

## Edgartown Planning Board - Meeting Minutes

Tuesday, February 27, 2024, 5:30 pm

The Edgartown Planning Board scheduled a meeting for Tuesday, February 27, 2024

**Board Present:** Lucy Morrison, Doug Finn, Scott Morgan, Glen Searle, James Cisek, and Alt: Michael Shalett.

Guests/Participants: Julia Livingston (Bylaw Committee Chair) Carolyn Murray, Esq. (Attorney for Bylaw Committee) Many members of the public attended and commented.

### Call to Order: 5:33 PM

#### Scheduled Business

#### **5:30 PM- Form A-34-252, 35-41.2, 46-41.1 JEREMIAH WAY AND OLD POCHA ROAD**

Application received from VSLE, Glen Provost presenting. Discussion on the 3 parcels created after the lot line change, if approved, will result in 3 individual family lots.

**Discussion:** The presenter clarified that the land is the property of one family. They would like to put in a tennis court and create three lots, one of which currently has a home on it. There is no plan at this time to develop the others.

Show of hands votes were taken.

Motion: Searle

2<sup>nd</sup> - McCourt

**VOTE: 5, 0, 0**

#### **5:42 PM - FORM O (RELEASE OF LOTS) - DEFINITIVE SUBDIVISION: 87 WEST TISBURY ROAD LLC, 87 WEST TISBURY ROAD (20C-110)**

The applicant has requested the release of all lots in an approved subdivision at the above address.

Planning Board Member Glen Searle abstained as he is an abutter.

**Motion: Shalett**

Cisek-2<sup>nd</sup>

**Roll Call vote: 4, 0, 0**

#### **5:45 PM - PRESENTATION/DISCUSSION - ZONING BYLAW PROPOSALS (Julia Livingston, ZBA review Committee)**

1. A proposed warrant article that would add Article X - Section 10.3.H "Fractional Ownership, Interval, and Time Share Units" to preserve and protect housing stock in the Town from the market pressures attendant to fractional ownership, interval, and timeshare uses and to protect neighborhoods from the impacts of such uses.

**Discussion:** The public had many questions and comments. All concerns were voiced. It was discussed last year, but there was not enough time to put it on the Warrant for a vote during the town meeting. Ben Hall, Esq. stated that the language of the bylaw should be changed to reflect more protection for families.

It was discussed that this applies to all districts, but the Planning Board Chair thinks that it would better serve the residential zones.

MVC member Laura Silber clarified for us that the bylaw is not meant to prevent families from having a compound; it is designed to stop corporations from buying large houses and dividing them into units that are then sold on the open market.

All letters received in support or opposition were read to the public. One letter of support was received from 62 Edgartown residents' participants, they were entered into the record.

**2.** A proposed warrant article that would amend Article II - Section 2.1.B

"R-60 Residential District/ Conditionally Permitted Uses",

Section 2.2.B.13

"R-20 Residential District/ Conditionally Permitted Uses", and Section 2.3.B.9

"R-5 Residential District/ Conditionally Permitted Uses" to limit Edgartown Special Permit

Granting Authorities' ability to conditionally permit excessively Oversized Detached Accessory Dwellings ("Guest Houses") and limit new guest houses to no more than 1,250 square feet of Livable Floor Space.

**Discussion:** This was heard in 2023 and was supported unanimously by the Planning Board. This was a lively discussion with many comments and participants. It was clarified that the amendment is for guest houses. The formula used for building an oversized guest house is (to build bigger than 900 sq. ft.) you need to have an acre of undisturbed land for each 50 sq. ft. you want to enlarge the guest house to a maximum of 1250 sq. ft.

The board states that we must get control of the overbuilding on our Island.

The board discussed this bylaw, and Julia Livingston and Carolyn Murray, Esquire, addressed any concerns or questions. No correspondence was received for this bylaw.

**3.** A proposed warrant article would amend Article X—Section 10.3.E "Substandard Lots as Affordable Home Sites" to conditionally permit a two-family structure on a substandard lot if specified criteria are satisfied. This is by special permit only. The last section had an Alternative Approval Process. At this time, it has been removed. This bylaw already exists, and it will allow two-family units to be built.

**Discussion:** Jeff Agnoli spoke and complimented the Planning Board for their forethought. He feels that this Bylaw will stop affordable house sites located within our woodlands. This will not be

sacrificing our uninterrupted woodlands. With the new technology for smaller homes that run and are built cleaner. He hopes that this will pass. A participant asked how this would be enforced.

Lucy Morrison reported that the applicant must apply to Affordable Housing and ZBA prior to breaking ground, and the regulations are strict, such as the Town Covenant and Deed Restriction.

Julia Livingston supports this amendment.

It was pointed out that if the land purchased is an ½ acre lot, you will need an additional ¼ acres to get a larger guest house, not to exceed 1250 sq. ft. If you own a 3-acre lot, the required amount is a full acre for each 50 sq. ft. of guest house living space, increasing to a maximum total square footage of 1250 sq. ft.

Mike McCourt and Scott Morgan both supported this bylaw as written because it is necessary and important that a guest house be an Accessory Dwelling only.

**4.** A proposed warrant article would amend Article X—Section 10.3.F "Staff Apartments." To conditionally permit shared staff apartments rented by the employer and shared by multiple unrelated persons, a resident manager must live on-site, and specified criteria must be satisfied.

**Discussion:** The board expressed concern regarding the number of people living in these Staff Apartments. The BOH has regulations, and the State of Massachusetts has limits in place. If an entity wants to buy a plot of land to build a larger building, it may have up to 8 units. The number of people living in each apartment is regulated by the size and occupancy and is regulated by the Building Department.

A bylaw regulating Staff Apartments already exists. This will allow a business owner to rent a property for staff housing. The current one states that they must have title to the house outright. The business owner and the employees living in these apartments each have to have a written agreement for housing from the business owner, which will require a special permit.

Ben Hall would like to see this be only a Permit instead of a Special Permit. He had ideas about changing how the Bylaw is written, which he felt would better protect families. He would **like** more work done on this bylaw.

Of note, the goal of the Planning Board was to create more year-round housing above existing businesses that are currently operating.

**5.** A proposed warrant article would amend Article X—Section 10.3.A "Multi-unit Dwellings" would conditionally permit a structure containing as many as six dwelling units if specified criteria are satisfied. The article increases the acceptable use of the buildings to 6 units, compared to the current bylaw of 4 units.

**Discussion:** This was discussed as its goal is to increase year-round housing. These buildings are thought to be either owned/built or rented by employers for their employees' housing. The title to said property would reflect the year-round use and will have Deed Restrictions recorded that will follow the

land's sale. Design guidelines are included in the bylaw.

Julia Livingston reported that the bylaw requires that the exteriors of these mixed-use buildings look similar to those of the others in the neighborhood. The home must be occupied by the business owner and is deed-restricted. This prevents short-term rentals and fractional ownership.

Ben Hall would like to see this be only a Permit as opposed to a Special Permit. He had ideas about changing how the Bylaw is written. He feels this protects families better.

**6.** A proposed warrant article would add Article X—Section 10.3.G "Mixed-Use Buildings" to conditionally permit a structure containing dwelling units located above retail or other commercial space if specified criteria are satisfied.

**Discussion:** Ben Hall brought up the MV Airport conditions. If staff housing were suggested for these lots - he feels it will undermine the public. He would like to see the B3 district removed from the bylaw.

Julia Livingston feels that this does no harm and that the layers of regulations between the Airport Commission and the FAA regulations may prevent the construction of these mixed-use buildings. It was suggested that the Board reach out to the Nantucket Airport to see how they handled the development at their airport. They have transient housing in place.

Laura Silber reported that year-round housing is prohibited in B3 districts, but transient seasonal employees may be housed there. The MV Airport is unique in that it is a B3 district with its own Emergency Services, which may allow for year-round housing. The town council needs to clarify this.

Attorney Murray stated that it is entirely up to the Board how they want to word their Bylaw will not work at the airport due to the regulations of mixed-use buildings. It may not be possible.

James Cisek states that he hopes we will be able to use housing in B3 (Airport) and that we will move forward due to the number of employees who are not housed. The Planning Board will do research prior to the Town Meeting.

**7.** A proposed warrant article would amend Article X -10.1.K, "Tree Yard Protection and Preservation," to require the replacement of any healthy trees removed during the lot's development.

**Discussion:** The committee discussed this at their January 2, 2024 meeting. It was decided then that the trunk size of the trees should be 12" to 6 inches in diameter.

It was stated that older trees are at the end of their lives and that it is better to keep younger, stronger trees as a basis for the decision.

If a tree has a diameter of 6" in diameter at breast height - This is a regulation from the DBH.

The bylaw requires that the owner replace and replant the trees on the lot. If the individual doesn't wish to have them on their property, an option is that the individual pays into the Town account at the rate of 1000.00 for each tree removed. Trees that are in the building envelope with a 15-foot perimeter around the building allow these trees to be removed.

The penalty for not abiding is that the individual loses the right to build anything in Edgartown for 5 years.

Concern was voiced about the increased work and added costs involved in this bylaw for the tree warden, arborists, and building inspectors.

Jennifer Blum voiced her support of this bylaw and concern about the enforcement of the Tree Bylaw being able to be done.

Carolyn Murray contributed to the discussion by saying that this is a great start to protecting our tree growth on MV and that this bylaw has a positive gain.

Ben Hall complained that the 12" diameter is written in this bylaw. He feels that we should discuss this as written and doesn't feel that this is the correct approach. He is also concerned that there isn't enough protection or exemptions for farms, families, and religious organizations.

Roger Becker feels that the tree bylaw should not apply if you are only developing within your setbacks. He would like to see the driveway added to the exemptions like the building site, septic, etc.

Allan Slater is totally opposed to this bylaw as written. He is very concerned about tree cutting for firewood, both personally and for those professionals. He feels that this bylaw needs more attention before it is passed.

Roger Agnoli thinks this is how the Planning Board is responding to the concerns of the Edgartown residents. He recognizes that there has been a lot of clear-cutting of lots for home building and strongly supports this bylaw.

Kathryn Dwyer spoke in support of this bylaw. She feels that there are not enough regulations to stop companies from clear-cutting. Clear-cutting creates problems with drainage and erosion when lots are cleared. Climate change should be paid attention to. This is how we can catch carbon in our environment, and trees right now are the best solution. There are impacts on our water supply as well as runoff into our ponds, which are already nitrogen-loaded.

Jim Cisek states that there needs to be enforcement of this bylaw once we pass the bylaw.

Nicholas Renaldo opposes this bylaw because he feels it inappropriately punishes people who own larger tracts of land.

Bill Veno states that section N should be moved to section A in the bylaw.

Kate Putnam noted how the heating choices (coal, oil, electric) have polluted our air over the years. She also states that we need our trees in place, that the burning of firewood will continue to pollute, and that it may be removed from a choice in the future. She is impressed with the forward-thinking board.

Deborah Orazem thinks this should only apply to new applications to build. There are too many clear-cut lots in Ocean Heights, which has increased noise in the neighborhood. She would like to see this

bylaw passed. If we cut down our trees for shade, then our use of air conditioning will increase.

Diana thinks the bylaw is written to make homeowners pay unnecessary fines, which feels like the town is preventing landowners from doing what they want with their land. She feels this is excessive.

**Discussion:** was lively with many participants.

No letters were read aloud as many were received, and there was no time available to do so. The letters are all posted on the Town website.

Deborah Orazem thinks this should only apply to new applications to build. There are too many clear-cut lots in Ocean Heights, which has increased noise in the neighborhood. She would like to see this bylaw pass. If we cut down our trees for shade, then our use of air conditioning will increase.

**8.** A proposed warrant article would add Section 10.1.L, "Impervious Surface Lot Coverage," to limit the amount of impervious coverage on a residential lot to 20% or 3000 sq. feet, whichever is greater. This would also require stormwater to be retained and disposed of on a residential lot and prohibit stormwater and excess water runoff onto public ways or abutting properties.

Peter Kirn is concerned that this 20% is not enough for homeowners. He supports the bylaw.

Ben Hall pointed out that this bylaw applies to all districts. He is concerned that the smaller lots are in the same category as the larger lots. He would like each zone to have its own limits. He would like more work done on stormwater drainage in Edgartown proper, but it should not apply to lots outside of downtown. He is concerned that this may create substandard lots, and he would like to see this bylaw pulled and worked on further.

Jeff Agnoli feels that this is a response from the Town, which is looking out for its residents. This is a forward-looking way of looking at current problems.

**Discussion** -This ZBA change concerns Storm Water Drainage due to the land covering the lots with Impervious Coverings (e.g., pavement, bluestone, pools, etc.) The goal is to limit all lots to 20% of the total lot square footage or 3,000 sq. feet of Impervious Cover. This applies UNLESS the property has a Storm Water Drainage Plan, which will be less strict if in place.

**9:** A proposed warrant article would add Section 10.1.M, "Residential Lot Intensity," to limit the amount of livable floor space constructed on a lot to 10,000 square feet. If the only fossil fuel use is for a backup generator, the house size can be increased to 12,000 square feet.

Julia Livingston commented that the committee worked very hard on these changes. She strongly believes that this is due to the overuse of resources.

Roger Becker supports this regulation because it should depend on the square footage of your lot, not just a blanket limit on the size overall.

Jeff Agnoli stated that this is too much of a building allowance—it's too big. It's a drain on our environment. Other towns have limited houses to 3000 sq. ft. In those towns, A Special Permit is

required to go larger. He would like it to be changed. It was found that the average "big House" in Edgartown is 45,000 sq. ft.

James Cisek thinks this is a wonderful bylaw.

**Discussion: Was active.**

**11.** A proposed warrant article that would make technical corrections to the bylaw, such as incorrect cross-references, confusing language, scrivener's errors, and similar; said changes are not expected to alter the scope or intent of any part of the bylaw.

The Full Text of the proposed warrant articles is on the Planning Board Page of the Town Website

Discussion: Minimal

APPROVAL of MEETING MINUTES:

FUTURE MEETING SCHEDULE: Next Edgartown Planning Board Meeting will be March 12, 2024, at 5:30 pm in the Fred B Morgan Room and via Zoom

OTHER BUSINESS NOT ANTICIPATED - None mentioned or discussed

Lucy Morrison moved to continue the Bylaw meeting to March 26, 2024, at 5:30 PM, with James Cisek seconding it. The Bylaw changes will be the only item on the agenda.

Motion to Adjourn: Morgan

**2<sup>nd</sup>** - by Cisek

**ADJOURN: 8:21 PM.**

Lucy Morrison approached the Board about the wording in the approval for the Parks Department's sale of shirts. The board voted to allow Lucy to rewrite the decision.

Lucy Morrison states that the board will do its best to clarify the language in each bylaw by 3/26 at 5:30 PM. The Planning Board will have information available at the town meeting, and the bylaws can also be corrected on the town meeting floor.