**APPROVED**

**Meeting Minutes**

**Chilmark Planning Board Meeting**

**June 13, 2022**

**4:30PM**

**Via remote participation**

Present: Ann Wallace, Peter Cook, Catherine Thompson, Rich Osnoss, Hugh Weisman, Janet Weidner

Not Present: Mitchell Posin

Public & Board/Comm. Members: Joan Malkin (ZBA, MV Comm.), Reid Silva (VLSE), Richard Hannemann (Energy Comm.)

Staff: Jennifer Christy, Admin. Asst.

Site: Remote Meeting/Participation on ZOOM

Chairperson Osnoss called the meeting to order at 4:30PM.

**Form A: The Tomlinson Family Trust (Charles Finnerty), 126 Tea Lane, Map 8, Lot 26:**

* The Form A plan was presented by Reid Silva and he recounted the topics discussed at the site visit months ago. The plan is to cut a parcel off of Charles Finnerty’s lot to add to Map 8, Lot 65.2 so that there is frontage for that lot along the access on the driveway that leads to Tea Lane. Reid Silva showed a GIS map, shared from his screen, to discuss the proposal. The resulting lot would be 4.28 acres and it would create frontage for the lot.
* Rich Osnoss stated he had no issues that were not answered at the site visit.
* Hugh Weisman asked why a lot cannot just have an easement and why must a lot have to be provided frontage. Reid explained that if a lot is created then it must have frontage on a way existing, as is done in a Form A, or on a way created, as is done in a definitive, Form C, subdivision.
* Cathy Thompson clarified that the plan would give the applicant’s lot additional acreage and wondered why this was necessary. Reid explained that the Building Inspector will not issue a building permit until there is frontage which is the why there is a necessity for the added 1.28 parcel to lot 65.2 in order to create frontage.
* The Board read the “Plan Notes” and concurred that these notes are acceptable.
* Peter Cook moved to endorse the Form A. Cathy Thompson seconded the motion. The Board voted unanimously to endorse the Form A Plan by a roll call vote.

**Discussion of Proposal to Amend the Zoning Bylaws Swimming Pool and/or Tennis Court, Section 4.2A, 3.**

* Joan Malkin reviewed the recent history of the effort to amend this section of the zoning bylaws.
* Joan Malkin described the fact that she has submitted the current amendment proposal (shared with the Board prior to this meeting and available at this meeting) to the Attorney General and the Board of Building Regulation & Standards (BBRS) for an informal review and this review has been returned with an indication that the amendment would be received positively. She subsequently stated that she was not confident that the amendments would actually be positively received and has suggested some changes to the amendment, as proposed.
* Joan Malkin described her suggested changes that primarily altered the language for heating the pool. The current proposal includes language requiring the most efficient heating source of the pool. Joan Malkin suggested that the current proposed language should either state a pool “must” be energy that is not from a fossil fuel source or, she suggested, that the zoning bylaws “strongly recommend” the use a heating source that is not sourced from fossil fuels. Joan’s reasoning is that she does not want the zoning bylaw proposal to fail again and, from reviewing the recent cases in MA, she feels that either of these changes would make the current proposal even more likely to pass the Attorney General’s review process.
* Rich Osnoss remembered that he has worked on this issue throughout the years for many hours and he has spoken at length with pool installers. He thought that the swimming pool heating issue should be part of the Master Plan content. He also thought that there are different circumstances with owners of pools; those who use them infrequently and they are small pools to those who have the pool heated all of the time and they are large. He wondered if those with propane heating sources with smaller pools should be required to follow the same more restrictive rules if they are not the true source of the energy use. He further thought that it is still useful to use the state standards and that it can be confusing to try to change the state’s rules. Joan Malkin stated that most of the amendments are for safety, most importantly the automatic pool cover. She stated that she is confident that the proposal will be approved, except for the heating requirements and that is the reason she is at the meeting to address. She noted that her proposed amendment to the current proposal of changes to the swimming pool section of the zoning bylaws is the most up-to-date language that does not require a specific type of heating unit or source.
* Hugh Weisman stated that it makes sense to require people to use a non-fossil fuel system. He mentioned that there are even passive-solar systems that could be used. Rich Osnoss wondered what systems are available for people to heat pools that are non-fossil fuel sourced.
* Ann Wallace asked Joan Malkin for clarification of what the international pool standards state about heating. Joan Malkin said that they do not address it and she mentioned that the code would not be the issue with the proposal, but rather the precedent of the Brookline legal decision.
* Robert Hannemann stated there are currently 4 different technologies for heating pools. The first is solar-thermal, using the sun’s rays for heating the water. He noted the second is the electric heat pump unit which is efficient. The third, Robert mentioned, is simple electric heating of the water and the last technology is using propane heaters to heat the water. He urged that the Town wants to move towards a non-fossil fuel source for pool heating. Robert encouraged that all municipal decisions should be viewed through the “lens” of moving away from fossil fuels. He discussed the pros and cons of the different non-fossil fuel pool heating technologies. He encouraged the Board to hold public hearings on the amendment and described the cost savings that would be realized by those who would be required to install pool heating units that are non-fossil fuel. Robert Hannemann described some steps that Aquinnah and West Tisbury are taking to move away from the use of fossil fuels. He noted that the Chilmark Energy Committee would like to come before the Town in 2023 with warrant articles that would address topics that are currently in the bylaws in the other island towns.
* Peter Cook asked, if the intent of the Town, as a Green Community, is to phase out fossil fuels wherever feasible on a timetable that makes sense, should we anticipate a time that the swimming pools that are heated with propane heaters would be disallowed. Robert Hannemann stated that it was not his opinion that the Energy Committee advocates placing onerous rules that require people to get rid of perfectly serviceable infrastructure. Peter Cook suggested that the idea to “strongly recommend” is a good idea for now, with the notion that it will become required down the road, rather than requiring a change at this point.
* Joan Malkin agreed with the points made by Robert Hannemann and described a possibility that the Town may require that residents only install energy efficient, non-fossil fuel systems when a fossil fuel system breaks, to begin with.
* Ann Wallace clarified that she understood from Robert Hannemann that the Towns of Aquinnah and West Tisbury are moving forward with a home-rule petition to be able to require the use of non-fossil fuel systems. She wondered that if this is something that the Town of Chilmark is planning to do as well, then it is possibly preferable to say that the use of non-fossil fuel systems is encouraged and preferable, rather than mandated, and then wait for a mandate to come through with a home rule petition of our own. Robert Hannemann stated that a home rule petition for Chilmark would take about 2-3 years and the Aquinnah and West Tisbury changes did not specifically address swimming pools.
* Rich Osnoss stated his view that it should be kept simpler and he felt that if the Town wants to pursue a ban on the heating of pools using fossil fuels then he would support that.
* Joan Malkin asked if the Planning Board’s preference is to encourage the use of non-fossil fuel systems for pool heating encouraged or to mandate the use of non-fossil fuel systems for pool heating.
* Hugh Weisman stated his view that an encouragement does not carry much weight. He felt it should be mandatory and then take the next step of requiring that people who replace fossil fuel systems in Chilmark be required to replace them with non-fossil fuel source systems.
* Peter Cook advocated that the discussion and public hearing of the proposed amendment be one that describes the requirement for non-fossil fuel systems be mandatory so that it will elicit the most opinions for and against and would be the most informative.
* Rich Osnoss asked if there are any other issues that should be addressed in the swimming pool section of the bylaws.
* Joan Malkin asked if approval had come from the Attorney General for the recent voted amendments to the swimming pool section. Jennifer Christy stated she had not received any word from the Attorney General’s office.
* Joan Malkin suggested that the Board use the draft that she has proposed at this meeting to start the public hearing process and, if the amendments to the zoning bylaws in this section that are currently being reviewed by the Attorney General come back to the Town as approved, then changes can be made to the draft at that point to show those amendments.
* Jennifer Christy mentioned the 6 month rule in the process for amending zoning bylaws and asked if the intention is for the amendments to come before the Town at a fall Special Town Meeting and Joan Malkin confirmed that the intention is to send it to the Town for a vote at a fall Special Town meeting.
* Rich Osnoss stated he is in favor of beginning public hearings now to prepare for a fall Special Town Meeting. Jennifer noted that the Board of Selectmen meet on June 21st next. Rich Osnoss asked if the Board members need to see the final version of the proposal before it is sent to the Board of Selectmen. Joan mentioned that she has a couple of things to fix. Rich asked if Joan could provide a clean copy by June 27th.
* Joan Malkin stated she would deliver a final amendment proposal to the Board for their June 27th meeting. Joan confirmed that she would provide a clean copy, showing what the swimming pool bylaw is proposed to be, and a red-lined copy, showing what is proposed to be changed.

**Guest House Size Discussion:**

* Rich Osnoss asked if there was interest in discussing this topic this evening.
* Ann Wallace stated she had gathered some information about the Guest House bylaws in other Towns, but her collection of bylaws was not complete.
* There was a brief discussion about the direction of the Board on this topic. Peter Cook asked if the Housing Committee should have comment on this topic.
* Ann Wallace stated that the Housing Committee would be involved primarily if Guest Houses were restricted to the affordable housing applicant.
* Peter Cook asked where the proper forum would be to discuss the enlargement of the permitted square footage of a Guest House.
* Peter suggested that the Board start with placing a proposal on the agenda and begin the discussion which may lead to a public hearing.
* It was requested that Jennifer please place the topic on the next agenda.

**Correspondence:**

* ZBA Member Joan Malkin, proposal for amendment to Swimming Pool and /or Tennis Court section of Zoning Bylaws (see the topic discussed above).
* The Board discussed the content of the letter from Edward and Jane Rabe. No other action was taken.
* The Board reviewed the letter of request for reappointment from Allison Cameron Parry to the Housing Committee. The motion to reappoint Allison Cameron Parry to the Housing Committee was moved and seconded. The vote was unanimous by roll call vote

**Minutes:**

* The April 11 & 25, 2022 were reviewed. They were approved unanimously with changes by a roll call vote
* The review of the May 9th and 23rd 2022 minutes was postponed until June 27th.

**Topics Not Reasonably Anticipated by the Chair at the Time of Posting:**

A motion was made to adjourn the meeting. The motion was seconded and passed unanimously by roll call vote.

**Next Meeting(s):**

* Monday, June 27, 2022, 4:30PM

**Documents:**

Form A Plan & Application Tomlinson Family Trust

Meeting adjourned at 5:59PM. Minutes respectfully submitted by Jennifer L. Christy