

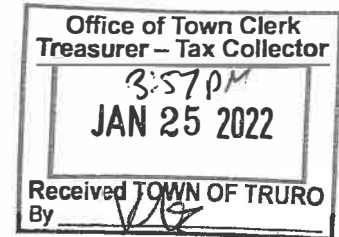
TOWN OF TRURO

ZONING BOARD OF APPEALS

Meeting Minutes

February 22, 2021 – 5:30 pm

REMOTE ZONING BOARD OF APPEALS MEETING



Members Present (Quorum): Art Hultin (Chair); Fred Todd (Vice Chair); Chris Lucy (Clerk); John Dundas; John Thornley; Darrell Shedd (Alt.); Heidi Townsend (Alt.)

Members Absent:

Other Participants: Barbara Carboni – Interim Town Planner and Counsel; Liz Sturdy – Truro Office Assistant; Ben Zehnder (Attorney for Thomas and Dianne Didio) and (Attorney for Anne Peretz); Christopher and Jennifer Sousa (Applicant); Lester J. Murphy (Attorney for Christopher and Jennifer Sousa); Peter Coneen (Architect for Christopher and Jennifer Sousa); Tim Brady (Engineer for Christopher and Jennifer Sousa)

Remote meeting convened at 5:30 pm, Monday, February 22, 2021, by Interim Town Planner and Counsel Carboni who announced that this was a remote meeting which is being broadcast live on Truro TV Channel 18 and is being recorded. Interim Town Planner and Counsel Carboni also provided information as to how the public may call into the meeting or provide written comment.

Public Comment Period

No members of the public offered comment.

Public Hearing Continued

2020-008/ZBA – Thomas and Dianne Didio for property located 13 Corn Hill Landing, Truro, MA (Atlas Map 45, Parcel 23, Registry of Deeds title reference: Book 19120, Page 300). Applicant seeks a Variance under M.G.L. Chapter 40A, §10 and Section 50.1(A) of the Truro Zoning Bylaw for minimum side yard setback distance. Applicant seeks a variance due to the lot shape and topography to construct sustaining walls within the setback for a conforming pool and pool house. Chair Hultin gave Mr. Zehnder the opportunity to update the Members. Mr. Zehnder stated that Mr. Malo is still exploring other solutions and has not completed his work so Mr. Zehnder asked for a continuance to March 22, 2021.

Chair Hultin made a motion to continue this matter to March 22, 2021.

Member Lucy seconded the motion.

So voted, 7-0, the motion carries.

Chair Hultin announced the continuance of the matter to March 22, 2021, and Mr. Zehnder thanked the Members before his departure.

2020-009/ZBA – Anne Labouisse Peretz; William T. Burdick and Richard C. Vanison, Trustees, Dune House Nom. Tr. for property located at 112 North Pamet Road, Truro, MA (Atlas Map 48, Parcel 1, Certificate of Title Number 208468, Land Ct. Lot #7, Plan #15097-H). Applicant seeks a Special Permit under M.G.L. Chapter 40A, §6 and Section 30.3(8) of the Truro Zoning Bylaw for removal and replacement of non-conforming single-family dwelling (height) on a non-conforming lot (street frontage). Chair Hultin asked Mr. Zehnder for an update and Mr. Zehnder requested a continuance to March 22, 2021, as the Applicant is redesigning the dwelling and has recently engaged a landscaping firm to prepare a detailed landscaping plan.

2020-010/ZBA – Anne Labouisse Peretz; William T. Burdick and Richard C. Vanison, Trustees, Dune House Nom. Tr. for property located at 112 North Pamet Road, Truro, MA (Atlas Map 48, Parcel 1, Certificate of Title Number 208468, Land Ct. Lot #7, Plan #15097-H). Applicant seeks a Variance under M.G.L. Chapter 40A, §10 and Section 50.1(A) of the Truro Zoning Bylaw for removal and replacement of a single-family residential dwelling 5 feet from southerly lot line where minimum setback distance is 25 feet.

A motion to continue both hearings was made after Interim Town Planner and Counsel Carboni advised Chair Hultin that it was appropriate to continue both hearings.

Chair Hultin made a motion to continue both matters to March 22, 2021.

Vice Chair Todd seconded the motion.

So voted, 7-0, motion carries.

Chair Hultin announced that this matter was continued until March 22, 2021, and Mr. Zehnder thanked the Members before departing the meeting.

Public Hearing

2021-001/ZBA – Christopher and Jennifer Sousa for property located at 118 North Pamet Road, Truro, MA (Atlas Map 48, Parcel 4, Registry of Deeds title reference: Book 33563, Page 109). Application seeks Variances under M.G.L. Chapter 40A, §10 and Section 50.1(A) of the Truro Zoning Bylaw for: (1) the construction of a dwelling 10' from the side lot line, a 15' variance where Bylaw minimum setback distance is 25'; and (2) construction of a dwelling 31' in height, exceeding the Bylaw maximum height of 30' by 1'. The Applicant also seeks a Special Permit under M.G.L. Chapter 40A, §6 and §30.7(A) and 50.1(B) of the Truro Zoning Bylaws for the relocation and alteration of a lawful pre-existing single-family structure on a nonconforming lot. Chair Hultin invited Mr. Brady to provide general background. Mr. Brady pointed out that the site selected for relocation was the most appropriate due to wetlands resources which impact the site such as the coastal bank, the flood zone, and the Natural Heritage and Endangered Species Program (NHESP) area. The project has received approval from the Cape Cod Conservation Commission (CCCC) as well as approval for waiver from the Board of Health to allow a modification of the septic system. Mr. Murphy added that the soil and topography (including the steepness of the lot and the erosion of the coastal bank) are components for the Variance. Mr. Murphy emphasized that if the house is not relocated it will be lost. Mr. Murphy also stated the neighbors abutting the property (Ms. Stacy Rogers, Ms. Sharon Fay, and Ms. Maxine Schaffer) have provided letters of support for the relocation of the dwelling. Member Shedd asked Mr. Brady about the risk to the home from the widening of the Pamet River due to the ocean water and Mr. Brady stated the erosion of the coastal bank posed a more serious risk as the erosion of the coastal bank averaged 3'-4' per year. As the relocation site is 90' away from the dune, the dwelling should not be impacted for the

next 35-40 years. Mr. Sousa stated this project is very important to him and his family as the dwelling has been an iconic part of the Ballston Beach shoreline since 1895 and his family wanted to preserve it as long as possible. Members and the Applicant discussed several topics to include the enclosure of the sundeck, potential vibrations during the installation of the pilings negatively affecting the sand dune, the slope of the new parking area at the relocation site, and the minimal impact to existing vegetation during the relocation process, the wood basement proposed for the new site, and the proposed storage shed area. Chair Hultin said that the Interim Town Planner and Counsel Carboni had written that the Applicant had not specified compliance to the maximum allowable finished square footage although Chair Hultin further noted it appeared that the proposed new dwelling was not near the maximum allowable finished square footage according to the Site Plan. Chair Hultin added that this was a requirement for all ZBA applications. Chair Hultin suggested that the ZBA should consider the attachment of conditions should the Variance and Special Permit were granted so the Members had a discussion on potential conditions with the Applicant. At this point, Chair Hultin asked Mr. Brady if the CCCC had jurisdiction over the proposed new relocation site for the dwelling and Mr. Brady said that the CCCC had jurisdiction over the present site but not the proposed relocation site. Vice Chair Todd expressed concern over the dwelling's height situation as there was a similar situation with 112 North Pamet Road and the ZBA had been strict about it. Vice Chair Todd also asked the Applicant if they had considered another site for the storage shed and Mr. Brady replied that it would require the removal of additional vegetation if not in the proposed area. Mr. Murphy noted that each property must be examined independently of other properties by the ZBA due to different topographical features throughout Truro. Mr. Sousa said that the proposed storage shed area had been reduced by about 75% of the current storage shed area to safely accommodate only beach chairs, surf boards, and bicycles. Mr. Sousa added that there was no intent to park vehicles in the proposed storage shed. Chair Hultin asked Mr. Murphy if he had anything to add with further justification in the areas of hardship and the potential detriment to the neighborhood. Mr. Murphy said that if the dwelling is not relocated in the very near future that the dwelling will no longer exist so this would result in significant financial hardship to the Applicant. Mr. Murphy further added that the lot is uniquely shaped, and yet, the soil conditions, sand conditions, the significant erosion of the coastal bank, and the serious slope of the lot are all contributing factors which should be considered by the ZBA in this matter. Mr. Murphy concluded that the building is historical as it has been there for nearly one hundred years, and it would be a loss to the community if it wasn't saved. Chair Hultin polled the Members to see if they would approve the application with conditions which the Members expressed approval with conditions. Interim Town Planner and Counsel Carboni advised Chair Hultin that a motion for each of the applications is required along with the findings and conditions. Prior to the motion, Chair Hultin announced that only the five full Members of the ZBA would vote on the motions.

Member Dundas made a motion to grant a Special Permit for relocation and alteration of a lawful pre-existing single-family structure on a nonconforming lot in this matter based upon all the materials filed with the Board for this hearing and Board conditions as per this hearing.

Member Dundas made a motion grant a Variance for setback and height in this matter based upon all the materials filed with the Board for this hearing and conditions as per this hearing.

Chair Hultin seconded the motion.

So voted, 5-0-2, motion carries.

Chair Hultin announced that there will be 10 days to write the decision followed by a 20-day appeal period. Interim Town Planner and Counsel Carboni stated that the draft decision is done but that she will add the conditions in the final decision. Chair Hultin closed the hearing, and the Applicant thanked the Members for their approval before departing.

Chair Hultin then announced that the Members would review and discuss any changes to the minutes on the agenda. There were no objections or suggested edits by Members.

Approval of Minutes

Chair Hultin made a motion to approve the minutes as written from November 5, 2020.

Member Thornley seconded the motion.

So voted, 7-0, motion carries.

Chair Hultin made a motion to approve the minutes as written from December 3, 2020.

Member Thornley seconded the motion.

So voted, 7-0, motion carries.

Board Action/Review

Chair Hultin then opened the discussion on the Review of Marijuana Special Permit Application and Procedures. Chair Hultin asked Truro Office Assistant Sturdy if she could present so the Members could approve or modify those items. Truro Office Assistant Sturdy said that she provided three different sections to the application packet. The first two sections (General and Site Plan Review) are what the Planning Board will consider, and Truro Office Assistant Sturdy provided those to the ZBA Members for informational purposes only. Truro Office Assistant Sturdy said that the third section follows the same format and continuity. Once the Applicant has completed the Planning Board process, the Applicant will then submit the application to the ZBA for Special Permit. Truro Office Assistant Sturdy noted that all the Planning Board's comments and conditions will be provided to the ZBA Members, so they are aware of those items before rendering a decision. The Abutters List portion has been approved by the Assessor so once the ZBA approves all the paperwork copies will be furnished to all. Chair Hultin asked Truro Office Assistant Sturdy if this new packet was significantly different than the previous one and Truro Office Assistant Sturdy replied that the Applicant must now state directly that they meet all the criteria and requirements in accordance with Bylaw §30.8 and §100.9. When asked by Chair Hultin, Truro Office Assistant Sturdy confirmed that the ZBA must vote to approve the Special Permit Application and Procedures, and once approved, she will post it on the Truro website. Member Dundas noted that the Town Planner must review each application and that will be very helpful to have an extra set of eyes on the application. Member Townsend asked Truro Office Assistant if the Town had examined the applications from Provincetown and Wellfleet to see what they requested, and Truro Office Assistant Sturdy believed that they had but could not confirm. Chair Hultin asked Truro Office Assistant Sturdy if any applications had been submitted yet and she replied that none have been submitted but that the ZBA should approve the Marijuana Special Permit Application and Procedures within the next thirty days. Truro Office Assistant Sturdy confirmed that the Planning Board's forms are on the Planning Board's website and that applications should be coming soon. Chair Hultin asked Members for any other comments or concerns prior to a motion to approve.

Vice Chair Todd made a motion to approve the Marijuana Special Permit Application and Procedures as written.

Member Dundas seconded the motion and noted that it is a dynamic document that may have to be modified in the future.

So voted, 7-0, motion carries.

After the unanimous vote, Chair Hultin announced the approval of the Marijuana Special Permit Application and Procedures.

Chair Hultin then asked Member Dundas to provide an update on Section 3 of the Special Permit Application form that would add a description as to what the ZBA would need from an Applicant to schedule a hearing. Member Dundas noted that he had reviewed this with the Planning Board's Chair Anne Greenbaum for input.

Member Dundas made a motion to approve the changes to Section 3 of the Special Permit Application, to include the inclusion of floor and elevation plans to scale, thereby ensuring applicability prior to the submission to the ZBA.

Chair Hultin seconded the motion and noted that it is a dynamic document and may have to be modified in the future.

So voted, 7-0, motion carries.

Chair Hultin announced the approval of the proposed changes to Section 3.

Chair Hultin reviewed the upcoming scheduled meeting for March 22, 2021, and Member Townsend noted that she will not attend that meeting due to planned travel.

Member Thornley made a motion to adjourn at 7:40 pm.

Chair Hultin seconded the motion.

So voted, 7-0, motion carries.

Respectfully submitted,



Alexander O. Powers
Board/Committee/Commission Support Staff

