



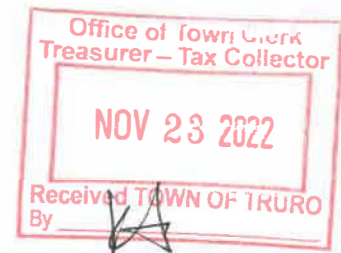
TOWN OF TRURO

ZONING BOARD OF APPEALS

Meeting Minutes

September 26, 2022 – 5:30 pm

REMOTE ZONING BOARD OF APPEALS MEETING



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

Members Absent: Art Hultin (Chair)

Other Participants: Barbara Carboni – Town Planner/Land Use Counsel; Liz Sturdy – Planning Department Administrator; Select Board Liaison John Dundas; Ben Zehnder (Attorney for Rachel Kalin – Trustee/Applicant); John Bologna (Coastal Engineering and Representative for Rachel Kalin – Applicant); Tim Cappuccino (Hutker Architects and Representative for Rachel Kalin – Applicant); Ben Zehnder (Attorney for Douglas Ambrose – Applicant); John Casale (MarJon Builders and Representative for Douglas Ambrose – Applicant); Robin Reid (Attorney for George M. Shimko – Applicant); Martin Kinnane (Cape Associates and Representative for Sam Lessin – Applicant); Paul Krueger (Architect and Representative for Sam Lessin – Applicant); Christopher J. Snow (Attorney and Applicant); Sally McSween (Representative for the Condominium Association); Ben Zehnder (Attorney and Representative for Abutters: Marie Belding and Pat Callinan); Marie Belding (Abutter); Pat Callinan (Abutter)

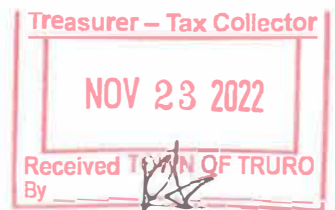
Remote meeting convened at 5:30 pm, Monday, September 26, 2022, by Town Planner/Land Use Counsel Carboni who announced that this was a remote meeting which is being broadcast live on Truro TV Channel 18 and is being recorded. Town Planner/Land Use Counsel Carboni also provided information as to how the public may call into the meeting or provide written comment. Vice Chair Lucy introduced the Members.

Public Comment Period

No public comments were made.

Public Hearings (Continued)

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 an accessory pool structure in the Seashore District.



Vice Chair Lucy recognized Attorney Zehnder who provided background and an update to include highlighting the new modifications of the single-family structure which were submitted to the Town last month. Changes included: the reduced the gross floor area, an unfinished basement will now be a crawl space, a screen porch has been lowered in height, the railing heights have been significantly lowered, and the property will be significantly regraded to lower the structure.

Members and the Applicant's representatives discussed the following topics: the relevance and purpose of oversized structures in the Seashore District; and the appreciation for the Applicant's commitment to address the ZBA's concerns, reduce the structure's footprint, and modify the plan accordingly.

Vice Chair Lucy asked if any members of the public wanted to make any comments, in favor or opposition, and there were none.

Town Planner/Land Use Counsel Carboni advised that the four regular Members of the ZBA and one designated alternate Member (Hartman selected by Vice Chair Lucy) to vote on this matter.

Member Shedd made a motion to grant a Special Permit in the matter of 2022-006/ZBA to exceed the total Gross Floor Area limit in the Seashore District.

Member Frazier seconded the motion.

So voted, 5-0, motion carries.

Member Shedd made a motion to grant a Special Permit in the matter of 2022-006/ZBA for the demolition of 5 of 6 pre-existing, non-conforming cottages to construct a new single-family dwelling and convert a cottage into an accessory pool structure in the Seashore District.

Member Frazier seconded the motion.

So voted, 5-0, motion carries.

2022-008/ZBA (SP/VAR)-Douglas Ambrose for property located at 49 Fisher Road (Atlas Map 53, Parcel 24, Registry of Deeds title reference: Book 21922/32678, Page 177/75). Applicant seeks a Special Permit under M.G.L. Ch. 40A §6 and §30.7(A) of the Truro Zoning Bylaw concerning demolition and reconstruction of dwelling on a pre-existing, non-conforming lot (minimum lot size). Applicant also seeks a Variance under M.G.L. Ch. 40A, §10 and §50.1(A) of the Truro Zoning Bylaw for minimum side yard setback distances to locate a replacement dwelling 18.1 feet from easterly property line, where 25 ft. are required.

Vice Chair Lucy recognized Attorney Zehnder who provided background and an update on this project. Attorney Zehnder said that the builder has identified a new location for the alternate staircase. The building inspector has determined that 4" short of the 25-foot requirement as *de minimis*.

Vice Chair Lucy asked if any member of the public would like to make any comments and Mr. Jack Riemer, speaking as a private citizen, expressed concerns about scale and mass of the structure (that Mr. Riemer noted was available for rental) with access to a public beach.

Vice Chair Lucy identified the four regular Members and one designated alternate Member (Hartman selected by Vice Chair Lucy) to vote on this matter. Town Planner/Land Use Counsel Carboni opined that the Members could vote on the Special Permit, and following that vote, the Applicant could request to withdraw the Variance request.



Member Shedd made a motion to grant a Special Permit in the matter of 2022-008/ZBA to demolish and reconstruct a dwelling on a non-conforming lot M.G.L. Ch. 40A §6.

Member Hartman seconded the motion.

So voted, 5-0, motion carries.

Attorney Zehnder made a request for the Members to consider a motion to grant the withdrawal for the Variance without prejudice.

Vice Chair Lucy made a motion to grant the withdrawal for the Variance without prejudice.

Member Shedd seconded the motion.

So voted, 5-0, motion carries.

2022-015/ZBA (SP)- George M. Shimko for property located at 2 Moses Way (Atlas Map 40, Parcel 14, Registry of Deeds title reference: Book 21691, Page 299). Applicant seeks a Special Permit under §40.3 of the Truro Zoning Bylaw to convert a former 3-unit cottage colony to 3-unit year-round multifamily use (condominium).

Vice Chair Lucy recognized Attorney Reid who provided background and reviewed the conditions which were discussed at the previous hearing. The only condition that was not acceptable to the buyer was to designate one of the cottages for year-round rental only and in perpetuity.

Member Shedd offered a compromise of designating one of the cottages for year-round rental only and for five years and then expire. Before replying to the compromise, Attorney Reid texted the buyer and stated that she had just received a reply from the buyer that accepted the condition to designate one cottage for year-round rental only for a period five years and then expire.

Vice Chair Lucy identified the four regular Members and one designated alternate Member (Hartman selected by Vice Chair Lucy) to vote on this matter.

Member Hartman made a motion to grant a Special Permit under §40.3 of the Truro Zoning Bylaw in the matter of 2022-015/ZBA with the following conditions: 1. there will be no rentals for less than 12 months. 2. one cottage will be designated for year-round rental only for a term of five years.

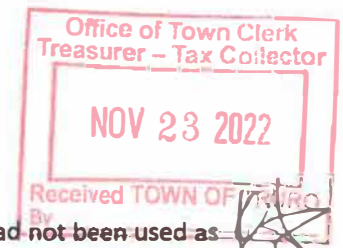
Member Shedd seconded the motion.

So voted, 5-0, motion carries.

Public Hearings

2022-016/ZBA (SP) - Mark Kinnane, Cape Associates Inc. for property located at 9 Bay View Road (Atlas Map 39, Parcel 21, Registry of Deeds title references: Book 32595, Page 147). Applicant seeks a Special Permit under M.G.L. Ch. 40A §6 and §30.7/§30.8 of the Truro Zoning Bylaw to demolish and reconstruct three cottages on new foundations in the Residential District.

Vice Chair Lucy recognized Mr. Kinnane who provided background on the proposed project as well as deed history of the property. Mr. Kinnane said that the proposed project adheres to the Local Comprehensive Plan and maintains the character of the neighborhood. Town Planner/Land Use Counsel Carboni noted that there she noted in her staff memorandum that according to an affidavit in the record the property had at one time been used as a cottage colony; therefore, the Applicant would have to apply for a Special Permit for a cottage colony conversion first. Town Planner/Land Use Counsel Carboni



further added that the Applicant could provide evidence to show that the property had not been used as a cottage colony since there is now factual dispute. Member Hartman and Member Shedd expressed their preference for the Members to deal with the issue of the cottage colony conversion to multifamily use prior to discussing the current Special Permit application at tonight's hearing. A discussion ensued among Members, Town Planner/Land Use Counsel Carboni, Mr. Kinnane, and Mr. Krueger as to the history of the property to include the affidavit stating that the property had been used previously as a cottage colony.

Vice Chair Lucy identified the four regular Members and one designated alternate Member (Medoff selected by Vice Chair Lucy) to vote on this matter.

Vice Chair Lucy made a motion to continue the matter of 2022-016/ZBA until October 24, 2022, to provide the Applicant an opportunity to provide additional information.

Member Medoff seconded the motion.

So voted, 5-0, motion carries.

2022-017/ZBA (VAR/SP)- Ebb Tide on the Bay Condominiums for property located at 538 Shore Road (Atlas Map 7, Parcel 7, Registry of Deeds title reference: Book 5671, Page 232). Applicant seeks a Variance under M.G.L. Ch. 40A § 10 and §40.3.B.2/§30.9.C of the Truro Zoning Bylaw for a reduction in number of parking spaces (from 12 spaces to 9); Special Permit under M.G.L. Ch. 40A §6 and §30.7.A of the Truro Zoning Bylaw for the relocation of three nonconforming structures on a lot in the Beach Point Limited Business District.

Vice Chair Lucy recognized Attorney Snow who provided background on the proposed project. The plans submitted address the Conservation Commission's concerns and Attorney Snow requested a Variance for parking spaces and a Special Permit to relocate the three nonconforming structures towards Shore Road and closer to the 25' setback. Attorney Snow concluded that the Application included photographs of the property, the Order of Conditions from the Conservation Commission, and the Board of Health's decision on the innovative septic system to be installed.

Members and the Applicant discussed the following topics: the reduction of parking spaces, the property photographs from 2018 and 2019, previous foundation repairs, continuous erosion issues, and the governing and enforcement of the number of cars parked on the property during the summer season and limitations for owner/occupant parking spaces versus dedicated parking spaces for rental units.

Vice Chair Lucy invited the members of the public if they had any comments or questions and Vice Chair Lucy recognized Attorney Zehnder who represents abutters to the property. Attorney Zehnder objected to the proposed increased sizes of the structures which nearly double the current gross floor area and number of floors from 1-story to 2-story on two structures. A discussion ensued regarding the number of bedrooms in the units which would determine the correct number of parking spaces. One member of the public stated that one "bedroom" was not a bedroom as it didn't have a closet. Town Planner/Land Use Counsel Carboni asked the Applicant to provide a table, for each building, with the number of bedrooms along with the square footage for the current structures and for the proposed structures. Attorney Zehnder then asked for the Applicant to include the square footage for each room as it was unclear whether the gross floor area was measured from the interior or the exterior wall although the Applicant's engineer summarized the square footage in the submitted plan.

After Attorney Zehnder expressed his clients' concerns, Town Planner/Land Use Counsel Carboni said that she would write a memorandum to the Applicant listing the Members' and Attorney Zehnder's questions and concerns regarding this project. Town Planner/Land Use Counsel Carboni added that she would then provide guidance to the ZBA Members based upon the responses she received.

Vice Chair Lucy identified the four regular Members and one designated alternate Member (Medoff selected by Vice Chair Lucy) to vote on this matter.

Vice Chair Lucy made a motion to continue the matter of 2022-017/ZBA be continued until October 24, 2022, to give the Applicant time to provide additional requested information.

Member Shedd seconded the motion.

So voted, 5-0, motion carries.

Minutes

Vice Chair Lucy led the review of the minutes from July 25, 2022, for any corrections or edits and there were none. Member Medoff stated that she would abstain from these minutes as she was not present at the meeting.

Member Shedd made a motion to approve the minutes as presented.

Vice Chair Lucy seconded the motion.

So voted, 5-0, motion carries.

Vice Chair Lucy led the review of the minutes from August 22, 2022, for any corrections or edits and there were none. Member Frazier abstained as she was not present at the meeting.

Member Hartman made a motion to approve the minutes as presented.

Member Shedd seconded the motion.

So voted, 5-0, motion carries.

Member Shedd made a motion to adjourn at 7:51 pm.

Member Townsend seconded the motion.

So voted, 6-0, motion carries.

Respectfully submitted,



Alexander O. Powers

Board/Committee/Commission Support Staff

