



**TOWN OF TRURO**  
**ZONING BOARD OF APPEALS**  
Meeting Minutes  
February 28, 2022 – 5:30 pm  
REMOTE ZONING BOARD OF APPEALS MEETING



**Members Present (Quorum):** Art Hultin (Chair); Chris Lucy (Vice Chair); Fred Todd; Heidi Townsend; Darrell Shedd, Virginia Frazier (Alt.)

**Members Absent:**

**Other Participants:** Barbara Carboni – Town Planner/Land Use Counsel; Liz Sturdy – Planning Department Administrator; Select Board Liaison John Dundas; Ivan and Kevin Becica (Applicants); Ben Zehnder (Attorney for Victor Rivera and Laura Bergan); Victor Rivera and Laura Bergan (Applicants)

Remote meeting convened at 5:30 pm, Monday, February 28, 2022, by Town Planner/Land Use Counsel Carboni who announced that this was a remote meeting which is being broadcast live on Truro TV Channel 18 and is being recorded. Town Planner/Land Use Counsel Carboni also provided information as to how the public may call into the meeting or provide written comment. Members introduced themselves.

**Public Comment Period**

The Commonwealth's Open Meeting Law limits any discussion by Members of the Board of an issue raised to whether that issue should be placed on a future agenda. Speakers are limited to no more than 5 minutes. No comments were made.

**Public Hearing – Continued**

Chair Hultin announced that Vice Chair Lucy would assume the chair for the two continued public hearings without objection from any of the ZBA Members. Chair Hultin did not vote on the motion for the matter of **2021-008/ZBA**.

**2021-008/ZBA – Ivan and Kevin Becica** for property located at 38 Longnook Road, Truro, MA (Atlas Map 43, Parcel 120, Registry of Deeds title reference: Book 33638, Page 171). Applicant seeks a Special Permit under M.G.L. Chapter 40 A, §6 and §30.7 and §50.1 of the Truro Zoning Bylaws for reconstruction of a dwelling and garage on a lot nonconforming as to area.

Vice Chair Lucy gave the Applicants an opportunity to update the Members and Mr. Becica said that a supplemental plan had been submitted since the last hearing. The supplemental plan is in accordance with the condition set by the Planning Board that has approved the project. Mr. Becica stated that Supplement #2 deleted the term **"ADU"** and that is the only change on the drawing.

Vice Chair Lucy asked if any Members had any questions and Chair Hultin asked why Mr. Becica asked for the background regarding the ADU that was included in the original plan. Mr. Becica clarified that it was an oversight of his and his architect as there was never an intention to add an ADU.

Vice Chair Lucy asked if anyone from the public had any comment on this matter and there were none.

Vice Chair Lucy recognized Town Planner/Land Use Counsel Carboni who noted that Member Todd had joined the meeting and she added that the finding should be included in the motion for approval of the Special Permit.

**Member Shedd made a motion to grant a Special Permit for 2021-008/ZBA and the Board finds that the alteration or extension will not be substantially more detrimental to the neighborhood than the existing nonconforming use of structure and that the alteration or extension will exist in harmony with the general purpose and intent of this Bylaw.**

**Member Townsend seconded the motion.**

**So voted, 5-0-1, motion carries.**

Vice Chair Lucy announced the unanimous vote and thanked Mr. and Ms. Becica who thanked the Board and left the meeting.

**2021-009/ZBA – Victor M. Rivera and Laura W. Bergan, Trs., The Rivera Bergan Family Trust** for property located at 82 South Pamet Road, Truro, MA (Atlas Map 51, Parcel 57, Registry of Deeds title reference: Book 34393, Page 200). Applicant seeks (1) Special Permit under M.G.L. Chapter 40 A, §6 and §30.7.A of the Truro Zoning Bylaw concerning replacement of pre-existing, nonconforming dwelling and new garage on a lot nonconforming as to area; and (2) Special Permit to exceed gross floor area in the Seashore District.

Vice Chair Lucy invited Mr. Zehnder to proceed. Mr. Zehnder said that at the last meeting there was no request for a vote by the ZBA as the Planning Board had not voted on the project yet. Mr. Zehnder added that the Planning Board unanimously approved the project on February 9, 2022. Mr. Zehnder noted that revised materials were submitted to the ZBA, that were required by the Planning Board, regarding the zone of work, inherent discrepancy in the height of the structure between the architect and the engineer (engineer's calculations were correct), and reduction of light fixtures. Mr. Zehnder said that the lot at 2.92 acres does not meet the 3-acre minimum lot size requirement in Truro and the site coverage is at 3,857 square feet is 273 square feet above the by right floor area and exceeds the gross floor area allowed by the National Seashore District. As there has been no change to the design of the structure, location of the structure, Mr. Zehnder was asked for approval of the Special Permit tonight.

Vice Chair Lucy asked if any Members had any comments or questions and there were none.

Vice Chair Lucy asked if any members of the public had any comments or questions and there were none.

Town Planner/Land Use Counsel Carboni said that she didn't attend the last hearing so was there a confirmation that there was no habitable area in the garage and Mr. Zehnder confirmed that there is no habitable area in the garage. Town Planner/Land Use Counsel Carboni also recommended that with two separate Special Permits requested so there should be two separate motions.

Vice Chair Lucy announced that only the five regular Members would vote on any motions regarding **2021-009/ZBA**.

**Member Shedd made a motion to grant a Special Permit for the matter of 2021-009/ZBA under M.G.L. Chapter 40 A, §6 for the lot not being nonconforming and the Board finds that the alteration or extension will not be substantially more detrimental to the neighborhood than the existing nonconforming use of structure and that the alteration or extension will exist in harmony with the general purpose and intent of this Bylaw.**

**Member Frazier seconded the motion.**

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

Vice Chair Lucy announced the unanimous vote.

**Member Todd made a motion to grant a Special Permit for the matter of 2021-009/ZBA under Bylaw Section 30.3.1.A.2 residential building size regulation within the National Seashore District with the finding that the proposed use is in harmony with the general purpose and intent of this Bylaw.**

**Member Shedd seconded the motion.**

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

Vice Chair Lucy announced the results and thanked everyone. Mr. Zehnder, Mr. Rivera, and Ms. Bergan thanked the Members and left the meeting.

Vice Chair Lucy announced that he was turning over the meeting to Chair Hultin who thanked Vice Chair Lucy.

### **Approval of Minutes**

Town Planner/Land Use Counsel Carboni asked Vice Chair Lucy to review, edit if necessary, and approve the minutes on tonight's agenda.

Members reviewed the minutes for June 21, 2021, and there were no corrections or edits.

**Chair Hultin made a motion to approve the minutes for June 21, 2021, as presented.**

**Member Todd seconded the motion.**

**So voted, 3-0-3, motion carries after Town Planner/Land Use Counsel Carboni opined.**

Members reviewed the minutes for August 23, 2021, and there were no corrections or edits.

**Vice Chair Lucy made a motion to approve the minutes for August 23, 2021, as presented.**

**Member Shedd seconded the motion.**

**So voted, 6-0, motion carries.**

Members reviewed the minutes for November 22, 2021, and there were no corrections or edits.

**Member Shedd made a motion to approve the minutes for November 22, 2021, as presented.**

**Chair Hultin seconded the motion.**

**So voted, 5-0-1, motion carries.**

Members reviewed the minutes for December 20, 2021, and there were no corrections or edits.

**Member Todd made a motion to approve the minutes for December 20, 2021, as presented.**

**Member Shedd seconded the motion.**

**So voted, 6-0, motion carries.**

Chair Hultin announced that this concluded the items on this evening's agenda and asked if Members had any questions or comments. Member Townsend asked if there has been discussion of "in-person" meetings moving forward. Town Planner/Land Use Counsel Carboni said that there have been discussions about hybrid meetings but awaiting a decision from Town Hall. Chair Hultin stated his support for "in-person" meetings. Chair Hultin also commented that he understood the Town's meeting room had the capability to provide GoToMeeting access so Town residents could still participate remotely. Town Planner/Land Use Counsel Carboni replied that she was not sure if that was accurate, but it was in the works. Town Planner/Land Use Counsel Carboni will check with Town Manager Darrin Tangeman tomorrow and provide an update to the Members.

Member Shedd noted that he was appreciative that the Minutes were getting caught up.

**Chair Hultin made a motion to adjourn at 6:04 pm.**

**Member Shedd seconded the motion.**

**So voted, 6-0, motion carries.**

Respectfully submitted,



Alexander O. Powers

Board/Committee/Commission Support Staff

