**Approved Meeting Minutes**

**Chilmark Planning Board Meeting**

**October 10, 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, Beetlebung Farm, Kate Woods Deborah Hancock, Adam Petkus, Clark Goff, Daniel Greenman (MV Times), Jim Malkin, Ruby Iantosca, Julie Flanders, Judith Flanders, Cathryn Cain Ware, Jeffrey, Mallory Watts, Amy Weinberg, Noli Taylor (at 5:48PM), Lonnie Phillips (at 5:49PM), Lydia Fischer(at 5:55PM), Krishanna Collins (at 5:55PM), Julie (at 6:15PM)

Staff: Jennifer L. Christy

Site: Remote Meeting/Participation on ZOOM

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

**Minutes:**

* August 14, 2023 was reviewed and approved as written, by roll call vote.
* August 28, 2023 was reviewed and approved as written, by roll call vote.
* Sept. 11, 2023 was reviewed and approved as written, by roll call vote.
* Sept. 25, 2023 was reviewed and approved as written, by roll call vote.

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

* Rich Osnoss recognized Select Board person Jim Malkin and he noted that the Town’s Counsel has provided advice and he urged the Planning Board to follow the recommended process of Town Counsel. Jim Malkin stated that he also wanted to convey, on the topic of farms, farmstands and commercial districts, the view that the Select Board would suggest that no members of the farming community be a member of a bylaw development working group committee. He noted appearance of conflict of interest issues may arise and that there may be financial interest held be farms if bylaws are developed and voted that have financial impact.
* Rich Osnoss thanked Jim Malkin and relayed a conversation that he had with Town Counsel to clarify the Counsel’s advice re pickle ball bans or moratoriums. Rich Osnoss stated that the Planning Board’s intent was to gain more time while figuring out which way to go. Rich stated that the option of initiating a proposal to amend the zoning bylaws to ban pickle ball court use was suggested by Town Counsel as opposed to a proposal to amend the zoning bylaws with a moratorium on pickle ball courts. Rich suggested that at the Planning may want to initiate a zoning bylaw amendment that addresses the concerns of pickle ball play such as noise or setbacks. It might be preferable, Rich stated, because it doesn’t necessarily ban pickle ball play for those that enjoy it, but would address the key concerns of pickle ball which is the noise.
* Jim Malkin wished the Board well in their work and logged off.
* Jennifer Christy shared her screen of Peter Cook’s memo regarding where the Planning Board stands on the decision on which way to go on a pickle ball regulation, sent on Sept. 26, 2023. Peter Cook summarized the memo.
* Hugh Weisman was recognized and noted that he made a motion that was defeated at the last meeting to have a public hearing on a bylaw to prohibit it and it would start the process rolling. He asked to restate his motion.
* Rich Osnoss discussed the pros and cons of a ban or a moratorium. He noted that the methodology for a hearing may be that if an all out ban is proposed it might feel one-sided and people may be unhappy. Rich thought perhaps that a bylaw that addresses setbacks and noise limits may be more inclusive of everyone.
* Hugh Weisman stated he thought there may be too little knowledge about noise levels to create a bylaw about that and he revised his motion to have a public hearing to regulate pickle ball courts. Rich Osnoss noted that it was his understanding that a more descriptive proposal needs to be put forward for a public hearing.
* Ann Wallace thought that a bylaw would need to written to have a public hearing and a “hold” on the use of pickle ball courts. She thought further that restrictions on noise levels could be discussed during the public hearings.
* Peter Cook suggested that the issue is how does the Planning Board respond to the volume of correspondence that we have received asking for a ban on pickle ball. He imagined that the Board must respond with a proposal that is very clear or the Board pushes the decision on a proposal off to the future and proceeds with a moratorium. Peter Cook suggested that a public hearing process on a proposal to ban pickle ball court use would effectively create a moratorium. He noted that any other direction that the Board takes in a response to those who are in favor or the Board proposing a ban would be the message that we are talking and deliberating on the idea.
* Janet Weidner asked why a proposal to place a moratorium in place for a year, for example, would not have the desired effect of putting a hold on pickle ball court use. She suggested that a moratorium seems better because she is not in favor of a ban and it would give time for research and development of a proposal that is informed and better considered.
* Rich Osnoss discussed his view of the effect of a zoning bylaw amendment process for a ban or a moratorium. Discussion occurred on the question of whether a moratorium bylaw proposal would place a “hold” on pickle ball courts use just as a bylaw proposal to ban pickle ball court use would place a “hold” as of the date of the public hearing.
* Hugh Weisman clarified that if there is a bylaw proposal to ban pickle ball court use and there is a public hearing there is no reason that any of the other factors such as noise and setbacks could be considered. Rich Osnoss stated he believed that this is true.
* Ann Wallace clarified her view is that the difference between a ban and a moratorium is that a ban would limit the courts being built as of the date of the hearing and a moratorium would not do this. Rich stated it was his view that this is correct. Ann Wallace restated that a proposal to ban pickle ball court use would “buy” the Planning Board time to discuss the proposal in public hearings.
* Peter Cook suggested that the Board members read the correspondence from Matt Poole. He stated that a draft amendment proposal be written that could be voted on at the next meeting. Jennifer Christy shared the response from Counsel on the question of a moratorium or a ban on pickle ball court use.
* Adam Petkus, Building Inspector, wondered whether this should be a zoning bylaw or a general bylaw and wondered how enforcement of the use of pickle ball courts would occur. He asked who would be carrying out the enforcement.
* Peter Cook thought that a public hearing process may encourage a range of views on the pickle ball court use.
* Sergio Modigliani clarified the bylaw proposal process.
* Cathy Thompson wondered if any town does have a ban on playing a sport and wondered how broad is the ban to be proposed.
* Peter Cook thought that a draft needs to be worked on and a proposal for a bylaw amendment needs to be considered and brought back to a subsequent meeting. Rich Osnoss wondered if a simple proposal to ban pickle ball court use would be amenable to all. Rich Osnoss noted that Counsel stated that the Board may always close a public hearing without a vote on a bylaw and then open a new public hearing.
* A motion was made by Hugh Weisman that a public hearing be held to discuss a bylaw that would prohibit pickle ball in Chilmark. After some discussion, Hugh Weisman changed his motion to: I propose a bylaw that pickle ball is a prohibited activity in Chilmark.
* Ann Wallace suggested that Rich Osnoss stated that the motion is to vote to craft a bylaw that prohibits the construction of pickle ball courts. Rich could not remember the exact wording. Deborah Hancock remembered that Rich Osnoss stated that his motion was be that pickle ball courts are prohibited in Chilmark. Hugh Weisman stated that the motion is that the bylaw proposal is that pickle ball courts are prohibited in Chilmark. Peter Cook made a motion to vote to announce a public hearing on banning pickle ball courts in Chilmark.
* Ann Wallace clarified that she thought that it was backwards. Hugh suggested a bylaw that will state new pickle ball or existing pickle ball courts in Chilmark are banned.
* Sergio suggested that the motion could be that the Planning Board is considering regulatory changes to the bylaws governing construction and use of pickle ball or banning the play of pickle ball in Town.
* Ann Wallace stated she would not be in favor of banning the activity of pickle ball in Town. She would be ok with banning further construction until more discussion has occurred.
* Rich Osnoss asked Jennifer Christy to share her screen with the suggestion from Town Counsel. Jennifer Christy shared her screen with the words from Town Counsel.
* Peter Cook made a motion to announce a public hearing on whether to change the zoning bylaws to make pickle ball courts a prohibited use rather than a specially permitted use. Hugh Weisman seconded the motion. A roll call vote was taken: PC-Aye, HW-Aye, CT-Aye, AW-Aye, JW-Aye, RO-Aye.

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

* Rich Osnoss asked Jennifer Christy to share her screen of the current draft. Peter Cook suggested we wait for Laura Silber to be available. Rich Osnoss stated he has spoken with Laura Silber and she has specifically stated that she is not a bylaw writer and thought that the draft was appropriate.
* Ann Wallace pointed out that the bylaw draft has been reviewed by Town Counsel in Tisbury. Cathy Thompson suggested that the phrase “including commercialization caused by the misuse of single-family residences.” be eliminated.
* Peter Cook made a motion to alter the proposal wording in this section: “The Town deems it necessary and appropriate to protect the existence of year-round residences by preventing unwarranted commercialization of single-family residences.” The motion was seconded by Ann Wallace and the vote was unanimous by roll call vote with Janet Weidner clarified that the Board members are just voting on the restatement of that one portion of the bylaw proposal.
* A motion was made to send the bylaw proposal, as amended, to Town Counsel for review before forwarding it to the Select Board. The motion was seconded and the roll call vote was unanimous.

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

* Hugh Weisman reported that he met with the Building Inspector today and spoke about how various changes need to be made to the zoning bylaws. He suggested that a group be formed to review the zoning bylaws and to see where changes need to be made. Hugh Weisman agreed to connect with other townspeople about changes to the bylaws regarding definitions and how Total Living Area is calculation.

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

* Rich Osnoss opened the discussion of the establishment of a subcommittee. He asked Jennifer Christy to share the email received from Matt Poole of the Board of Health. Jennifer Christy shared the email from Matt Poole.
* Wording for an ad was reviewed. Rich Osnoss suggested taking out the word “certain”. Deb Hancock suggested that the word “certain” be taken out and “business” be replaced with “commercial”.
* Ann Wallace suggested that the application include whether there is any affiliation with farms and whether they sit on any boards in town and that they please submit their reasons for desiring to be a member of the subcommittee.
* Rich Osnoss stated that it was his memory that Cathy Thompson and Ann Wallace have volunteered to serve on the subcommittee. Rich asked if Peter Cook had also offered to serve. Peter Cook said yes and also said he would not replace the word “business” in the ad with “commercial”.
* Ann Wallace stated that she does not think she would be able serve on a formal subcommittee if she is also working on the Master Plan committee.
* Cathy Thompson stated she would also not use the word “commercial” and she expressed some reserve about serving on another formal subcommittee.
* Peter Cook suggested that there may be a template to use that was used at the beginning of the Peaked Hill Pastures Housing Committee –not a formal subcommittee, but a way to hear from a large range of people before a formal committee is formed.
* Adam Petkus noted that farm/agricultural use is allowed but what is being talked about is turning the space into a use as an assembly use for events—an event space for dinners and education and he thought it would be more effective to regulate it specifically rather than as a broad stroke.
* Rich Osnoss thought that a committee may work on a bylaw that would allow farms to have events on their farm.
* Mara Flanagan stated that there is probably more nuance to what the farms are asking for—they are asking for agriculturally related activities within the events that they want to hold. Adam Petkus clarified that assembly uses will be covered by and have oversight from many different depts. He clarified that it seems that what is being talked about is congregating groups of people to these properties and to allow them to assemble for an event.
* Amy Weinberg was recognized and said she appreciated this clarification. She stated that some think that what is being proposed is already allowed for farms and that there is also possible agritourism to be allowed soon because a bill is now going to committee at the state level. Amy Weinberg clarified that they are just trying to get feedback to a draft bylaw and that farmers are really part of the process. She further stated that what the farmer group wants to do is just get clarification of exactly what the farms are allowed to do given that many people think that farms are allowed to have these kinds of activities on farms.
* Rich Osnoss suggested that possibly what the farms may need to do is to continue doing what they want to do until someone stands up and says we have to deal with it or the farmers could come up with a set of guidelines for certain events.
* Amy Weinberg stated that she is concerned that the Board has moved away from the subcommittee idea. She wondered if the best thing is to go to the Select Board.
* Amy also wondered if there was someone in the Town who could meet with the farmers to educate them to understand the pros and cons—she expressed a desire to come up with something that people are excited about and can get behind.
* Rich Osnoss thought that a bylaw proposal, if proposed, would give a chance for it to be reviewed.
* Peter Cook noted that this is a central issue in the deliberations about the Master Plan. He noted that this is a defining issue for the Town.
* Rich Osnoss suggested that some follow-up will be done to see what kind of subcommittee may be formed.
* Mara Flanagan wondered if a working group is still a possibility. Rich Osnoss stated that community members may get together to discuss anything they would like to.
* Amy Weinberg asked if the Select Board thought that a committee was planning to be formed that was just Planning Board members and farm group representatives. She thought that she could understand their reticence to a farm committee with farm group members on it if that was the situation. Amy Weinberg wondered if she should place her own advertisement for members of a committee. Rich Osnoss provided encouragement.
* Peter Cook thought that a specific request from the farmers for an event may be submitted and could be used as a bellwether for the process to see what the objections are especially if a certain amount of the activities that the farm group wants to do is thought of to be by right.
* Amy Weinberg stated that the farm group wrote a letter to the Building Inspector asking what activities are permitted. She stated that the group also wrote a lengthy proposal for some on-farm experiences, one event a month for 22 people or less, and it was denied and it was said that they are zoned agricultural and not commercial. Amy Weinberg thought there was broad public support for what the farms would like to do.
* Peter Cook explained that part of the problem is that what the farm group has proposed is a lot and it is a lot for the Town to absorb. He reiterated that his idea of proposing one event is like a “cat’s paw”, one way in, to look at the topic and for the Town to say this is what may be coming and it would get things started to hear objections and concerns. It would serve, he noted, as a way to inform how to go forward. Rich Osnoss wondered what government entity would receive an application for an event. Amy Weinberg clarified that an application would go to the Building Inspector.
* Amy Weinberg concluded to say she is just searching for clarity and she will continue to work towards this and thanked the Board members for their time.

**Master Plan:**

* In the absence of Chairperson Janet Weidner, Cathy Thompson summarized the results of the subcommittee meeting today.

**Correspondence:**

* A motion was made to send testimony in support of the Local Option Transfer Fee Bill. The motion was seconded and was voted unanimously by roll call vote.

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

**Next Meeting(s):**

* Monday, Oct. 23, 2023, 4:30PM

**Documents:**

Recommendation from Town Counsel re Pickle Ball zoning bylaw proposal

Memo from Peter Cook re Pickle Ball zoning bylaw proposals and moratoriums

DRAFT FOITS zoning bylaw proposal

Draft proposal for Accessory Apartment & Guest Houses zoning bylaw amendments

Meeting adjourned at 7:01PM. Minutes respectfully submitted by Jennifer L. Christy