ZONING BOARD OF APPEALS
TRURO, MASSACHUSETTS
MINUTES
MONDAY, AUGUST 29, 2016
7 PM - TRURO TOWN HALL
24 TOWN HALL ROAD, TRURO

QUORUM PRESENT: B. Perkel (Chmn); A. Hultin (V. Chair); F. Todd (Clerk); J. Thornley; J. Allee, N. Brown,(Alt.); J. Dundas,(Alt). (S. Kelly, Recording Sec.)
Also present: Town Counsel Jamie Veara, Planner Carole Ridley.

Continuation -- Remand: 2014-008 – Habitat for Humanity of Cape Cod, Inc., by Atty. W.H. Brodie, for property located at 181 Rte. 6, (Atlas Sheet 51, Parcel 66). Applicant is seeking a Comprehensive Permit under MGL C. 40B, §s 20-23 & 760 CMR 56.00 for a 6-lot proposal which includes building three new affordable homes on 3 lots as per plans filed-- as continued from June 27, 2016, July 18, 2016 and August 22, 2016.

Meeting convened by Chmn. Perkel at 7:17 PM; he noted the evidentiary portion had been closed at the Aug 22 meeting. Since member Allee had not been able to be present at the August 22, 2016 hearing, it was noted she had reviewed the video of the previous meeting and would participate in deliberations but would not vote.
Mr. Perkel noted they would continue with deliberation and spoke of the issues at hand. The waiver of height restrictions was moot since the height was within the required limits; discussion would resume on whether the site was too steep and whether there was a satisfactory water(drainage) route. They would discuss the steepness of grade and whether there was a proper storm management process – in regard to the maintenance plan – is it adequate; he spoke of engineering documents referred to in arriving at their decision. In response to Mr. Hultin's question on findings, Mr. Perkel noted they needed to be specific; they needed to be sure the intention is clear and the finding(s) is clear. Mr. Hultin spoke of the letters from the engineering firms; Mr. Perkel noted they were part of the record.
Members voting would be: Todd, Hultin, Perkel, Thornley, Dundas. No vote: Allee or Brown.
Mr. Perkel continued they would have to address whether this was consistent with local needs and whether the grade of the site is unusable for the current location.
He noted at the last hearing it had been noted that sites that provide affordability are usually not somewhere that would easily be built upon and he suggested a list of difficult sites. Mr. Hultin replied Habitat provided information on the need for affordable housing and in general these are going to be "secondary" lots. Mr. Brown remarked the original owners of the lots did not have contingencies on the buildability of a lot – ie: issuance of a building permit. Ms. Allee asked if there were only two houses built rather than three. Mr. Todd said he felt they were getting into an area of speculation and felt they should be focusing on the issue at hand. Mr. Perkel concurred and said they would discuss the steepness of the grade; Mr. Todd said they have heard it is a difficult, but not impossible, site; it came down to stormwater management and ongoing management at the site.
Mr. Hultin spoke of engineering letters: June 27, from Mr. O'Reilly; Aug. 16, from Mr. James; Aug 18 Ryder and Wilcox review. Reasonable solutions were addressed. He suggested the letters could be a basis of the ZBA Findings. Mr. Perkel asked if there was agreement or discussion on engineering letters. Mr. Thornley noted he had concerns with the 50% slope; Mr. Todd referred to the Ryder/Wilcox letter which noted post-development runoff is less than pre-construction runoff. Ms. Allee noted concerns with sediment and wondered if this could be a long-term problem.
Mr. Perkel felt maintenance had to be looked at – he spoke of long-term maintenance; a maintenance plan would be contracted and would have to be reviewed periodically. Mr. Todd noted Habitat had explained there would be a property management agency with a budget with reserves; one looks at the Habitat record, which is a good one on Cape. It seemed the home-owner's association would be responsible for monitoring issues such as catch basins.
Members discussed homeowner's associations and Mr. Hultin noted Habitat testimony establishes homeowner's associations at previous hearings and within the application. He felt they have addressed issues point by point.
Discussion moved on to framing of Findings; they could have establish findings such as: 1) maintenance plan is satisfactory; 2) establishment of Homeowner's Association (w/ref to Declaration of Protective Covenant. Mr. Perkel suggested a Finding on the steepenss of the grade and the maintenance plan. He said when they address the steepness of grade and maintenance, there is no question of steepness site. But, he continued, the issue is whether there are proper stormwater practices to provide ongoing maintenance.

Mr. Todd spoke of the 50-year storm event and noted the most recent site plan had been revised 7/20/16 and included a number of notes which refer to drywell and stabilization and previous stabilizing plans. He would be in support of Findings on the site plan with reference to the document by Ryder and Wilcox. Mr. Thornley spoke of article 4.16 and the section on management plans.
Members continued there could be wording with respect to a Finding that the proposed design as modified adequately addresses stormwater drainage and site issues. Other wording suggested in regard to the steepness of the grade, with proper stormwater management there would be no problem developing the site.
A short break was taken at 8 PM and discussion resumed at 8:07 PM.
Mr. Perkel said before they discuss and vote on Findings, did they have enough time to draft Findings for the next Meeting of Sept. 26, and which included appropriate references. Their vote would be binding on Findings and approval of them. They would have to vote on clearly-defined Findings.
Atty. Veara was asked about deadlines. He explained the Court had set September 30, 2016 as the date by which they must file their decision with the Town Clerk; he added when the petition was first heard they were not certain there would be a time extension granted by the Court.
Discussion on Findings continued. Mr. Perkel asked whether they should show that the site can be developed with reference to the revised Habitat plan, and in regard to Findings, made the following Motion:

Motion (Perkel; 2nd Hultin). Move that we Find the revised plan for Habitat by J.M. O'Reilly of 7/20/16 for Stormwater Runoff management is capable of handling a 50-year storm event.
Members voting in Favor: Dundas, Todd, Hultin, Perkel; voting Against: Thornley. Motion Carries: 4/yes; 1/no. (4/1).

Discussion moved on to adequacy of maintenance and the responsible party. Mr. Todd asked about protective issues during construction. The following Motions on Findings were made:

Motion: (Todd; 2nd Perkel): The ZBA Finds there is agreement that during the construction phase, the steps proposed to deal with stormwater runoff are adequate.
Members voting in Favor: Dundas, Todd, Hultin, Perkel; voting Against: Thornley. Motion Carries: 4/yes; 1/no. (4/1).

Motion: (Todd, 2nd Hultin): The ZBA Finds in regard to the post-occupancy maintenance of Stormwater Runoff Control surfaces, the drainage measures as proposed are found adequate for the project.
Members voting in Favor: Dundas, Todd, Hultin, Perkel; voting Against: Thornley. Motion Carries: 4/yes; 1/no. (4/1).

Motion: (Hultin; 2nd Todd): The ZBA Finds the request for waiver from height requirement is moot; the waiver request is withdrawn; the Building Commissioner found the height requirements are met.
Members voting in Favor: Dundas, Todd, Hultin, Perkel, Thornley. Voted Against: None. Motion Carries: 5/Yes; 0/No (5/0).

Mr. Todd asked about any other waivers requested. Atty. Veara explained about the waiver on steepness of grade, drainage issues and height requirement waiver. He continued. a final draft of Findings will be composed which would be for ZBA members only; additional Findings could be crafted in writing.
A Motion was made by Mr. Perkel, 2nd by Mr. Todd to Continue to Monday, September 26, 2016 at 7 PM at Town Hall.

Meeting adjourned at 8:29 PM.

Respectfully submitted,

Susan Kelly

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