

**TOWN OF TRURO  
ZONING BOARD OF APPEALS**

**Meeting Minutes**

**July 30, 2018, 5:30 pm**

**Truro Town Hall**

**Quorum Present:** B. Perkel (Chair), A. Hultin (Clerk), J. Dundas (Member), J. Thornley (Member), F. Todd (Member), S. Areson (Alternate), C. Lucy (Alternate)

**Other Participants:** Kevin Kuechler, Tru-Haven Association Treasurer; Regan McCarthy; Anne Greenbaum; Peter Weiss; David Michniewicz, Senior Vice President of Coastal Engineering; Atty Nathaniel Stevens, McGregor & Legere; Jennifer Chisholm

**Meeting convened at 5:32 pm by Chair Perkel.**

**Continuation – 2018-002/ZBA – Timsneck LLC**, by Atty Benjamin Zehnder, for property located at 10 Thornley Meadow Road (Atlas Sheet 53, Parcel 87, title reference: Book 30529, Page 134). Applicants are seeking a Special Permit and/or Variance, whichever the Board deems appropriate, w/ref to Sections 10.4 and 30.7B of the Truro Zoning Bylaw for additions to a pre-existing, non-conforming single-family dwelling.

**Continuation – 2018-003/ZBA – Susan Lewis Solomont**, by Atty Sarah Turano-Flores, for property located at 37 Stephens Way (Atlas Sheet 58, Parcel 1, title reference: Book 10986, Page 185). Applicant is seeking to overturn the Building Commissioner's decision to not issue a permit and is also requesting a Special Permit and/or Variance, whichever the Board deems appropriate, w/ ref. to Sec. 10.2 and 50.1A of the Truro Zoning Bylaw to construct a single-family dwelling.

**Clerk Hultin made a motion to continue 2018-002/ZBA – Timsneck LLC to August 13, 2018 and 2018-003/ZBA – Susan Lewis Solomont to August 27, 2018. Member Todd seconded. So voted, 7-0-0, motion carries.**

**2018-005/ZBA – Jennifer Cohen/Tru-Haven Association, Inc.** seeks to appeal the Building Commissioner's Denial of Enforcement Action on May 3, 2018 for property located at 7 Parker Drive (Atlas Sheet 39, Parcel 171, title reference: Book 12786, Page 8) for alleged violations of Sections 30.1.A and 30.2 of the Truro Zoning Bylaw.

Kevin Kuechler, Treasurer of Tru-Haven Association came forward to give a timeline of changes to the property at 7 Parker Drive.

As Mr. Tribuna has taken legal action against Tru-Haven Association, Inc., he has presented an affidavit as recent as June of 2018 stating that he may choose to subdivide. Mr. Kuechler states the current state of the property seems to match his presented plans to subdivide.

Mr. Kuechler asks that the Zoning Board of Appeals initiate action to have the Building Commissioner direct the Planning Board to inquire of Mr. Tribuna's plans. If Mr. Tribuna claims no further plans, Mr. Kuechler wishes the town would forbid any future development changes. He and Tru-Haven Association also wish for the Health Department to take soil samples of the fill at 7 Parker Drive.

Member Todd asks if the boulders along 7 Parker Drive are part of Mr. Tribuna's plans or part of Parker Dr. Mr. Kuechler states that there are two sets of boulders and from his understanding one set are located on Mr. Tribuna's property.

Alternate Areson asks what the survey stakes she has seen near 7 Parker Drive are for. Mr. Kuechler responds that he is not sure, but they are near or on Mr. Tribuna's property.

Chair Perkel comments that some of the things Mr. Kuechler asks of the Zoning Board of Appeals they have no power to do, such as requesting the Health Department to take samples. Chair Perkel explains that since no plans have been put before a board, all of the things that concern Tru-Haven Association are not problems yet and do not involve the ZBA.

After discussion with some members of the Board Chair Perkel explains that Mr. Kuechler may want to consider dropping the appeal as a vote would likely be negative for him given the inability of the Board to currently take any action.

Mr. Kuechler asks if it would be appropriate for any of his neighbors to come forward to speak on the issue and Chair Perkel agrees.

Regan McCarthy comes forward and begins by answering Alternate Areson's question about the survey stakes. Ms. McCarthy says that Mr. Tribuna put them up when excavation work began on his property at the end of June 2018 and suggested that members of the community were trespassing on his property.

Ms. McCarthy says that two weeks ago the Building Inspector forbid Mr. Tribuna from building a sustaining wall out of boulders on his property. Ms. McCarthy presents to the Board the fact that Mr. Tribuna has claimed that he has the right to alter the road at will in plans for a subdivision. She asks the Board to consider what action they would take were the road to be altered.

Chair Perkel says that were Mr. Tribuna to extend his work onto the road then Tru-Haven would have a case of trespass against him. That would not be a town issue it is an owner issue. Ms. McCarthy recommends to Mr. Kuechler that Tru-Haven withdraw the appeal.

Anne Greenbaum of 22 Gospel Path comes forward worried that a precedent is being set for Truro residents being able to build what they wish on their properties regardless of what other

residents think if they didn't formally declare that they were building something. Chair Perkel explains that come time to apply for zones and permits, it is unlikely a property owner will get what they want if it is breaking rules.

Peter Weiss comes forward to ask who the Building Inspector reports to. Chair Perkel says that the town does not currently have one and that one is soon to be appointed or suggests that the Town of Truro may borrow an inspector from one of our neighboring towns as needed.

Mr. Kuechler comes forward and thanks the Zoning Board of Appeals for their time and asks to withdraw his appeal.

**Chair Perkel made a motion to accept the withdrawal of the appeal without prejudice. So voted, 5-0-0, motion carries.**

**2018-008/ZBA – Jennifer and John Chisholm**, for property located at 417 Shore Road (Atlas Sheet 10, Parcel 2, title reference: Book 8078, Page 032). Applicants seek a Special Permit w/ref to Section 50.1 of the Truro Zoning Bylaw for the addition of a second floor to a pre-existing, non-conforming structure.

The architect David Michniewicz, Senior Vice President of Coastal Engineering comes forward and Chair Perkel questions the architect about the use of the structure in question. The structure is currently a garage and if the changes requested are made to turn it into a living space, the intended use will change.

Member Dundas asks if Jennifer and John Chisholm also own the property across the street. The architect says that they do and that as Mr. & Mrs. Chisholm's children grow older, they would like to have their own space across the street.

The architect explains the project. The current garage is one story and the project would add a second floor directly on top of the existing footprint. The only difference will be a deck and stairs added as a second means of egress.

Clerk Hultin says that the Board must decide if this work increases the non-conformity of the property in any way. Member Dundas asks if the distance between the front of the garage and the road will change at all; the architect says it will not.

The Board discusses the possibility of twisting the existing structure or moving it on the lot to increase conformity and discusses the dimensions of the structure.

A 10-minute recess is called at 6:30 for those who came forward to meet and discuss a point from which to further discuss the issue.

Attorney Nathaniel Stevens, law firm of McGregor & Legere comes forward representing

Jennifer Chisholm. Atty Stevens asks for a 30-day continuance to work on some of the issues.

**Member Todd makes a motion for a continuation to the next meeting, Chair Perkel seconds. So voted, 5-0-0, motion carries.**

**Chair Perkel makes a motion to adjourn. So voted, 7-0-0, motion carries.**

Respectfully Submitted,



Paxton Green

