

**ZONING BOARD OF APPEALS
TRURO, MASSACHUSETTS
MINUTES
MONDAY, NOVEMBER 28, 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; N. Brown, (Alt.);
Absent: J. Allee, J. Dundas, (Alt). (S. Kelly, Recording Sec.)

Continuation: 2016-010/ZBA – Adventure Bound Camping Resorts, for property located at 67 S. Highland Rd (Atlas Sheet 37, Parcel 15) & 10 Old Dewline Rd. (Atlas Sheet 37, Parcel 19) (Reg. of Deeds title ref: Book 26095, Page 3). Applicant is appealing the May 4, 2016 Stop Work Order of the Bldg. Com., and is also requesting a Special Permit w/ref. to Sec. 30.7.A. of the Truro Zoning Bylaw for work related to construction and installation of state-mandated sewage treatment facility, per plans filed, as continued from Aug 22, 2016. Chmn. Perkel noted there had been a request for another continuation pending the Planning Board's decision. A Motion was made by Thornley, 2nd by Hultin to continue to the January 2017 meeting (Jan. 23, 2017), noting the waiver date of January 30, 2017. 5/0 Unanimous to Continue.

2016-013/ZBA – Barbara Rybeck & Joan Siniscalco, by Atty. Kevin M. Kirrane, for property located at 402 Shore Rd., (Atlas Sheet 10, Parcel 22) (title ref: Book 13530, Page 012). Applicants are seeking a Variance w/ref. to Sec. 50.1 (lot size) and Sp. Permit(s) w/ref. to Sec. 30.2 and 30.7.A. of the Zoning Bylaw to raze and replace a motel & use & structure with a new Single Family Residence, as per plans filed., as continued from Oct. 24, 2017.

2016-017/ZBA – Kevin Shea and Judith Richland, for property located at 408 Shore Rd. (Atlas Sheet 10, Parcel 41, Reg. of Deeds title ref: Book 7711, Page 069). Applicants are seeking a Variance w/ref. to Sec. 50.1. of the Zoning Bylaw to construct a single-family residence on a pre-existing non-conforming lot which also lacks the required frontage, as per plans filed.

Mr. Perkel spoke of the status of both properties at the former Fore and Aft site, and noted there had been a request for a continuation. A Motion was made by Mr. Brown, 2nd by Mr. Thornley to continue both petitions (2016-013 – Rybeck/Siniscalco and 2016-017 – Shea/Richland) to the December 19, 2016 meeting. 5/0 Unanimous to Continue.

Continuation: 2016-014/ZBA – Melinda Krasting, by agt. William N. Rogers II, for property located at 4 Scrimshaw St., (Atlas Sheet 46, Parcel 164) (title ref: Book 27304, Page 88). Applicant is seeking a Special Permit w/ref. to Sec. 30.7.A of the Zoning Bylaw in order to construct a 38x28-ft. garage/and bedroom addition, on a non-conforming lot, as per plans filed, as continued from the Oct. 24, 2016 hearing.

Mr. Todd asked if there had been any feedback from neighbors regarding the proposal; nothing had been received. Mr. Hultin explained the ZBA could issue a Special Permit with conditions. Joan Dyer spoke of concerns she had with the size of the addition and spoke about the view impacted. Mr. Locke, representing the office of William Rogers II explained there were no longer any relevant covenants and the neighborhood association mentioned deals with road maintenance. Mr. Perkel asked Ms. Dyer for any suggestion with the proposal; she suggested moving it back further. Mr. Brown provided background on the subdivision, which had been one of the Nemetz subdivisions and confirmed any previous covenants would have expired..

Mr. Locke spoke about the project and explained the size is generated by the garage below; there will be 2 bedrooms and the height will be the same as the 27'9" height of the existing building; he added, this addition will not impact views of the neighbors; rather, trees on the adjoining property impact view and the garage was sited in an open area. Mr. Perkel asked if anyone was present to speak; since there was no one else, Mr. Locke reiterated his respect for the neighbors and he showed the site of Ms. Dyer's property and the trees on the adjacent property and added, this addition will not impact the neighbors' views. Mr. Perkel said he went to the site to look for views and he did not see much of a view and did not think view was an issue. Ms. Dyer's son said the view is from their deck on the end side of their home abutting the applicant. Ms. Krasting spoke and said there was a view depending on where one stands; she had agreed to cut back an oak for the view. It was noted by Mr. Todd if view were a protected interest it would be

germane; however he did not feel it was something for the ZBA to explore further; they were being asked to get involved with detriment to the neighborhood in terms of a view. Mr. Hultin said he did not see zoning issues in regard to the view and he would be inclined to approve the Special Permit. Mr. Thornley said he was concerned with the size of the proposal. Mr. Brown spoke of the expiration of covenants. After further discussion, the following Motion was made:

Motion (Hultin, 2nd Brown): Move to grant a Special Permit to Melinda Krasting, for property located at 4 Scrimshaw St., (Atlas Sheet: 46, Parcel 164 (2016-014/ZBA) (title ref: Book 27305, Page 88), w/ref. to Sec. 30.7.A of the Zoning Bylaw to construct a 38*x28-ft. garage/and bedroom addition, *reduced to 30 ft. 6 in.x28 ft. on the William N. Rogers II, plan revised 10/7/16, on a non-conforming lot, as per plans (A.0 through A.7) filed and submitted to the ZBA. The ZBA Finds: the construction is allowed by Special Permit, and grant of said Special Permit is not more detrimental to the neighborhood and is in keeping with the intent of the Zoning Bylaw. Voted in favor: Perkel, Thornley, Hultin, Brown, Todd. Voted Against: None. Motion Carries: 5/Yes; 0/No. Unanimous.

2016-015/ZBA – Len & Susan Connolly, by agt. Maryellen Serena, for property located at 586 Shore Rd., (Atlas Sheet 5, Parcel 21)(title ref: Book 29820, Page 312). Applicants are seeking a Special Permit w/ref. to Sec. 30.7.A. and 50.1 of the Zoning Bylaw in order to construct dormers and a mudroom & screened-in porch to a pre-existing, non-conforming structure, as per plans filed, as continued from Oct. 24, 2016.

Atty. Zehnder was present with the applicants to explain the petition further. He added, agt. Serena had requested his participation in the appeal. He explained they were requesting the Special Permit for a pre-existing, non-conforming structure and also with reference to Sec. 50.1. of the Zoning Bylaw regarding lot area. He noted they had to have a 5-ft. setback per story; Two stories equals a ten-foot requirement; he added there had been a question previously about a two-story structure and he believed it was two stories. Photos of the interior with rafter plates were shown; since these plates are 3 feet off the floor, one cannot call it an attic; it would be defined as a second story, thus requiring the ten-foot setback. The north side of the structure is 2.5 ft. from the property line and there is 2 feet on the other side from the property line setback. The 2nd story work is an increase in non-conformity therefore intensifying the non-conforming aspect of the structure.

In addition letters of support from abutters were noted. Members reviewed the plans, which also showed the height of 23 ft. proposed; Mr. Todd noted his primary concern is the 2 and 1/2 foot setback; pictures were viewed and it was noted dormered roofs are the norm in the Beach Point district.

Members discussed the vertical extension of the exterior wall, and Atty. Zehnder noted this was not substantially more detrimental. He explained the plans showed the existing deck, which becomes a screened porch, and the other part of the deck becomes the 'mudroom.' The front deck remains the same. Since there was no one else to speak, the following Motion was made:

Motion (Todd, 2nd Brown): Move to approve a Special Permit for Len & Susan Connolly, for property located at 586 Shore Rd., (Atlas Sheet 5, Parcel 21)(2016-015/ZBA) (title ref: Book 29820, Page 312), to construct dormers and a mudroom & screened-in porch to a pre-existing, non-conforming structure, w/ref. to Sec. 30.7.A. and 50.1 of the Zoning Bylaw, as per plans filed, w/ref. to arch. drawings dated Sept. 21, 2016, sheets 1 through 7, with the Condition: the screened-in porch remains a non-winterized screened-in porch. The ZBA Finds this is a non-conforming lot due to lot size and sideline encroachment, and Special Permit is not more detrimental to the neighborhood, and is in keeping with the intent of the Truro Zoning Bylaw.

Voted in favor: Perkel, Thornley, Hultin, Brown, Todd. Voted Against: None. Motion Carries: 5/Yes; 0/No. Unanimous.

2016-016/ZBA – Jonathan Colman and Helene Colman, applicants; (property owner: Brenda Del Prete) rep. by Chester N. Lay/Slade Assoc., for property located at 8 Florence Way, (Atlas Sheet 35, Parcel 141, Certif. of Title #96016, land Ct. Lot #8, Plan #22033-C). Applicants are seeking a Special Permit w/ref. to Sec. 30.7.A of the Truro Zoning Bylaw to construct a single-family residence, w/garage & pool on a pre-existing, non-conforming lot, as per plans filed;

Since Mr. Brown recused himself stating a conflict, Mr. Perkel noted they would need a 4/0 unanimous vote. Mr. Lay, representing the applicants, said he would prefer a decision on the petition at this time.

He explained the property was in a subdivision approved by the Planning Board in 1980 and the covenant had been released. Pine Knoll builders chose to appear before the ZBA because of the frontage issue. It was explained there

was 180 ft. frontage and they had 2 recorded plans; the Building Commissioner had referred the petition to the ZBA because of the road. Mr. Hultin noted he had constructed a residence on the same road. Sec. 30.7.A., non-conforming uses, was cited which explained the Special Permit request. Mr. Lay continued Title 5 plans have been submitted. Mr. Hultin noted the petition was similar to the other permit granted, and Mr. Todd noted there were procedural questions and noted perhaps they could speak to counsel about referrals to the ZBA; ZBA powers of building commissioner were discussed in this regard.

After further discussion, the following Motion was made:

Motion (Hultin, 2nd Perkel): Move to grant a Special Permit to Jonathan Colman and Helene Colman, (property owner Brenda DelPrete), for property located at 8 Florence Way, (Atlas Sheet 35, Parcel 141, Certif. of Title #96016, land Ct. Lot #8, Plan #22033-C), w/ref. to Sec. 30.7.A of the Truro Zoning Bylaw to construct a single-family residence, w/garage & pool on a pre-existing, non-conforming lot, as per plans filed. 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.

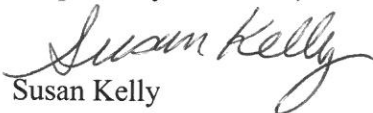
Voted in Favor: Perkel, Thornley, Hultin, Todd. Voted Against: None. Motion Carries: 4/Yes; 0/No. 4/0, Unanimous.

OTHER BUSINESS

Next Meeting: December 19, 2016, Truro Town Hall, 7 PM.

Meeting adjourned at 8:20 PM.

Respectfully submitted,


Susan Kelly