that they are trying to exceed the 2 spaces per unit. Mr. Terkanian said that illegal parking is dealt with by the Selectmen and the Police department.

Mr. Harper referred to the Zoning Board of Appeals decision which she had given the Board members copies of. She will give them another copy if they need one. Mr. Kiernan said that his question relates to the site plan review of this applicant. Currently an applicant insists ... the applicant no longer has to meet the Town's definition of motel room. Can the motel portion of this of more than one room and still be licensed as a motel?

Mr. Kiernan said he wants another site visit to look at the new parking spaces. Mr. Herridge moved to continue the hearing to November 8, 2017, Mr. Boleyn seconded. So voted, 7-0.

Public Hearing – Accessory Dwelling Unit Application

2017-008PB Brian Boyle - seeks approval of an Accessory Dwelling Unit with the Clerk of the Town of Truro pursuant to §40.2 of the Town of Truro Zoning Bylaw with respect to property 3 Tom's Hill Path, Truro and shown on the Truro Assessor's Map, Sheet 45, Parcel 72.

Ms. Harper said she reviewed the application and found that the application was complete. Mr. Sollog said the Attorney General has just approved the new by-law. Mr. Dickey talked about the project. Mr. Kiernan said there are a couple of things that are unclear. Existing structures information is needed, set backs, heights, list of abutters, existing floor plans. He told the applicant that "You have the dubious distinction of being the first person to apply for this permit." You could help the board with a line up of what applicants need. There is a requirement for two parking spaces. Mr. Dickey said that those are on the site plan. Ms. Harper said she was wondering where the parking spaces of the ADU would be located There are two spaces for the ADU and two for the house.

Ms. Harper said that her interpretation of the bylaw is that the principal dwelling be identified on the plan and the applicant was not responsible for submitting floor plans for the principal

dwelling.. Ms. Harper said the Board simply has to be able to identify where the principal dwelling is located to know that the accessory dwelling is subordinate in use. They are not required to show the interiors or elevations of the principal dwelling. Mr. Kiernan said it would benefit the bylaw for there to be a section to show what things the Planning Board can waive. Building plans for both buildings. We should add to it that we should have a site visit. A benefit for this application is that it (the dwelling unit) exists already.

Ms. Black spoke in support of the project, for which she is an abutter. Mr. Kiernan thinks the Board should make a site visit. Mr. Dickey suggested approval tonight, and a site visit later because the applicant has met the requirements. The approval can include an agreement (for year round tenancy) between the applicant and a renter be conditioned. Mr. Kiernan disputed that the application was complete. He feels that due diligence requires a site visit because he would like to see the impact on abutters. Mr. Kiernan also asked how the Board can make a decision on something they have never seen, in which case he was told that the Board does that by looking at the plans. Mr. Riemer followed up by stating that the Board must visit the site in order to consider roof design, building orientation, door size and location. Mr. Kiernan, Mr. Riemer and Mr. Boleyn would like a site visit. Mr. Sollog said the site visit is not required in the bylaw. The plans for the main house, which is in excess of 2,000 square feet, are on file. Ms. Harper asked Mr. Kiernan if there was something specific he would gain from a site visit that would affect his approval. Mr. Boleyn said he thinks a site visit would be beneficial. A site visit was then scheduled for Monday the 23rd, 3 pm. Mr. Herridge made a motion to continue the hearing to Nov 8, 2017, Mr. Kiernan seconded. So voted, 7-0.

5 minute break

7:55 pm

As Built Plan Approval, Waiver Request and Covenant Release Request

2015-012PB Irving Ziller seeks approval of as built plan including as built road grade, waiver of one year growth requirement and complete release of covenant. The property is located at 1 & 1A Quail Ridge Road, Assessor's Atlas Map 43, Parcels 27 & 28. Continued from October 3, 2017. Request for extension anticipated.

Mr. Ben Zehnder, attorney for Irving Ziller, spoke about the request for release of covenant. He mentioned the issues that might be impediments for the Board: the road which not constructed at the 5% grade which had been approved, whether the curb radius meets zoning requirements, and that a turn around was not constructed. He referenced the minutes of two previous hearings, December 22, 2015 and February 25, 2016 and gave copies to the Board. The Board brought up the curb radius and the circular turnaround at the December 2015 meeting and conditioned that the building inspector must determine if the turnaround was compliant with zoning. The Board approved the definitive plan with conditions and waiver requests, on December 22, 2015. On Feb 25, 2016, the minutes show that the applicant met with the Building Inspector who determined that the radii met the 20 foot zoning requirement. The Board then voted to accept Form D Covenant. That leaves the issue of the 8% road. It was Ben's opinion that the driveway is not overly steep. It operates as a driveway; it won't operate as a through street. It can't be

used for any other purpose. Mr. Zehnder asked for the release of the covenant. Mr. Boleyn asked again if it is a driveway or a road. Technically it is a road, but as a practical matter it operates as a driveway. It is conditioned not to be used as an expansion for other lots.

Mr. Herridge said it would be a detriment to try to change the grade, bring bull dozers in, etc. Mr. Sollog agreed. This road will serve no other houses. It has a 40 ft right of way. He entertained a motion to release the covenant. Mr. Kiernan asked Mr. Zehnder if the Planning Board can waive a bylaw. Mr. Zehnder said no, the Board cannot waive a bylaw. Mr. Zehnder said that although you cannot waive a bylaw, your decision doesn't confer zoning status on the property. If your approval of this plan doesn't meet Zoning, the building commissioner deals with that by not issuing a building permit. The applicant can then seek Zoning relief. Mr. Kiernan said the Board has approved something that is in violation of Zoning. He continued to bring up other items that the Planning Board waived that it should not have. Mr. Sollog said that the Board has approved the plan, and it is not possible to rescind that approval. The only item that was not attended to was the 8% grade. Mr. Kiernan made a motion that this Board agree that the zoning regulations still apply to this road, and that the bylaw that was waived was done so in error. Mr. Sollog interrupted Mr. Kiernan and refused to allow the motion. Mr. Riemer seconded Mr. Kiernan's motion. Mr. Sollog said the motion was out of order. Ms. Harper explained that what was before the Board was to release the covenant, to not release the covenant or to continue the hearing. Mr. Kiernan made a motion to not release the covenant. Mr. Terkanian said you have to specify in detail how the applicant does not meet the requirement of the approved subdivision. Mr. Kiernan said that the grade does not conform to the approved grade and the road does not meet the requirement of 3.6.3. Mr. Terkanian said that the Board approved the road profile. Mr. Riemer said that as a general rule, unless a waiver is requested in writing, and the Board does not act to approve or disapprove, the regulation is in effect. Mr. Sollog said that we approved the subdivision. Mr. Riemer said that Mr. Kiernan referred to the fact that a waiver was never asked for, never considered. So that regulation (% grade) is in effect. Mr. Zehnder said that if the applicant is concerned about the grade of the road, they will fix it. But this is not a second look at the subdivision approval. Mr. Kiernan asked about the revised plan dated 6/6/17 and when it was approved. Mr. Sollog explained that this is the "as built" plan for which the release of covenant is being considered tonight.

Mr. Sollog made a motion to release the covenant, and accept that the grade the grade, although outside the 5% requirement, is not a safety hazard, waive the one year's growth, and have our DPW inspect the road. Mr. Roderick seconded the motion. Mr. Herridge added that with the understanding the Board may have made mistakes, the definition of road is not sacrosanct to Truro. Mr. Sollog repeated that we do not set precedent. So voted, 5-2. (Mr. Riemer and Mr. Kiernan opposed.)

Mr. Sollog referred to a request from Mr. Kiernan to ask the Town Counsel about definitions: "Currently an applicant before the Planning Board insists that because the current motel is in condominium ownership, the applicant no longer has to meet Truro's definition of motel room (only one room) (definition section 10.4, motel, page 5). Can the motel portion of the project contain condominium units of more than one room and still be licensed as a motel?" Mr. Sollog

offered to take it to the Town Manager to be forwarded to Town Counsel. Mr. Kiernan said he would rather it go to a vote. Ms. Harper said she can ask the Town Manager if this question could be discussed at a workshop or it can be added to a future agenda on definitions. Mr. Sollog said that this is a specific question that we shouldn't keep putting off. He went ahead and asked for a vote to ask the Town attorney Mr. Kiernan's question. So voted, 5-2 (Ms. Tosh and Mr. Sollog opposed).

8:40 pm

Discussion of Public Hearing Process - Rose Hill Lane

Discussion of the Public Hearing process pursuant to the MGL c.41, section 81 W for the Becker subdivision and prepare a written description of and/or reasons for the proposed modification or rescission. The property is located at 3, 5, 7 Rose Hill Lane, Assessor's Atlas Map 54, Parcel 33.

Mr. Riemer, Mr. Kiernan, Mr. Terkanian, and Mr. Boleyn, recused themselves. Ms. Harper, said that at the last Planning Board meeting, October 3rd, the Board voted to amend or revoke the subdivision plan which triggers the public hearing timeline. The statute of 81 W is not crystal clear on this process. To do this in a diligent way, we need to prepare a statement. I have drafted a statement for the Board which needs review and reasons added for going into the 81 W process. The remaining members will vote on the statement. Or you can vote that the chair can approval the statement. Or you can edit and vote later and then it gets certified by the clerk. Mr. Sollog read Ms. Harper's statement: "Pursuant to G.L. c.41, §81W, to consider modification, amendment or rescission of the definitive subdivision plan of land, entitled "Definitive Subdivision of Land in Truro, made for Gary and Guity Becker," dated March 26, 1997, prepared by Slade Associates, Inc. Surveyors, and endorsed by the Truro Planning Board on October 15, 1997. The Board will consider whether the passage of time, changes in circumstances, amendments of the Board's Subdivision Rules and Regulations or other reasons necessitate reconsideration of the original endorsement, including underlying waivers of the Board's Subdivision Rules and Regulations."

Mr. Sollog explained what he understands the Board's concerns are. The road wasn't built in two years and the abutters have brought up concerns about the changes that have occurred since the subdivision approval 20 years ago. Ms. Harper reminded the Board that we are already in the 81 W process. The Board needs to state a reason or reasons to amend or rescind the plan. Mr. Herridge said he thought that their time has run out. But was there a time limit? Ms. Harper said she went back and looked at the regulations in place in 1997, and if you look at that, page 54 of the regulations, "or shall be required to meet the standards in place at the time of completion." Mr. Sollog said that therefore this Board would like to review the specifications. Ms. Tosh prefers Ms. Harper's statement, since the road was not built and there are changes and other circumstances, including what has happened on Fisher Road in the past 20 years; one new habitable studio, and 8-10 houses built. We should consider traffic on Fisher Road and all the changes that have occurred. Ms. Harper is not sure we can bring in research on Fisher Road. Ms.

Tosh said we can consider safety, since the road it empties on to Fisher Road. We should vote on the statement first before we hear from abutters.

Attorney David Reid came forward and talked about the procedure for rescinding or modifying the plan. He said the planner has done a good job of framing this, and if the Board is considering a hearing date, he can't be here November 8th. There is a 135 day time frame which started October 3rd. That will be up Feb. 15, 2017.

Joanne Barkan asked for clarification. 135 days to make a decision? The decision whether or not to release the covenant. (Not the question). If all the parties don't agree, then what happens?

Joan Holt came forward and said that she was on the Planning Board and is one of the signatories on the original plan. She said she followed the crowd and feels it is important that the issue of safety be included now. She lives off Fisher Road and makes that turn with her heart in her mouth. She wants the Board to be able to reconsider the safety issues.

Ms. Harper said the Board can vote to approve the chair to approve the edits or approve the statement in the material. Mr. Sollog asked if the term safety a viable addition. Yes, it can be added. Ms. Tosh revised the statement that Ms. Harper wrote for the board's approval. "Pursuant to G.L. c.41, §81W, to consider modification, amendment or rescission of the definitive subdivision plan of land, entitled "Definitive Subdivision of Land in Truro, made for Gary and Guity Becker," dated March 26, 1997, prepared by Slade Associates, Inc. Surveyors, and endorsed by the Truro Planning Board on October 15, 1997 of record in Book 538, Page 6. The Board will consider whether the passage of time, safety concerns, changes in circumstances, amendments of the Board's Subdivision Rules and Regulations or other reasons necessitate reconsideration of the original endorsement, including underlying waivers of the Board's Subdivision Rules and Regulations since the road was not constructed within the time frame required by the then-existing bylaws." Mr. Herridge moved to submit the statement to the Town Clerk, Ms. Tosh seconded. So voted, 4-0-3. (Mr.. Boleyn, Mr. Kiernan and Mr. Riemer had recused themselves.)

Ms. Harper asked if she can reach out to those involved for their availability for public hearing. The Board nodded their approval.

Ms. Barkan again asked for clarification of the 135 days. Ms. Harper said it starts October 3, 2017 and from that date, the Board needs to act within 135 days.

9:10 pm

Open Discussion of Possible Zoning Bylaw Amendments

The Planning Board will consider possible amendments to the zoning bylaw, including, but not limited to, size restrictions for residential structures in all zoning districts. The Board will consider holding public forums and other means of outreach for obtaining citizen input and whether a subcommittee should be formed to review possible zoning amendments.

Mr. Sollog said that where we left off, we were going to have the selectmen look at our survey. We are still waiting for a response from them. They probably looked at it tonight. Mr. Kiernan said he has gotten assessors' data. It is not as complete as it could be. He has also gotten a copy of all the building permits that have been issued. Some building inspectors list the square footage, some don't. It will require another trip to the building department.

Review and Approval of Meeting Minutes

October 3, 2017 Regular Meeting

The spelling of Joanne Barkan's name needs correcting. On page 5, "assessors data" not "tax documents." Mr. Herridge moved to approve the minutes as corrected, Ms. Tosh seconded. So voted, 7-0.

Reports from Board Members and Staff

Town Planner Report

The Select Board liaison asked that Planning Board members use their Town email accounts.

Ms. Harper gave a brief preview of items on the November 8th agenda.

There was discussion about the November 21st meeting, two days before Thanksgiving. It may be possible to cancel this meeting.

Mr. Herridge made a motion to adjourn. Mr. Riemer asked if we have any workshops scheduled. Not as of yet. He asked further if there is a meeting scheduled with the Selectmen. He is interested in learning about the discussions regarding year round condos. He also wanted to know who the Water Resources chair is. Mr. Sollog said there has been turnover on the Board of Health. Maybe that should wait a month or two.

Mr. Boleyn seconded the motion to adjourn. So voted, 7-0. Meeting adjourned at 9:30.

Respectfully submitted,
Katherine Black



TOWN OF TRURO

Planning Department

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To: Truro Planning Board
From: Cally Harper, Town Planner
Date: November 1, 2017
Re: Town Planner Report

1. November 21, 2017 Meeting:
 - a. Request to cancel or reschedule the meeting
2. Zoning Board of Appeals actions:
 - a. Drafting a decision on 2017-007/ZBA – White Sands Beach Club, Maria Kuliopulos. ZBA continued the hearing to November 6th at 7.
3. Consider a list of topics for Quarterly Planning Board Workshop

**TRURO PLANNING BOARD AGENDA
TUESDAY, December 6, 2017 – 6:00 p.m.
Truro Town Hall, 24 Town Hall Road, Truro**

Public Comment Period

The Commonwealth's Open Meeting Law limits any discussion by members of the Board of an issue raised to whether that issue should be placed on a future agenda. Speakers are limited to no more than 5 minutes.

Request for Waiver - Commercial Site Plan Review

2017-009SPR Town of Provincetown Water Department requests a waiver of Commercial Site Plan review pursuant to §70.9 of the Truro Zoning By-Law. This property is located at 143 Shore Road, Assessor's Atlas Map 19, Parcel 1.

Public Hearing – Residential Site Plan Review

2017- 010 SPR Kenneth S. Kuchin – 12 Ocean Bluff Lane seeks approval of a Site Plan Review pursuant to §70.3 of the Truro Zoning By-law for removal and replacement of an existing cottage dwelling with a new dwelling and construction of a new garage accessory structure. Property is a pre-existing, non-conforming developed residential parcel in the Seashore zoning district. The property is located at 12 Ocean Bluff Lane, Map 37, Parcel 6.

Continued Public Hearing - Commercial Site Plan Review

2016-008SPR Maria Kuliopulos – White Sands Beach Club, Inc. 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, Assessor's Atlas Map 39 Parcels 131, 158. Hearing continued from March 7, 2017, May 2, 2017, June 6, 2017, June 27, 2017, August 15, 2017, September 19, 2017, October 3, 2017, October 17, 2017.

Open Discussion of Possible Zoning Bylaw Amendments

The Planning Board will consider possible amendments to the zoning bylaw, including, but not limited to, size restrictions for residential structures in all zoning districts. The Board will consider holding public forums and other means of outreach for obtaining citizen input and whether a subcommittee should be formed to review possible zoning amendments.

Review and Approval of Meeting Minutes

2017 Regular Meeting

Reports from Board Members and Staff

Town Planner Report

Next Meeting Agenda

December 20, 2017

Meeting Dates and Other Important Dates

December 20, 2017 Wednesday

Adjourn