



TOWN OF TRURO

ZONING BOARD OF APPEALS

Meeting Minutes

April 25, 2022 – 5:30 pm

REMOTE ZONING BOARD OF APPEALS MEETING



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

Members Absent:

Other Participants: Barbara Carboni – Town Planner/Land Use Counsel; Select Board Liaison John Dundas; Ben Zehnder (Attorney for Thomas and Kathleen Dennis); Thomas and Kathleen Dennis (Applicants); Clyde Watson (Abutter); Ian Henchy (Attorney representing appeal by Ms. Clyde Watson); Michelle Jaffe and Barbara Grasso (Applicants); Benoit Allehaut and Elizabeth Allehaut (Applicants); Ben Zehnder (Attorney for Benoit Allehaut and Elizabeth Allehaut); Brad Malo (Engineer for Benoit Allehaut and Elizabeth Allehaut); Ben Zehnder (Attorney for Rachel Kalin – Trustee/Applicant); Bryan Weiner (Senior Project Manager for Rachel Kalin – Trustee/Applicant)

Remote meeting convened at 5:30 pm, Monday, April 25, 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.

Before the Public Comment period, Chair Hultin announced with great sadness the passing of former Member Fred Todd. Chair Hultin said that the Members will miss Mr. Todd and recognized Mr. Todd's service to Truro. Chair Hultin said that the Members sent their best wishes to Ms. Susan Todd and the Todd family.

Chair Hultin introduced and welcomed Member Hartman who recently joined the ZBA.

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 Hearings (Continued)

2021-006/ZBA (SP, VAR) - Cape Rental LLC and Thomas P., Jr. and Kathleen C. Dennis for property located at 127 South Pamet Road (Atlas Map 48, Parcel 12; Certificate of Title Number: 222128, Land Ct. Lot #1C, Plan #16182-E and Land Ct. Lot #1D, Plan #16182-F) and 133 South Pamet Road (Atlas Map 48,

Parcel 8, Registry of Deeds title reference: Book 33550, Page 123). Application for variance and/or special permit to relocate a second dwelling unit onto lot from adjacent lot.

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Chair Hultin recognized Town Planner/Land Use Counsel Carboni who briefly provided background in this matter.

Chair Hultin recognized Attorney Zehnder who provided an update following the recent storm and the damage that had occurred to the property. The Applicants are submitting a modified proposal according to Attorney Zehnder. Attorney Zehnder stated that he would like to re-open **2022-003/ZBA (SP, VAR) - Thomas P., Jr. and Kathleen C. Dennis**. Chair Hultin stated that he would agree to this if there were no objections from Members and there were none.

2022-003/ZBA (SP)-Thomas P., Jr. and Kathleen C. Dennis, Individually and as Trustees for property located at 127 South Pamet Road (Atlas Map 48, Parcel 12; Certificate of Title Number: 228604, Land Ct. Lot #1C, Plan #16182-E and Land Ct. Lot #1D, Plan #16182-F) and 133 South Pamet Road (Atlas Map 48, Parcel 8, Registry of Deeds title reference: Book 33550, Page 123). The Applicant seeks a Special Permit under M.G.L. Ch. 40A, §6 and §30.7(A) of the Truro Zoning Bylaws to relocate structures on non-conforming lot and under 30.3.1.A.2 to exceed by right Seashore District total Gross Floor Area.

Chair Hultin recognized Mr. Dennis who provided a brief overview of the project and answered questions regarding the Site Plan dated April 14, 2022. Attorney Zehnder stated that this application would not include the relocation of the main house but that will be done later.

Topics discussed among Members and the Applicant included: sequence of actions on the property such as relocation of the boat house, the removal of the studio, and the main house; impact on the dune and surrounding vegetation; whether the new project is more detrimental than the current state of the property; a review of the maximum gross floor area allowed by right; specific dates for the summer rental period; and whether the ZBA should be involved in future high end rental businesses by setting precedence in the National Seashore District by approving this application .

Chair Hultin gave members of the public to provide comment and Ms. Watson stated her concerns about the project. Chair Hultin then recognized Attorney Henchy who commended the Applicant and Attorney Zehnder for presenting a more reasonable proposal but there are still issues including procedural such as proper notification to the public in this matter. Attorney Henchy also cited the changes in lot area calculations which should be confirmed by a coastal engineer. Attorney Henchy also cited the necessity of an additional Special Permit due to three structures, even if temporarily, on the property. Attorney Zehnder responded to the concerns expressed by Attorney Henchy. Mr. Dennis responded to Attorney Henchy's comments by stating that the changes have occurred to resolve the concerns expressed by Abutters and Members at the previous hearing. Mr. Dennis further added that these changes are also carefully considered to consolidate the best and timely solutions in this matter.

Chair Hultin asked Mr. Dennis to provide an overview as to the sequence of events which he provided: install the piles in the month of April, move the house that would take 1-2 days at the end of April, installation of utilities, upgrade the septic system, and dismantle and remove the studio by this fall. Attorney Zehnder added that a condition could include no occupancy of the boat house. Chair Hultin noted that this hearing was held at the end of April and the Applicant should adjust the timeline starting in May 2022. Attorney Zehnder concurred.

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Chair Hultin asked for a motion on this matter and no Members offered a motion. Chair Hultin asked Attorney Zehnder how he would like to proceed. Attorney Zehnder encouraged the Members to review the benefits of this proposal and detriments. Attorney Zehnder added that the ZBA could add conditions which could be agreed upon.

Chair Hultin then led a discussion with Members as to what they could agree to approve the Applicant's application. Generally, Members expressed that the Applicant was taking a thoughtful and careful approach to resolving the current situation. Chair Hultin recognized Attorney Henchy who made mention of the letter provided by the Cape Cod National Seashore (CCNS) superintendent to the ZBA. Chair Hultin stated that the CCNS did not provide comments on this application.

Chair Hultin recognized Town Planner/Land Use Counsel Carboni who cautioned Members from deciding outside of the parameters and purpose of the zoning Bylaw.

Chair Hultin asked Attorney Zehnder if he would like to proceed with a vote. Attorney Zehnder replied that he would unless any Member had any additional questions and there were none.

Chair Hultin made a motion to grant this Special Permit to allow relocation of the boat house structure on to the 127 South Pamet Road parcel with the following conditions: that the boat house be moved to the parcel by June 10, 2022; the boat house not be connected to any utilities; no certificate of occupancy issued for the boat house until the studio is removed from the property; that the existing studio be removed from the property by October 15, 2022; that there are no separate short-term rentals of the dwelling and existing studio; and that this is subject to all conditions of the Conservation Commission approval. Findings will be attached to this decision.

Member Townsend seconded the motion.

So voted, 4-1, motion passes.

Town Planner/Land Use Counsel Carboni asked Chair Hultin if the Members would want to entertain a motion to consider a Special Permit on a temporary basis for the existence of gross space as suggested by Attorney Henchy. Members decided not to consider this.

Chair Hultin called for a five-minute recess. After the recess, Vice Chair Lucy joined the meeting and Chair Hultin announced that Vice Chair Lucy had recused himself from the matter of 2022-003/ZBA (SP)-Thomas P., Jr. and Kathleen C. Dennis.

Public Hearings

2022-004/ZBA (VAR) - Michelle Jaffe for property located at 9A Francis Road (Atlas Map 36, Parcel 191, Registry of Deeds title reference: Book 41209, Page 315). Applicant seeks a Variance under M.G.L. Ch. 40A §10 and §30.7 and §50.1 of the Truro Zoning Bylaw concerning a deck addition to an existing dwelling with an 8' setback from a side lot line, where required minimum setback is 25 feet.

Chair Hultin recognized Ms. Jaffe who briefly provided background about the project. Town Planner/Land Use Counsel Carboni noted that the setback is 1.8' from the lot line and not 8' as stated in the application. Town Planner/Land Use Counsel Carboni opined that the Applicant should seek a Special Permit in this matter and not a Variance. Town Planner/Land Use Counsel Carboni added that there should be a continuance so the ZBA can advertise the hearing to the public in advance of next month's meeting.

Chair Hultin recognized Ms. Jaffe who said that she understood the need for a continuance and inquired as to how to proceed. Town Planner/Land Use Counsel Carboni explained the process and Ms. Jaffe said that she understood. Town Planner/Land Use Counsel Carboni stated that the hearing should be continued until next month and she would assist the Applicant to apply for a Special Permit for this project.

Chair Hultin made a motion to continue this matter until May 23, 2022, at 5 pm.

Member Hartman seconded the motion.

So voted, 6-0, motion carries.

Chair Hultin announced the continuance and Ms. Jaffe thanked the Members before departing.

2022-005/ZBA (SP) -Benoit Allehaut and Elizabeth Allehaut for property located at 40 South Pamet Road (Atlas Map 51, Parcel 40, Registry of Deeds title reference: Book 33897, Page 73). Applicant seeks a Special Permit under M.G.L. Ch. 40A §6 and §30. 7 A of the Truro Zoning Bylaw for alteration and addition to existing dwelling, and relocation and renovation of shed on nonconforming lot (lot area) in the Seashore District.

Chair Hultin recognized Attorney Zehnder who provided background information on this project. Attorney Zehnder also noted that the ZBA would not render a decision this evening and would vote on the application after the Planning Board's decision on May 18, 2022. After his presentation, Attorney Zehnder discussed with Members the following topics: possible relief of the 24' height roof attached to the gable; the existing building on the northeast corner that will be demolished, removed, and replaced by a carport.

Prior to the vote on the motion below, Attorney Zehnder asked Chair Hultin to see if anyone from the public wished to comment. There were no members of the public who provided comment.

Chair Hultin made a motion to continue this matter until May 23, 2022.

Member Frazier seconded the motion.

So voted, 6-0, motion carries.

Chair Hultin announced the continuance and Attorney Zehnder thanked the Members.

2022-006/ZBA (SP's) - Outer Shore Nominee Trust, Rachel Kalin, Trustee for property located at 17 Coast Guard Road (Atlas Map 34, Parcel 3, Registry of Deeds title reference: Book 34387, Page 1). Applicant seeks: (1) a Special Permit under M.G.L. Ch. 40A §6 and §30.3.(A)2 of the Truro Zoning Bylaw to exceed total Gross Floor Area limit in the Seashore District; and (2) a Special Permit under M.G.L. Ch. 40A §6 and §30.7(A) of the Truro Zoning Bylaw to demolish 5 of 6 pre-existing, non-conforming cottages; construct new single-family dwelling; convert nonconforming cottage into accessory pool structure in the Seashore District.

Chair Hultin recognized Attorney Zehnder who provided background information on the project. After Attorney Zehnder's presentation, Members discussed the following topics with Attorney Zehnder and other members of the Applicant's design team: discrepancy in the quick claim deed that listed the property at 7.28 acres but the application listed the acreage at 6.33 acres; the question of a habitable studio; the 25' sideline setback requirement in the Seashore District; the calculation of total gross floor

area of 5,260 SF for the proposed new dwelling; single-family home or used as a rental property; any feedback from the National Seashore; and Cottage #6 would be used for storage and a rinse area only.

Chair Hultin asked if any members of the public wished to comment and there were none.

Vice Chair Lucy made a motion to continue this matter until May 23, 2022.

Member Townsend seconded the motion.

So voted, 6-0, motion carries.

Chair Hultin announced the continuance in this matter and Attorney Zehnder thanked the Members before departing.

Prior to the review and approval of the minutes on the agenda, a discussion ensued between Town Planner/Land Use Counsel Carboni and Member Townsend regarding lot size affected by erosion and how sea lots are calculated. This question arose from the last hearing this evening. Town Planner/Land Use Attorney Carboni stated that the definition of "*lot area*" is above mean high water.

Approval of Minutes

Chair Hultin and Members reviewed the minutes for February 28, 2022, and one correction was made.

Chair Hultin made a motion to approve the minutes for February 28, 2022, as amended.

Member Shedd seconded the motion.

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

Chair Hultin made a motion to adjourn at 8:07 pm.

Member Frazier seconded the motion.

So voted, 6-0, motion carries.

Respectfully submitted,



Alexander O. Powers

Board/Committee/Commission Support Staff

