**APPROVED Meeting Minutes**

**Chilmark Planning Board Meeting**

**September 25, 2023**

**4:30PM**

**Via remote participation**

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

Not Present:

Public & Board/Comm. Members: Thomas Humphrey, Sergio Modigliani, Mara Flanagan (as Beetlebung Farm), Amy Weinberg (as Beetlebung Farm), Deborah Hancock, Rebecca Miller, Adam Petkus, Mary Beth, Clark Goff, Anna McCaffrey, Chris Alley, Joan Malkin, Daniel Greenman (MV Times), Chris Murphy, Jefrey Dubard, Tim Carroll, Mike Spangler, iPhone87, 1-646-894-0656 (Joan Malkin)

Staff: Jennifer L. Christy

Site: Remote Meeting/Participation on ZOOM

**Chairperson Osnoss opened the meeting at 4:30PM**

**Discussion: Fractional Ownership Interval Time Share:**

* Rich Osnoss informed the Board members that Laura Silber of the MV Commission is not available to attend the meeting today and discussion on the topic will be postponed to the next meeting.

**Discussion: Accessory Apartment and/or Guest House ZBL amendment proposal:**

* Rich Osnoss noted that a review of this bylaw amendment proposal with the Building Inspector has not yet occurred and asked if the Building Inspector has any input now. The Building Inspector suggested that definitions of what may be done in structures that are not dwellings, such as studios, would be helpful. Garages and Barns, the Building Inspector noted, also need more guidance in the zoning bylaws.
* Brief discussion occurred about the need for a review of the zoning bylaws.
* Hugh Weisman committed to sitting down with the Building Inspector soon to identify the issues with definitions and below grade living area.
* Rich Osnoss suggested that he and Hugh Weisman meet again with the Building Inspector and also suggested that this bylaw amendment proposal should be postponed until more discussion occurs with the Building Inspector.
* Mitchell Posin asked a question about whether the Planning Board cares about where bedrooms are in dwellings. Adam Petkus noted that bedrooms are defined by the type of structure they are in. Peter Cook stated he thought that this is not the meeting in which to identify the detailed issues with the zoning bylaws. He said that this task will be coming and that the Planning Board needs to keep an eye on the larger issue of a revision of the zoning bylaws with a clear philosophy that underlies a revision of the zoning bylaws before trying to address individual issues.
* Joan Malkin offered to join a group who will look at the topic of a revision of the zoning bylaws.

**Discussion: Building Dept. and possible zoning bylaw amendments:**

* Rich Osnoss postponed this topic to the next meeting.

**Discussion: Agricultural zoning and possible zoning bylaw amendments:**

* Rich Osnoss noted that Mara Flanagan sent the Board members a report called the Agritourism report.
* Rich Osnoss pointed out that, at the last meeting of the Board, Cathy Thompson and Ann Wallace offered to assist the farm group in developed a farm focused zoning bylaw. At a subsequent meeting of the Select Board, that Board indicated that the involvement of the Planning Board in a separate group may present a conflict. Tim Carroll noted that the Select Board discussed that the Planning Board may want to proceed in discussion of a development of a zoning bylaw that proactively takes into account what the Town wants rather than respond to what a private group may want for a bylaw.
* Cathy Thompson responded that she agreed with this assessment of the discussion at the Select Board meeting on Tuesday, Sept. 12. Tim Carroll stated that it was his understanding that it was the Select Board’s view that a Planning Board based review would be best, particularly since the Planning Board is working on a Master Plan review and revision.
* Rich Osnoss suggested that continuing the discussion from meeting to meeting would allow for input from the Board to develop a zoning bylaw.
* Amy Weinberg was recognized and thought that the farmers would want to proceed more quickly than what may be suggested by the Planning Board. She suggested that the farm group may want to proceed with a petition to the Select Board to initiate a public hearing process. Amy Weinberg read from a portion of the report on agritourism and urged that there needs to be understanding that there are many different types of farms and that they care about land stewardship and preserving the agrarian values in Chilmark.
* Rich Osnoss expressed the view that there is broad support for town farms, but he thought that the important thing is to understand what the Town wants in terms of a zoning bylaw. He urged the farm group to keep attending the Planning board meetings to continue to develop a bylaw.
* Mara Flanagan asked if there was a way to include Planning Board members in their meetings. Joan Malkin was recognized and remembered that the Planning Board held meetings regarding the “big house bylaw” and what was significant was that anyone could attend the meetings whether they were against the proposal of in favor of the proposal. Joan Malkin noted that a benefit of creating a specific subcommittee to work on a farm bylaw proposal would make sure all meetings are public and open.
* More discussion occurred on how to proceed. Hugh Weisman wondered if there was a quicker was to proceed with a proposal for a farm bylaw that appears to be already well-supported.
* Rich Osnoss reiterated the benefits of considering a bylaw proposal within a subcommittee and in a full and thorough process.
* Mitchell Posin asked for clarification on who may be appointed to a subcommittee to consider a farm bylaw proposal. Rich clarified that the commitment to the development of a bylaw proposal of this sort will be large, but noted that if there are three Board members who are interested now he would support the creation of a subcommittee to develop the bylaw proposal.
* Deborah Hancock was recognized and expressed some trepidation in the adoption of an agribusiness/agritourism. She characterized the process as possible a “slippery slope” and noted that the Keith family had placed a development restriction on a large portion of their land (80 acres) to protect the view of the south over the farmland for all. She noted that a farm plan for those interested in agribusiness and agritourism may include things such as plastic covered hoop houses and it may include farms that are only 5 acres. She worried that the process may be rushed and she asked for more careful consideration of what the wider Town wants and what the Town should look like in 10 to 20 years.
* Peter Cook was recognized and reiterated that a subcommittee is working on the Master Plan and said that wherever the discussion of a farm bylaw happens the topic will also be discussed as part of the Master Plan. Peter went on to say that a bylaw proposal that addresses agritourism and agribusiness could be transformational to the Town and noted that the Town center and other areas of development will arise as part of this process. He noted that he would incorporate the consideration of farms in the Master planning process.
* Amy Weinberg noted that the farm proposal could move forward quickly, but she asked for clarification that the Planning Board would like the farm group to keep attending meetings. Rich Osnoss confirmed that the Board would welcome discussions in the open meetings to consider and develop a possible bylaw. Amy Weinberg worried that if the farm group comes forward with a petition to initiate public hearings on a bylaw proposal that they have developed that it may be perceived as confrontational. Rich Osnoss suggested that an organic, slow process may allow the Town to carefully consider all of the issues and he urged the farm group, if they choose to proceed as a petition, to make sure that the bylaw proposal is as good as the bylaw can be.
* Chris Murphy suggested a subcommittee be appointed with one or two members of the Planning Board and members of the community that would hold public meetings that anyone may attend. Rich Osnoss stated that he was not sure that there are Planning Board members who may be able to serve on a subcommittee. Rich Osnoss asked Tim Carroll for clarification on the criteria for an appointed subcommittee. Tim Carroll stated he thought that it is just a Planning Board decision and stated he would ask Town Counsel to opine on exactly how the Planning Board may appoint a subcommittee.
* Joan Malkin addressed the farm group and stated that if they proceed with a petition for a zoning bylaw that the bylaw would be what is voted on and it cannot just be an idea and that it is a complex process to propose and develop a bylaw.
* Mitchell Posin asked for clarification on the exact process for the farm group to develop the farm bylaw.
* Mitchell Posin, Hugh Weisman, Sergio Modigliani all offered to be subcommittee members on a bylaw development project. Peter Cook offered to serve on a subcommittee as well.
* Tim Carroll asked that the Board consider advertising the opening of applications for people to apply to be appointed to a subcommittee.
* It was discussed what size the subcommittee may want to be.
* Rich Osnoss suggested that the Board advertise the opening for applications to serve on a farm bylaw proposal subcommittee.
* Mitchell Posin moved to approve the action to advertise for Chilmark voters to apply to be members of a subcommittee to develop a potential zoning bylaw that would govern permitted uses on farms in Chilmark.
* Ann Wallace seconded the motion.
* The motion was voted unanimously by a roll call vote. Peter Cook asked for the exact nature of the advertisement. Rich Osnoss clarified that the advertisement would be asking for applications from Chilmark voters who would like to join a subcommittee discussing what farms may be allowed to do in Chilmark.

**Discussion: Pickle Ball and possible zoning bylaw amendments:**

* Rich Osnoss noted that Town Counsel provided an opinion on the process of a moratorium and suggesting consideration of a ban on pickle ball use instead.
* Discussion occurred about possibly starting the process of a zoning bylaw amendment to prohibit pickle ball use rather than allowing it to be a specially permitted use.
* Rich Osnoss read from the opinion emailed from Town Counsel. Discussion occurred. Janet Weidner expressed the thinking that a moratorium is preferable. Joan Malkin expressed the opinion that Town Counsel’s recommendation is a preferable one: to put forward a zoning bylaw to prohibit the use of pickle ball. Janet Weidner stated that she understood Town Counsel’s opinion differently and did not hear from the letter that a complete prohibition of the use of pickle ball was preferable.
* Rich Osnoss asked Board members to see if Town Counsel needs to be requested to provide clarification. Ann Wallace suggested more clarification is needed from Town Counsel.
* Cathy Thompson expressed the opinion that she would advocate for a way to pause pickle ball while more information is gathered.
* After more discussion, Joan Malkin noted her support of a moratorium.
* A motion was made by Hugh Weisman to hold a public hearing on a bylaw proposal to prohibit pickle ball in Chilmark. The motion was seconded by Mitchell Posin. Mitchell Posin, Hugh Weisman, Peter Cook vote in favor, by roll call vote while Cathy Thompson abstained and Ann Wallace and Janet Weidner voted no. Rich Osnoss voted no after some discussion. There were three votes in favor and three votes not in favor.
* Jennifer Christy, at the request of Rich Osnoss, shared her screen of the guidance provided by Town Counsel in an email.
* Rich Osnoss asked if the Board members should table the issue and gain more clarity on the topic of using a moratorium as opposed to a ban.
* Peter Cook made a motion to move on to the next topic. The other Board members agreed to move on and to look at the issue again at the next meeting. Mitchell Posin expressed concern that at the next meeting there would be no progress on moving forward. Rich Osnoss asked Board members to do their own homework before the next meeting so that a decision could be made on how to move forward. There was general agreement that this was a good plan.
* Rich Osnoss asked that the topic be placed on the next agenda.

**Discussion on Application for Special Permit to Build a 2nd Dwelling on 27 Oyster Lane:**

* Chris Alley was recognized and described the lot and the request for approval to build a second dwelling. He requested that he be permitted to share his screen and he shared a satellite image of the lot at 27 Oyster Land and the surrounding lots and ways.
* Chris Alley then shared a separate image of the plan showing the proposal for a 2nd dwelling on the 6 + acre lot. He explained that the applicant has applied for two special permits, one for a pool and one for additional total living area. Chris continued to explain that the applicants had assumed that since the lot was twice the required zoning area and according to section 6 of the zoning bylaws that a 2nd dwelling could be built. He explained that the Building Inspector had requested that the Planning Board provide approval as required in section 1.03. Chris Alley stated he did not remember doing this before.
* Rich Osnoss discussed the section 1.03 of the Rules & Regulations Governing Subdivisions and the confusion that this section has prompted over the years.
* Rich Osnoss asked for confirmed from Mitchell Posin that section 1.03 allows the Planning Board to approve additional dwellings on lots in previously approved subdivisions with the feeling that the Board was trying to discourage further subdivision, but that there may be other circumstances such as a subdivision that restricts any more subdivision in the conditions. Rich read aloud the section 1.03 in the Rules and Regulations Governing Subdivisions in Chilmark:
  + *No person shall make a subdivision, within the meaning of the Subdivision Control Law, of any land within Chilmark, or proceed with the improvement or sale of lots in a subdivision, or the construction of ways, or the installation of municipal services therein, unless and until a Definitive Plan of such sub-division has been submitted to and approved by the Planning Board as required by these rules and regulations.*

*Not more than one building designed or available for use for dwelling purposes shall be erected or placed or converted to use as such on any lot in a subdivision for which a Definitive Plan has been approved by the Planning Board, and, to the extent consistent with applicable zoning ordinances, not more than three such buildings shall be erected or placed or converted to such use on any parcel outside such a subdivision, without the prior written approval of the Planning Board. For the purposes of this section, the word "parcel" means any tract of land under common ownership as of the effective date of the Subdivision Control Law in Chilmark (June 17, 1975).*

* Rich Osnoss explained that input from former Building Inspector Lenny Jason was often sought in the past when a situation arose when a person wanted to build multiple dwellings on larger lots.
* Mitchell Posin stated that it was his understanding that the section 1.03 allows for those with large tracts of land to not have to subdivide in order to utilize all of the lot acreage. He asked for the 27 Oyster Lane plan to be shared again on the screen and also confirmed that the road would not be expanded in this proposal. Chris Alley confirmed that the plan for the second dwelling did not required a new access. Chris Alley pointed out that most of the other towns on the island have similar bylaws or rules that discourage people from chopping up properties.
* Brief discussion occurred regarding the fact that section 6.0 of the zoning bylaw there is not mention of possible issues that the applicant may need to address due to section 1.03 of the Rules & Regulations Governing Subdivisions in Chilmark. Chris directed the Board members to the Oak Bluffs zoning bylaws which direct people to the need to receive approval from the Planning Board before building additional dwellings. Chris also mentioned that he had spoken with the Building Inspector about this topic and possible solutions. Rich read aloud the section 6.0 of the zoning bylaws. Chris Alley reiterated that there is no mention in that section about the need to review section 1.03 for applications for additional dwelling and suggested that section 1.03 should be “echoed” in some way in the zoning bylaws.
* Janet Weidner asked about the shared septic system. Chris Alley explained that the Board of Health has no jurisdiction over this application. Rich Osnoss stated his not opposed to the plan, but he thought that real thought should be given to revising the Rules & Regulations Governing Subdivisions in Chilmark.
* Chris Alley stated that there is no filing fee and no application for this process and wondered whether Jennifer Christy would be writing a letter to the Building Inspector. This was confirmed by Rich Osnoss that this is what would happen if approved.
* A motion was made by Hugh Weisman to approve the plan. The motion was seconded by Ann Wallace. The motion was approved unanimously by a roll call vote.

**Master Plan:**

* Janet Weidner, chairperson of the Subcommittee, provided an update of the Master Plan process. The Subcommittee members met with the Select Board and received approval for the Survey and questions from the Select Board and the plan is for Jennifer Christy to compose an opening email memo and send the survey out to the Boards/Committees and Depts. by October 2.
* Janet Weidner asked if another Subcommittee member would address the question that was broached at the Select Board meeting about the Menemsha Speed Bump idea.
* Catherine Thompson said that the Select Board had complaints about speeding on Basin Road. They had been approached about the idea of a seasonal speed bump and the Select Board would like the Planning Board to address this concern. The Subcommittee suggested contacting Dan Doyle at the MV Commission for assistance.
* Rich Osnoss suggested that a sketch be made and the initiation of a conversation with Dan Doyle be made for the next meeting.

**Correspondence:**

* There was no correspondence reviewed.

**Minutes:**

* No minutes were reviewed.

Rich Osnoss asked Board Members to contact him if they have ideas about how to limit the length of the meetings.

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

**Next Meeting(s):**

* Tuesday, Oct. 10 , 2023, 4:30PM

**Documents:**

Draft proposal for Accessory Apartment & Guest Houses zoning bylaw amendments

Draft proposal for farm zoning bylaws

Correspondence from townspeople re pickle ball

Meeting adjourned at 7:22PM. Minutes respectfully submitted by Jennifer L. Christy