

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

Property Owner(s) and/or Applicant(s): – Stephen Walsh, by agt/rep Chester N. Lay, Slade Assoc., Inc.

Property Location: 13, 10, 3, 7 & 5 Walsh Way, and 309 Route 6

Atlas Sheet: 43 Parcel(s): 13, 10, 8,7, 135 & 134) (2017-008/ZBA)

Hearing Date: Monday, May 22, 2017

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

Motion (Hultin, 2nd Todd): Move to grant to Stephen Walsh, for property located at 13, 10, 3, 7 & 5 Walsh Way, and 309 Route 6, (Atlas Sheet 43, Parcels 13, 10, 8,7, 135 & 135) (2017-008/ZBA) w/reference to Sec. 10.4 (definitions: street) of the Truro Zoning Bylaw for a Variance for a single-turning radius to widen an existing 30-ft. road to a 40-ft. wide road in order to consolidate 2 lots and remove a cottage, as per plans filed. The ZBA includes the language of Finding 1, and Findings 2 through 5 as written, as part of this decision. The ZBA Finds that granting of this Variance is not substantially more detrimental to the neighborhood and is in keeping with the general purpose and intent of the Truro Zoning Bylaw, with the following:

(Findings of Fact): 1. The applicants are widening, on paper, the existing thirty-foot- wide ways (Walsh Way and Valentine Lane) to a width of forty feet so that the various lots within this compound will front on streets complying with the definition of “street“ as defined in the Truro Bylaws, thus obviating the need to file for a Special Permit with the Zoning Board of Appeals every time they propose an alteration to one of their cottages. They are proposing no new road construction at this time. At the request of the Cape Cod Commission, a five-foot-wide buffer strip has been shown between the terminus of Walsh Way near the northwest corner of Lot 5 and the remaining back acreage owned by the Walsh Family to prevent *segmentation*.

2. The Truro Building Commissioner and code enforcer has opined, in writing, that the transition curves required under the definition of “street“ in the Zoning Bylaws applies to the intersection of the *actual* traveled ways, where they ease access and egress and make it safer, not to the side lines of the layouts, where it would make no sense.

3. The entrance to Walsh Way has existed in its present state for decades and is safe for the current residential use. The cottage at the northwest corner of Lot 3 is to be removed and Lots 43-7 and 43-8 are to be combined into one lot, Lot 1 as shown on the filed plan. Thus the overall usage of this property will be *reduced*.

4. If and when Walsh Way is to be used to serve any lots other than Lots 1 through 5 as shown on the filed plan, and if the two transition curve requirement is still in effect and is being interpreted as applying to the actual street side lines and not to the actual traveled ways, the entrance to Walsh Way at Route 6 shall be re-designed to show two transition curves.

5. The granting of this Variance is consistent with the general purpose and intent of the Bylaw and Planning Board Regulations and with the overall goals of the Truro Local Comprehensive Plan.

Cynthia A. Slade, Town Clerk, Town of Truro /June 22, 2017 / pages 1-2

ASW

A true copy, attest:



COMMONWEALTH OF MASSACHUSETTS
TOWN OF TRURO
PLANNING BOARD – NOTICE OF ACTION

DEFINITIVE SUBDIVISION

Reference No. **2016-010PB**

Map 43 Parcels 7, 8, 9, 10, 134 & 135

Walsh Way and Valentine Lane

Applicant: Stephen Walsh, John H. Walsh, Ellen Shiel, Elizabeth Walsh Carver, Miguel D. Walsh and Mary Ellen Walsh

Meeting Dates September 6, 2016, September 20, 2016, November 2, 2016, December 6, 2016, February 7, 2017, March 7, 2017, April 11, 2017, June 6, 2017 and July 18, 2017

Decision Date July 18, 2017

At a duly posted and noticed public hearing opened on September 6, 2016 the Town of Truro Planning Board, acting in the matter of Reference Number **2016-010PB**, and pursuant to MGL c.41, §81U and and § 2.5 of the Town of Truro Rules and Regulations Governing Subdivision of Land, voted to approve waivers and to conditionally approve a Definitive Plan entitled “Definitive Subdivision of Land in Truro Showing a Re-division of Parcels 43-7, 43-8, 43-9, 43-10, 43-134 & 43-135 as shown of the Truro Assessor’s Atlas, Made for John Walsh, Ellen Shiel, Elizabeth Walsh Carver, Miguel D. Walsh, Stephen Walsh & Mary Ellen Walsh” prepared by Slade Associates, Inc., October 6, 2016, (Revised September 1, 2016, June 2, 2017 and June 12, 2017), Scale 1”=50’ The Board’s vote was 4-1-2 to approve in part the requested waivers and 4-1-2 to conditionally approve the Definitive Plan.

In the Planning Board’s deliberations, the following plans and submittals were reviewed:

- Fully executed Form C Application for Approval of a Definitive Subdivision Plan, signed individually by each of the six owners, and \$275 fee submitted to the Town Clerk on July 21, 2016
- Letter to Truro Planning Board from Chester N. Lay, dated July 20, 2016, re: Definitive Subdivision Made for Stephen Walsh et al Dated October 6, 2015 (Plan #2015-98)
- Letter to Joseph & Mary Ellen Walsh from Thomas W. French, PhD., dated April 8, 2016, re: Project Location: Walsh Way Truro, Project Description: Widening Walsh Way, NHESP File No.: 16-35165
- Plan entitled “Index Plan of Land in Truro, to be filed with the Land Court, Joseph W. & Evelyn M. Walsh, John H. & Ruth C. Walsh, and Stephen H. Walsh Plaintiffs,” prepared August 1994, Slade Associates, Scale 1” = 200 feet, sheet 1 of 3
- Plan entitled “Plan of Land in Truro, to be filed with the Land Court, Joseph W. & Evelyn M. Walsh, John H. & Ruth C. Walsh, and Stephen H. Walsh Plaintiffs,” prepared August 1994, Slade Associates, Scale 1” = 100 feet, sheet 2 of 3
- Plan entitled “Plan of Land in Truro, to be filed with the Land Court, Joseph W. & Evelyn M. Walsh, John H. & Ruth C. Walsh, and Stephen H. Walsh Plaintiffs,” prepared August 1994, Slade Associates, Scale 1” = 100 feet, sheet 3 of 3

- Plan entitled “Definitive Subdivision of Land in Truro Showing a Re-division of Parcels 43-7, 43-8, 43-9, 43-10, 43-134 & 43-135 as shown of the Truro Assessor’s Atlas,” made for John Walsh, Ellen Shiel, Elizabeth Walsh Carver, Miguel D. Walsh, Stephen Walsh & Mary Ellen Walsh, by Slade Associates, Inc., October 6, 2016, Scale 1”=50’ and revisions dated September 1, 2016, June 2, 2017 and June 12, 2017
- Abutters lists from the Town of Truro Assessing Department for Map 43, Parcel 7, Parcel 8, Parcel 9, Parcel 10, Parcel 134, Parcel 135
- Letter to Carole Ridley, Planning Consultant from Chester N. Lay, dated August 10, 2016, re: 2016-010PB Stephen Walsh et al Definitive Subdivision, Walsh Way
- Acts of 2012, Chapter 186 An Act Relative to the Exchange of Certain Land in the Town of Truro
- Plan entitled “Definitive Subdivision of Land in Truro Showing a Re-division of Parcels 43-7, 43-8, 43-9, 43-10, 43-134 & 43-135 as shown of the Truro Assessor’s Atlas,” made for John Walsh, Ellen Shiel, Elizabeth Walsh Carver, Miguel D. Walsh, Stephen Walsh & Mary Ellen Walsh, by Slade Associates, Inc., dated October 6, 2016, Revised September 1, 2016, Scale 1”=50’.
- Letter to Planning Board from Chester N. Lay, dated September 1, 2016 re: 2016-010PB Stephen Walsh et al Definitive Subdivision, Walsh way, additional waiver information

Mr. Roderick, having missed the March 7, 2017 hearing session, filed a “Mullin Certificate” pursuant to MGL c. 39, §23D.

The applicant had previously, by a series of extensions, agreed with the Board that the date by which the Board is required to act pursuant to MGL c. 41 §81U is extended to August 12, 2017.

Decision

On a motion by Mr. Sollog, seconded by Mr. Herrick, the Board voted to approve the itemized requested waivers.

The following submission requirements of Section 2.5 of the Town of Truro Rules and Regulations Governing the Subdivision of Land are waived:

- 2.5a6 Drainage calculations
- 2.5.2a9 Traffic Impact study
- 2.5.2a10 Three proposed road names
- 2.5.2b5 Existing and proposed methods of providing road drainage and utilities
- 2.5.2b10 Topography of land (shown on preliminary plan)
- 2.5.2b14 Base flood elevation
- 2.5.2b21 Notation prohibiting the conveyance of lots and the issuing of building permits
- 2.5.2b22 Two onsite USGS Benchmarks
- 2.5.2b24 All information required on Preliminary Plan
- 2.5.2b29 Notes indicating that all Utilities shall be underground
- 2.5.2b30 Location of trees
- 2.5.9 Homeowner’s Association
- 3.6.1.c Provision for projection of streets to adjoining property
- 3.6.8 Design Specifications for Type B road, per Table 1, Appendix 2
- 4.1.2 Clearing, grubbing and excavation
- 4.1.3 Erosion control measures
- 4.1.5 Sub-base

- 4.1.6 Grade
- 4.1.7 Surface material
- 4.1.8 Berms
- 4.1.9 Street signs
- 4.1.10 Vegetation
- 4.2.1 Drainage installations
- 4.2.2 Catch basins
- 4.2.3 Drainage pipe outlets
- 4.3 Underground utilities (there is an existing overhead line)
- 4.4 Inspection
- 4.5.1 Clean up
- 4.5.2 Documentation (a plan will be submitted showing the locations of the new concrete monuments).

The waiver request for all of section 2.5.2C Contents of Plan, profiles, and Cross-sections was not approved as the required documents have been filed.

Board members expressed that they had been satisfied that the granting of the waivers was not inconsistent with the intent and purposes of the Subdivision Control law and not injurious to the public. The vote was four (4) in favor, one (1) opposed (Reimer) and two abstentions (Kiernan and Tosh). Note: Mr. Kiernan and Ms. Tosh were not eligible to vote on this application.

On a motion by Mr. Herridge, seconded by Mr. Roderick, the Board voted to approve the Definitive Plan pursuant to MGL c.41, §81 U and Section 2.5 of the Town of Truro Rules and Regulations Governing Subdivision of Land subject to the following conditions:

1. Installation of a stop sign on Walsh Way at Route 6;
2. Documentation of bounds set as required by section 4.5.2 of the regulations;
3. Removal of the cottage at the northwest corner of Lot 3 as required by Zoning Board of Appeals decision in matter 2016-019ZBA; and
4. "The ways shown on this plan shall be used only for frontage for, and access to Lots 1 through 5 as shown on this definitive subdivision plan and two adjacent parcels shown on the Truro Assessor's Map, Sheet 43, as Parcels 6 and 133 and for access to but not frontage for two parcels shown on the Truro Assessor's Map Sheet 43, Parcels 9 and 13. Lots shown on this plan and said Parcels 6 and 133 shall not be further divided so as to result in more than seven (7) lots. This definitive plan approval does not include approval of roadway construction plans. Any roadway construction, redivision of the lots shown on this plan or of said Parcels 6 and 133 or use of the ways shown on this plan to access additional property shall require modification of the approval of this plan to approve roadway construction and provision of security for or construction of any required roadway improvements prior to use of said ways for redivision of or access to additional property. The property shown on this plan will not be combined with adjacent land in any manner that would constitute segmentation of development in order to circumvent review by the Cape Cod Commission or the Town of Truro."

Board Vote

The Board's vote on the motion to conditionally approve the Definitive Plan was vote was four (4) in favor, one opposed (Reimer) and two (2) abstentions (Kiernan and Tosh).

Steven Sollog 8/10/17
Steven Sollog, Planning Board Chair Date

Received, Office of the Town Clerk:

William
Signature

AUGUST 10, 2017
Date
