

**ZONING BOARD OF APPEALS
TRURO, MASSACHUSETTS
ZBA MINUTES
MONDAY, APRIL 27, 2015
7 PM - TRURO TOWN HALL
24 TOWN HALL ROAD, TRURO**

QUORUM PRESENT: B. Perkel (Chmn); F. Todd (Clerk); A. Hultin, J. Allee, J. Thornley (Absent J. Dundas.)
(Also present: S. Kelly, Recording Sec.)

Meeting was opened by Chmn. Perkel at 7:02 PM.

Minutes: March 2, 2015 Minutes were approved on a Motion by Mr. Hultin, 2nd by Mr. Todd, 5/0 Unanimous.

2015-001/ZBA – Peter Courossi, by agt/applicant David Milliken/Milliken Construction, for property located at 45 Route 6 (Atlas Sheet 60, Parcel 31) (Reg. of Deeds title ref: Book 25922, Page 138). Applicant is requesting a Variance and/or Special Permit, whichever the ZBA deems appropriate, for relief from Sec. 30.7.A. of the Zoning Bylaw, in order to construct a garage on a non-conforming property “frontage,” as per plans filed with the ZBA.

Mr. Milliken was present to explain the petition. He said the applicant wished to build a 2-car garage on their 2 3/4-Acre property. The existing house and guest house and they wished to have a dormer on the garage for storage. In response to a question on the proposed garage deck, Mr. Milliken explained they will use the deck to obtain access to the storage space. Plans were reviewed by the board. Mr. Hultin asked about any issue other than the question of frontage; it appeared they could build by right; the approval of the Board of Health had been obtained and the Building Commissioner’s issue was the fact there was less than 100 ft. of frontage, thus the need for a Special Permit. It was explained there were no comments from the neighbors. Mr. Perkel noted he had reservations and asked about the dormers and slider for the deck; it was explained they needed the dormer for headroom for storage of fishing gear, kayak, etc. The property contained a one-bedroom house with a one-bedroom guest studio. Mr. Hultin said it was important to consider the matter of zoning; the issue at hand is with the frontage at the property and it is a matter of issuing a special permit on the fact that the proposal is not more detrimental to the neighborhood. Mr. Todd said he could not see a basis for rejecting a permit. Members concurred the issue of non-conformity was because of the nature of the frontage. After further discussion, the following Motion was made:

Motion (Hultin; 2nd Thornley): Move to grant a Special Permit to Peter Courossi, for property located at 45 Route 6, (Atlas Sheet 60, Parcel 31) (Reg. of Deeds title ref: Book 25922, Page 138)(2015-001/ZBA), with reference to Sec. 30.7.A. of the Zoning Bylaw, in order to construct a garage on a non-conforming property “frontage,” as per plans submitted by ARC Designs, LLC, revised March 21, 2015, Pages 1 and 2, and Site Plan by Felco, Inc., dated 2/23/15 for said property.

The ZBA Finds said Special Permit is not more detrimental to the neighborhood and is in keeping with the intent of the Truro Zoning Bylaw. The ZBA makes the following Condition: the garage shall not be used as habitation.

Voted in Favor: Hultin; Thornley; Allee; Todd. Voted Against: Perkel. Motion Carries: 4/Yes; 1/No.

2015-002/ZBA – Robert Davoli and Eileen McDonagh, by agt Michael Price Architects, for property located at 33 Cooper Rd., (Atlas Sheet 58, Parcel 65)(Reg. of Deeds title ref: Book 25258, Page 347; Land Ct. Lot #38, Plan # Book 367, Page 14). Applicants are appealing the decision of the Building Commissioner not to grant a building permit, and are also seeking a Special Permit w/ref. to Sec. 30.7.A. of the Zoning Bylaw in order to construct a new single-family dwelling which will conform to current zoning height and setback regulations, as per plans filed with the ZBA.

Mr. Hultin spoke and said on the advice of the Attorney General’s Office, because he was involved in building a house at the site in the 1980s, he wished to recuse himself from the Appeal.

It was noted four members would be voting: Mr. Perkel, Mr. Todd, Mr. Thornley and Ms. Allee.

Atty. Sarah Turano-Flores was present with the applicant to present the petition. She spoke of the subdivision regulations of 1987 and the approved plan which had 3 open road ends rather than a ‘closed’ end. She spoke of approval of plans from 1960, 1972 and 1981, and explained with a dead end, one has to have an 80-foot cul-de-sac and she cited case law (Sparks v. Westboro) in which the plaintiffs argued about a dead-end when in actuality there was a through-way.

Plans were reviewed by the ZBA and Mr. Perkel noted they had received an opinion from Town Counsel which stated the grant of a Special Permit was needed. Ms. Turano-Flores explained the application is a proposal for the construction of a single-family residence and the trigger is frontage. Because of the lack of a turn-around and with ref. to Sec. 30.7 of the Zoning Bylaw it must be accepted that said alteration/use is in harmony with the purpose and intent of the bylaw and not more detrimental to the neighborhood. Site plans and elevations had been provided and Conservation Commission approval had been obtained. She also noted the proposed house is low to the ground and built into the side of a hill, and follows the contour of the hill away from the water; so the elements fit in with the environment. Plantings would be of a native species, and since the slope is heavily treed, it is hard to see much of the home from the road. The septic system had been approved and the lot consists of 2.8 acres; the proposed lot coverage is 4% of the lot.

Plans were reviewed by the Board members, and abutter Tosh spoke in support of the proposal.

Various renderings were shown and viewed as well. Mr. Thornley asked how a fire engine would turn around at the site; it was noted the ANR (Approval Not Required) plan shows a 40-ft way, and it was explained the site was deemed pre-existing, non-conforming because there was no cul-de-sac; plans of the existing driveway were reviewed and questions were asked about the adequacy of the road in respect to emergency vehicle access. Atty. Turano-Flores explained they were before the ZBA because of the non-conforming aspect in terms of frontage. Another abutter noted she wished to see the road remain as it was currently. Members discussed the road and access by trucks, etc. Arch. Price noted the owner did not want to make substantial modifications to the road in response to neighbors' concerns. Members discussed the possibility of a turn-around on the property; it was also noted there was a road fund established by the homeowners in the area.

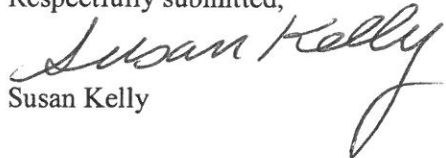
After further discussion, a Motion was made by Mr. Todd to grant a Special Permit; however there was not a second to said Motion. Members concurred they would like to make sure a fire truck could turn around at the site.

A Motion was made by Ms. Allee to continue the hearing to May 27, 2015 at Town Hall at 7 PM; 2nd provided by Mr. Todd, 4/0 Unanimous to continue.

Next ZBA Meeting: Wednesday, May 27, 2015 at 7 PM at Truro Town Hall.

Meeting adjourned at 8:15 PM.

Respectfully submitted,


Susan Kelly