

TRURO PLANNING BOARD AGENDA
Wednesday, January 10, 2018 – 5:00 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.

Public Hearing – Definitive Plan

2017-006PB Kevin Shea, Barbara D. Rybeck, and Joan Siniscalco seek approval of a Definitive Plan filed with the Town Clerk on November 27, 2017 pursuant to MGL c. 41 §81U and Section 2.5 of the Town of Truro Regulations Governing the Subdivision of Land. The subject properties are known and numbered as 402 and 408 Shore Road, North Truro and shown as Parcel 22 and 41 on Truro Assessor's Map, Sheet 10. Hearing continued from December 20, 2017.

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 January 17, 2017, March 7, 2017, May 2, 2017, June 6, 2017, June 27, 2017, July 18, 2017, August 15, 2017, September 19, 2017, October 17, 2017, and December 6, 2017.

Project Overview and Preliminary Plan

Discussion of project and preliminary plan for a commercial property located at 298 Route 6. This property will provide additional space for tradesmen, artists and other professionals.

Application for Determination that Plan Does Not Require Approval

2017-009PB Sylvia Russianoff seeks a determination that a plan does not require approval under the Subdivision Control Law. The property is located at 5 Fisher Hill Way, Assessor's Atlas Map 54, Parcel 12.

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

December 20, 2017

Reports from Board Members and Staff

Town Planner Report

Next Meeting Agenda

Wednesday January 24 at 5 PM – **Please note the new date and time!**

Adjourn



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: Truro Planning Board
From: Cally Harper PhD, Town Planner
Date: January 3, 2017 (continued hearing on 1/10/18)
Re: 2017-006PB Definitive Plan Staff Report #3

2017-006PB Kevin Shea, Barbara D. Rybeck, and Joan Siniscalco seek approval of a Definitive Plan filed with the Town Clerk on November 27, 2017 pursuant to MGL c. 41 §81U and Section 2.5 of the Town of Truro Regulations Governing the Subdivision of Land. The subject properties are known and numbered as 402 and 408 Shore Road, North Truro and shown as Parcel 22 and 41 on Truro Assessor's Map, Sheet 10.

Additional Materials Received:

On December 29, 2017, Kevin Shea submitted the following materials via email:

1. Letter regarding the history of the boundary line agreement with Anne (Fortier) Ditaccio
2. Letter to Julie Murtagh regarding the easement

Both of these letters are included in the packet to the Planning Board; the email addresses and mailing addresses were removed to protect personal information.

On January 5, 2018, William Rogers submitted the following plan:

“Definitive Subdivision Plan of Land in (North) Truro as prepared for Kevin R. Shea et ux & Barbara D. Rybeck and Joan Siniscalco, Scale 1 in. = 20 ft., November 2017, Revised January 3, 2018”, surveyed by William N. Rogers, Professional Civil Engineers & Land Surveyors.

Possible Motions:

*The applicant requested the following waivers and Board voted to grant the following waivers:
<list specific waivers granted, or simply state the waiver numbers designated on the plan>*

Approval:

*I move to approve <OR approve with conditions> **2017-006PB** for Kevin Shea, Judith Richland, Barbara Rybeck and Joan Siniscalco for a Definitive Plan as filed with the Clerk of the Town of Truro pursuant to MGL c.40A, §81U and §2.5 of the Town of Truro Rules and Regulations Governing the Subdivision of Land with respect to their property located on 402 and 408 Shore Road as shown on the Definitive subdivision plan titled: “Definitive Subdivision Plan of Land in (North) Truro as prepared for Kevin Shea et ux. & Barbara D. Rybeck and Joan Siniscalco” prepared by William N Rogers, Professional Civil Engineers and Land Surveyors, dated November 2017 Revised January 3, 2018, Scale 1” = 20’.*

NOTE: If approval is conditional, specific conditions should be cited in the motion. The Board should specify which conditions it requires be noted on the Mylar plan to be recorded with the registry of deeds. It is also required the applicant be required to reference the decision on the plan and record the decision with the plan.

Denial:

If the motion is to deny, the Board must cite reasons for denial.

I move to deny 2017-006PB for Kevin Shea, Judith Richland, Barbara Rybeck and Joan Siniscalco for a Definitive Plan as filed with the Clerk of the Town of Truro pursuant to MGL c.40A, §81U and §2.5 of the Town of Truro Rules and Regulations Governing the Subdivision of Land with respect to their property located on 402 and 408 Shore Road as shown on the Definitive subdivision plan titled: “Definitive Subdivision Plan of Land in (North) Truro as prepared for Kevin Shea et ux. & Barbara D. Rybeck and Joan Siniscalco” prepared by William N Rogers, Professional Civil Engineers and Land Surveyors, dated November 2017, Scale 1” = 20’. This negative motion is based on the following: <list specific reasons for denial>

October 22, 2017

Julie Murtagh & Marie Porzio

RE: 408 Shore Road, Easement Issue

Dear Julie & Marie:

With this letter I will review the issues regarding the "easement rights as conveyed to MRS Associates, Inc. by Harry B. Miller, Jr. ... recorded on October 5, 1989 in Book 6909, Page 103" as I understand them. As with so many other transactions concocted by Harry B. Miller, Jr., Pat Siniscalco and James Rybeck dealing with properties now at 395, 402 and 408 Shore Road this easement was, at a minimum, reversed by a subsequent first mortgage foreclosure by US Trust/Norfolk.

In 1983 Pat Siniscalco, James Rybeck and others purchased the Fore N Aft Motel on both sides of Shore Road and attempted to create and quickly sell the unimproved motel units and cottages on the property. That plan was thwarted by the inability of the partners to get approval of Title 5 septic systems to service the condominium.

Later the parties began working with Harry B. Miller, Jr. and Robert Pollard on another untenable development scheme for the property. Thus on September 14, 1987 Siniscalco and Rybeck acting as North Truro Assoc. recorded a plan in Plan Book 438 Page 48 that subdivided the property on the southerly side of Shore Road into five lots; Lot A (now 402) containing the motel building, and Lots C, D, E, F (now 408) each containing a cottage.

With the subdivision plan on record a number of transactions devised by Miller, Siniscalco and others were put on record that same day. These are recorded in Book 5925 from Page 17 to Page 66. In Book 5925 Page 029 a deed from MRS Associates (Moneo, Rybeck, Siniscalco) granted Miller and Pollard as Beach Front Realty Trust title to; Parcel I (395 Shore Road), Parcel II (402 Shore Road) and Parcel III (408 Shore Road). See pages 032 and 033.

Next on Page 034 of Book 5925 Miller and Pollard granted a **First Mortgage to US Trust Company** on Parcel III (408 Shore Road) shown as Lots C, D, E, and F on the plan recorded in Plan Book 438, Page 48. This is the property my wife and I now own at 408 Shore Road. A condition of this first mortgage with US Trust was **"that the grantor (Miller and Pollard) will not sell, transfer, lease, mortgage or otherwise voluntarily encumber the mortgaged premises or any part thereof without the prior written consent of the grantee."**

What is clear is that there is no recorded evidence at the registry that Miller obtained prior written consent from the bank for the easement in question. Furthermore, since Miller was in default and the bank had begun to foreclose, it is unimaginable that the bank would allow an easement to encumber the property.

Next on Page 047 of Book 5925 Miller and Pollard granted to Siniscalco and Rybeck; a first mortgage on Parcel I (395 Shore Road), a first mortgage on Parcel II (402 Shore Road) and a second mortgage on Parcel III (408 Shore Road) noting that it **"is subject to a First Mortgage given by Miller and Pollard to US Trust... it being understood that it is a valid first recorded lien on said above described SECOND PIECE only."**

Moving on, Miller and Pollard then granted US Trust a second mortgage on Parcel I (395 Shore Road) and Parcel II (402 Shore Road) which is recorded on Page 052 of Book 5925.

Subsequently, the Truro building inspector challenged the validity of the subdivision recorded in Plan Book 438 Page 48 and the scheme began to unravel. Miller and Pollard defaulted on the mortgage with US Trust. On September 13, 1989 US Trust filed a complaint against Miller in Superior Court for \$500,000. It also filed a complaint against Pollard for \$350,000. The Writs of Attachment are recorded in Book 6914 Pages 199-202.

Thus by the time Miller gives the easement to MRS Associates Inc. he is in default on his mortgage, US Trust has begun the foreclosure process and he has not acquired the prior written consent of US Trust to encumber the property at 408 Shore Road with an easement.

Miller nevertheless grants two 4' easements along the easterly and westerly boundaries of 402 and 408 Shore Road to MRS Assoc. Inc. and records the transaction on October 5, 1989 in Book 6909 Page 103. I firmly believe that without the prior written consent from US Trust, and evidence recording that consent, that the easement was never valid because it violated the terms of the first mortgage with US Trust.

Subsequently US Trust/Norfolk did foreclose. The Foreclosure Deed is recorded on April 14, 1990 in Book 7135 Page 100. The bank acquired ownership of Parcel I (402 Shore Road) subject to a first mortgage given to Siniscalco and Rybeck, and Parcel II (408 Shore Road) free and clear. **This foreclosure of the first mortgage at 408 Shore Road by US Trust clearly terminated both the second mortgage held by MRS Assoc. Inc. (Book 5925 PG 047) and the easement given later by Miller (Book 6909 Page 103) as both were junior to the US Trust Mortgage.** The foreclosure of a mortgage extinguishes subsequent encumbrances, including easements. (M.G.L. c.244, s.14)

Additionally, since our purchase of the property on October 11, 1991, no attempt to acquire control of the 4' easement was ever taken by parties in control of 395 Shore Road. In fact, Pat Siniscalco admitted to me that the easement was lost. He never attempted to construct a gate, fence or steps to the beach to enforce rights to the easement in question. In 26 years the only beach access that was regularly used by occupants of 395 Shore Road was along the easterly boundary with McDermott. Otherwise the property was fenced or blocked by buildings.

Certainly, I never surrendered beach access along the westerly boundary with Ditaccio during those 26 years.

It is unfortunate that you now believe that you can resurrect an illegal easement that was created in desperation 28 years ago by a clearly unreliable party. The easement was not legal when it was given; the easement was wiped out by the foreclosure of a first mortgage given to US Trust; the easement was never enforced by Pat Siniscalco and the easement is clearly not valid today.

I hope that this detailed history that I have given will clear up any misunderstandings between us regarding this matter.

Sincerely,

Kevin R. Shea,

December 29, 2017

Steve Sollog, Chairman
Town of Truro
Planning Board
24 Town Hall Road
Truro, Ma 02666

RE: 408 Shore Road, Boundary Line with 412 Shore Road

Dear Chairman Sollog:

We are writing to review the history of our boundary line agreement reached with Anne S. (Fortier) Ditaccio in 2012 and to dispute her contention that a concrete block wall is on her property.

In 1991 we acquired from Norfolk Holdings a strip of land with 6.57' of frontage on Shore Road running to the sea along the easterly boundary of 412 Shore Road. At that time Anne's property at 412 Shore Road contained by deed 60' of frontage with the northeast corner of the property clearly located by a **stone bound** that delineated the property line between our parcels of land.

After running down deeds for 412 Shore Road, it is clear that this **stone bound** was installed by Walter Welsh in 1922 as the easterly corner of a parcel with 134' of frontage that he then sold to Archiver Strait (Bk 387 Pg 281). He also installed a stone bound on the westerly corner of this parcel.

Mr. Strait in turn subdivided the parcel into two lots that are now 412 Shore Road (60') and 416 Shore Road (74'). 412 Shore Road was sold by Mr. Strait to Shepard Gilmore (Bk 437 Pg 150-151) in 1926. This stone bound is referred to in that deed. Mr. Gilmore sold the parcel to Alice W. Spencer, Anne's grandmother. The deed description (Bk 480 Pg 171) refers to that same stone bound which has remained in place to this day.

In 2010 we began the process of designing a bulkhead/seawall to protect our property at 408 Shore Road. We engaged William N. Rogers III, RLS PE to survey the land and prepare the design of the bulkhead. As part of that process we needed to define a boundary line with the adjacent property of Anne S. (Fortier) Ditaccio at 412 Shore Road.

It was clear that Anne had for some time been using a portion of the 6.57' strip of land up to the face of the concrete block wall. However, it was also clear that she did not have any title to this land she was using since it was 2.43' to the east of the property line clearly established by said **stone bound**.

At that time my attorney advised that there was a very good chance we would prevail should we attempt to recover the use of that land in court. This was because the stone bound and deed description located clearly the 60' of frontage described in deeds for 412 Shore Road. Clearly, the Ditaccios were using land that did not belong to them.

For example, Kenneth Shapiro the current owner of 416 Shore Road chose to enforce the boundary line with 420 Shore Road on the basis of his stone bound and deed description. It seems the easterly fence of 420 Shore Road has for years been 3' over that property line. Our friend, Marcia Brill who has owned 420 Shore Road for decades could not contest the issue and agreed to move the fence and return the land.

Rather than proceed with a legal case to recover the land we decided to have the strip surveyed and to create a new boundary line between our properties. By this action we would give to Anne our rights in that 2.43' strip of land. She was fully informed throughout the process and we asked her to review and sign off on the survey and exchange deeds created by this action. We paid all expenses for the land survey, the document preparation, legal fees and recording costs. We had thought that this would create some amount of goodwill between us as neighbors.

The Plan of Land in North Truro prepared in June 2010 by Mr. Rogers and recorded in Plan Book 643 Page 13 on January 31, 2012 shows the new boundary line that was created. The new boundary line runs along the westerly face of the concrete block wall giving 2.43' to Anne and retaining 4.14' on our side of the parcel. The concrete block wall is clearly retained on our property.

An examination of the plan shows that the boundary line created by the westerly face of the block wall runs to the exact end of the timber bulkhead/seawall that now exists at 412 Shore Road. It is also clear that remnants of a bulkhead on our property run to that boundary line and include the 8" width of the block wall. A reasonable person would agree that this boundary line was correct and Anne did not dispute it at the time.

At the December 20th Planning Board hearing Anne asserted that the wall in question was built by her grandfather. This cannot be accurate for a number of reasons. We believe that the wall was built by Henry Passion who owned the property from 1944 until 1971 and was responsible for all of the improvements that became the Fore n Aft Motel and Cottages.

The concrete block wall in question has a distinctive pattern of block laid to provide openings for air on a regular grid. This grid design matched exactly the design Mr. Passion used for the concrete block pillars that supported the roof overhang of the motel building (now demolished) he constructed in 1962. Furthermore, the end of the timber bulkhead Mr. Passion built runs to a line that runs along the westerly face of the wall as shown by the plan now on record.

Finally, we are certain that Mr. Passion knew his land well and would never allow Anne's grandfather to construct this long concrete block wall on land he clearly did not own. Instead, Mr. Passion built the wall safely within the lines of the property he controlled to avoid the cost of surveys and conflict with neighbors.

One thing is certainly clear to us. In 2012 Anne accepted the 2.43' strip of land that we gave to her and did not contest the Plan of Land or Deeds duly recorded at the Barnstable Registry. Why she wants to now rewrite that history and those facts is a mystery to us.

Thank you for your consideration of this matter.

Sincerely,

Kevin R. Shea & Judith Richland,

Owners 408 Shore Road



TOWN OF TRURO

Planning Department

P.O. Box 2030, Truro, MA 02666

Tel: (508) 349-7004 Fax: (508) 349-5505

Memorandum

To: Planning Board
Fr: Cally Harper, PhD, Town Planner
Date: January 5, 2017 (continued hearing on January 10, 2018)
Re: **2016-008SPR White Sands/Kuliopulos**; Staff Report #5

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 1, Parcel 5.

On December 12, 2017, the applicant submitted a new application for Commercial Site Plan Review. These materials were received by the Planning Department. Notice for this new application will be distributed after the January 10th Planning Board meeting to allow the Board time to vote on whether or not the applicant can withdraw her application without prejudice.

On December 13, 2017, the applicant sent an email to the Planning Department requesting to withdraw her application for Commercial Site Plan Review (2016-008 SPR) without prejudice.

Tonight, I recommend that the Planning Board vote on whether or not to allow the applicant to withdraw the application without prejudice. If the Board allows the applicant to withdraw without prejudice, I also ask that the Board decide on a date to open the hearing. It is important to note that noticing a public hearing requires at least 5 weeks.

Cally Harper

From: Maria Kuldip pulls <
Sent: Wednesday, December 13, 2017 9:07 AM
To: Cally Harper
Subject: Re: 2017-007 Planning board.

Calmly,

I turned in to the town clerk 12 copies of the info the planning board wanted. The packets in the small box of five sets, have the small print of the beachfront units. Please distribute these to the departments that require it and give the board the seven in the larger box.

I would like to withdraw the modification plan that was in front of the board before and start with a new one.

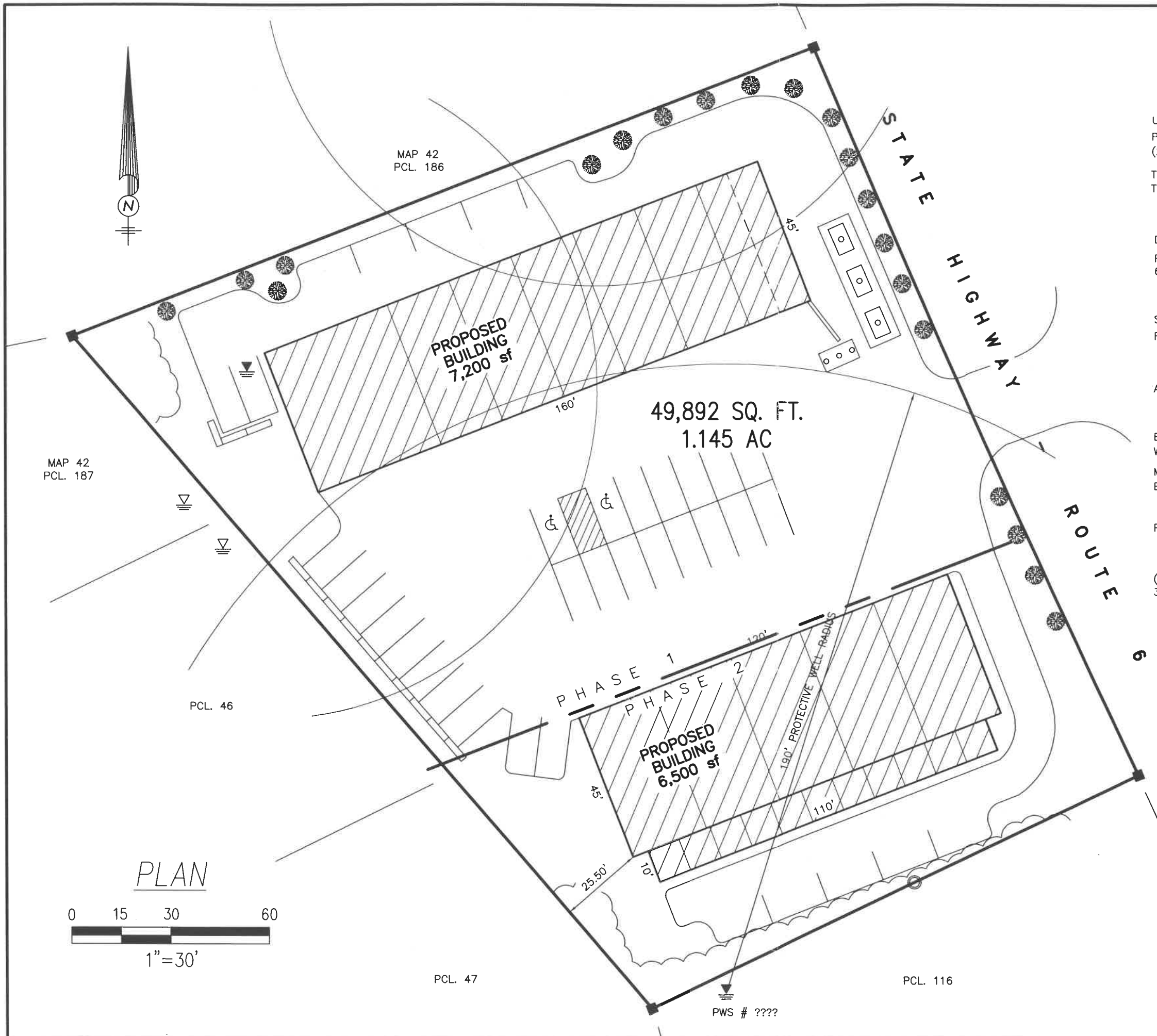
I also submitted 3 sets the drainage report and abutters list for Truro and Provincetown.

January 10 ,2018 at 5 pm is good for me.

Thanks

Maria

Sent from my iPad



ZONING

DISTRICT = GENERAL BUSINESS ROUTE 6
 BUILDING SETBACKS = 25' FRONT/SIDE/REAR

PARKING CALCULATIONS

USE:
 PROPOSED COMMERCIAL USE BUILDINGS WITH
 (2) EMPLOYEE PER BAY X (12) BAYS = (24) SPACES TOTAL
 TOTAL = (24) SPACES REQUIRED
 TOTAL = (37) SPACES PROVIDED INCLUDING (2) DISABILITY SPACES

STORMWATER DRAINAGE

DESIGN STORM 25 YEAR
 ROOF RUNOFF TO BE CONTROLLED BY GUTTERS TO
 6' DIA. X 4' DEEP LEACH BASINS WITH 2' OF STONE

LANDSCAPE DETAILS

SEE LANDSCAPE PLAN BY OTHERS
 RETAIN EXISTING VEGETATION AS POSSIBLE

LIGHTING

ALL LIGHTING TO CONFORM WITH TRURO LIGHTING REQUIREMENTS.

SIGNS

EACH BUSINESS TO HAVE A WALL SIGN COMPLIANT
 WITH TOWN OF TRURO SIGN CODE
 MAIN SIGN FOR COMPLEX TO BE INSTALLED NORTH OF
 EXISTING ENTRANCE

WATER SUPPLY

PROPERTY TO BE SERVED BY EXISTING WELL

WASTEWATER USE:

(12) UNITS @ 30 GPD (INDUSTRIAL PLANT USE) = 360 GPD TOTAL
 360 GPD < 548 GPD ALLOWED PER NITROGEN LOADING REQUIREMENT

PRELIMINARY

SUBJECT: 298 STATE HIGHWAY – ROUTE 6 TRURO, MA	
PREPARED FOR: TRADESMAN PARK – SOUTH 298 STATE HIGHWAY – ROUTE 6 TRURO, MA 02666	
ASSESSOR'S MAP 43 PARCEL 57	SCALE: 1" = 30'
DATE: DECEMBER 28, 2017	SHEET 1 OF 1



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, PhD, Town Planner
Date: January 3, 2018, for January 10th Planning Board Meeting
Re: 2017-009 PB Staff Report #1

2017-009PB Sylvia Russianoff seeks a determination that a plan does not require approval under the Subdivision Control Law. The property is located at 5 Fisher Hill Way, Assessor's Atlas Map 54, Parcel 12.

Description:

The submitted plan shows two parcels, #C1-A and #C1-B. Both lots have frontage on Fisher Hill Way, an unconstructed way. The plan shows a division of Parcel C1. C1-B is not a buildable lot so the applicant would like to combine C1-B with abutting land owned by Sylvia Russianoff.

Completeness of Submission:

The applicant submitted the following materials on December 21, 2018:

1. Fully executed Form A Application for Determination That Plan Does Not Require Approval (ANR) dated December 6, 2017 signed by Sylvia Russianoff, Applicant
2. Filing fee of \$275.00.
3. Plan titled: "Division of Land in Truro prepared for Sylvia Russianoff," dated December 6, 2017, Scale 1" = 50' prepared by Ryder & Wilcox, Inc.

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 December 21, 2017 and the Board must act by January 11, 2018.

Waivers:

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

Possible Motions:

Affirmative Motion:

With respect to application 2017-009PB, the Board determines that the plan entitled “Division of Land in Truro prepared for Sylvia Russianoff,” dated December 6, 2017, Scale 1” = 50’ prepared by Ryder & Wilcox, Inc. 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 January 11, 2018.

TOWN OF TRURO



PLANNING BOARD

Office of Town Clerk
Treasurer - Tax Collector
2017-009/PB
DEC 21 2017
\$275.00 Fee pd
Received TOWN OF TRURO
By *Molly Stacey*

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

Date: December 6, 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:

Division of Land in Truro, MA prepared for Sylvia Russianoff and dated December 6, 2017, requests a determination and endorsement by said Board that approval by it under the Subdivision Control Law is not required.

Property Location: 5 Fisher Hill Way Map(s) and Parcel(s): Map 54, Parcel 12

Number of Lots Created: 2 Total Land Area: 169,093 s.f. +/-

The owner's title to said land is derived under deed from Penelope P. Russianoff dated August 19, 2004, and recorded in the Barnstable Registry of Deeds Book and Page: Bk.18953 Pg. 155

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)*

- The accompanying plan is not a subdivision because the plan does not show a division of land.
- 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:

a public way or way which the Town Clerk certifies is maintained and used as a public way, namely _____

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

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 _____

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 **conveyance** 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.C.L.L., c.41, §8I-L)

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

Sylvia Russianoff

(Printed Name of
Owner)

Sylvia Russianoff

(Signature)

(Signature)

(Printed Name of
Owner)

(Address of Owner(s))

(Address of Owner(s))

(Signature)

(Printed Name of Agent)

(Address of Agent)

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

TRURO PLANNING BOARD

DRAFT

Meeting Minutes

December 20, 2017 - 6:00pm

Truro Town Hall

Planning Board Members Present: Bruce Boleyn, Peter Herridge, Paul Kiernan, Jack Riemer, Mike Roderick, Steve Sollog, Karen Tosh

Other participants: Lester J. Murphy, Attorney; Christopher Snow, Attorney; David Bennet, Annie and David Detachio, Bob Reedy, Donald Poole, Ben Zehnder, Attorney; Cally Harper, Town Planner

Public Comment Period

There was no public comment.

Discussion of Date/Time for Public Hearing - Rose Hill Lane

The Planning Board will discuss a date/time for a public hearing for the Becker subdivision. The property is located at 3, 5, 7 Rose Hill Lane, Assessor's Atlas Map 54, Parcel 33.

Paul Kiernan, Bruce Boleyn and Jack Riemer recused themselves and left the room. Lester J. Murphy, Attorney, said that East Cape Engineering has been engaged to design a modified subdivision plan to bring it up to current day standards. A time frame of 90 days has been proposed. They are asking the Board to delay any decision on the modification or a rescission of the original 1997 plan until April 18, 2018. Ms. Harper encouraged the Board to vote on this tonight. Mr. Sollog entertained a motion. Mr. Herridge read the following motion:

The Board moves to withdraw without prejudice the Boards motion to amend, modify or rescind 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. The properties are located at 3, 5, 7 Rose Hill Lane, Assessor's Atlas Map 54, Parcel 33. This decision is based on the following findings of fact:

- *Mr. Murphy, on behalf of the Becker family, submitted a letter on December 4, 2017 stating that his "client will not undertake any construction activities unless and until the plan modification is considered and approved by the Board."*

- *The Becker subdivision, although approved in 1997, was never developed, the road was never constructed and the Covenant was not released. The Becker family has engaged with East Cape Engineering, Inc. to prepare a modification of the 1997 plan to bring it up to present day standards; however that will take several months to complete. The Chair of the Planning Board and Mr. Murphy, on behalf of the Becker family, will sign a Definitive Plan Review Extension Agreement for Final Action.*

Mr. Roderick seconded. So voted, 4-0-3. (Mr. Kiernan, Mr. Boleyn and Mr. Riemer recused themselves.)

Public Hearing – Definitive Plan - 11:23

2017-006PB Kevin Shea, Barbara D. Rybeck, and Joan Siniscalco seek approval of a Definitive Plan filed with the Town Clerk on November 27, 2017 pursuant to MGL c. 41 §81U and Section 2.5 of the Town of Truro Regulations Governing the Subdivision of Land. The subject properties are known and numbered as 402 and 408 Shore Road, North Truro and shown as Parcel 22 and 41 on Truro Assessor’s Map, Sheet 10.

Attorney Christopher Snow, representing Kevin Shea, came forward and began by saying that he and Ms. Harper would explain the amended waiver requests. There are two parcels of land that have fallen into disrepair. There are no changes involved in this application from the original ANR application. Mr. Snow discussed that there are no new roads or utilities, so that many of the waivers are not applicable.

David Bennet came forward, representing Ms. Rybeck and Ms. Siniscalco, and explained that they have moved their project through the Board of Health, Conservation Commission, and the Zoning Board of Appeals. There is agreement that this is a conversion to a single family home. They have gone in front of the ZBA and have received a 6 month extension. Ms. Harper mentioned an error on the plans that has been corrected (two parcels #3). Updated plans were passed out to the Board.

Mr. Kiernan asked about the combination of lots and parcels being proposed. Mr. Rogers said he originally surveyed the land in 1978. The lots will not be combined with Parcels 3 and 4 at this time. There was an extra 16 feet that no one owns, not covered by the deeds. There had been an error on a property line. There is a floating 16 feet that does not extend east or west; they resolved this and set new lines, by means of an exchange of mutual deeds. No third party is being impacted. In order to resolve the issue there will be deeded an equitable swap.

Mr. Snow said he is waiting for one signature from the Siniscalcos that will be available in a few days. Mr. Kiernan asked Mr. Snow if his clients are planning to build a 2,310 sq. ft. house. He also asked Mr. Bennet about the size of the house being planned on the other property. Mr. Kiernan made note of the many conditions imposed by the various boards the applicants have been dealing with. Mr. Bennet said the house in question would be 58’ by 22’, and two stories. It is in compliance with all regulations. Mr. Riemer brought up the conditions of the Board of Health, and suggested that it will require further review. Mr. Snow said his clients were just asking for a variance regarding the frontage, and the lot size for Mr. Bennet’s clients. Mr. Riemer asked if the ZBA and the Board of Health approved different plans in terms of the foot print. Mr. Bennet said no, they are not different. There have been no changes that all Boards have not been aware of; any changes in the future will be brought up again. Mr. Riemer asked for help from Ms. Harper in order to understand the waiver requests. Ms. Harper said that there is a unique situation: an ANR was originally applied for and we asked them to change it to a Definitive Plan. There are a lot of conditions by the various Town Boards already in place, so the best use of the Board’s time might be to go over the list of waivers, gathered from the amended list. 408 Shore Road does not have the frontage, 402 and 408 Shore Road do not have the lot size. On the plan, under the waivers requested, conformance with Zoning, they both need a waiver for lot

size. Mr. Rogers said that we need to add to this waiver a request for both 402 and 408 on lot size. It was agreed that the applicant won't be required to go underground with utilities, but it turns out they actually are going underground. Mr. Sollog said there is no road being built. (52:30)

The Board went over the rest of the list of waivers. Mr. Riemer wanted to know why the waivers aren't relevant to be on the permanent plan. We've seen it in writing, but it can be hard to visualize in writing. The lots show to be in the velocity zone. Mr. Bennet said the original plans don't show the proposed houses. Mr. Riemer doesn't see any mention on the plan that this is in a velocity zone. Ms. Harper explained the process with the other boards.

Mr. Rogers said that his charge is to do the overall subdivision plan. That's why the velocity zone is not on this. Mr. Snow talked about the plan and what is reasonable to write on the plan. The information is all available, but does not fit on the plan. Mr. Bennet said that if anyone were to buy the property in the future, all the conditions would be found attached to the deed. Mr. Rogers said that the Board of Health endorsed the plan this afternoon. There are no covenants, restrictions, easements, etc., to be shown on the plan.

Annie and David Detachio, of 412 Shore Road, came forward to talk about the property line. Two things concern Mrs. Detachio. She spoke about the empty parcel in between her property and 408 Shore Road. Mr. Shea told her he wanted to resolve the "no man's land" in between his property and their property, where there is a concrete wall. Mrs. Detachio told him she wanted to retain ownership of the concrete wall. That was the agreement. Mr. Rogers said he doesn't have that plan with him to determine which side of the property line the concrete wall falls on. Mrs. Detachio says it looks like Mr. Shea is claiming the wall. Mr. Detachio said the other side of the wall is being contested by another couple for beach access. The right of way and the 10 ft. strip to the beach.

Mr. Snow said the Shea's couldn't be here tonight. This subject is a boundary line agreement. It is all in writing, there is no intent to take away anyone's right. Mr. Sollog asked for further information. Mr. Rogers explained that Mr. Shea and the Detachios have a boundary line agreement. The boundary line is the wall. Mr. Snow said the Sheas are not trying to depart from their agreement with the Detachios.

Mr. Riemer said we have nine references for different plans and documents; he would like to know which plan we are talking about. Mr. Snow said the plan was created for the boundary line. There is nothing recorded regarding a walking path. Mr. Snow said that because of a foreclosure, the right of way was removed. Mr. Riemer asked if that is in writing. Mr. Snow said that it is a matter of law.

Mr. Riemer would like notation of waivers on the plans. Mr. Bennet said there is another plan with notations. Mr. Sollog continued to read the waiver requests.

1:28

Ms. Harper suggested they don't approve the waivers on easements (7, 8 and 9) tonight. Waiver #15 will be put aside. Ms. Harper asked about #17. Is that waiving the bounds that

are already on the plans? Mr. Rogers said he did not set any bounds. Ms. Detachio asked Mr. Rogers about stone bounds. They were told to contact Mr. Rogers tomorrow for confirmation.

1:36

Mr. Riemer asked if both lots have a landscape plan. Mr. Bennet explained about mitigation, which was done through restorative planting. The plan was approved at the Conservation Commission meeting. The work has been done and there are photographs which were presented. They didn't prepare an extra plan because they already have a plan.

Ms. Harper talked about a few additional waivers for which she drafted a memo; if we are not going to do the waivers related to the easement, we have to make a decision as to whether we are going to continue the hearing. She passed out the additional waivers. The waiver about underground utilities can be eliminated since they will be underground. Mr. Sollog read the rest of the waivers which can be approved because no new road is being built.

Ms. Tosh asked about the concrete wall. Mr. Rogers said he doesn't have the plan with him. He knows it is where it was agreed upon, but he doesn't know if the wall is drawn properly. Ms. Tosh said she would need to see that the block wall is in the right place on the plan in order to vote on the project.

Mr. Snow said he knows the lines are correct, and he feels that the Board could approve the plan without addressing the wall. Ms. Harper said this could be conditioned and confirmed later. Mr. Kiernan said he doesn't have a problem with the lines, but does have a problem with the placement of the wall. He thinks we should continue this until we can get this confirmed. Mr. Bennet spoke about the appeal period. He would like to see if we could get through these other waivers. He would like to withdraw the waiver for easements.

The easement waiver requests can be removed. # 7, 8, 9 and 15 would be withdrawn. **1:57** Mr. Kiernan said you could just state on the plan that there are no easements. The only issue is the wall. Mr. Kiernan proposed to continue the hearing to January 10, 2018, at 5:00 pm. Ms. Tosh agreed that we should know where this wall is. She would not want to vote on this tonight.

Mr. Kiernan made a motion to continue the hearing to Jan 10, Mr. Herridge seconded. Mr. Riemer brought up the order of conditions, page 17, item 2B, and asked if this is out of date or if it is current. Mr. Snow said it is still applicable. Mr. Riemer read dates of 2016 and asked for further explanation. Ms. Harper said there is an amended order of conditions in the same packet. Mr. Bennet said that the bottom line is that to demo the buildings, the order of conditions had to be created at that time. It has now been amended. The attorneys asked if the Board is satisfied on everything else. Everyone agreed. So voted 7-0 to continue the hearing until January 10, 2018.

Application for Determination that Plan Does Not Require Approval

2017-007PB Anna M Endicott seeks a determination that a plan does not require approval under the Subdivision Control Law. The property is located at 2 Holsbery Road and 32 Depot Road, Assessor’s Atlas Map 50, Parcel 111 and 112.

Bob Reedy came forward to discuss the application. He is representing Anna Endicott. They have moved the line between two properties, and provided the required frontage. They opened it up to any questions. Mr. Riemer questioned the setbacks. Mr. Reedy said that the intention was to go with the spirit of the rule. Ms. Harper read from the regulation that it is a 25 foot set back requirement. Mr. Herridge said there is no plan to build at this point. Mr. Kiernan said he noticed that now one lot has over 80,000 square feet. Since there are 9 bedrooms, why didn’t they increase it to 90,000 instead of 80,000 to bring it up to the Title V code? The Board of Health defines 7 bedrooms, not 9. Ms. Harper suggested that the Board stay on task. This application is not about Title V, it is an ANR. This is not a subdivision, and does not indicate whether it is a build-able lot or not. Ms. Harper said that the Board must act by December 21. The application is complete. Mr. Kiernan moved to approve the application, Mr. Herridge seconded, Mr. Sollog read the following motion:

With respect to application 2017-007PB Anna Endicott, the Board determines that the plan entitled “Plan of Land at 2 Holsbery Road & 32 Depot Road, Truro, Massachusetts as Surveyed and Prepared for Anna Endicott,” dated November 29, 2017, Scale 1” = 30’ prepared by J.M. O’Reilly & Associates, Inc. does not require approval under the Subdivision Control Law.

, so voted, 7-0. Board members signed the mylar.

Application for Determination that Plan Does Not Require Approval

2017-008PB Lucy Perry seeks a determination that a plan does not require approval under the Subdivision Control Law. The property is located at 14 Perry’s Road, Assessor’s Atlas Map 45, Parcel 136.

Donald Poole presented the application. He said that Claire Perry needs to sell the property to take care of her mother. Mr. Riemer asked if this would mean an additional member of the Home Owners association. The answer was no, this would be on the public road. It has exactly 150 feet of frontage. Mr. Kiernan read the motion:

With respect to application 2017-008PB, the Board determines that the plan entitled “Plan of Land at Perry’s Road, Truro, Massachusetts Being a Division of Lot 1 Plan Book 606, Page 100 Prepared for Claire A. Perry, Deed Book 25515, Page 20,” dated December 11, 2017, Scale 1” = 50’ prepared by Outermost Land Survey, Inc. does not require approval under the Subdivision Control Law.

Mr. Herridge seconded. So voted, 7-0. The Planning Board members signed the mylar.

Discussion of driveway leading to habitable studio

The Planning Board will discuss the status of permission from the National Park Service to construct the driveway to the garage/habitable studio at 12 Ocean Bluff Lane, Map 37, Parcel 6 (ref. 2017- 010 SPR Kenneth S. Kuchin).

Attorney Ben Zehnder came forward. He noted that at the last Planning Board meeting he had referred to correspondence from the National Seashore in error. He had thought the letter stated that there were no issues or concerns regarding the proposed plans for 12 Ocean Bluff Lane. When he found a copy of the letter, he realized that it was not an approval after all. He and his client reached out to the Seashore and found that they want a detailed plan to include number of trees that would be removed and vegetation disturbed. Mr. Zehnder feels the condition is still valid, but if the Seashore reviews the plans and does not approve that triangle of land for the garage and the access, then his client would have to come back before the Board with a new plan.

Mr. Kiernan asked Ms. Harper to weigh in. She said that the Planning Board could reopen the hearing, but then they would have to advertise again. If the applicant can't build the originally planned driveway, he may have to move the planned garage. Mr. Zehnder asked the Board to reaffirm the Board's decision to be contingent on the Seashore's future approval. If not approved, the applicant would come before the Board again. Mr. Kiernan said he would be more comfortable waiting. If we find that the Seashore doesn't give their approval, the applicant would have to come back. Darcee Vorndran submitted a second letter to the Planning Board, and there was a discussion about whether they should reopen the public hearing. At this point, the public hearing is closed. Ms. Vorndran's letter will be kept on file in the Planning Department office.

It was determined that the next step is for Mr. Zehnder to return to the Planning Board on February 7th at 5 pm. The Board decided this by consensus.

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.

As of today, there have been 61 responses. It takes on average 4 minutes to complete the survey, as calculated by Survey Monkey. The postcards are going to go out soon. Ms. Greenbaum will be analyzing the paper copies. Mr. Riemer asked if the survey could be right on the front page of the Town website. Mr. Sollog asked Ms. Harper to ask Ms. Palmer if the survey could at least be noted on the front page of the Town website.

January 20th, 2 pm and January 30th, 6 pm, there will be forums at the Truro Public Library to discuss house-size limits for the residential districts of Truro.

Review and Approval of Meeting Minutes

December 20, 2017

Correction is needed for the spelling of Darcee Vorndran's name. On page 3, remove the notes about adding the wording of a motion.

Mr. Kiernan moved to approve the minutes as amended, Mr. Boleyn seconded. So voted 6-0-1. (Ms. Tosh abstained.)

Reports from Board Members and Staff

Notice of a hearing regarding land owned by Habitat for Humanity in Wellfleet.

The Board should advertise the new day and time for Planning Board meetings.

Next Meeting Agenda

Wednesday January 10 at 5 PM – Please note the new date and time!

Mr. Riemer said that for the January 10th meeting regarding the White Sands hearing, the Board should hire a consultant at the applicant's expense. He is anticipating difficulty in dealing with the plan. He asked for the Board to vote on this. Ms. Harper stated that Ms. Kuliopulos is planning to withdraw her application on January 10th and reapply in order that a full Planning Board can consider her application.

Mr. Herridge made a motion to adjourn, Mr. Kiernan seconded the motion. So voted, 7-0. Meeting adjourned at 9:20 pm.

Respectfully submitted,

Katherine Black



TOWN OF TRURO

Planning Department

P.O. Box 2030, Truro, MA 02666
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charper@truro-ma.gov

To: Truro Planning Board
From: Cally Harper, PhD, Town Planner
Date: January 3, 2018 (for January 10th meeting)
Re: Town Planner Report

1. Letter from Kristen Roberts regarding the parking at Truro Vineyards. As discussed at the December 20th Planning Board meeting, the Board agreed to have the applicant submit a letter to replace the non-regulatory, administrative meeting.

Truro Vineyards
11 Shore Road PO Box 834 North Truro, MA 02652
Tel 508-487-6200 Fax 508-487-1688
trurovineyards@gmail.com
www.trurovineyardsofcapecod.com

TRURO
VINEYARDS

Dear Members of the Planning Board,

I hope you had wonderful holidays and are staying warm through the cold snap we are having. I wanted to circle back with you, as requested, to recap our season, specifically how it related to our previous parking issues.

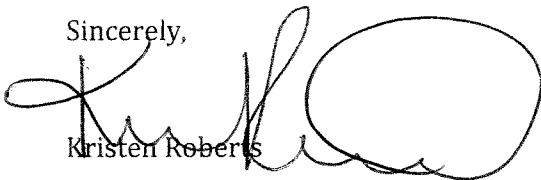
To the best of my knowledge, the parking issues were significantly better in the 2017 season. I do know that our neighbors to the left, Charlie and Helen Grimm, contacted the town early in the season to request a no parking sign in front of their house, as it was the only place on the Shore Road without one. The situation was rectified and there were no further issues from them that I was made aware of it.

We took several steps to insure the success of this venture, including posting a sign reading "Please respect our neighbors. No parking on Shore Road". We employed a full time parking lot attendant at \$15 an hour throughout the season to ensure people parked safely and legally. We communicated with the Truro Police and set up details for all large events to ensure that people parked appropriately.

From our perspective the additional parking that you helped us attain greatly improved our parking issues and created a quieter environment for our neighbors and a better experience for our customers. We touched base with our neighbors periodically throughout the season and received no complaints from any of them.

Thank you so much for your help with this and I look forward to seeing you all in the near future.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kristen Roberts', written over a large, circular scribble.

Kristen Roberts

Owner-Truro Vineyards

DRAFT

**TRURO PLANNING BOARD AGENDA
Wednesday, January 24, 2018 – 5:00 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.

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

January 10, 2018

Reports from Board Members and Staff

Town Planner Report

Next Meeting Agenda

Wednesday February 7 at 5 PM – **Please note the new date and time!**

Adjourn