



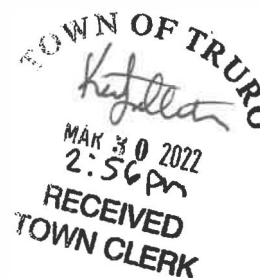
TOWN OF TRURO

ZONING BOARD OF APPEALS

Meeting Minutes

July 23, 2018 – 5:30 pm

ZONING BOARD OF APPEALS MEETING



Members Present (Quorum): Bertram “Buddy” Perkel (Chair); Fred Todd (Vice Chair); Art Hultin (Clerk); John Thornley

Members Absent: John Dundas; Sue Areson (Alt.); Chris Lucy (Alt.)

The meeting convened at 5:30 pm, Monday, July 23, 2018, by Chair Perkel.

Public Hearing – Continued

2018-007/ZBA – Kevin R. Shea and Judith Richland for property located at 402 Shore Road, Truro, MA (Atlas Sheet 10, Parcel 22, Registry of Deeds title reference: Book 13530, Page 012). Applicants are seeking a Variance or Amendment to the Variance, whichever the Board deems appropriate, with reference to Section 50.1 (lot size) of the Zoning Bylaw that was granted on January 30, 2017 (docket #2016-013/ZBA) to construct a single-family residence as per plans and extended to July 30, 2018. The Applicant is requesting to substitute the previously approved plans and to amend the period to exercise the Variance to January 30, 2019. This matter is continued from June 25, 2018, when the Board and Applicant agreed that the Applicant would submit revised plans for the Board’s consideration and review.

Chair Perkel recognized Mr. Shea and Attorney Ron Friese substituting this evening for Attorney Chris Snow. Chair Perkel then informed Mr. Friese as only four Members were present this evening a unanimous vote would be required for approval of this application and that there could be the potential of risk to the Applicant to proceed. Chair Perkel noted that the Applicant could continue the hearing and Mr. Friese stated that he understood but wanted to continue. Chair Perkel asked Member Hultin, who had raised a concern at the previous hearing in this matter, for comment. Member Hultin noted that the Applicant had submitted the requested information and that he was in favor of granting a Variance in this matter. Chair Perkel commented that he was in favor to amend and extend the previous Variance. Vice Chair Todd asked for clarification from Chair Perkel. Chair Perkel commented that Member Hultin and Vice Chair Todd agreed that relief should be granted in this matter. The Members concurred.

Chair Perkel recognized Attorney David Bennett who represented Ms. Ryback, the to-be-purchaser of the property, and was in support of the Applicant’s request but who wanted comment should the ZBA invalidate a previous ZBA decision which may adversely affect Ms. Ryback.

Member Hultin asked Mr. Bennett what approvals that he would possibly lose if the tolling calculations changed. Mr. Bennett said that it could invalidate a previously agreed upon sale with a buyer if the Variance amended deadline was not extended.

Mr. Shea stated that it was his intention to close on the property within 30 days and that financing was already secured. Chair Perkel told Mr. Shea, that if the ZBA approved this application that both plans couldn't be approved. Mr. Bennett argued that his client, should Mr. Shea back out of the sale or delay it, could incur an additional two-year approval process as it would have been reinitiated in its entirety.

Chair Perkel noted that the original approval for Variance two years ago, that if the ZBA made no decision this evening, would expire in five days. Chair Perkel told Mr. Bennett that he had to come up with a solution for this matter and the ZBA didn't make recommendations or provide legal advice.

Chair Perkel added that Mr. Bennett that the ZBA couldn't solve his client's problem. Chair Perkel told Mr. Bennett that his client could withdraw that application or the ZBA could proceed with a decision that may not be perfect for his client.

Member Hultin commented that he wondered if there was a way to alter the language to indicate that either plan, the original or the one under consideration tonight (if approved), so it would protect the buyer or the seller so they could proceed with the sale.

Members, Mr. Friese, and Mr. Bennett discussed the following application topics and findings:

- Extension of the Variance to July 30, 2019, to obtain approval of the Seawall Plan by the Conservation Commission
- Added specific language for the plan, dated July 11, 2018, to the original plan
- Deletion of Chapter 2 paragraph 4
- Deletion of Chapter 2 paragraph 8
- Review of Chapter 2 paragraph 9
- Review of Chapter 2 paragraph 12 and the language:
 - "either" and "or" plan for the purpose of the variance
 - Added language to limit the height any fence along the street to no more than 3' in height

Vice Chair Todd made a motion to grant an amendment to a previously approved Variance, with edits, in the matter of 2018-004/ZBA.

Chair Perkel seconded the motion.

So voted, 4-0, motion carries.

Chair Perkel announced the decision, and all parties thanked the Members and departed.

Without a vote, the meeting adjourned at 6:17 pm.

Respectfully submitted,



Alexander O. Powers
Board/Committee/Commission Support Staff

