



## Edgartown Planning Board

P.O. Box 5130, 70 Main Street, Edgartown, MA 02539

Tel: (508) 627-6170 Fax: (508) 627-6173

[planningboard@edgartown-ma.us](mailto:planningboard@edgartown-ma.us)

March 9, 2021

Mr. James Hagerty  
Town Administrator  
Town of Edgartown  
70 Main Street  
Edgartown, Massachusetts

- By Hand -

Mr. Hagerty,

As a follow-up to a regular meeting of March 8, 2021, the Planning Board reviewed comments and letters received from residents, expressing concerns and suggestions relative to the proposed zoning bylaw changes. The Board voted to further amend its proposed zoning bylaw changes, previously submitted to you and the Board of Selectmen for inclusion as warrant articles.

A full copy of the amended zoning bylaw changes is included as addendum to this letter. Any further changes to these articles will be proposed as amendments on Town Meeting Floor.

Thank you for your attention to this matter. Please contact me if you need anything further.

Respectfully,

Douglas Finn, Assistant  
Edgartown Planning Board

*Encl: Proposed Warrant Articles as amended (14 pages) - FINAL  
CC (by hand): Ms. Karen Mederios, Edgartown Town Clerk*

## Proposed Zoning Bylaw Warrant Articles

Submitted to the Board of Selectmen by the Edgartown Planning Board  
For consideration at Edgartown Town Meeting, April, 2021.

### Definitions

#### Article

To see if the Town will amend the Edgartown Zoning Bylaw, section 1.3 “Definitions”, by striking the following definitions:

~~ACCESSORY BUILDING or USE: A use that is subordinate in purpose to, and serves a principal building or principle use and shall include tennis courts, swimming pools or like structures.~~

and further by inserting the following new definitions in appropriate alphabetical order:

**ACCESSORY STRUCTURE: a structure that is customarily incidental and subordinate to a principal structure on a lot.**

**ACCESSORY USE: A use that is customarily incidental and subordinate to a principal use on a lot.**

**FRONT LOT LINE: The lot line that abuts a street and contains the principal entrance to the property.**

**FRONTAGE: The portion of the front lot line directly abutting the street.**

**SETBACK: A certain distance between a lot line and the line of a building or projection thereof, measured on a line perpendicular to the lot line.**

and further by amending existing definitions as follows:

MEAN NATURAL GRADE: The natural grade, **of undisturbed land** relative to a given structure **or portion of a given structure**. The mean natural grade shall be calculated by ~~measuring~~ **as the average of** the natural elevation at the four (4) most remote corners of a structure **or portion of a structure, as determined by the Building Inspector** ~~to the height of the highest point of the structure, and dividing the aggregate number of these heights by four (4).~~

GROSS FLOOR AREA: The sum of the horizontal areas of all stories of a building, or several buildings, as measured from the exterior face of exterior walls, or from the center line of a party wall separating two buildings on the same lot. Gross Floor Area for a single lot shall include garages, sheds, gazebos, enclosed porches, screen porches, enclosed decks, guest buildings, and other accessory buildings; Gross Floor Area shall not include **unfinished** basements, crawl spaces, attics, open porches, or open decks.

or take any other action relative thereto.

## The Definition and Use of Setback Areas

### Article

To see if the Town will amend the Edgartown Zoning Bylaw, Section 1.4 “Enumeration of Zoning Districts” by adding the following:

FRONTAGE: All lots created after April 9, 1985 will have a minimum frontage of 50 feet on a street.

**No part of a structure, including projections from a structure, eaves, gutters and cornices, shall be located or constructed closer than the minimum Setback as defined herein.**

**Mechanical equipment that generates noise (such as generators, air-conditioners, pool equipment, etc.) may be placed closer than the minimum Setback, but no closer than five feet to any lot line, provided that adequate measures have been taken to minimize any noise pollution from such equipment.**

**In accordance with Section 6 of Chapter 40A of the General Laws, structures intended to provide assistance to individuals with physical impairments such as ramps and chair lifts are exempt from Setback restrictions.**

or take any other action relative thereto.

## Cape Pogue DCPC

### Article

To see if the Town will amend the Edgartown Zoning Bylaw Section 5.4.F.1 “Cape Pogue DCPC Advisory Committee” as follows:

1. Membership shall include one representative from each of the following organizations, appointed by that organization:
  - a. Edgartown Conservation Commission
  - b. Edgartown Board of Health
  - c. Mass. Department of Environmental Management
  - d. Mass. Department of Fisheries, Wildlife, and Environmental Law Enforcement
  - e. The Trustees of Reservations Membership
  - f. The Trustees of Reservations Staff
  - g. County of Dukes County
  - h. Martha's Vineyard Commission
  - i. Cape Pogue Property Owner (appointed by the *Chappaquiddick Island Association* **Edgartown Board of Selectmen**)
  - j. Conservation/Wildlife Specialist (appointed jointly by Sheriffs' Meadow Foundation, Vineyard Conservation Society, and Vineyard Open Land Foundation)
  - k. Edgartown Police Department**
  - l. Edgartown Planning Board**
  - m. Edgartown Marine Advisory Committee**
  - n. Edgartown Harbormaster**
  - o. Edgartown Shellfish Constable**

And further to amend the Edgartown Zoning Bylaw Section 5.4 (“Cape Pogue DCPC”) by adding section 5.4.G as follows:

### **5.4.G Enforcement**

**The Marine Advisory Committee, Shellfish Constable and Conservation Agent, Zoning Enforcement Officer, Chief of Police, and Harbormaster shall jointly establish, review, and promulgate rules to carry out the Goals and provisions of this section, the intent of this Zoning Bylaw, and the Guidelines delineated in the MV Commission Decision Designating the Cape Pogue District as a District of Critical Planning Concern, as adopted in 1988 and as amended.**

**For purposes of this section, the office of the Edgartown Harbormaster, the office of the Edgartown Building Inspector, and the Edgartown Police Department, shall jointly and severally be authorized to administer and enforce special permits issued**

**under this section, and all rules and regulations applicable to the Cape Pogue DCPC.**

or take any other action relative thereto.

**Clarify language regarding Height of buildings; elevated decks and porches.**

Article

To see if the town will amend the Edgartown Zoning Bylaw, Section 10.1.C.1, as follows:

The Board of Appeals may grant a Special Permit for an exception from these requirements upon its determination that an increase in height will not create undesirable conditions caused by overshadowing, **or** loss of privacy, **and** that utility and protective services will be adequate. Height shall be measured as the vertical distance from ~~the mean level of ground in its natural state prior to construction,~~ **Mean Natural Grade** to the highest point of the roof.

## Allow Small Structures By Right on Nonconforming Lots

### Article

To see if the Town will amend the Edgartown Zoning Bylaw, Section 10.1.G, by adding Section 7, as follows:

**7. On any non-conforming residential lot with an area of at least at least 6,500 square feet, minor structures accessory to a dwelling shall be permitted by right only as follows:**

- **One structure per lot that is 100 square feet or less, and designed for utility or storage.**
- **One structure per lot that is 220 square feet or less, is designed for storage of a single motor vehicle, has a single garage door, and not more than one 'walk-out' door with an opening of 36 inches or less.**

**Structures permitted under this section shall not have more than one level, shall not be more than ten feet in height from Mean Natural Grade, and shall not be served by heating, air conditioning, potable water service, or wastewater service. Structures permitted under this section shall otherwise conform to all statutory and Bylaw requirements.**

**Structures on non-conforming lots exceeding these criteria shall require a special permit from the appropriate Special Permit Granting Authority.**

**This section shall only apply where it does not conflict with any other section of this Zoning Bylaw, or any other applicable code or statute.**

or take any other action relative thereto.

## Extend effective duration for special permits

### Article

To see if the town will amend Section 17.7.B “Special Permits – Effective Duration” as follows:

All Special Permits shall be ~~limited to twelve~~ **valid for a term of twenty-four** months ~~validity~~ period. ~~If the activity authorized by the Special Permit has not taken place within the twelve month, any extension of said special permit shall require a reapplication.~~

**Prior to the end of this term, the applicant may request one twelve-month extension, which may be granted without a public hearing.**

**Failure to commence substantial work within the term shall result in the automatic rescission of the special permit.**



## Simplify Review Process of “Accessory Apartments”

### Article:

To amend the Edgartown Zoning Bylaw Section 10.3.D. “Accessory Apartments”, by striking section 10.3.d.3.F, and 10.3.d.3.i entirely.

~~10.3.d.3.f. Historic District: Any proposed accessory apartment in the Historic District must first receive a Certificate of Appropriateness from the Historic District committee before applying to the Zoning Board of Appeals for consideration for a special permit.~~

~~10.3.d.3.i. Pre-existing: Accessory apartments in existence prior to the adoption of this section may have application made for a special permit without prejudice by April 1, 1998 and may be given special permits provided they meet all of the above requirements.~~

## Senior Residential Developments

### Article

To see if the Town will amend the Edgartown Zoning Bylaw by adding Section XV “Senior Residential Developments” as follows:

### Article XV, Senior Residential Developments

#### 15.1 Purposes.

The purpose of this article is to provide for a variety of housing types, settings, and residential services to meet the needs of people as they age, and people with disabilities.

#### 15.2 Applicability.

15.2.A. The Planning Board may grant a Special Permit for a Senior Residential Development in accordance with this Article XXIII on any tract of land meeting the following requirements:

1. Two or more acres of land;
2. Minimum of 100 feet of frontage on a public way; and
3. Public water and/or public wastewater service available to the site.

15.2.B. A Senior Residential Development is intended for people age 55 or over. As such, buildings and site improvements in a Senior Residential Development shall provide for “visitability” and universal design in accordance with the provisions of this article.

#### 15.3 Uses.

15.3.A In any residential or business district, the Planning Board may grant a special permit for a Senior Residential Development that includes one or any combination of the following structures:

1. Cottage Dwellings
2. Two-Family Dwellings
3. Townhouse Dwellings
4. Continuing Care Retirement Facility
5. Skilled Nursing Facility

15.3.B A Senior Residential Development may include one or any combination of the following uses in one or multiple physical structures:

1. Independent Living
2. Assisted Living, with or without memory care units
3. Skilled Nursing Services
4. Physical Rehabilitation Services
5. Memory Care Services

15.3.C. An assisted living residence or continuing care retirement community may include the following nonresidential uses primarily for the benefit of residents and their guests, provided that the aggregate floor area for the nonresidential uses shall not exceed 10 percent of the total gross floor area of the buildings in the development. These uses

shall be incidental and subordinate to the principal residential uses in the Senior Residential Development.

1. Retail, up to a maximum of 2,500 sq. ft.
2. Personal services
3. Medical office or clinic
4. Community center or senior center

15.3.D.A Senior Residential Development may also include the following uses:

1. Adult day care center
2. Staff apartments that meet the purposes described in Section 10.3.F.1 of this Bylaw, and that otherwise comply with the provisions of this Section 15.
3. Accessory uses for residents, employees, and guests, such as central or common dining facilities or laundry facilities, or indoor or outdoor recreation facilities
4. Conservation or agricultural uses

15.4 Basic Requirements.

15.4.A A Senior Residential Development shall comply with the following density regulations:

Structure	Maximum Density	Max. Height (Feet)
Cottage Dwellings or Two-Family Dwellings	4 units/acre	32
Townhouse Dwellings	8 units / acre	32
Continuing Care Retirement Community	16 residents / acre	32
Skilled Nursing Facility	16 residents / acre	32

15.4.B Maximum building coverage shall not exceed 35 percent of the lot area for new construction or expansion of existing structures.

15.4.C. For all vertical construction, the minimum setback shall be 50 feet from all property lines, except that the minimum setback shall be 100 feet from the side or rear lot line, as applicable, abutting an existing single-family dwelling, unless the Planning Board determines that a reduced setback is necessary to achieve the purposes of this section and will not have a detrimental impact on the neighborhood.

Nothing in this section shall preclude the Planning Board from reducing or waiving minimum setback requirements between buildings or internal lots created within the Senior Residential Development.

15.4.D. The minimum common open space in the development shall be 60 percent of the lot area; not more than 20 percent of the required minimum common open space shall consist of wetlands. The upland open space shall be contiguous and usable by residents of the development. A permanent conservation restriction running to or enforceable by the Town shall be recorded for the common open space area and shall include restrictions that the land be retained in perpetuity for conservation or passive recreation.

15.4.E. Minimum off-street parking requirements shall be as follows:

Type of Structure	Parking Requirements
Cottage Dwellings or Two-Family Dwellings	2 spaces per dwelling
Townhouse Dwellings	2 spaces per dwelling
Continuing Care Retirement Community	1 space per two beds
Skilled Nursing Facility	1 space per two beds

15.4.F. Residents of Staff Apartments shall be persons employed by the Senior Residential Development, or by another assisted-living, medical services, or emergency services entity on Martha’s Vineyard. Residents of Staff Apartments may share the apartment with their immediate family. Residency requirement must be assured by deed restriction, running with the land.

15.5 Age-Appropriate Design.

15.5.A. A Senior Residential Development shall be designed to provide housing options in a setting that encourages and supports aging in community. While units do not have to be age restricted by deed to adults 55 years and over, they must be “visitable” and designed for people as they age. At minimum, these terms mean that a Senior Residential Development shall have the following features:

15.5.B. Single-family, two-family, and townhouse units shall provide for:

1. At least one zero-step entrance,
2. Doorways with a 36-inch clear passage space,
3. Master bedroom and an accessible en suite bathroom located on the same floor as the kitchen, living room, and dining room, all being on the same floor as the zero-step entrance,
4. Master bedroom and en suite bathroom designed and equipped for seniors and people with mobility impairments, and
5. Indoor or structured parking.

15.5.C. Independent living units and assisted living facilities shall comply with the accessibility requirements of the Massachusetts Architectural Access Board.

15.5.D. Outdoor recreational facilities, such as patios, walkways, gardens, and similar areas, shall be provided for use by all residents and staff, and shall be designed for universal access.

15.6 Development Standards.

As part of the Planning Board’s special permit review process, the Board shall evaluate the proposed Senior Residential Development for conformance to the following minimum design standards.

15.6.A. Architectural planning and design shall incorporate energy efficient design techniques, such as natural heating and cooling systems, use of sun and wind energy generation systems, and so forth.

15.6.B. Structures located near the project property lines shall be designed and located in a manner that reflects consistency and compatibility with neighboring areas, and shall include appropriate use of building density, heights and design to minimize any intrusion on neighbors.

15.6.C. Outdoor recreation or gathering areas, particularly those that may generate significant noise and/or light and glare, shall be located to minimize intrusion on neighboring properties.

15.6.D. Structures shall be clustered to reduce site disturbance and protect open spaces, natural and environmentally sensitive areas.

15.6.E. Building design shall avoid use of long, unbroken facades, and shall include use of offset walls, trellises and other design elements to provide visual interest.

15.6.F. Building design, colors, and materials shall generally correspond to the natural setting of the project site, to the character of Edgartown, and to any prevalent design styles that may occur in neighborhoods within the general project area.

15.6.G. A development served by public water and public wastewater utilities shall be considered highly advantageous.

#### 15.7 Procedures.

15.7.A. The special permit application, public hearing, and decision procedures shall be in accordance with this article, the Planning Board's Rules and Regulations for Special Permits, and Sections 9, 17.5 and 17.7 of this Zoning Bylaw, insofar as applicable.

15.7.B. The Applicant shall submit a Senior Residential Development special permit application together with the size, form, number, and contents of the required plans and any supplemental information as required in the Planning Board's Rules and Regulations for Special Permits.

#### 15.8 Decision.

15.8.A. The Planning Board may grant a Senior Residential Development special permit with any conditions, safeguards, and limitations it deems necessary to mitigate the project's impact on the surrounding area and to ensure compliance with this article, only upon finding that:

- (1) The proposed Senior Housing Development will not have adverse effects that outweigh its beneficial effects on either the neighborhood or the Town, in view of the characteristics of the site and of the proposal in relation to that site, considering each of the following:
  - a) Social, economic, or community needs which are served by the proposal;
  - b) Traffic flow and safety;
  - c) Adequacy of utilities and other public services; and
  - d) Qualities of the natural environment.
- (2) The design of building form, building location, egress points, grading, and other elements of the project could not reasonably be altered to:
  - a) Improve pedestrian, bicycle, or vehicular safety within the site and egressing from it;

- b) Reduce the visual intrusion of parking areas viewed from public ways or abutting premises;
- c) Reduce the volume of cut or fill, or reduce erosion;
- d) Reduce the number of removed trees six inches trunk diameter and larger; and
- e) Provide safer and more efficient access to each structure for fire and service equipment.

(3) The Senior Residential Development meets the purposes, requirements, and development standards of this Article XV, and

(4) The Senior Residential Development is consistent with the goals of the Edgartown Master Plan.

15.8.B. In reviewing a proposal, the Planning Board may waive strict compliance with any provision of this section, provided that such waiver does not substantially nor detrimentally impact the overall development, the immediate abutters, the welfare of the Town of Edgartown, or the purposes and intent of this Zoning Bylaw.

and further, by amending the Edgartown Zoning Bylaw, Section 1.3 “Definitions” by inserting the following new definitions in appropriate alphabetical order:

**ASSISTED LIVING RESIDENCE** – A long-term senior residential facility that provides personal care support services such as meals, medication management, bathing, dressing, and transportation, principally for people age 55 years and over, and certified by the Massachusetts Office of Elder Affairs.

**CONTINUING CARE RETIREMENT FACILITY** -- A structure designed to support and facilitate a continuum of senior housing and care services principally for people age 55 years and over, operated or sponsored as a coordinated unit by a corporation or organization, having among its principal purposes the provision of housing and associated services for senior citizens.

**COTTAGE DWELLING** - A detached one-family dwelling that does not exceed 1,400 sq. ft. of livable floor area (meaning the heated floor area of the building above finished grade, excluding nondwelling areas such as attic space or a garage).

**DWELLING, TOWNHOUSE OR SINGLE-FAMILY ATTACHED** -- A residential building of at least three but not more than eight single-family dwelling units sharing at least one common or party or fire wall, and with each building having at least one floor at ground level with a separate entrance.

**DWELLING, TWO - FAMILY** -- A detached residential building designed or intended or used exclusively as the residence of two families. A two-family dwelling shall not include a detached single-family dwelling with an accessory apartment.

**DWELLING, MULTIFAMILY** -- A building designed or intended or used as the residence of three or more families, each occupying a separate dwelling unit and living independently of each other, and who may have a common right in halls and stairways; with the number of families in residence not exceeding the number of dwelling units provided.

**INDEPENDENT LIVING UNITS** -- Multifamily buildings in a Senior Residential Development that are designed and intended for occupancy principally by people age 55 years and over, with units that include some basic services such as meals, housekeeping, grounds maintenance, security, and common areas and common facilities for events and activities benefiting residents of the development.

**SKILLED NURSING FACILITY** – A long-term senior residential facility that provides personal care support services such as meals, medication management, bathing, dressing, and transportation, as well as medically necessary care provided by licensed nurses, speech pathologists, and physical and occupational therapists, principally for people age 55 years and over, and licensed by the Massachusetts Department of Public Health and/or the Centers for Medicare and Medicaid Services.

or take any other action relative thereto.