

PUBLIC MEETING SIGN-IN SHEET

PLANNING BOARD

MEETING DATE:

12/4/2018

Name (Please print legibly!)

Street Address

Agenda Item

Name (Please print legibly!)	Street Address	Agenda Item
Ben Hall Jr	21 Oliver	EZBL

Edgartown Planning Board Minutes

Tuesday, December 4, 2018

A regular meeting of the Edgartown Planning Board was scheduled for Tuesday, December 4, 2018, at 5:30 PM at the Edgartown Town Hall, 70 Main Street, Edgartown, Massachusetts.

CALL TO ORDER

The meeting was called to order at 5:30 PM.

Call of Roll:

Present: Sam Sherman, Michael McCourt, Scott Morgan, Lucy Morrison, James Cisek (Planning Board Alternate).

Absent: Fred Mascolo.

Also Present:

Douglas Finn, Planning Board Assistant

A quorum was declared.

The board reserved the right to address unscheduled agenda items out of order as needed, or for the convenience of the applicants.

SITE VISITS

96-110 West Tisbury Road

SCHEDULED BUSINESS

5:30 PM PRE-FILING DISCUSSION – 96-110 WEST TISBURY ROAD

Potential for a division of land; requesting recommendation as how best to proceed (Doug Hoehn, SBH, Inc.)

Present: Doug Hoehn, Schofield, Barbini and Hoehn, Inc.

Mr. Hoehn described the proposal: to divide the current two lots into five, with four building lots of roughly ½ acres each, and leaving the majority of the property undeveloped.

Mr. Hoehn described an ANR plan, endorsed by the Planning Board in 2013, divided the property into three lots; the plan was not recorded. The intent of the family was discussed, as well as their future plans. The current use and status of the property was discussed.

Mr. Hoehn asked what the Planning Board's preference would be as a means to divide the property.

Mr. McCourt suggested that the slope of the current driveway, plus sightlines on the driveway, might make the entrance onto West Tisbury Road a bit treacherous.

Mr. Sherman suggested that, given the current condition of the driveway, and the incline leading up to West Tisbury Road, it likely would not meet the requirements for a Form A / ANR plan.

Mr. McCourt asked about the size of the field. There was some discussion related to the use of some portion of the field as a means to meet minimum lot-size requirements, and the potential to develop the field at some later point.

Mr. Sherman took an informal poll of the board, with the results suggesting that any proposal to divide the subject property would be more readily received as a Subdivision Proposal (Form C).

OTHER BUSINESS:

Zoning Bylaw Changes:

Mr Finn presented a number of potential changes to the Zoning Bylaw for the Planning Board to consider, as follows:

CLOSING THE ANR EXEMPTION:

Mr. Finn: Planners across the state refer to Section 81L of MGL Chapter 40A as the “ANR” exemption, referring to the section of MGL Chapter 41 that defines the word “subdivision”, and creates an exemption for certain types of land division. Describing it as a “loophole”, Mr. Finn explained that the section of law defines “subdivision” in such a way that, over time, has resulted in a requirement for Planning Boards to endorse ANR plans that divide single parcels into multiple lots, provided the property has adequate frontage and meets other lot-size requirements.

The courts have reaffirmed that Planning Boards have no means of imposing conditions on an ANR plan, and must promptly endorse them without delay, if the plan meets the basic criteria outlined in Law.

Part 1: Require new lots to have frontage on a public or subdivision way.

The proposal was presented.

Mr. Finn stated that, by making these above changes, ANR plans will continue to be a valid method of dividing land to create new lots, in compliance with MGL 41, Sec 81P.

However, these new divisions of land may not automatically qualify as a buildable lot, unless they have frontage on an accepted town road, or a previously approved subdivision road.

This limitation will not affect ANR plans that simply propose an adjustment of lot lines, or that create new lots all with frontage on established ways. Property developers would likely be motivated to divide land under the Subdivision Control Bylaw, instead of using the 81L Exemption.

Part 2: Define and Regulate Common Driveways

Mr. Finn stated that ANR plans that are proposed, with the clear understanding that a “Common Driveway” is expected to be built, seems to be a subdivision plan without the requirement for approval by the Planning Board. Mr. Finn suggested the creation of a zoning bylaw that defined and regulated common driveways, as follows:

First: define “Lot”, “Driveway” and “Common Driveway”

PROPOSED ARTICLE: To see if the town will amend the Edgartown Zoning Bylaw, Article 1, section 1.3.D “DEFINITIONS” as follows:

LOT: For the purposes of this bylaw, a single parcel, or group of contiguous parcels, under common ownership.

DRIVEWAY: For the purposes of this bylaw, a minor private way used by vehicles and pedestrians for common access from a public way to a single lot.

COMMON DRIVEWAY: For the purposes of this bylaw, a shared private way used by vehicles and pedestrians for common access to up to four separate

residential lots.

Second: adding a section of Zoning Bylaw allowing for conditioned approval of special permits for a common driveway.

Mr. Finn: As this would be a special permit, public notice and a public hearing would be required. This language is fairly non-specific. It gives the planning board the greatest possible latitude to set the terms of approval, impose conditions for approval, require maintenance agreements, deeded access, or other conditions as it deems necessary to preserve the public good.

The proposed warrant article which would govern Common Driveways was presented.

Discussion

Mr. Sherman recognized Mr. Ben Hall for comments. Mr. Hall spoke about the statutory requirements of ANRs, the habit of some Planning Boards to refer ANRs to the MV Commission for discretionary review. There was some discussion related to various potential situations where the new definitions might apply.

There was further discussion related to the proposal; Mr. Hall reminded the board that in any case, they could refer a 'troublesome' ANR proposal to the MV Commission.

Mr. Hall spoke about his concerns related to the proposal, and concerns about adding more regulation to the mix.

There was some discussion related to the MV Commission's role in reviewing ANR plans, and the requirements outlined by the DRI Checklist, version 13.

Decision

The Planning Board was generally favorable to the proposed regulations related to ANR and Common Driveways.

SOLAR PHOTOVOLTAIC INSTALLATIONS BYLAW

Mr. Finn reminded the board that the town does not have any regulation regarding large solar installations. A developer who wished to install 30 acres of solar panels, for a 16 MW array, can do so by right without review by either the Planning Board or ZBA. In accordance with the General Law, Solar cannot be denied, regardless of the size, or structure; however, it can be regulated reasonably as to size, scope, visibility, location, construction, safety, etc.

Mr. Finn advised that the Board adopt Site Plan Review as a mechanism for review and conditioning of such development. Site Plan Review is often used where approval is assumed, but reasonable conditions may be imposed.

Mr. Finn stated that the language of this section is intended to

- Adopt Site Plan Review as the mechanism for review of solar projects
- Designate the Planning Board as the SPGA
- Require a public hearing, or not, at the discretion of the SPGA.
- Allow small- to medium-size roof-mounted solar by right in most zones.
- Require Site Plan Review in the R-5 and B-1 zones, and for larger installations.
- Allow for conditional approval.

- Allow for peer review at the applicant's cost, if deemed necessary.

Mr. Finn stated that the proposal would provide a balanced approach to review of ground-mounted solar installations, allowing for a quick review and approval process when possible, while reserving the right to conduct a more comprehensive review when needed.

Proposal:

The proposed warrant article was presented.

Mr. Hall suggested that the reference to Special Permit Granting Authority ("SPGA") should be change to Site Plan Review Authority (SPRA) throughout. The board agreed with the recommendation.

Mr. Hall: there should be reference to sound / reflectivity and EMF emissions. There was some discussion, after which the board concurred with the suggestion.

Decision

Mr. Finn was asked to review the proposal, change references related to SPGA to SPRA, and include appropriate provisions for sound / visual reflectivity and EMF emissions if applicable.

RETAIL MARIJUANA ESTABLISHMENTS

Model bylaw from the Pioneer Valley Planning Commission

A model bylaw from the Pioneer Valley Planning Commission was presented for review. There was some discussion on the potential zoned area that would apply, the restrictions imposed by the proposed bylaw, and potential changes to the proposal.

Board members were asked to review the proposed bylaw, and forward individual suggestions to

BASIC CLEANUP OF BYLAW

Mr. Finn advised to consider several other minor changes to the zoning bylaw:

Removal of Building Permit Limitation

Mr. Finn advised striking from the Zoning Bylaw a building permit limitation that had been put into place in the early 1990s, and was intended to be revised two years after its approval. No review was subsequently conducted, and the section's "sunset" provision rendered it null at the end of the two-year period.

Proposed Warrant Article: To see if the Town will amend the Edgartown Zoning Bylaw, Article 17 ("Administration and Enforcement"), by striking Section 17.11 entirely.

Decision

The Board, generally, concurred.

Update language in the "Island Roads" district to correct errors in street names

Mr. Finn advised the planning board to revise the definition of "Chappaquiddick Road" in the Island Roads District, as the current definition is vague, and refers to streets that do not appear to exist.

Proposed change is as follows:

Chappaquiddick Road to and including Wasque Road, School Road and Dyke Road, from the ferry landing **to the intersection of Pocha Road, including Dyke Bridge Road to the boundary of the Trustees of Reservations' property, and Pocha Road** to the boundary of the Trustees of Reservations' property.

Chappaquiddick Road to and including Wasque Road, School Road and Dyke Road, from the ferry landing to the boundary of the Trustees of Reservations' property.

Discussion

Lucy Morrison would forward the proposed change to Chris Seidel at the MVC for technical review.

Decision

Generally, the board concurred with the change.

Amend Coastal District, Permitted Uses

Mr. Finn recommended that the Planning Board close a technical loophole that, in the Coastal District, is (or could be) interpreted as allowing guest houses by right, while requiring special permits for detached bedrooms, garden sheds, pool houses, and gazebos.

Proposed Warrant Article: To see if the Town will amend the Edgartown Zoning Bylaw, Section 5.1.C.2 "Permitted Uses", as follows

Inland Zone: All uses permitted in the Shore Zone as well as ~~detached single family dwellings~~ **one detached single family dwelling** and ~~non-habitable~~ minor accessory structures normally used for personal, family and household purposes; subject to the regulations and restrictions of Sec. 5.1.E. and the underlying zoning district.

Discussion

There was some discussion related to whether guest houses should be required to have a special permit or be allowed by right. There was some discussion related to whether the Planning Board could waive a requirement for a special permit through a de minimis determination.

Decision

Mr. Finn will determine if a De Minimis Determination could be used to waive a Special Permit requirement in exceptional cases.

The Planning Board tabled further discussion on the Zoning Bylaw to the next regular meeting on December 18, 2018.

OTHER BUSINESS:

OTHER CRITICAL BUSINESS NOT REASONABLY ANTICIPATED 48 HOURS IN ADVANCE.

None

ITEMS FOR REVIEW / SIGNATURE

MINUTES

Minutes for the following meetings were distributed:

- November 13, 2018

- November 27, 2018

It was MOVED by Morgan, SECONDED by McCourt

To approve the minutes for November 13, 2018 as presented.

VOTED: 4, 0, 0.

It was MOVED by Morgan, SECONDED by McCourt

To approve the minutes for November 27, 2018, as presented.

VOTED: 3, 0, 1 (MORRISON).

STAFF REPORT

In response to a request for more information, Mr. Finn reported that at a duly posted public meeting on Tuesday, June 21, 2016 the Planning Board voted unanimously to appoint Michael Donaroma as their representative to serve on the Land Bank for an additional three years until April 30, 2019.

PAYROLL

Payroll for the period ending December 11, 2018, was reviewed and signed.

DECISIONS

A draft "Decision – 19 Mattakesset Bay Road - Sisselman" was presented for review and signature.

SCHEDULE OF UPCOMING MEETINGS

The following meetings were tentatively scheduled:

- December 18, 2018, 5:30 PM Lucy Morrison requested that Adam Turner (MV Commission) be afforded time on the agenda to provide an update from the MVC.
- January 8, January 22, 2019

ADJOURN

There being no further business, it was MOVED by Morgan, SECONDED by Morrison

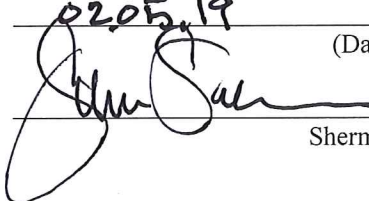
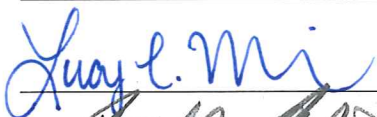


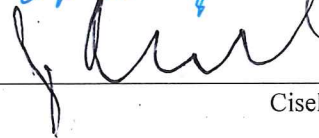
To Adjourn.

VOTED: 5, 0, 0.

The meeting was declared adjourned at 7:13 PM.

Respectfully submitted,

Douglas Finn,
Administrative Assistant

APPROVED by vote of Planning Board at a regular meeting, held on	
<u>0205.19</u>	(Date of vote)
	Sherman (chair)
	<i>absent</i> Maseole
	McCourt
	Morrison
	Morgan
	Cisek (alternate)