



Truro Planning Board Agenda

Remote Public Meeting – Work Session

Wednesday, January 12, 2022 – 4:30 pm

www.truro-ma.gov

Open Meeting

Remote Meeting Access Instructions: Citizens can join the meeting to listen by entering the meeting link; clicking on the Agenda's highlighted link; clicking on the meeting date in the Event Calendar; or by calling in toll free at **1-866-899-4679** and entering the access code **699-619-469#** when prompted. Citizens will be muted upon entering the meeting.

Meeting link: <https://global.gotomeeting.com/join/699619469>

1. Planner Report

2. Chair Report

3. Potential Warrant Articles for 2022 ATM

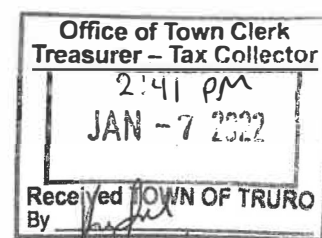
- ♦ Housing – 3 proposals
- ♦ Mean Ground Level
- ♦ Lot Coverage/Carbon Sequestration
- ♦ Street Definition
- ♦ Other

Minutes

- ♦ March 10, 2021
- ♦ June 23, 2021
- ♦ August 4, 2021

Next Work Session – Discussion

Adjourn



POTENTIAL ARTICLES FOR DISCUSSION AT 1/12/22 WORK SESSION

HOUSING

1) POTENTIAL WARRANT ARTICLE: Inclusionary Zoning Bylaw for New Condo Conversion Projects

- a) Any new projects converting motels/cottage colonies to condo must include a percentage of units at significantly less than market rate – suggested ratio 1:6
- b) Include Cash Out Option with money going to the Year-Round Rental Housing Trust (which is for all types of housing, not limited to Affordable Housing, and is able to purchase property)

FOR DISCUSSION

- Eastham working on similar warrant article
- History of existing condos
- How do we define the less than market rate?
- What ratio do we want to use – 1:6 is suggested?
- What would be impact on Subsidized Housing Inventory (SHI)?
- What if Year-Round Rental Housing Trust Home Rule Petition does not get approved?
- There are currently some mixed-use structures that include residential condos

Barbara Carboni working with Assessor to get data on existing motels and cottage colonies that have the potential to become condos (have not done already).

- Lower priority request is number of condos existing in mixed-use structures

2) POTENTIAL WARRANT ARTICLE: Allow 2-family structures by Right except for Seashore and Beach Point

- a) Remove existing Duplex Bylaw 40.1
- b) Structure size conforms to House size bylaw numbers (not double for the 2 residences) including can ask ZBA for up to additional 1,000 sq. ft. total
- c) No maximum unit size (unlike duplex bylaw and ADU)
- d) Year-round residency requirement

FOR DISCUSSION

- How would this be different than existing ADU article?
- Owner occupancy requirement?
- Should year-round residency requirement be for both units?

- Should there be a minimum unit size?
- Affordability requirement?
- Minimum lot size?
- Should we include language similar to that in ADU bylaw prohibiting conversion to condo style of ownership?
- How would this impact SHI?

3) POTENTIAL WARRANT ARTICLE: Allow development of 4-8 unit residential building

- a) 1 permit per year
- b) Not Beach Point or Seashore District
- c) Either set minimum lot size or set of design standards or both
- d) Requires Commercial Site Plan Review

FOR DISCUSSION

- What are levels that trigger specific wastewater requirements? What are implications?
- Are there other parts of town that should be a no – areas with already very dense housing?
- What do we call this – apartment building? Multi-unit building?
- Will require change to use table
- Need for definition of apartment/apartment building in bylaws? Requested by Health Agent?
- There are currently (outside of Sally's Way) in Truro
 - 6 buildings with over 8 units
 - 12 buildings with 4-8 units
- Whether to allow conversion of existing commercial structures to multiuse including residential units and if so, where?

4) POTENTIAL WARRANT ARTICLE: Definitions – Apartment, Apartment Building

- a) Need for definition of apartment/apartment building in bylaws? Requested by Health Agent?
 - There are currently (outside of Sally's Way) in Truro
 - 6 buildings with over 8 units
 - 12 buildings with 4-8 units

ENVIRONMENT/CLIMATE CHANGE

5) Lot Coverage/Carbon Sequestration

- a) Add language to Zoning Bylaw 10.2 Purpose (current with **additions**)

The purpose of this bylaw is to:

promote the health, safety, convenience and welfare of the inhabitants of Truro,
prevent the overcrowding of land,
conserve the value of land and buildings,
enable the protection of clean and adequate water supply,
conserve natural resources,
prevent blight of the environment,
encourage the most appropriate use of land in Truro,
protect and maintain the scenic rural character, ambiance, and aesthetics of Truro,
promote carbon sequestration by natural means,
protect native soils from unnecessary removal or disturbance, and
to promote the implementation of the goals and policies of the Truro Local Comprehensive Plan.

- b) Current Truro Definitions

Building. The word building shall be any three-dimensional enclosure, portable or fixed, temporary or permanent, which is composed of building materials and which encloses any space for use or occupancy; building shall include “structure” unless the context unequivocally indicates otherwise; and with the exception of fences, field or garden walls, cold frames, stairways for beach access, and embankment retaining walls, building shall include foundations in the ground and any part of any kind of structure above ground.

Lot. A parcel of land, undivided by a street, with definite boundaries, title to which is held in undivided ownership.

Lot Area. The area of a lot when used for building purposes shall not be less than the minimum required by this bylaw for the district in which it is located. Such an area shall not be interpreted to include any portion of a lot below mean water level on fresh water, below mean high water on tidal water or within the limits of any defined way, exclusive of driveways serving only the lot itself. No less than 100% of the minimum lot area required shall consist of contiguous upland exclusive of marsh, bog, swamp, beach, dune, or wet meadow. This definition shall apply only to lots created after April 30, 1987.

Lot Coverage. The portion of a lot which is covered by impervious structures and improvements. Impervious structures and improvements shall include but not be

limited to paved driveways and parking areas, principal and accessory structures, swimming pools and other on-site amenities which render any portion of the lot impervious.

c) Proposals for discussion

- a. Site Coverage – Establish % of lot that may be “covered” – examples from Wellfleet with suggestions

*No more than **XX percent (xx%)** of the total area of any lot shall be [(rendered impervious)/(covered)] by the installation of buildings, structures, **patios, decks**, and paved surfaces (**including permeable and impermeable pavements**).*

- b. Site Clearing – different than Site Coverage – example from Eastham

*A minimum of **XX percent (xx%)** of the total upland area of any lot shall be retained in its natural state. This shall not prevent the removal of dead, diseased or damaged trees.*

- c. ***Tree Retention. (new)** To the fullest extent possible, existing trees shall be preserved. When clearing beneath and/or between trees occurs, a good quality loam shall be applied and rolled to a minimum depth of **X inches (x”)**. Thereafter, a good quality ground cover shall be planted.

FOR DISCUSSION

- Clarify goal(s) – right now seems to be trying to address many things
 - Runoff/water quality, rural nature, carbon sequestration, stop clear cutting
- Add clean water to section 10.2 Purpose
- Identify % of lot to remain in natural state
- Should it be % of lot or % of upland (buildable) portion of lot?
- Separate definitions from regulations and put in the correct place in the bylaw
- If trying to address clearcutting, site coverage is not generally how it is done (Town Planner)
- Need to look at issue of enforcement and be realistic
- Resource: Village Pond Watershed Assessment done by the Cape Cod Commission:
https://www.truro-ma.gov/sites/g/files/vyhlf3936/f/uploads/village_pond_watershed_report.pdf

6) Mean Ground Level – see attachment for overview

- a) Concern that bylaw as written does not do what was intended and actually can yield great change rather than lesser to the landscape
- b) Potential new bylaw –

FOR DISCUSSION

- What is history of current bylaw?
- How was definition developed – especially last sentence of the definition *“Further, the finished grade of the fill, within one hundred (100) feet of the building shall not have a grade steeper than ten per cent (10%) (one foot of drop for every ten-foot run).”*
- Was the intent to limit the increase in building pad elevation?
- Impact, if any, of proposed change – steeper grade – on down slope neighbors
 - Wastewater and well water quality
- Town Planner reaching out to Building Commissioner for input
- What would benefit of change be?
- Example of where this has been/could be issue

7) Flood Plain – adaptation of Barnstable County Model Bylaw to Truro –

- Being worked on by Town Planner and Health Agent
- Village Pond Watershed Assessment done by the Cape Cod Commission:
https://www.truro-ma.gov/sites/g/files/vyhlf3936/f/uploads/village_pond_watershed_report.pdf

OTHER

8) Street Definition

- a) Proposal for Discussion – This is an attempt to correct the elimination of the design standards from the Subdivision Regulations referenced in the Zoning Bylaw, address a fairness issue AND maintain the rural nature of Truro.
1. Insert the referenced Town of Truro Subdivision Regulations, Section IV, Design Standards, (b), (c), and (d) as they existed on January 1, 1989, into the Bylaw Definition
 2. Add an exemption for streets on approved subdivision plans

Street. A public or private way which affords access to abutting property. For the purposes of this bylaw, the terms "street", "road", "way", and "road right-of-way" bear the same meaning. When a street(s) is to be used for lot frontage, the street(s) shall conform to the *following* requirements:

- 1) The minimum width of street right-of-ways shall be 40 feet.*
- 2) Property lines at street intersections shall be rounded to provide for a curb radius of not less than 20 feet.*
- 3) Dead-end streets shall be provided at the closed end with a turnaround having a property line diameter of at least 80 feet. When ways requiring turnarounds may be extended in future subdivisions, the Board may require only an area equal to the above requirement to be shown and marked "Reserved for*

Turning". Upon extension of the way through this turning area, the portions not included in the way shall revert to their respective lots.

~~of the Town of Truro Subdivision Regulations, Section IV, Design Standards (b), (c), and (d) as they existed on January 1, 1989.~~

Street(s) shall have a center line length in excess of 100 feet. For dead-end street(s), this distance shall be measured from the sideline of the layout of the road to be intersected to the opposite end of the layout of the turnaround cul-de-sac. Town of Truro paved street(s) that:

(1) have a minimum layout width of 20 feet, (2) were created prior to January 1, 1989, ~~and~~ (3) were accepted by Truro Town Meeting, *and (4) streets forming part of a subdivision plan approved by the Planning Board* are exempt from the width requirements of the Town of Truro Subdivision Regulations, Section IV, Design Standards. These accepted public paved way shall be deemed adequate as lot frontage for the issuance of building permits. The list of accepted Truro public paved ways is available from the Town of Truro Town Clerk upon request.

FOR DISCUSSION

- Ensure that protecting rural character of Truro is not eliminated
- Make regulations easier to understand
- Do these changes (and/or others) make regulations
 - Easier to understand
 - More Fair
 - Continue to protect rural nature

**POTENTIAL ARTICLES for ATM 2022
PLANNING BOARD PACKET
December 30, 2022**

I. Housing

- 1. Condo Conversion/Inclusionary Zoning - Draft**
- 2. Two Family Homes**
- 3. Apartment Building**
- 4. Definition(s) - Apartment &/or Apartment Building-**
 - Data – Type of Housing by Neighborhood**
 - Duplex Bylaw 40.1**

II. Protecting Environment/Responding to Climate Change

- 5. Lot Coverage/Carbon Sequestration**
- 6. Mean Ground Level**
- 7. Flood Plain – adaptation of Barnstable County Model Bylaw to Truro**

III. Street Definition

- 8. Street Definition - Draft Proposal**
 - Notes from Public Discussion**
 - Definitions from Other Towns**

Misc.

- Timeline for Bringing Articles to Town Meeting**

HOUSING WORK GROUP - Potential Articles for ATM 2022

For Discussion at 1/5/22 Planning Board Meeting

These 3 suggestions provide a variety of ways to increase & diversify housing in Truro. The guiding question in this work continues to be: *“How do we create a more diverse housing stock in Truro that includes a range of year-round housing options for populations including seniors, young families, members of the local workforce while protecting our water & environment?”*

- 1) New Condo Conversion Projects –
 - a) Any new projects converting motels/cottage colonies to condo must include a percentage of units at significantly less than market rate
 - i) Inclusionary Zoning Clause - suggested ratio 1:6
 - b) An option that we recommend is to include Cash Out Option with money going to the Year-Round Rental Housing Trust (which is for all types of housing, not limited to Affordable Housing, & is able to purchase property)
 - c) Questions
 - i) How to frame cost of lower than market rate units?
 - ii) How many properties are potential conversions?
 - iii) What if Year-Round Rental Housing Trust Home Rule Petition does not get approved
- 2) Two Family Residences
 - a) Eliminate existing Duplex Bylaw § 40.1 (attached)
 - b) Allow 2 family buildings by right (need to add to use table)
 - i) Not in Beach Point or Seashore District
 - c) Minimum Lot size 1 acre
 - d) Building size conforms to House size bylaw numbers (not double for the 2 residences)
 - i) Can ask ZBA for up to additional 1,000 sq. ft. total
 - e) No maximum size for a unit
 - f) Year- round residency requirement
 - g) No owner occupancy requirement
 - h) Questions
 - i) Should there be a minimum size?
 - ii) Year round residency requirement for 1 unit or both?
 - iii) Should there be an Affordability requirement?
 - iv) Should we include language similar to that in ADU bylaw prohibiting conversion to condo style of ownership

- 3) 4-8 Unit Building
 - a) 1 permit per year
 - b) Not Beach Point or Seashore District
 - c) Either set minimum lot size or set of design standards
 - d) Questions
 - i) What are levels that trigger specific waste water requirements
- 4) We also need to address request of Health Agent for definition of apartment/apartment building

QUESTIONS/INFO TO GET

- How many properties are potential conversions to condos
 - Motels
 - Cottage Colonies
- Which of these proposals would qualify under Housing Choice Legislation to pass with 50% rather than 2/3 for other Zoning Bylaws
 - Probably only multi unit building

SUMMARY DATA RESIDENTIAL TYPES FROM ASSESSORS DATA AS OF FEB 2021								
	Single Family	Condo	2 Family	3 Family	Mult Houses	4-8 units	> 8 units	Multi Use Res
LBBeach		327	2	2	7			
Residential		77	47	1	204	4	9	
LB Rt 6A & L 6A (LB 6A)		87	4	1	2	8	5	
Seashore			1		73			
GB Truro Center			2		4			
GTC		9						
GB Rt 6		56			6			
LB Truro Center			1		2			
LTC		1						
		557	57	4	298	12	14	

§ 40.1 Duplex Houses and Apartments

- A. Purpose. For the purpose of promoting the more efficient use of land, in keeping with the protection of the quality of life and ecology, and at the same time giving relief to those with problems of obtaining adequate housing, the Board of Appeals may approve a special permit authorizing the new construction of duplex houses or the conversion of single family dwellings to apartments, consistent with the following conditions.
- B. New Construction. lots of one acre or more are required for new construction; the duplex shall not exceed 3,000 sq. ft.; the requirements of paragraph D shall be met.
- C. Conversion. Conversion of single family dwellings in any zoning district except the Seashore District and the Water Resource Protection District may be approved by special permit from the Board of Appeals. Lots shall meet current minimum lot area requirements; no more than one apartment in addition to the primary dwelling unit may be created from any one single family dwelling; the floor area of the secondary dwelling unit shall not exceed 50% of that of the primary dwelling unit; the floor area of the secondary dwelling unit shall not exceed 600 sq. ft.
- D. Requirements. All new construction or conversions shall comply with the following.
 - 1. All applicable provisions of the building, health and safety codes, as determined by the Building Commissioner and Board of Health shall be met.
 - 2. One unit shall be owner occupied.
 - 3. The applicant shall demonstrate that the new construction or conversion is essential to provide needed housing.
 - 4. The new construction or conversion is compatible with and will not derogate from or be detrimental to the neighborhood.
 - 5. Section 50, Area and Height regulations of this bylaw.
 - 6. The use is in harmony with the general purpose and intent of the bylaw.

Lot Coverage worksheet 10 20 2021

(additions in **red bold underlined**)

All Numbers are OPEN to debate (both depth numbers and percentage numbers).

Truro Bylaws

Zoning Bylaw

§ 10.2 Purpose (current with additions)

The purpose of this bylaw is to:

promote the health, safety, convenience and welfare of the inhabitants of Truro,
prevent the overcrowding of land,
conserve the value of land and buildings,
enable the protection of clean and adequate water supply,
conserve natural resources,
prevent blight of the environment,
encourage the most appropriate use of land in Truro,

protect and maintain the scenic rural character, ambiance and aesthetics of Truro,
promote carbon sequestration by natural means,

protect native soils from unnecessary removal or disturbance, and

to promote the implementation of the goals and policies of the Truro Local Comprehensive Plan.

§ 10.4 Definitions

Building. (Truro. Current)

The word building shall be any three-dimensional enclosure, portable or fixed, temporary or permanent, which is composed of building materials and which encloses any space for use or occupancy; building shall include "structure" unless the context unequivocally indicates otherwise; and with the exception of fences, field or garden walls, cold frames, stairways for beach access, and embankment retaining walls, building shall include foundations in the ground and any part of any kind of structure above ground.

Lot. (Truro. Current)

A parcel of land, undivided by a street, with definite boundaries, title to which is held in undivided ownership.

Lot Area. (Truro. Current)

The area of a lot when used for building purposes shall not be less than the minimum required by this bylaw for the district in which it is located. Such an area shall not be interpreted to include any portion of a lot below mean water level on fresh water, below mean high water on tidal water or within the limits of any defined way, exclusive of driveways serving only the lot itself. No less than 100% of the minimum lot area required shall consist of contiguous upland exclusive of marsh, bog, swamp, beach, dune or wet meadow. This definition shall apply only to lots created after April 30, 1987.

Lot Coverage. (Truro. Current)

The portion of a lot which is covered by impervious structures and improvements. Impervious structures and improvements shall include but not be limited to paved

driveways and parking areas, principal and accessory structures, swimming pools and other on-site amenities which render any portion of the lot impervious.

*** Lot Coverage: (Wellfleet. amended)**

No more than **XX percent (xx%)** of the total area of any lot shall be [(rendered impervious) / (covered)] by the installation of buildings, structures, **patios, decks** and paved surfaces (**including permeable and impermeable pavements**).

No more than **XX percent (xx%)** of the total upland area of any lot shall be [(rendered impervious) / (covered)] by the installation of buildings, structures, and paved surfaces.

*** Site Clearing (Eastham. amended)**

A minimum of **XX percent (xx%)** of the total upland area of any lot shall be retained in its natural state. This shall not prevent the removal of dead, diseased or damaged trees.

*** Site Clearing (new)**

The side and rear lot setbacks to their greatest extent shall remain in their natural state.

*** Impervious Covered Surface: (Wellfleet. amended)**

Pavement, pavers or structure(s) on, above, or below the ground that [(inhibit) / (do not allow)] precipitation or surface water runoff **from penetrating** into the soil. **For the purposes of this lot coverage bylaw, pervious paved surfaces shall be included in the computation of covered lot area.**

Lot Frontage. (Truro. Current)

That portion of a lot fronting upon and having access to a street. Lot frontage shall be measured continuously along the front lot line along one street between side lot lines or, in the case of corner lots, between one side lot line and the mid-point of the corner radius. (4/05)

*** Open Space: (Eastham)**

An unoccupied space, open to the sky, free of all structures, parking, pavement and other impervious surfaces; consisting of lands used for agricultural or forest uses; and any land area that would, if preserved and continued in its present use:

1. Conserve and enhance natural or scenic resources;
2. Protect air or streams or water supply;
3. Promote conservation of soils, wetlands, beaches or tidal marshes, and
4. Enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open space.

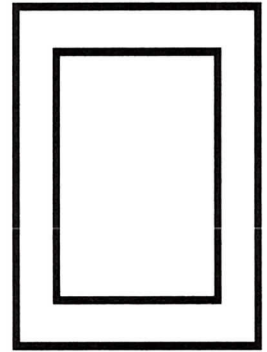
*** Tree Retention. (new)**

To the fullest extent possible, existing trees shall be preserved. When clearing beneath and/or between trees occurs, a good quality loam shall be applied and rolled to a minimum depth of **X inches (x")**. Thereafter, a good quality ground cover shall be planted.

Lot Coverage worksheet 10 20 2021

Minimum Legal Lot Size

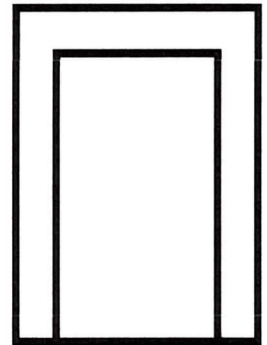
Approx. size	Sq.Ft. (Minimum legal Lot Size)	Setback front	Setback side	Setback rear
150' x 200'	33,750.00	25'	25'	25'



(front+rear+ 2 sides)

% of Minimum Legal Lot Size translated into square feet

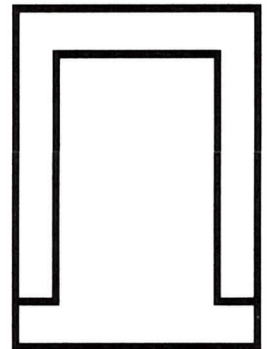
Lot %	sq. ft.	Lot %	sq. ft.
10%	3,375	45%	15,188
15%	5,063	50%	16,875
20%	6,750	55%	18,563
25%	8,438	60%	20,250
30%	10,125	65%	21,938
33%	11,138	70%	23,625
35%	11,813	75%	25,313
40%	13,500		



(rear+all of 2 sides)

Area encompassed by each setback:

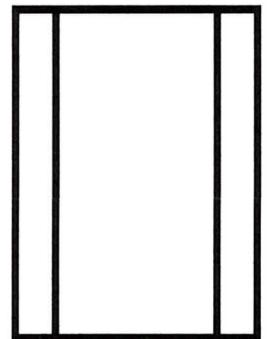
		sq. ft.	lot %
front	150' x 25'	3,750	11.11%
side	200' x 25'	5,000	14.81%
side less front	175' x 25'	4,375	12.96%
rear	150' x 25'	3,750	11.11%



(rear+ 2 sides less
all of front)

Combination of different setbacks:

	sq. ft.	lot %
(front + rear + 2 sides)	15,000	44.44%
(rear + all of 2 sides)	11,250	33.33%
(rear + 2 sides less all of front)	3,750	11.11%
(all of 2 sides)	10,000	29.63%



(all of 2 sides)

Currently allowed Building Size (on one floor)

sq. ft.	lot %
3600	10.67%

Currently allowed Building Size with ZBA Special Permit (max)

4600	13.63%
------	--------

DRAFT 12-3-21 Rev 1

Existing Bylaw Definition (§10.4 Definitions)

Mean Ground Level: Where the finished ground level varies in elevation on different sides of a building, the average of the various elevations at the centers of the four main sides. In the case where fill has been used to raise the finished ground level on a side(s) of the building to an elevation higher than the preconstruction ground level, on those sides the measurement shall be taken from center of that side ten (10) feet out from the side of the building. Further, the finished grade of the fill, within one hundred (100) feet of the building shall not have a grade steeper than ten per cent (10%) (one foot of drop for every ten-foot run).

Intent:

This definition is pertinent to building heights and building pad fill sections in all zoning districts. The original intent of this definition as written above (as related by Planning Board members serving at the time it was adopted) was to limit the amount of fill used to level or raise a building pad above the existing grade elevation. Raises in the building pad elevation were reportedly being used as a means of enhancing views. Often this resulted in a raise in the grade of the land around the downhill side of the house, resulting in modification of large areas of the landscape, burial of existing naturally vegetated areas, and importation of large quantities of fills. See accompanying sketch SK1.

Problems with the existing definition:

1. Last sentence (beginning “Further...”) serves to control fill quantities and preclude the creation of steep fill slopes *in certain instances*, while in other instances this sentence may require much more fill than would otherwise be needed.

An example of the latter case would involve siting a house on a naturally graded, bowl-shaped lot (i.e., valley-shaped; in hilly terrain). If the house is sited at or near a high point on the property, then the current “10%” grade steepness limit would require filling the valley out to a distance of 100 feet away from the downhill side of the house in order to meet this requirement as written. If the natural grade is descending at greater than 10%, then this sentence could result in extensive reworking of the landscape and the need for large quantities of imported fill (i.e., filling of the valley).

If the entire lot is naturally steeply sloped (i.e., hillside), compliance could be impossible since a fill section compliant with this last sentence could conceivably extend across more than the full width of the lot (this may occur where the natural descending grade was steeper than 10%).

2. The last sentence (“Further...”) is misplaced in the bylaw in that it is not a part of the definition of the term “Mean Ground Level” but rather is a regulation. The regulating limits pertaining to Mean Ground Level should appear elsewhere in the Bylaw, in this case, in Section 50.

Objective of this Proposed Change

Discourage extensive alteration of the existing landscape and topography, limit the construction of unnecessarily high raised building pads and the importation of off-site fill materials by rewriting this definition and adopting a new regulation that would be facilitate these goals in all cases, yet be readily and universally interpretable.

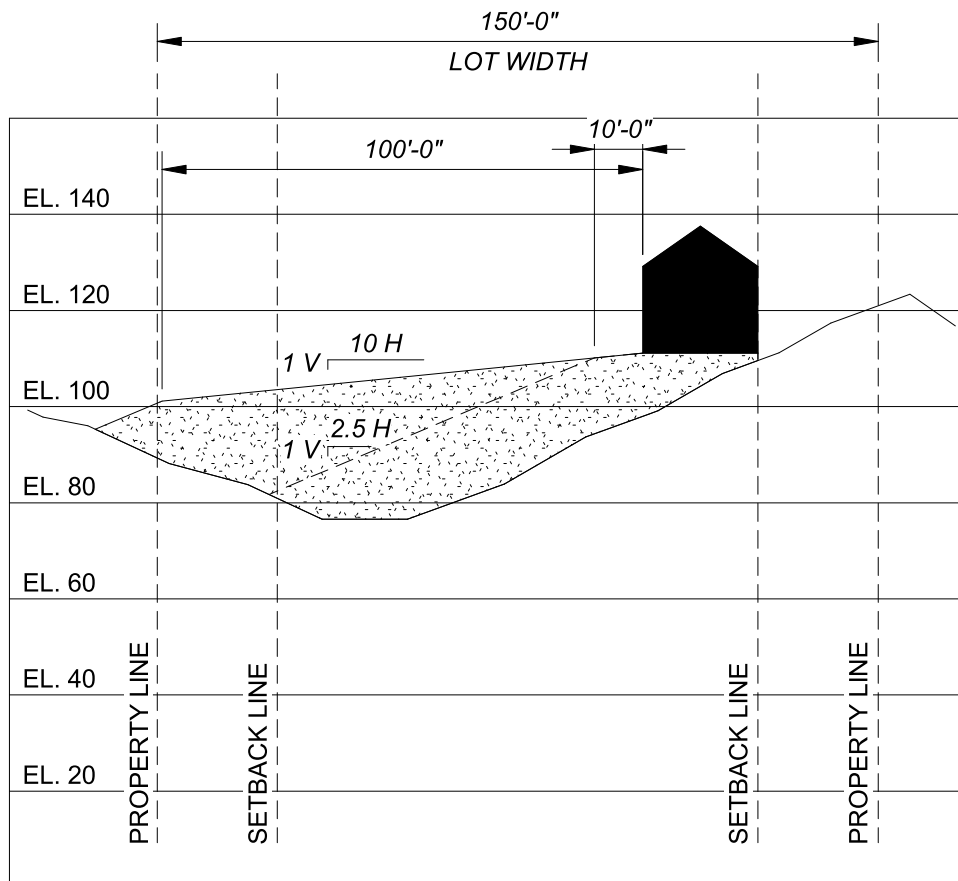
Proposed New Definition: (Essentially, the change amounts to elimination of the last sentence) -

Mean Ground Level: Where the finished ground level varies in elevation on different sides of a proposed building footprint, the average of the various elevations at the centers of the four main sides. In the case where fill has been used to raise the finished ground level on a side(s) of the building to an elevation higher than the preconstruction ground level, on those sides the measurement shall be taken from center of that side ten (10) feet out from the side of the building.

Proposed New Regulation, Section 50, Area and Height Regulations

§50.1.I Building Pad Height and Sloped Site Limitations

1. The finished grade elevation as measured at the center of the highest of the four main sides of the building shall not be more than **18 inches** above the existing grade elevation at that same point.
2. Fill sections on the downhill sides of the building shall be minimized insofar as possible with respect to both the lateral extents and the amount of fill. The grade of the ground surface in filled areas downhill of the building shall not exceed the following maximum grades:
 - a. Within 10 feet of the building: **10% grade (1V:10H)**.
 - b. Beyond 10 feet from the building (Sloped sites): **40% grade (1V:2.5H)**. This limitation applies to slopes to be stabilized by vegetation. Slopes steeper than 40% grade are permissible only in those instances where selected engineered fill materials, armored slopes, reinforced earth or retaining structures are provided to allow for steeper conditions. In all instances where this slope exceeds a 40% grade, the details, type and height of the stabilized slope section (and/or retention structures) shall be described on the site plan or on the building permit application.



Study

Truro, MA

Site Grading Illustration

Scale 1" = 40'-0"

Date:12/03/21

Designed:RER Checked:RER

Drawing Number

SK1

IX. STREET DEFINITION BYLAW PROPOSAL

Proposal for Discussion

This is an attempt to correct the elimination of the design standards from the Subdivision Regulations referenced in the Zoning Bylaw, address a fairness issue AND maintain the rural nature of Truro.

1. Insert the referenced Town of Truro Subdivision Regulations, Section IV, Design Standards, (b), (c), & (d) as they existed on January 1, 1989 into the Bylaw Definition
2. Add an exemption for streets on approved subdivision plans

The following definition of Street is from the Truro Zoning Bylaw, §10.4. Definitions

Street. A public or private way which affords access to abutting property. For the purposes of this bylaw, the terms "street", "road", "way", and "road right-of-way" bear the same meaning. When a street(s) is to be used for lot frontage, the street(s) shall conform to the *following* requirements:

- 1) The minimum width of street right-of-ways shall be 40 feet.*
- 2) Property lines at street intersections shall be rounded to provide for a curb radius of not less than 20 feet.*
- 3) Dead-end streets shall be provided at the closed end with a turnaround having a property line diameter of at least 80 feet. When ways requiring turnarounds may be extended in future subdivisions, the Board may require only an area equal to the above requirement to be shown and marked "Reserved for Turning". Upon extension of the way through this turning area, the portions not included in the way shall revert to their respective lots.*

~~of the Town of Truro Subdivision Regulations, Section IV, Design Standards (b), (c), and (d) as they existed on January 1, 1989.~~

Street(s) shall have a center line length in excess of 100 feet. For dead-end street(s), this distance shall be measured from the sideline of the layout of the road to be intersected to the opposite end of the layout of the turnaround cul-de-sac. Town of Truro paved street(s) that:

- (1) have a minimum layout width of 20 feet, (2) were created prior to January 1, 1989, ~~and~~ (3) were accepted by Truro Town Meeting, *and (4) streets forming part of a subdivision plan approved by the Planning Board* are exempt from the width requirements of the Town of Truro Subdivision Regulations, Section IV, Design Standards. These accepted public paved ways shall be deemed adequate as lot frontage for the issuance of building permits. The list of accepted Truro public paved ways is available from the Town of Truro Town Clerk upon request.

STREET DEFINITION COMMUNITY DISCUSSION 12.1.21

Notes from the discussion

Why should there be changes to the definition? What problems does it cause?

A. Unclear & Confusing leading to uneven application

1. Should be clear and easy to understand and that in itself is reason to revisit
2. Confusing, hard to understand for all – applicants, Building Inspectors, lawyers
3. Unevenly applied by different Building Inspectors –
4. Different BC and others have had different interpretation & given permits on different basis.
 - a. Russ B 2014-18 Building Commissioner (BC)
 - i. They are confusing
 - ii. Earlier BC – told Russ couldn't make heads or tails so if have way with proper frontage he issued building permit – did so on streets /ways of varying quality. Including Kline House
 - iii. Reported that Judge in Kline case called definition of street into question
 - iv. Russ as BC – if permit application did not meet very strict definition of street (from list held by clerk) he sent to ZBA, created headache for ZBA and extensive litigation
 - b. Community member talked about properties on her street, which doesn't meet definition,
 - i. Some allowed to move forward,
 - ii. some sent to ZBA & approved,
 - iii. some denied by ZBA
5. Uneven application compromises rights of citizens

B. Causes referrals to ZBA and increased potential for litigation

6. Lots of referrals to ZBA
 - a. More work for ZBA
 - b. result for applicant even if approved is costly in terms of time, money
 - c. Also, neighbors can appeal ZBA decision, with potential for significantly more cost and delay
7. Creates high potential for Litigation because it's unclear
8. Part of def talks about Frontage Issue:
 - a. If road does not have 40 foot right of way, it is not a conforming road
 - b. If not a conforming road then doesn't provide frontage
 - c. Potentially any work requiring a building permit will require ZBA action
9. Lack of clarity, uneven application of bylaw, creates issues for abutters and relationships among abutters. "How come they could But I can't?" Again , increases potential for litigation

C. Inconsistent with other Town action or regulations

10. There are lots in Truro created by Planning Board action since 1989, that don't meet the conditions of the bylaw but since created after 1989 are NOT pre-existing, non-conforming
 - a. This has resulted in some lots in legally created subdivisions being not buildable only because of this definition
11. Current structure mixes subdivision regulations and zoning bylaws
 - a. Subdivision regulations can be waived by Planning Board
 - b. Only ZBA can waive Zoning Bylaws

OTHER

12. Need for clarification especially old roads,
13. Property on 230+ roads that don't conform to definition & where this makes it hard to build, etc.
14. Issue is more on existing properties old ways, not new subdivisions

Why make no changes? What problems could that cause?

1. Safety
2. Has functioned to help preserve the Rural Character of Truro
 - a. Prevented ancient ways from being developed that shouldn't be developed
 - b. Has saved Truro from overdevelopment
 - c. Concern that changing definition might undermine Truro's rural character
3. Fear change would undermine future of Truro's rural character. The issue of how much development should take place is highly controversial and has divided the community
4. 40 ft right of way – for all widths of road – like an easement to for utilities etc.
 - a. 20 ft from center of road – in most of Truro have building setbacks 25 ft from road, in Seashore district 50 ft. so not really issue
 - b. Required by state – not limiting or hurting people
5. Simplification always good objective. Important to know how many new building lots could/would be created

What are potential changes that could address the problems identified?

1. In order to improve definition don't need to eliminate 40 ft. Right of Way
2. Existing definition has protected rural character, need to continue to do that
3. Change can both clarify/simplify AND protect rural character of Truro
 - a. Maintain rural character and have definition that is easy to understand
 - b. Protect rural character of Truro AND have clear definition with little/no ambiguity for Building Commissioner, fewer referrals to ZBA
 - c. Clear, no ambiguity for BC, that prevent so many referrals to ZBA but at same time primary qualification is to protect rural character of Truro
4. Go back to MGL –
5. Changing exemptions could be way to protect rural character while evening out things

6. TPRTA suggestions – letter 11/28/21

For this reason, we ask the PB to consider **adding needed exemptions to Zoning Bylaw (Section 10.4)** to be harmonized with related design requirements. These exemptions could cover various "road" scenarios including exempting ways that **meet the General Bylaw requirement of Section 1-9-13** for the "14-foot box" on the ground and that, for example,

- a. are contained in an approved subdivision plan; and/or
- b. are on any ancient way never discontinued by the Town; and/or
- c. existed on the ground prior to 2021 {or xx date}; and/or
- d. are ways on which two or more residential or commercial structures are taxed; and/or
- e. are the frontage and access for two or more prior approval(s) of building permits for any property along said way.

Questions/Info Requests

- 1. Need to know how many lots impacted before bringing any suggestion to voters
 - a. Town Planner working on buildout number – changing this definition would change that number.
- 2. How many lots are in subdivisions created since 1989 that are not buildable due to the definition?
- 3. Request from Board for specific examples (addresses) where there are problems

Additional Issues for Further Discussion

- 1. Subdivision Regulations address different issues than Zoning Bylaws – Town Planner
 - a. Follow-up – explanation & potential impact

STREET DEFINITIONS - OTHER CAPE TOWNS

WELLFLEET- ZBL

A street or way, other than a private way, which meets the minimum requirements of the Planning Board as established in accordance with the provisions of Section 81L of Chapter 41 (subdivision) of the General Law.

Wellfleets Subdivision Rules & Regulation:

4.01 ROADS

4.01.a Right-of-way width shall be not less than forty feet. All roadways shall be paved to a width of twenty (20) feet, which shall include a paved berm. Said berm shall be a minimum of eighteen (18) inches on roads with grades in excess of 3%, and in other locations as deemed necessary by the Planning Board.

4.01.b All roads shall be designed so that they will provide safe vehicular travel. Due consideration shall be given by the Applicant to the attractiveness of the street layout.

4.01.c Provision shall be made for the proper projection of roads, or for access to adjoining property which is not yet subdivided. Reserve strips prohibiting access to roads or adjoining property shall not be permitted, except where, in the opinion of the Planning Board, such strips are in the public interest.

4.01.d Street jogs with centerline offsets of less than 125 feet should be avoided. The minimum centerline radii of curved streets shall be 125 feet. Greater radii may be required for principal streets.

4.01.e There shall be access to all lots via streets and portions of streets no part of which shall be less than ten feet elevation.

4.01.f Centerline grades of streets shall be not less than 0.5%. Centerline grades shall not be more than 10.0% for principal streets.

4.01.g No street shall intersect any other street at less than 60 degrees.

4.01.h Property lines at street intersections shall be rounded with a radius of not less than 20 feet.

4.01.i Changes in grading exceeding (0.5) of one percent shall be connected by vertical curves of sufficient length.

4.01.j Sight distances for Subdivision roads intersecting other roads may not be less than 300 feet.

4.02 DEAD-END STREETS

4.02.a Dead-end streets shall not be longer than one thousand (1,000) feet unless, in the opinion of

the Board, a greater length is necessitated by topography or other local conditions.

4.02.b The road layout on dead-end streets shall be provided at the closed end with a turnaround having an exterior layout radius of at least forty-five (45) feet. The roadway shall have an exterior radius of at least thirty-five (35) feet. An island suitably landscaped with grass, ground cover, trees, natural rock and/or elements blending with the surroundings, shall be provided in the center of the turnaround with a radius of at least fifteen (15) feet.

An island shall not be required in a temporary turnaround; however, the turnaround shall be paved. When the dead-end street is extended, the turnaround easement shall terminate and the Applicant shall be required to remove, re-grade and restore the turnaround area to the satisfaction of the Planning Board.

EASTHAM

DRAFT TIMELINE FOR TOWN WARRANT ARTICLES

ATM

- Town Meeting will be held the last Tuesday of April (2-1-2)
- Warrant opened 90 days before Annual Town Meeting (Truro Town Charter Chapter 2 Section 1: 2-3-4)
- Warrant closed after 30 days (Charter 2-3-4)
- Warrant articles from Town Boards can be added after that date

SPECIAL TOWN MEETING

- Select Board determines dates warrant opens/closes (Charter 2-3-4)

2022 DATES

- Tuesday April 26, 2022 – Annual Town Meeting
- Wednesday January 26, 2022 – Warrant Opens
- Friday February 25, 2022 – Warrant Closes
- January 3 – February 16, 2022 - Window for final Public Hearing

GENERAL INFORMATION AND SUGGESTIONS FOR TIMING

- Notice for Public Hearing of Potential Bylaw Change must be advertised in newspaper for 2 successive weeks prior to meeting. In effect, Public Hearing must be scheduled at least 3 weeks in advance.
- Best not to hold public hearing in between mid-December & first Monday in January (after January 1) due to vacations & holidays.
- Planning Board can solicit community input through community forums etc. that don't require same advance notice as public hearing but must also hold public hearing prior to voting on potential warrant article.

TRURO PLANNING BOARD

March 10, 2021

Draft Minutes

Attending: Anne Greenbaum – Chair, Steve Sollog – Vice Chair, Jack Riemer – Clerk, Paul Kiernan, Bruce Boleyn, Rich Roberts, Peter Herridge
Barbara Carboni – Interim Town Planner

Absent:

Meeting called to order at 5:02 pm

Public Comment

No Public Comment

Public Hearing Continued from Jan 6

2020-006/SPR – Anne Labouisse Peretz; William T. Burdick & Richard C. Vanison, Trustees, Dune House Nom. Tr. for property located at 112 North Pamet Road (Atlas Map 48, Parcel 1).

For Applicant: Ben Zehnder – Attorney; Dan Costa – Project Architect; Brad Mallo, Coastal Engineering – Site Engineer; Theresa Sprague, Blue Flax Design – Vegetation Mitigation Specialist

Attorney Zehnder

This is removal of home due to coastal erosion and building of new home further inland

- Changes made in response to feedback from last meeting
 - Move property back from setback line 25ft to conform with zoning bylaw
 - Redesign house to conform with height requirement (30 ft)
 - Therefore, will need no variances from ZBA, only application to ZBA will be for alteration of a structure on previously existing non-conforming lot
 - Floor area of project has been reduced from original plan 2,977 sq.ft. to 2,590 sq. ft.
- Have submitted landscape plan with mitigation – plan to recreate natural vegetation on site and some stabilization of site where original house will be demolished
- Oriented on site to take advantage of light and wind
- Consistent with architecture in neighborhood
- MESA application submitted

Theresa Sprague – gave overview of vegetation plan – Goal – within 7 years property line indistinguishable

Questions/Concerns from Board Members

- 1) Grading & fill
 - a. Amount of grade changes proposed at new site
 - b. Minimizing removal/addition of soil (fill)
 - c. Truck trips & wear on road
 - d. Options to this amount of grading in addition to mentioned hardscape
 - e. Issue raised about activities permitted/prohibited in Seashore –
 - i. 30.3b allowed activities includes building and alteration as principal use.
In this case the fill is not principal use, the residence construction is.
- 2) Preservation of landscape as far as practicable (section 70.4 d3 of Zoning Bylaws)
 - a. Extent of grading/revegetating will create very different landscape than what is there now,
- 3) House location & impact on scenic view, very visible from adjoining hillside. There are less visible locations on the site that are also flatter and would require less grading.

Applicant Responses & Discussion

- 1) Landscaping, Grading & Fill Concerns
 - a) Existing slope being maintained with this grading, Option would be some sort of hardscape – revetment, retaining wall.
 - i) At Jan. hearing Board did not seem in support of hardscape
 - b) Attorney Zehnder: language of bylaw is to “preserve as much as practicable”
 - c) Intention to use existing material rather than bringing in truckloads of material
 - d) We can bring in calculation on amount of fill needed. Intent is to use fill from site as much as possible rather than bringing in all fill.
- 2) Visibility
 - a) Attorney Zehnder – not issue for Site Plan Review, it is a buildable lot in the Seashore District
 - b) Town Planner – Board can take into consideration impact of proposed on surroundings, including in Seashore, concerns valid BUT owner has vested rights – allowed to rebuild on the lot
- 3) Location on site
 - a) Town Planner – property owner has vested rights & is entitled to construct house somewhere. Board, under Site Plan Review, not required to site house simply according to owners’ preference. Concerns board has expressed regarding location within Seashore are balanced with where owner would like to site house.

Peter Herridge – I will need to recuse because I can’t vote for this

Town Planner – don’t need to recuse if feel strongly – that’s why have members with diverse opinions

Chair asked if there is more information board members would like before voting

- 1) Opportunity to hear from the owner as to whether would entertain changing to more suitable location
 - o Attorney Zehnder: if Planning Board is asking her to site house in hole on property, it would upset her. This will also cost yet more time to redo plans.
 - o If looks like Board would vote to deny, will take this request to her

Member of Public Comment:

Ann Irwin –

- Concerns about earlier work that didn't comply with Seashore Regulations requiring increase of up to 50%; might be less objections if that had been the case

Chair to Planner – What impact if any should what people have done previously have on our decision making? Specifically in terms of following Seashore guidelines regarding size?

Planner – Board should focus on what proposed and whether the Board can approve as proposed. Applicant has right to rebuild according to the bylaws and 40A Section 6. Question is: Does current proposal satisfy bylaw?

Attorney Zehnder – Looking at site plan for possible relocation. Without going into hole only option would be to slide further west, closer to Bearberry Hill, along setback. Would involve similar fill. Hope members won't require another plan with associated costs to owner and loss of time just to see another site that will be very similar with same concerns.

Chair confirms with Attorney Zehnder that he would like a vote tonight.

Vote to close Public Hearing 5-1-1

Aye – Steve Sollog, Bruce Boleyn, Anne Greenbaum, Jack Riemer, Paul Kiernan

Recused – Peter Herridge

Not able to Vote – Rich Roberts

Attorney Zehnder reminds Board that 4 votes in favor are needed to approve decision.

Began discussion of draft decision including condition.

Reviewed draft decision (p.3 & 4 of packet) & draft conditions

1) Add conditions

- a) Comply with all state & local regulations
- b) Fill –
 - i) Minimize amount brought in
 - ii) Condition that fill be of similar texture and grain size

Motion –

Steve Sollog moved to approve conditions

Bruce Boleyn second

Member raised point of order – Conditions fall after findings. Concern with Finding #12 which deals with 70.4 D 3 Landscape shall be preserved as much as is practicable. Does not believe this has been met.

- i) Site Plan Review says Board can reject plan if cannot impose reasonable conditions. Have suggested reasonable conditions. Does not seem to be any willingness to consider them.
- ii) Looking for
 - (1) Grading plan
 - (a) Amount of Fill brought in
 - (b) Amount Natural vegetation disturbed

Discussion of Point of Order

- i) Attorney Zehnder
 - (1) We've submitted complete restoration plan
 - (2) standards for board – is landscape being restored “To the extent practicable”
 - (3) The alternative to current plan we could propose to significantly reduce alteration of site would include massive retaining walls
 - (4) Can provide estimate of amount of material to be brought in/taken out
 - (5) Will members look with open mind?
- ii) Chair – reasonable question to the Board. Will having a calculation about amount of fill used & amount of fill that might need to be brought in impact your decision making? Positive response from members
- iii) Attorney Zehnder–
 - (1) clear that only have 3 votes,
 - (2) Will request continuance until March 24, 2021 meeting.

Motion – To continue meeting to March 24, 2021

Moved – Steve Sollog

Second – Bruce Boleyn

Discussion –

- Is the applicant considering some changes that will help the applicant achieve a positive outcome or are we going to be looking at the same thing in two weeks?
- Attorney Zehnder –
 - We believed that had addressed concerns of the Board coming into this meeting. This is new issue.
 - We will look at alternate sites that could achieve both Ann's ability to have view, use site and keeping visibility of site down.
 - Will bring back to Board calculations and result of looking for alternatives.

Motion to Approve Continuance – 5-0-1-1

AYE – Steve Sollog, Jack Riemer, Bruce Boleyn, Anne Greenbaum, Paul Kiernan

NAY – 0

Abstain – Peter Herridge

Unable to Vote – Rich Roberts

Board Action/Review

2020-011/PB – Samantha Perry, Hillside Farm, LLC seeks approval of Form A – Application for Determination that Plan Does Not Require Approval (ANR) pursuant to Section 2.2 of the Town of Truro Rules and Regulations Governing the Subdivision of Land with respect to property at 23 Perry Road, Truro MA, Map 45, Parcel 131.

Ben Zehnder – Attorney

- Richard & Steven Perry, brothers, inherited land thru great grandmother
- Steven deceased, wife Clair, made plan so children can have benefit of land to continue operation of their part of the farm
- Richard – established limited partnership so his family can have benefit of operation of the farm

This proposal is a division of land to create 3 lots so that each branch of family can own land & continue to operate farm, not for purpose of development. The Perry's have operated farm & owned land since late 1800's and since then have only sold off 6 lots.

- lot 1 – 5.58 acres remain with Steven & Claire Perry's children for the operation of the farm (Hillside Farm)
- Lot 2 – 3.32 acres remain with the Perry family for conveyed to/remain with Perry family limited partnership for Richards family for the operation of the farm
- Lot 3 – 38,000+ sq feet – sold off to pay expenses

Discussion of whether this needs to be referred to the Cape Cod Commission (CCC) as a Development of Regional Impact (DRI)

- 1) One threshold for Mandatory Referral is 30 acres or more of land held in common ownership/control as of September 30, 1994.
- 2) Attorney Zehnder
 - a) If is reviewed as DRI, CCC has created standards of review
 - b) This property would be categorized as “natural resource land”
 - c) CCC requirement for development of “natural resource land” 3:1 mitigation means that to create 9-acre development Perry's would be required to set aside 27 acres which don't have & can't afford to buy
 - d) Perry's would not have the ability to meet this requirement if this goes to the CCC as a DRI
- 3) Question – does this property meet the 30-acre threshold
 - a) Attorney Zehnder
 - i) 2 separate ownerships N & S of Pamet neither of which was 30 acres of upland
 - (1) Steven & Richard acquired thru great grandmother land North of Pamet
 - (2) Steven & Richard's parents purchased land South of Pamet
 - ii) Lots 13 & 14 are not developable under Truro bylaws therefore shouldn't count toward the 30 acres
 - (1) if do add to N portion, does go over 30 acres. Otherwise, is 26+ acres.

- iii) Asking Board to make decision not to refer to CCC even if believe that under CCC regulation wetlands need to be included in calculation
 - (1) Referred to conversation with Jon Ideman Chief Regulatory Officer of CCC – calculation method for DRI is all land owned by applicant whether upland or not. It is mandatory referral. CCC would probably accept this as DRI, but don't go looking for. Don't go chasing towns if don't refer.
 - (2) There have been several times when Planning Board has not referred minor developments here to CCC as DRI
 - (3) Planning Board has authority to make its own initial decision to refer/not refer. CCC will defer to Planning Board.
- iv) If this Board votes to refer the Perrys, will have no choice but to do 1 of 2 things:
 - (1) Withdraw application – meaning can't do estate planning need to do
 - (2) Litigate with CCC as to whether wetlands should be included which will be expensive and won't help this farming family move on with their lives
- v) Asking Board to have discussion.
 - (1) Including whether donation of lots 13 & 14 to Truro Conservation Trust isn't the best use of the land.
 - (2) Asking Board to make decision that referral to DRI not in best interest of Town.
- b) Town Planner – Conversations with Jon Ideman
 - i) 30 acres means 30 acres, is mandatory referral.

Discussion –

- CCC materials on website do indicate DRI intention is for projects impacting more than 1 town, this does not seem to do so
- 3:1 mitigation seems unrealistic, is it accurate reflection of CCC regulations?
- Question to Planner – Can a project get an exemption from DRI? Is there a process?
 - If Board finds threshold being met is mandatory referral
 - There is a process where the Board could ask CCC if this is DRI or not?
- Attorney Zehnder – the real question is whether goes to CCC or not
 - Is hardship exemption but informed that Perry's wouldn't be entitled to this
 - If referred believe CCC will accept, then will apply 3:1 mitigation
 - Suggest getting Jon Ideman to board meeting to discuss case
 - Town Planner – Mr. Ideman did say would be willing to address Board meeting
- Board members question to Town Planner – based on your discussions with Jon Ideman – is this a mandatory referral?
 - If meets threshold is mandatory. Have been previous referrals, CCC & Mr. Ideman have not changed their opinion that this qualifies as DRI referral. Refers to memo in packet
 - Attorney Zehnder – have been other times that this Board has not referred this property to CCC,
 - Town Planner – Board could agree with Mr. Zehnder about wetlands not counting in acreage

- Attorney Zehnder – asking Board to endorse ANR – then if CCC wants to require DRI can notify applicant

Motion to Refer to the Cape Cod Commission as Development of Regional Impact – Paul Kiernan, Second – Peter Herridge

Attorney Zehnder – asks for sense of Board so can suggest course of action

Anne Greenbaum – feels like correct & right may be different – reluctant to send

Rich Roberts – like to hear from CCC, don't see the regional impact

Steve Sollog – wetlands being preserved, but they are less valuable because undevelopable, may be swayed if donation included non-wetlands.

Jack Riemer – Very difficult decision. Base my decisions legal, safe. CCC requirements would require referral.

Paul Kiernan – Attorney Zehnder has made valid arguments. The only entity that can answer is CCC. Law requires mandatory referral. If they say not owned in common, come back for the ANR.

Attorney Zehnder – don't see anything to lose if hear from CCC but hopes board can request input rather than submit mandatory referral which would be a tragedy for family.

Town Planner – do not think board can endorse ANR & then ask CCC. Referral comes first.

Options:

1. Invite Mr. Ideman to Board Meeting
2. Ask Commission whether they think is DRI

Paul Kiernan – Point of order motion has been made & seconded

Chair propose amendment to motion to invite CCC to a meeting – Paul Kiernan (mover of motion), did not accept amendment

Public Comment on Issue

Drew Lockhart – farmer with Perry's

- Going to CCC detrimental to family, just looking to use land for farming and for cousins, aunts/uncles to live. Raise my family in Truro.

Vote of motion to send to CCC as mandatory referral 4-2-1

AYE – Jack Riemer, Bruce Boleyn, Paul Kiernan, Peter Herridge

NAY – Anne Greenbaum, Steve Sollog

Unable to vote – Rich Roberts

Agreement to postpone all other items except 35A Higgins Hollow & Radio Tower information to next meeting

2021-001/PB – Regan McCarthy seeks approval of Form A – Application for Determination that Plan Does Not Require Approval (ANR) pursuant to Section 2.2 of the Town of Truro Rules and Regulations Governing the Subdivision of Land with respect to property at 35A Higgins Hollow Road, Truro MA, Map 47, Parcel 2.

Attorney – Justin Parada

Surveyor – Kieran Healy

Anne Greenbaum – Friend of Regan and have filed Appearance of Conflict-of-Interest Form with Town Clerk. I am 1 of 7 on this Board and able to be impartial and am not recusing myself. Does anyone have question/concerns?

Kieran Healy – Land Surveyor with DSC group

- As saw at site visit, Proprietors Road visible from Higgins Hollow Road
- Looking to create 2 lots with frontage on Proprietors Road
- Need access from Higgins Hollow to Proprietors Road
- At site visit 3/9/21 showed where propose to do this and the easement over Lot 2 to service Lot 1

Chair – reminder what is before us is ANR only – those are only areas we should be looking at tonight

Town Planner – National Park Service brought to my attention that the Dirt path extension over National Park land is not easement but is revocable license.

Planner Memo outlines questions

Attorney Parada –

- ANR requires private way created before 1955,
 - Was it in existence before 1955? There are lots of records showing was a way in use to get access, to Hollow etc.
 - Exists on the ground today
 - This is sufficient for frontage
- Access
 - Dirt path, is it sufficient? Adding 1 property. 40 feet long. Is “good enough” access for project. Should be sufficient
- Improvement
 - Little extension of Proprietors Road that goes across Seashore property (not Dirt Path). Applicant has right of way agreement from Seashore (included in packet) that recognizes her deeded right to use Proprietors Road for access to her property.
 - With deeded right of way comes ability to improve the access as needed for access to your property. Therefore, she has the right to improve Proprietors Road if needed for access.

- Neither she nor Seashore want to see Proprietors Road improved. Would involve taking down large number of trees.
- She agreed not to as improve Proprietors Road as long as can use Dirt Road. With that comes right to improve it.
- Boundary agreement says has right to use dirt road, subject to rules & regulations of the town.
- Therefore, she has right to improve Proprietors Road and Dirt Path to provide access.
- We believe can use Dirt Path as exists. Board has ability to approve ANR saying that.

Board Questions/Concerns/Comments

- Note on Plan –Planning Board endorsement indicates only that plan is not a subdivision, does not indicate a lot is buildable or meets Zoning, Health or General Bylaw requirements
- Town Counsel – to find not a subdivision board must find
 - Way in existence prior to 1955
 - Adequate access (width, grade, etc.)

Chair – going to go step by step

- Was it in existence on Dec 8, 1955?
 - Delineated in 1848 plan
 - When Higgins Hollow Road went in, was Proprietors Road abandoned?
 - Applicant – No. Proprietors Way still used until at least when Sibby Davis (owner 45 Higgins Hollow Road) got his deed (1948 and afterwards). His family stated used Way into the 1950's and beyond.
 - Planner – is up to applicant to prove road was in existence on Dec. 8, 1955. Up to Board decides if that has been met.
- Proceed on assumption was a road and proceed to question of access
- Planner memo regarding access
 - If dirt road extension works for adequate access, we have another question
 - Does it provide adequate access to Proprietors Road and the property from Higgins Hollow Road
 - If ok with dirt path extension providing access to Proprietors Road, then the question is Does Proprietors Road provide adequate access?
 - If so, Ok,
 - If not, does the applicant have the right to improve it?
 - If Board agrees that was a road in 1955 and dirt road extension provides adequate access, then not subdivision
- Board Discussion
 - ask Planner to opine on what does adequate access mean?
 - Planner – that is factual? for Board to decide, based on statute

- Does the road have sufficient width, suitable grades, adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land & for installation of municipal services to serve the property.

Discussion of was Proprietors Road a road on Dec 8, 1955

Board Concerns

- Currently has trees/shrubs but there are no large old trees

Applicant

- Shown on Plans from 1894 and later
- 1894 decision by town that it was a private way
- Still shows on ground
- Sibby Davis and others used it
- On plans & deeds including applicant's deed
- 1948 S. Davis refer to Proprietors Road as his frontage & access
- 1960 and again later S Davis acquired mortgages & documents then refer to Proprietors Road as his frontage & access. Can provide documentation.
- 2006 sustained as way by Land Court

Bruce Boleyn – Motion to approve the ANR

Peter Herridge – Second

Draft findings:

- Way in existence as of 1955
- Adequate Access

Town Planner – Board can find that the dirt road provides sufficient access, does not need to find that whole of Proprietors Road provides sufficient access, just the road to the property. Also, applicant must show ability/right to improve dirt path if find the existing access is not sufficient.

Chair – big picture

- Access to property to the west is using the dirt path extension on this property
- Access to property to the east is across same strip of land to Proprietors Road
- To deny would seem very illogical

Kieran –

- Adequate access is through dirt road
- Frontage is Proprietors Road – ANR does not require that the frontage be adequate it's entire length, just that the road exists

Vote 5-0-2

AYE – Anne Greenbaum, Steve Sollog, Bruce Boleyn, Paul Kiernan, Peter Herridge

NAY –

Abstain – Jack Riemer, Rich Roberts

Town Planner will work with applicant on updated plan with acceptable language concerning 14-foot dirt path easement.

Radio Tower emergency repair – Gary Hannah, Ron Robin

Barbara Carboni – there will be further work to discuss but tonight is just about emergency repair

- Change in ownership of radio station
- Inspection of station approximately 10 days ago, nitrogen tank almost empty. Indicating leakage in some part of cable running from transmitter in shack to antennae on tower. Leakage is above ground only.
- Coaxial cable about 17 years old. Best to replace cable, remove & inspect antennae and replace.
- Remove other antennae at 80 feet that will no longer be used
- Place plastic cap over antennae to decrease noise
- Clarification that equipment is now owned by new owners who have right to repair – Yes
- Building Inspector – no building permit needed, do need electrical inspection at completion to ensure is properly grounded
- No vote needed, goal was to inform Board and answer any questions from Board about emergency repairs.
- March 24, 2021 will be before the Board for transfer of ownership. Unclear what paperwork is needed. Will be in communication with Town Planner.

Work Session March 10 at 2:30

Motion to adjourn – Bruce Boleyn, Second – Peter Herridge

Vote 7-0

Aye – Anne Greenbaum, Steve Sollog, Bruce Boleyn, Paul Kiernan, Jack Reimer, Rich Roberts, Peter Herridge

Respectfully Submitted

Anne Greenbaum

Truro Planning Board
June 23, 2021

Attendance: Anne Greenbaum – Chair, Steve Sollog – Vice Chair, Jack Riemer – Clerk, Bruce Boleyn, Rich Roberts, Paul Kiernan, Peter Herridge
Barbara Carboni – Town Planner & Land Use Counsel

Public comment: None

1. Temporary sign permits:

A. Truro Historical Society – Lauren Kaufman – Executive Director

1) regular sign for Rt. 6 for next 3 months; Question – re: Covid protocols

Motion to Approve – Peter Herridge

Second – Steve Sollog

Vote to approve – 7-0

Aye – Steve Sollog, Jack Riemer, Bruce Boleyn, Anne Greenbaum, Rich Roberts, Paul Kiernan, Peter Herridge

2) banner for new exhibition, Wampanoag at 6 and 6A

Motion to Approve – Peter Herridge

Second – Bruce Boleyn

Vote to Approve – 7-0

Aye – Steve Sollog, Jack Riemer, Bruce Boleyn, Anne Greenbaum, Rich Roberts, Paul Kiernan, Peter Herridge

B. Truro Yoga application for 2 mos.

Motion to Approve – Peter Herridge

Second – Bruce Boleyn

Vote to Approve – 7-0

Aye – Steve Sollog, Jack Riemer, Bruce Boleyn, Anne Greenbaum, Rich Roberts, Paul Kiernan, Peter Herridge

2. Friends of the Truro Meeting House—Chuck Steinman, 1 banner for 2 months of summer (July August) in front of meeting house which would take people to Friend's website.

Motion to Approve – Bruce Boleyn

Second – Peter Herridge

Vote to Approve – 7-0

Aye – Steve Sollog, Jack Riemer, Bruce Boleyn, Anne Greenbaum, Rich Roberts, Paul Kiernan, Peter Herridge

3. Continued Public Hearing – 2020-006/SPR property located at 112 No. Pamet Rd., map 48 parcel 1. Last presented in April 2021.

Residential site plan review under Truro bylaw for removal of the existing structure and construction of a new smaller dwelling set back from the coastal bank. Existing dwelling is at risk of destruction due to coastal erosion in its current location.

Mr. Zehnder, Mr. Mellow and Mr. Carr appearing for the applicant.

---Zoning Board of Appeals voted to approve special permit for alteration of current structure last Monday.

---Have submitted revised site plan to reflect the height and location of the proposed retaining walls. 2 retaining walls between 4 1/2 and 5 ft in height, with proposed planting of native trees to obscure the retaining walls on north and west sides which would be visible to others.

---Presented pictures and description of the stewardship of the land by applicant to maintain character of land.

- Reiterates that the project conforms to regulation in terms of height, setbacks
- Building is 2,900 square feet, over 100 sq ft of by right amount
- Asserts that house is designed in keeping with architecture in the seashore and in Truro and owner has done everything to meet the criteria for site plan review.
- Appreciation for applicant expressed as well as one member's ongoing concern about it.
- Another member raised concerns about the amount of fill going into the project. This was discussed with Mr. Zehnder asserting that the Seashore not commenting at all about the amount of fill in this or the previous submission by this applicant indicates no problems with it. Planner notes that this project falls within the exceptions re. appropriate amount of land fill and that the Seashores' non-comment may be taken for consent on this issue. Mr. Zehnder notes that the applicant's house is 5 ft. from the edge of the erosion which puts it in imminent danger.
- Discussion of the question before the board is whether the amount of fill to be brought in is "reasonable" according to the guidelines of section 8 regarding single family homes.
- Attorney Zehnder asserts that the applicant has proposed 2 retaining and sustaining walls that would preserve most of the area in its natural state and that it complies with standards.
- Amy W., Abutter, summarizes her letter to board saying that she supports the board in carefully reviewing the proposed changes to safeguard the unique area in which the property exists.
- Questions asked and answered of Planner and answered re. the doubtful legal defense of a negative decision by the board on this project.
- Straw vote attempted.
- Question posed by chair – Given the hypothetical that the Seashore answers in the affirmative re. this project, what conditions would the board like to see?
 - Member commented – Type, materials and facing of retaining wall and railing of the fence, should be specified as that information is pertinent to an approval and is there any other information we want?
 - Other member – question re. the construction and support of the proposed patio?

- Response given by Mr. Carr and is in the packet.
- Planner explains condition given by ZBA.
- Road should be reconstructed to its original condition.
- Lighting and other conditions should conform to Truro regulations. Lighting plan is in packet.
- Planner then adds in piece of the ZBA decision “And all conditions of the ZBA approval shall be met”.
- Approval shall also be given on condition that the Board of Health has approved the septic system.
- Discussion of how the questions to the Seashore should be phrased and who should do the phrasing of that question.

Motion for continuance of this project’s approval to July 7.

- Moved – Steve Sollog
- Second – Jack Riemer
- Voted 5-0-1-1
 - Aye – Anne Greenbaum, Steve Sollog, Paul Kiernan, Jack Riemer, Bruce Boleyn
 - Recused – Peter Herridge
 - Not Eligible to Vote – Rich Roberts

4. Zoning Article Introductions –

- Still don’t know where Planning Board will be sitting
- We will receive motions to introduce articles as written by Town Counsel
 - a. Article 22 – ADU by right – will be introduced by the petitioner
 - b. Food Trucks – Paul
 - c. Change to Parking Schedule (30.9) – Steve
 - d. ADU articles – Anne
 - e. Discussion of Articles 25 through 30 which are changes to current ADU bylaw. How to handle these articles if Article 22 passes.
 - Q and discussion: Should we amend article to come from the building commissioner or from the ZBA with variance? Or should we move to postpone the article indefinitely if #22 passes?
 - If 22 fails, then we would not need to amend the language of 25 on the floor. Is that correct?
 - For Article 26, if 22 passes, we move to postpone.
 - For Article 27, if 22 passes, move to postpone indefinitely.
 - Article 28 is about not requiring elevations if the outside is not touched. If 22 passes, we should move to postpone.
 - Anne – I could say when 22 comes up that 25 thru 30 were designed to speed up the process. But none of them gets to the major issue which is the septic system.
 - So, should we try to incorporate some of the work of the subcommittee into the article or should we just postpone indefinitely?
 - Rich stated that he thinks the article should be left in and not postponed so that people know that the planning board has been working on these things.

- It is recommended that an explanation of the work that went into these articles be given whether or not the article passes. And this would not be to set up a call for reconsideration of 22.
- Anne summarizes that she will deal with all ADU articles.
- f. Articles 31, 32 & 33 are administrative
 - 31 & 32 are just numbers of copies.
 - 33 is changing planning board secretary to planning dept.
- g. Article 34 Growth and Development – Steve

5. No discussion of potential bylaw changes.

6. Planner report – Concert committee asking for a waiver of fees for the banners. Listed where the banners would be placed. This will come up as a formal application on July 7.

7. Report from chair – this is Mr. Herridge’s last meeting with the board. Accolades and thanks exchanged.

Note: There will be a site visit for the Walsh committee on June 30. More info to be publicized later.

Voting on adjournment:

Moved

Second

Aye – Anne Greenbaum, Steve Sollog, Bruce Boleyn, Paul Kiernan, Jack Riemer, Peter Herridge, Rich Roberts

Respectfully Submitted

Anne Greenbaum

TOWN OF TRURO
PLANNING BOARD
Work Session Minutes
August 4, 2021 - 5:00 pm
REMOTE MEETING

Members Present: Anne Greenbaum (Chair); Steve Sollog (Vice Chair); Jack Riemer (Clerk); Rich Roberts; R. Bruce Boleyn; Ellery Althaus; Paul Kiernan.

Other Participants: Liz Sturdy – Planning Board Facilitator

Remote meeting convened by Chair Greenbaum. Chair Greenbaum read the detailed instructions for citizens interested in watching or joining this meeting. Board Members introduced themselves.

Public Comment Period: no comments

Planner Report – Liz Sturdy noted that in 2 week's time there would be a sign permit and a continued hearing involving the 'Horton Campground' ANR.

Board Discussion:

Under discussion are: improving Planning Board processes, Apartment definition, Mean Ground Level definition and it's various possible interpretations, Use Table footnotes, and a search for any administrative corrections within our bylaws.

Continued discussion involved building within dune and flood plain areas, FEMA regulations, resiliency studies, 'Best Practice' guidelines for building on the dunes, Barnstable County 'model bylaw' on coastal plain usage, and fertilized lawn environmental problems.

Discussion - housing. Combining efforts among various boards using surveys. LCPC has hired a consultant to facilitate co-ordination. Member Riemer outlined the process the town must follow in order to list available housing as Local Action Units (LAU), i.e., affordable housing units.

Discussion – Who regulates permanent signs? Liz Sturdy noted the Building Commissioner is responsible.

Discussion – Who regulates driveways? Select Board issues curb cut permits. The Building Commissioner oversees safety. This remains an unresolved issue and more information is needed. Member Roberts opined looking how other towns have handled this problem.

Discussion – under sized house lots (less than the Residential and Seashore Zone minimum lot sizes) – how to uniformly deal with these lots as to allowed house sizes.

Discussion – water quality and wastewater management. See ‘Weston & Sampson’ 2014 and 2018 Reports. (there is a need to see appendix B from the 2014 Report, currently missing online)

Agendas for future work sessions were discussed.

Discussion – Where can we improve the various applications for ANR, Site Plan Review, etc. L. Sturdy outlined the range of problems she faces. The board made suggestions.

Chair Greenbaum asked for a motion to adjourn. Motion made by Member Sollog with a second by Member Boleyn. No further discussion. Chair Greenbaum asked for a vote. Voted all in favor (7-0-0).

Meeting adjourned.

Respectfully submitted,

Bruce Boleyn