

Edgartown Planning Board - Meeting Minutes

Tuesday, January 12, 2021, 5:30 PM

The Edgartown Planning Board scheduled a meeting for Tuesday, January 12, 2021, 5:30 PM.

The meeting was audio and video recorded. Attendees participated by video conference, in accordance with Chapter 53 of the Acts of 2020. All supporting materials were provided to the members of this body and made available on a publicly accessible internet website. Members of the public were able to access the site, using the instructions included in the Meeting Agenda. The public was encouraged to follow along using the posted agenda. Deviations from the agenda, if any, were noted.

CALL TO ORDER / ROLL CALL

Mr. McCourt called the meeting to order at 5:33 PM, and called the roll:

MASCOLO: Present

MORRISON: Present

MORGAN: Present

SEARLE: Present

CISEK: Present

MCCOURT: Present

A quorum was declared.

SCHEDULED BUSINESS

5:30 PM: PUBLIC HEARING

In Accordance with MGL Ch 40 Sec. 5, the Edgartown Planning Board scheduled a public hearing on Tuesday, January 12, 2021 at 5:30 PM, to receive comment on proposed changes to Edgartown Zoning Bylaw.

This hearing was conducted exclusively through remote conferencing via Zoom.

All materials were made available for review via a public WEB LINK: <https://bit.ly/EdgartownZoning2021>, upon request through the office of the Town Clerk, or by making a request by telephone to the Planning Office.

A presentation was made by Mr. Finn to the Planning Board (Powerpoint presentation attached to these minutes for the record).

Summary of proposed changes:

- CLARIFY OR REFINE DEFINITIONS for Frontage, Front Lot Line, Pool House, Accessory Building, Accessory Use, Mean Natural Grade, Gross Floor Area, Setback (Section 1.3)
- CLARIFY AND REFINE ALLOWABLE USES of SETBACK AREAS – (Section 1.4)
- Changes to CAPE POGUE DCPC ADVISORY COMMITTEE, and ENFORCEMENT (Section 5.4)
- Clarify EXEMPTIONS TO BUILDING, DECKS AND PORCH HEIGHT RESTRICTIONS – (Section 10.1.C.1)
- Allow UTILITY STRUCTURES ON NONCONFORMING LOTS BY RIGHT under certain conditions (Section 10.1.G)
- SIMPLIFY PERMITTING PROCESS FOR “ACCESSORY APARTMENTS” (Section 10.3.D)
- Allow for conditional permitting of SENIOR RESIDENTIAL DEVELOPMENTS (Section 15)

Summary of Comments:

- Mr. Ted Rosbeck, expressed disagreement with the proposed definition of Pool House, and concern with the intention behind the definition.
- Mr. Peter Rosbeck suggested removing the mandate for ‘unconditioned space’ in the definition of Pool House.
- Ms. Reade Milne (Edgartown Building Inspector) offered comments regarding the proposed definition of Pool House, and the use of such structures in Edgartown.
- Mr. Mike Tartamella read into the record a letter from Mr. Patrick Ahearn (attached).
- Mr. Peter Rosbeck expressed concern relative to proposed language regarding use of ‘setback areas’.
- Ms. Christina Brown commented on the procedure for making changes to Zoning Bylaws relative to Districts of Critical Planning Concern (DCPCs).
- A letter from the Project Development Teams of Martha’s Vineyard Hospital and Navigator Homes of Martha’s Vineyard, dated January 11, 2020, was read into the record (attached)
- Mr. Chris Scott offered his appreciation for the proposed Senior Residential Developments Zoning Bylaw.
- Ms. Cynthia Hubbard also offered her thanks for the Senior Residential Development bylaw as proposed.

Mr. McCourt thanked Mr. Finn, Ms. Milne, Ms. Morrison and Mr. Ted Rosbeck for their assistance with the development of the proposed language.

Ms. Morrison asked about the timeline for modification of warrant articles, and whether a delay in Town Meeting moves the deadlines for submission of or changes to warrant articles (answer: no.)

Ms. Christina Brown offered her thanks to the Planning Board for their efforts in continuing to revise and improve the Zoning Bylaw.

Upon conclusion of the presentation, it was MOVED by Morgan, SECONDED by Morrison

To close the public hearing, leaving the record open until January 19, 2021, 5 PM

	VOTE BY ROLL CALL
MASCOLO: YES	MORRISON: YES
MORGAN: YES	SEARLE: YES
CISEK: YES	MCCOURT: YES
	VOTE: 5, 0, 0.

ADJOURN

It was MOVED by Morgan, SECONDED by Searle

To Adjourn.

APPROVED BY UNANIMOUS CONSENT.
(6:50 PM)

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RECORD OF WRITTEN COMMENTS

LETTER – From Ted Rosbeck, dated December 17, 2020

LETTER from Mr. Patrick Ahearn, dated January 8, 2021.

LETTER from Forest Filler, on behalf of the MV Hospital and Navigator Homes of Martha's Vineyard, dated January 11, 2021.

LETTER from Matt Poole and the Edgartown Board of Health, dated January 12, 2021.

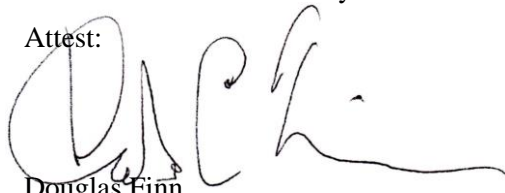
ATTACHMENTS

ZONING CHANGES – Presentation, as presented at meeting.

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MINUTES APPROVED by a vote of the Planning Board, taken on March 2, 2021.

Attest:

A handwritten signature in black ink, appearing to read 'Douglas Finn', written over the printed name.

Douglas Finn
Planning Board Assistant

Excerpt from proposed zoning bylaw changes, with
comments from Ted Rosbeck (12/16/2020)

POOL HOUSE: A structure solely intended to be accessory to a swimming pool. A pool house shall be limited to a single room not greater than 400 square feet, and a ½ bath. A pool house shall not be conditioned space, and shall not contain facilities for cooking. Storage areas for pool equipment shall not be included in area calculations, and shall not be accessed from the inside of the pool house.

From Ted Rosbeck:

I previously asked if an air conditioner in a pool cabana would be considered conditioned space and you said it would not, but the 2015 ICC definition states otherwise. It states. “An area, room or space that is enclosed within a building thermal envelope and that is directly heated or cooled.” In any event of heat vs cool, what is the exact purpose of this language and why is it necessary? I believe the concern has been size and/or accessory buildings in general being designed as bedrooms and called something else. The restrictions in size, bathrooms and access are going to severely limit that ability, but the restriction in “conditioned space” seems unreasonable punitive without accomplishing the intent of the change. If someone wants another bedroom, the no heat/ac isn’t going to stop it. That said, many cabanas have mini splits to allow people to cool down next to the pool in the summer or heat up in the shoulder seasons, what is wrong with that and frankly what reason would we have to deny someone that right?

On a related note, what specifically is the definition for “facilities for cooking”. What is the purpose for this language? Does this include a grill? Pizza oven? If not, I would either leave this out or add some exclusions. Maybe only restrict the facilities for cooking inside the 400sqft space?

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 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.

From Ted Rosbeck:

“The proposed language seems to directly contradict itself and seems to leave more room for arguments and less clarity. Specifically, the addition of “or portion of a given structure” technically allows either the applicant or the building inspector to argue NOT to use the average of the 4 corners and rather choose ANY portion of a given structure. For example, technically this language would allow you to ignore the structure as a whole across the MNG and rather say that

the MNG is X in only in “a portion” of the structure and thus you can base the height off of only that portion. Was there a specific reason for adding this language? If so, maybe it can be tweaked to not be contradictive.

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.

From Ted Rosbeck:

“I would try to remove the language “adequate measures”, as that is extremely vague and likely to be a source of contention and constant discussion. My recommended language is still somewhat vague, but does require it to be enclosed in some way and provides the building inspector flexibility to make that call, but does not make it so open ended to provide no direction.

Recommended:

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 it **is enclosed in a way to minimize noise pollution from such equipment**. In accordance with Section 6 of Chapter 40A of the General Laws, Setbacks may by right contain structures intended to provide assistance to individuals with physical impairments, such as ramps and chair lifts.

PATRICK AHEARN
ARCHITECT

January 8, 2021

Town of Edgartown Planning Board
Town Hall
70 Main Street
Edgartown, MA 02529

Re: Proposed Zoning Changes regarding Pool Cabanas

Dear Planning Board Members,

Over the last thirty years I have designed over 50 pool cabanas associated with either new houses or renovations in Edgartown. They have varied in size from 250 square feet to 600 square feet of habitable space. Some have had 1/2 baths, others with a shower included. Most have stackable washer / dryers and towel storage. Most have an undercounter refrigerator, small sink and or dishwasher. None have included a stove or facilities for cooking. Some have included a storage area for patio furniture or cushion storage. Pool equipment is often placed inside the structure as many Boards request this (historic or neighbor concerns). These pool cabanas and associated pools have been added greatly to extending and enhancing the use of the homes that we have designed. No one has ever considered using these cabanas for sleeping or other uses that I have described to my knowledge. The proposed changes to the zoning code will significantly affect the quality of life that these facilities have offered to the homeowners. Not being able to have a shower or stackable washer / dryer for towels is unreasonable. Not being able to condition the space is also unreasonable and inconsistent with definition of habitable space.

If the space is not heated it can not be considered habitable space. Furthermore, the definition of habitable space per the Massachusetts Building Code is as follows:

A space in a building for living, sleeping, eating, or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable space.

Therefore, per the definition of the State Building Code the proposed limitation of no more than 400 square feet would exclude the bathrooms, toilet rooms, closets, or storage / utility spaces which I would not see an issue with. As I stated most cabanas constructed and permitted to date have been in the 250 square feet to 600 square feet range per the definition of the State Building Code.

In conclusion, these accessory structures have enhanced the livability of many homes in Edgartown and provide a reasonable and important component to the enjoyment of their homes. The proposed zoning code changes significantly change and limit the uses of these structures unnecessarily.

Respectfully submitted,



Patrick Ahearn, FAIA

**TOWN OF
EDGARTOWN**

WEBMAIL

Douglas Finn <dfinn@edgartown-ma.us>

Letter to Planning Board Re: Article XV Senior Residential Developments

1 message

Forrest Filler <forrest@local-preservation.com>

Mon, Jan 11, 2021 at 4:07 PM

To: Doug Finn <dfinn@edgartown-ma.us>

Cc: Mark Nicotera <mnicmv@gmail.com>, "Olivier, Edward" <EOLIVIER@partners.org>, Renee Lohman <rlohman@navigatorelderhomes.com>

Doug,

Thank you for taking the time to speak with Mark Nicotera and I today regarding language in Article XV.

Attached please find a letter from our project development teams for the Board's review for tomorrow's public hearing. This letter is being submitted on behalf of Martha's Vineyard Hospital and Navigator Homes of Martha's Vineyard. I am copying Ed Olivier, CFO of MVH, and Renee Lohman, President of Navigator.

Thank you for your consideration.

Best regards,

Forrest

-

Forrest Filler

Professional Associate, AIC

MS Architectural Design and Historic Preservation

Cellphone: 609.532.0258

Office: 508.645.6733

Local Preservation and Construction LLC



01112021 EPB Letter from MVH and Navigator.pdf

64K

January 11, 2021

Douglas Finn
Planning Board Assistant
Edgartown Planning Board

Mr. Finn,

We are concerned that the current language contained in Article XV Senior Residential Developments, specifically sections **15.2.3** and **15.6.G**, is too restrictive. We recognize that section **15.8.B** may provide some relief to our concerns.

We propose the following changes due to limits in the existing and future public utility capacities:

1. **15.2.3 Applicability** *At least one of the following services be available to the site: public water, and/or wastewater service.*
2. **15.6.G Development Standards** *The development shall be served by at least one of the following: public water and/or public wastewater utilities.*

Respectfully submitted,

Project Development Teams
Martha's Vineyard Hospital
Navigator Homes of Martha's Vineyard

Zoning Bylaw Amendments

Edgartown Planning Board
January 12, 2021

Meeting Format

- General overview of the process of revising warrant articles
- Review of Proposed Changes to the Zoning Bylaw
 - Presentation of context supporting the proposed change
 - The warrant article as submitted
 - Public Comment
- Public Hearing will close tonight; written comments will be accepted through Tuesday, January 19, 2021, 5 PM

All materials are available at:

bit.ly/EdgartownZoning2021

Process of Zoning Bylaw Review

- December 8-15, 2020: PB voted on zoning bylaw changes.
- December 21, 2020: PB submitted changes (as Warrant Articles) to BOS
- January 5, 2021: BOS includes Zoning Bylaw Articles on Warrant
- January 12, 2021: PB holds public hearing on Proposed Articles
- March 15, 2021: Last day to withdraw ATM warrant Articles**
- April 13, 2021: Annual Town Meeting. **Amendments permitted; 2/3 vote required to pass.**
- May 14, 2021: Town Meeting Votes Certified and sent to AG
- After May 14, 2021: Zoning Bylaw Changes approved by AG

Categories of Proposed Changes

- 1 - Clarification – adding detail that helps to improve understanding
- 2 - Alignment – making zoning bylaws align with current practice
- 3 - Additions – new sections that conditionally permit certain uses

1 – Clarification: Adding New Definitions

Currently, we use one definition for Structures and Uses:

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.

The Planning Board proposes two separate definitions, nearly identical.

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.

1 – Clarification: Changes to Existing Definitions

Currently, the Bylaw does not define Front Lot Line or Frontage.

The Planning Board proposes the following definitions:

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.

1 – Clarification: Changes to Existing Definitions

The current zoning does not define “pool house” or “cabana”. This results in confusion as to whether a proposed structure is a pool house, detached bedroom, guest house, or something different. The Planning Board proposes the following:

POOL HOUSE/CABANA: A structure that is intended to be accessory to a swimming pool. A pool house shall be no more than 400 square feet of habitable space, shall be limited to a single room and ½ bath, shall not be conditioned space, and shall not contain facilities for cooking. Storage areas for pool equipment shall not be included in area calculations, and shall not be accessed from the inside of the pool house.

1 – Clarification: Changes to Existing Definitions

The definition for “Mean Natural Grade” in the Zoning Bylaw is inaccurate, and does not comply with standard practice. The Planning Board proposes the following definition to provide clarity, as well as flexibility to the benefit of the Town and applicants.

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).~~

1 – Clarification: Changes to Existing Definitions

The current definition for “Gross Floor Area” excludes basement areas, regardless of whether or not they are finished out or not. Gross floor area calculations are used in the B1 and B2 zones, the Surface Water District, and Accessory Apartments. The Planning Board proposes that fully finished basements should be included in these calculations.

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.

The Proposed Warrant 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.

POOL HOUSE: A structure solely intended to be accessory to a swimming pool. A pool house shall be limited to a single room not greater than 400 square feet, and a ½ bath. A pool house shall not be conditioned space, and shall not contain facilities for cooking. Storage areas for pool equipment

shall not be included in area calculations, and shall not be accessed from the inside of the pool house.

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.

2 – Alignment: To Concur with Established Practice

The Edgartown Zoning Bylaw does not currently define “setback”.

Generally, the term “Setback” refers to the distance between a fixed feature (e.g., a lot line, a river, a road) and a structure. The Planning Board proposes the following definition be added:

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.

2 – Alignment: To Concur with Established Practice

In consultation with the Building Inspector, the Planning Board wishes to align the Zoning Bylaw with past practice regarding the use of ‘setback areas’:

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 the Building Inspector determines that adequate measures have been taken to attenuate and noise 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.

The Proposed Warrant Article:

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.

2 – Alignment: Height of Buildings and Exception

The Zoning Bylaw, section 10.1.C.1, does not properly refer to the defined term “Mean Natural Grade”, but instead attempts to define it. Currently:

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, loss of privacy, 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**, to the highest point of the roof.

The Proposed Warrant 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.

2 – Alignment: To Concur with Original Intent

From the Edgartown Zoning Bylaw, Section 5.4.F:

“A Cape Pogue DCPC Advisory Committee shall be established to foster cooperation in management of public and private lands in the District, to advise the Planning Board on applications for Special Permits, and to propose wildlife management and recreation guidelines.”

2 – Alignment: Cape Pogue DCPC

After receiving input from the Marine Advisory Committee, we propose that the Cape Pogue DCPC membership be amended to include more local representation, which will improve the availability of the committee to meet as needed, and provide recommendations regarding zoning rules and local regulations affecting the District.

2 – Alignment: Cape Pogue DCPC

Currently, one appointee from

Edgartown Conservation Commission

Edgartown Board of Health

Mass. Dept. of Environmental Management

The Trustees of Reservations Staff

The Trustees of Reservations Membership

Mass. Department of Fisheries, Wildlife, and
Environmental Law Enforcement

County of Dukes County

Martha's Vineyard Commission

Cape Pogue Property Owner (appointed by the
Chappaquiddick Island Association)

Conservation/Wildlife Specialist (appointed jointly
by Sheriffs' Meadow Foundation, Vineyard
Conservation Society, and Vineyard Open Land
Foundation)

2 – Alignment: Cape Pogue DCPC

Currently, one appointee from

Edgartown Conservation Commission

Edgartown Board of Health

Mass. Dept. of Environmental Management

The Trustees of Reservations Staff

The Trustees of Reservations Membership

Mass. Department of Fisheries, Wildlife, and
Environmental Law Enforcement

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Chappaquiddick Island Association)

Conservation/Wildlife Specialist (appointed jointly
by Sheriffs' Meadow Foundation, Vineyard
Conservation Society, and Vineyard Open Land
Foundation)

2 – Alignment: Cape Pogue DCPC

We propose one appointee from

Edgartown Conservation Commission

Edgartown Board of Health

Edgartown Planning Board

The Trustees of Reservations Staff

Edgartown Marine Advisory Committee

Edgartown Harbormaster

Edgartown Police Department

Martha's Vineyard Commission

Cape Pogue Property Owner (appointed by the
Edgartown Board of Selectmen)

Edgartown Shellfish Constable

**... and the Planning Board has the right
to appoint others as needed or desired.**

2 – Alignment: Cape Pogue DCPC Enforcement Authority

Section 5.4 (“Cape Pogue District”) of the Zoning Bylaw does not clearly establish enforcement authority for Cape Pogue DCPC.

We propose:

5.4.G Enforcement

For purposes of this section, the office of the Edgartown Harbormaster shall coordinate with the office of the Edgartown Building Inspector and the Edgartown Police Department, in order to jointly oversee, administer and enforce all special permits and regulations issued or enacted under this section.

The Proposed Warrant Article:

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

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~~
Edgartown Planning Board
- d. ~~Mass. Department of Fisheries, Wildlife, and Environmental Law Enforcement~~
Edgartown Marine Advisory Committee
- e. ~~The Trustees of Reservations Membership~~
Edgartown Harbormaster
- f. The Trustees of Reservations Staff
- g. ~~County of Dukes County~~ Edgartown Police Department
- 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)~~ Edgartown Shellfish Constable

Additional members may be appointed by the Planning Board.

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

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 regulations applicable to the Cape Pogue DCPC.

or take any other action relative thereto.

2 – Alignment: Faster Permitting of Accessory Apartments

The Zoning Bylaw, Section 10.3.D. (“Accessory Apartments”) requires applicants to complete the Historic District Commission process before even applying for the special permit form the ZBA.

The section also includes language that is no longer applicable, and can be removed for clarity of interpretation.

The Planning Board proposes removing sections 10.3.d.3.F, and 10.3.d.3.i.

The Proposed Warrant 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.~~

2 – Alignment: Extending Duration of Special Permits

The Zoning Bylaw, Section 17.7.B, limits the duration of Special Permits to an duration of one year, but provides that the application may apply for an extension of an additional year.

The Municipal Modernization of 2016 extended maximum Special Permit duration to three years.

Therefore, the Planning Board is proposing the base duration of special permits be two years, with an opportunity for a one-year extension by approval of the SPGA.

The Proposed Warrant 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.

3 – Additions:

The Planning Board is proposing new additions to the Zoning Bylaw that will regulate certain structures based on use and criteria:

- “Utility” structures that meet certain criteria will be permitted by right on lots of at least 6,500 square feet.
- Senior Residential Developments that meet certain criteria may be conditionally permitted by the Planning Board.

3 – Additions: Utility Structures

Utility Structures, such as small garages and tool / garden sheds almost never represent a burden on a lot, or on abutters; however, on non-conforming lots, they still require review by the ZBA or the Planning Board before they can receive an 'exemption', or a 'de minimis determination'. This is true, regardless of the lot size, and costs the applicant time and expense.

The Planning Board proposing that these structures should be allowed by right, provided they meet certain criteria.

3 – Additions: Utility Structures

The Proposed Warrant 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.

3 – Additions: Senior Residential Developments

The Planning Board is proposing regulations which will permit consideration of a senior residential development.

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.

3 – Additions: Senior Residential Developments

STRUCTURES

A Senior Residential Development may be composed any combination of the following housing STRUCTURES:

Cottage Dwellings Two-Family Dwellings Townhouse Dwellings

A Continuing Care Retirement Facility

A Skilled Nursing Facility

3 – Additions: Senior Residential Developments

USES

A Senior Residential Development may provide any combination of the following SERVICES:

Independent Living

Assisted Living

Physical Rehabilitation Services

Memory Care Services

Skilled Nursing Services

3 – Additions: Senior Residential Developments

SCOPE

A Senior Residential Development may also incorporate certain non-residential services for the benefit of their residents, including:

Personal Services

Retail, up to a maximum of 2,500 sq. ft.

Medical office or clinic

A Community or Senior Center

Adult day care center

Staff apartments

Conservation / Agricultural

Accessory uses for residents, staff and guests

(such as common dining or laundry facilities, or indoor or outdoor recreation facilities)

3 – Additions: Senior Residential Developments

SCOPE

STRUCTURES shall be limited in units per acre, depending on the type of unit; building footprints shall not exceed 35% of the area of the lot.

STRUCTURES shall be set back at least 50 feet from side lot lines, and at least 100 feet back from front lot lines.

STRUCTURE DESIGN shall use colors and materials generally corresponding to the natural setting of the project site and Edgartown; Density, height and design shall complement the neighborhood.

STRUCTURE DESIGN must meet certain criteria for access, egress, transportation, parking, energy, conservation, recreation, etc.

3 – Additions: Senior Residential Developments

CRITERIA (1 of 3)

In judging the OVERALL DEVELOPMENT, the Planning Board MUST find that...

The proposal will not adversely affect the neighborhood or the Town relative to...

- the characteristics of the site relative to the proposal
- the social, economic, or community needs served by the proposal;
- the traffic flow and safety of the site
- the adequacy of utilities and other public services
- the qualities of the natural environment;

3 – Additions: Senior Residential Developments

CRITERIA (2 of 3)

In judging the OVERALL DEVELOPMENT, the Planning Board MUST find that...

The proposal could not be improved in regard to...

- building form and location, egress, grading, and other physical elements;
- public transit, pedestrian, bicycle, or vehicular access and safety;
- visual intrusion of parking as viewed from public ways or abutting premises;
- the volume of cut or fill, potential for erosion, removal of existing trees
- provision of access for fire and other service equipment.

3 – Additions: Senior Residential Developments

CRITERIA (3 of 3)

In judging the OVERALL DEVELOPMENT, the Planning Board MUST find that...

The proposal

- meets the purposes, requirements, and development standards of the Zoning Bylaw, and
- is consistent with the goals of the Edgartown Master Plan

The Proposed Warrant 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:

- Two or more acres of land;
- Minimum of 100 feet of frontage on a public way; and
- Public water and 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.

...cont'd

The Proposed Warrant 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:

- Cottage Dwellings
- Two-Family Dwellings
- Townhouse Dwellings
- Continuing Care Retirement Facility
- 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:

- Independent Living
- Assisted Living, with or without memory care units
- Skilled Nursing Services
- Physical Rehabilitation Services
- 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.

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

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

- Adult day care center
- 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.
- Accessory uses for residents, employees, and guests, such as central or common dining facilities or laundry facilities, or indoor or outdoor recreation facilities
- Conservation or agricultural uses

...cont'd

The Proposed Warrant Article:

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.

...cont'd

The Proposed Warrant Article:

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.

...cont'd

The Proposed Warrant Article:

15.5 Age-Appropriate Design (cont'd)

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. The development shall be served by public water and public wastewater utilities.

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.

cont'd...

The Proposed Warrant Article:

15.8 Decision (cont'd).

(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.

cont'd...

The Proposed Warrant Article:

(cont'd from previous...)

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.

Zoning Bylaw Amendments

Edgartown Planning Board
December 12, 2021