

**ZONING BOARD OF APPEALS
TRURO, MASSACHUSETTS
MINUTES
MARCH 20, 2017
7 PM - TRURO TOWN HALL
24 TOWN HALL ROAD, TRURO**

QUORUM PRESENT: B. Perkel (Chmn); F. Todd (Clerk); A. Hultin, J. Thornley; J. Dundas, (Alt).
Recused/Stepped Down: N. Brown, (Alt.)
Also present, Planner Carole Ridley. (S. Kelly, Recording Sec.)

Meeting convened at 7:03 PM by Chairman Perkel.

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, Nov. 28, 2016, and January 23, 2017 (w/time waivers)

Atty. Nagle, representing Adventure Bound Camping Resorts spoke and noted he wished to clarify -- they were not requesting a Special Permit; he wished to withdraw that aspect of the application. Chairman Perkel asked how he wished to proceed; Mr. Nagle said he would provide facts and evidence to defend the appeal of the stop work order. He introduced Mr. Aguiar of Beta Group, Inc. who had prepared site plans for the applicant. They were cited for clearing, grading, etc., work done prior to the installation of the wastewater treatment plant which was in compliance with DEP regulations.

They were also planning to upgrade electricity etc., to the existing 216 campsites.

He continued, they appealed the stop work order because it "violated local zoning" and he contended they were not subject to local zoning because they had pre-existing, non-conforming status – the campground existed prior to 1959, which was before zoning was enacted in Truro. He continued, the improvements at the property last May are improvements/enhancements to an existing use, not a change of use, and C.40A S. 6 cited did not apply because this applied to a change of use that is a substantial extension of said use, and he felt this was not the case at the campground. He reiterated, even though a campground is not an allowed use in Truro, it has the status of use as of right because it pre-existed zoning.

He continued, the existing septic systems, which served 32 camp sites currently, were under order by DEP to be updated. Ultimately they wished to connect to 218 camp sites; the campground was a mix of tents to RVs both before and after 1959. Resident Grozier spoke about the campground prior to 1959 through the 70s; he had resided there from 1967 to 1979; he provided history of the site including pictures from the former "Advocate" newspaper. There had been "pop-up" campers, delivery trucks converted to campers, self-contained vehicles (ie Winnebagos), and "Air Streams." Photos were reviewed of the campground and trailer park; these were taken pre-clearing. Mr. Grozier explained there were always, trailers, tents, etc., at the site and there had been milk company delivery trucks from Horton's barn until the 1970s. Mr. Grozier explained there were also house trailers which were brought in by truck.

Atty. Nagle also provided information on existing utilities; Manager Bourne spoke about the campground and said everything is pretty much the same; some sites have cable; existing utilities: 32 (sites) sewer hook-up; 73 (sites) water; 63 (sites) have electricity. He said the current use of the campground is consistent with the previous use. In response to Chairman Perkel's question on whether there was a business plan, Mr. Nagle said there was no formal plan in place per se. He said the proposed future use is to provide sewer, water, electricity to all 218 camp sites and they had been required by the State to update the treatment plant. Mr. Dundas said there seemed to be a lot of utilities at the site; Mr. Nagle explained the existing facilities (utilities) are in an antiquated state; he wanted to be sure, for example, the electricity is up-to-par; he continued he could provide an affidavit on a business plan. Mr. Nagle also explained there were tent, pop-up- and small trailers at the upper level; they would probably use the lower site for larger rv vehicles. Background on septic system upgrade was given; when A/C Mobile Home Park purchased the camping area in 2000-2002 it came to the attention of DEP; an Administrative Consent Order was issued

regarding the groundwater treatment plant; when A/C bought Hortons they got a revised Consent Order from DEP regarding the septic systems. Information on the treatment plant was distributed and it was explained the plant is designed to handle campsites on South Highland Road; site plans were reviewed and explained by the engineer. In response to a question from Planner Ridley about size of camp sites, it was explained there was no set size. Atty. Silverstein, of Truro's Counsel Kopelman and Page, asked if there will be more camp sites in the future, and whether there will be a subsequent request for a Special Permit. Atty. Nagle said Horton's is committed to 218 sites; if they want to expand, they would come back to the Town and make that request; at this time there is no plan to exceed 218 sites.

He did not know about any possible future use. He also said there were no additional concrete pads.

It was noted the NPS (National Park Service)(Cape Cod National Seashore) had declined to extend its Certificate of Suspension.

Atty. Nagle continued, Site Plan Review documents had been submitted to the Planning Board of the existing and proposed work sites. Members asked about appealing the Building Commissioner's Stop Work order; it was noted this did not preclude Site Plan Review. Site plans with infrastructure were shown with all new water hook-ups, septic, and electric; it was noted they wanted to bring all utilities to all camp sites. In response to Mr. Thornley's question on trailer, mobile homes rather than RVs, Atty. Nagle said sites will be for transient, seasonal use which goes from March 31, to Oct. 26 or 27.

In summary, the campground existed in 1951; thus it pre-existed zoning; there would have to be a decision whether the proposed changes are an extension of the use or a substantial increase to said use. Atty. Nagle cited various aspects of case law including Bridgwater v Powers, and other examples of "protected" cases. He said this was not a change of use nor was it a substantive change. He continued, there are still camp sites; the use is the same, ie: there is still camping at a campground; their proposal is sewer, water and electricity to all sites; campground status is pre-existing, non-conforming; there is protection under C40A.6, and therefore, the stop work order should be rescinded and they should be allowed to re-commence work. Supplementary documents had been provided, including site plans from the engineer showing new water hookups, septic and electric hook-up information; there is a rigorous restoration plan for the upper area subject to approval by Natural Heritage. In response to a question about what triggered MESA review, the applicants had asked if they were exempt in relation to the private sewage treatment plan aspect and BETA had submitted the MESA Review Checklist.

Mr. Perkel noted his concern with the intensification of use at the property; he noted the upper area was almost inaccessible and he was concerned about future transition. He also said this does not preclude Site Plan Review. Mr. Hultin spoke about the bylaw and under Sec. 30 use and Sec. 30.1.B. Trailer Homes and asked how this was addressed. Atty. Nagle said there was no current or future plan to address this; he had no knowledge of the trailer home aspect and he would discuss this with his client and it would be addressed in writing; they would make sure there would be a stipulation that there be no permanent trailer homes and he would be happy to make that clarification.

It was explained some sites, such as 93, 94 and 95 were on a hill and could not be used; when asked about utilities access, Atty. Nagle explained they have to make sure water, sewer and electricity are available to all camp sites; there are a few camp sites that need to be "tweaked" to bring all utilities to all sites. He then cited various case law examples of protected use and seasonal versus year-round use. In summary the campground is a pre-existing non-conforming use; there is not a substantive change... and therefore the stop work order should be rescinded and work should be allowed re-commence. Also, there is a rigorous restoration plan for the upper area which is subject to approval by Natural Heritage.

At this point a time waiver was signed; members concurred they would like to discuss with counsel and after a short break, a Motion was made by Mr. Hultin, 2nd by Mr. Thornley to Continue the petition to Thursday, May 4, 2017 at 7 PM at Truro Town Hall.

Meeting adjourned at 10:15 PM.

Respectfully submitted,

Susan Kelly
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