

# Approved Meeting Minutes

## Chilmark Planning Board Meeting

November 13, 2023

4:30PM

### Via remote participation

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

Not Present: Hugh Weisman

Public & Board/Comm. Members: Jeff Kaye, John Diamond, Susan Greeley, Joan Malkin, Ruby Iantosca, Thomas Humphrey, Leslie Prosterman, Clark Goff, Daniel Greenman, Kaitlyn Kurth, Mara Flanagan as 'Beetlebung Farm', Scott Darling, Allison Burger, iPhone 87, A Flanders, Michael Barclay (at 5:20PM), Chris Alley (at 5:20PM)

Staff: Jennifer L. Christy, Adam Petkus (at 5:15PM),

Site: Remote Meeting/Participation on ZOOM

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

### **PUBLIC HEARING: Pickle Ball Courts Use:**

- Chairperson Osnoss opened the public hearing, read the wording of the proposed bylaw amendment and gave a brief history of what has led the Board to today's public hearing.
- Chairperson Osnoss invited the public to comment on the proposal.
- John Diamond spoke in favor of the pickle ball sport and noted key benefits including exercise, fun, limited cost.
- Jeff Kaye was recognized and noted that pickle ball is a very fast growing sport and there is a backlash due to the noise. He also noted that he is on the ZBA in West Tisbury, but that he is here speaking only on his own, not on behalf of the West Tisbury ZBA. He noted that the noise from pickle ball play can be heard up to 750 feet away.
- Leslie Prosterman was recognized and stated that it is not about the quality of the game, but about the neighborhood noise. She noted that Tisbury is having an issue with noise of pickle ball courts on town-owned courts. Leslie advocated for a ban on the building or renovating of pickle ball courts.
- Peter Cook noted that the pickle ball industry is looking at ways to mitigate the sound from pickle ball racquets and balls. He noted that what the Planning Board is interested in is to gather the views of the public on a ban and then put something forward that satisfies the views of the most people.
- Rich Osnoss stated that there is a possibility that a new ball and/or racquet could be invented that would help with the noise level.
- Joan Malkin inquired whether the land up at Peaked Hill is town-owned land, where the baseball field is, and whether it could be used for a pickle ball court. She was reticent to advocate for a ban, but noted that if a ban were to be put in place it also could be reversed. She recommended that there be hard data found about the distance at which the noise of pickle ball is invasive if the Board does go forward in banning the pickle ball court use.
- Kaitlyn Kurth noted that she is the mother of a 4 and 8 year old and they play at the bubble at the Tennis Center. She was not in favor of banning pickle ball as a sport and she thought that the Town could find a way to make pickle ball work in Town.
- Jeff Kaye noted that the sound of pickle ball also makes it popular and he thought that pickle ball has not embraced a soft paddle or ball and they probably will not.
- Amy Salzman was recognized and hoped that the Town can find a way that protects people's interest in a sport and a way to protect the right of homeowners to have peace and quiet.

- Jeff Kaye suggested finding what the level of noise is and how far does it go. He encouraged defining how far the sound of pickle ball extends. Rich Osnoss stated that he thought this may be difficult due to varying topography.
- Leslie Prosterman thought that the task of measuring noise may be very difficult. She recommended the exploration of town courts and the idea of a 'bubble' as mentioned by Kaitlyn Kurth.
- Scott Darling was recognized and stated that he is a seasonal resident and he related that he has a friend who has a property three lots away from a house that includes a pickle ball court and they have had trouble selling the house.
- Peter Cook made a motion to continue the hearing to Monday, Nov. 27<sup>th</sup>, 4:30PM. The motion was seconded by Cathy Thompson. The motion was voted unanimously to approve by a roll call vote.
- Joan Malkin emphasized that the Planning Board needs to make information about the noise levels available to the public.

#### **Minutes:**

- The draft minutes document of the meeting on October 23, 2023 was not reviewed and postponed to the November 27, 2023 meeting.

#### **Master Plan:**

- The subcommittee summarized the results of the meeting today, particularly noting that they have received 13 responses so far.

#### **Correspondence:**

- The Vineyard Gazette invoice for the hearing notice was reviewed. A motion was made to pay the \$268 invoice. It was seconded and passed unanimously by a roll call vote.
- Bill Veno's email regarding the CPTC class on Nov. 18<sup>th</sup> via ZOOM regarding overlay zones was reviewed.

#### **MV Commission Grant Initiatives:**

- Peter Cook gave a short report on the work that Laura Silber is doing to obtain a grant for use, in part, to possibly review and update the zoning bylaws.

#### **Form A: Susan Eddy, Map 25, Lot 7.6, 12 Welles Way:**

- Reid Silva presented the Form A plan.
- Reid also shared the image of the 1982 Form C plan that has the note stating that any further division "will require approval of the Planning Board after submission of a "form "c" application."
- Rich Osnoss thought that if the road is sufficient and they are likely permitted to do a Form C then they would be approved to do a Form A.
- Mitchell Posin stated he thought that the only issue is the density. He thought that if the applicant brought this same plan back to the Board it would be approved most likely.
- Reid Silva stated he thought that the plan was approved at an earlier period of time in the history of subdivision and they may have misstated things on plans.
- He also thought that if you do a Form C it is about creating a road, rather than a Form A which is a process by which the Board reviews whether the road is adequate.
- Reid Silva characterized a Form A as a process where a Board, without a public hearing, looks at the frontage to make sure it is enough and a road to see if it is adequate. A Form C is a much more comprehensive process requiring public hearing, notification and interaction with other Boards such as Conservation Commission and the Board of Health.

- He advocated for using the Form A on this plan because it is the most appropriate due to the fact that an adequate road exists and it has been looked at by the Board in 1982 through the Form C definitive subdivision.
- Ann Wallace stated she would want a Form C plan for this. Cathy Thompson agreed that this is the plan she would prefer as well. Peter Cook suggested that a visit be made to see the road as another way to go.
- Mitchell Posin noted that the note does not say that there is to be no further subdivision.
- Rich Osnoss thought that following the Form C process may be the prudent way to go as well.
- Reid Silva requested to withdraw the Form A plan and application and will follow up with a Form C application and plan.

**Request for Approval for a 2<sup>nd</sup> Dwelling at Map 25, Lots 132 & 135, Davies, 12 Stone Ridge:**

- Michael Barclay requested that Chris Alley speak to the topic. Chris explained the situation with road access and the planned 2<sup>nd</sup> dwelling to replace the existing Guest House. Chris Alley showed an image of the assessor's map on the screen. He showed the lots 135 and 132 which are the two lots that map up the 6+ acres. Lot 135, Chris Alley pointed out, is where the Davies' house is and are assessed as Chilmark House LLC. Chris Alley understands, he stated, that section 1.03 of the Rules and Regulations Governing Subdivisions in Chilmark require an applicant for an additional building for dwelling purposes on a lot in a subdivision requires Planning Board approval.
- Chris Alley then shared the screen of the plan for Chilmark House LLC and the conversion of the existing Guest House building into a second dwelling. He reiterated that the proposal is to build a second house on lot which is more than 6 acres. Chris Alley described the plan for and positioning of proposed dwelling house and also described the septic plans. He noted that the proposal is in the Roadside District and architect Michael Barclay attended the Site Review Committee on this topic. Chris Alley also noted that the proposed dwelling is one-story and did not require any height relief and there are no additional curb cuts.
- Brief discussion occurred about what specific approval and/or document is being requested from the Planning Board and discussion occurred about the fact that there doesn't appear to be an application or form for approval for the process. Chris Alley inquired with Jennifer Christy for guidance. Jennifer Christy confirmed that there has not been found an application or form and also noted that the lot 132/135 was created by a Form A in 1992, but that lot 132 was part of a definitive subdivision in 1977 owned by Lawrence Belden.
- Michael Barclay noted that the project likely won't be started until September 2024.
- Mitchell Posin asked for the square footage of the main house and the new dwelling. Michael Barclay stated the square footage of the Guest House is 1313 square feet (Rich Osnoss noted to Michael Barclay that he should not refer to the proposed 2<sup>nd</sup> dwelling as a Guest House since it will be a larger 2<sup>nd</sup> dwelling. Michael Barclay agreed). Michael Barclay noted that the lot is 7.2 acres and that supports 4777.5 of living area square feet. He further stated that the existing main house square footage is 3464 and 1313.5 is the amount available for the second dwelling without needing to go for a special permit.
- Rich Osnoss asked if there are any issues or concerns with the proposal. Peter Cook inquired what the issue is and what is the decision that the Board is making in reference to this proposal. Rich Osnoss alerted Peter Cook to and read aloud the section 1.03 of the Rules & Regulations Governing Subdivisions in Chilmark. Rich Osnoss stated that Michael Barclay and Chris Alley are following the procedure that is laid out in the Rules & Regulations Governing Subdivisions in Chilmark.

- Peter Cook said that it seems that what the Planning Board is doing then is making sure that the overall dimension of the two lots supports this amount of square footage.
- Rich Osnoss asked if there was any more discussion or questions.
- Ann Wallace was recognized and moved to approve the 2<sup>nd</sup> dwelling request on the 12 Stone Ridge lot. Cathy Thompson seconded the motion and the motion was approved unanimously by roll call vote. Rich Osnoss requested that Jennifer Christy send a note to the Building Inspector to alert him that the proposal has been approved.

**Form A: Hancock & Mormoris, Map 11, Lot 30, 45 Quenames Rd:**

- Reid Silva shared his screen of the property and explained the division proposed by the Form A. Reid mentioned that there is a record of the property being divided in two. The Form A today, as presented by Reid Silva is to divide the lot into three lots.
- Mitchell Posin asked questions regarding the access.
- Rich Osnoss inquired about the history of the lot and surrounding lots regarding referral to the MV Commission and also noted that the plan increases density by adding the one lot.
- Reid Silva took time to explain the type of Form A plan being shown and the process. He noted that this is a Form A and what is needed is for the Planning Board to confirm that the required frontage is apparent and the road is adequate.
- Peter Cook stated he did not see any issue with the road and Mitchell Posin agreed.
- Ann Wallace made a motion to endorse the Hancock & Mormoris Form A. The motion was seconded by Peter Cook and unanimously endorsed by a roll call vote.

**Discussion Section 1.03 of Rules & Regulations Governing Subdivisions:**

- Rich Osnoss recognized Reid Silva who shared his thoughts on section 1.03 of the Rules & Regulations Governing Subdivisions in Chilmark, mentioning that it appears to be applied differently now than how it was applied in the past. Reid Silva stated that his intention is to be on the same page as the Planning Board and so that he can provide good information to his clients. Rich Osnoss stated that there is ambiguity in how 1.03 is written. Reid stated that this is his interpretation and he mentioned that he had spoken with the former Building Inspector many times in the past and he thought that if the lot was a result of a definitive subdivision then it could not have multiple dwellings on the lot. Reid Silva gave an example that once subdivision control law was adopted and you had a 15 acre lot, for example, that was not part of a definitive subdivision, you could have up to three dwellings, but if you subdivided a lot then you could not come in later and ask for more dwellings unless it was noted on the original plan that additional dwellings were allowed. Reid Silva reiterated his need for clarification so that he would know what to tell clients and asked if the current interpretation is that if a person has six acres, no matter how that six acres was arrived at, they could come to the Planning Board for a 2<sup>nd</sup> dwelling.
- Rich Osnoss reiterated the ambiguity in 1.03 and suggested that one of the reasons to allow additional structures on a lot is to prevent subdivision. He asked for the topic to be on the next agenda and the need to identify the history of the topic.
- Reid Silva noted that he had spoken the former Building Inspector in the past about a 30 acre parcel and there was discussion about when it was created which ended up being within months of the adoption of subdivision control law.
- Chris Alley he was only recently aware of 1.03 and the Planning Board's role in additional dwellings and described that the Oak Bluffs zoning bylaws includes a section that requires an applicant for a special permit for a 2<sup>nd</sup> dwelling to go before the Planning Board.
- Reid Silva expressed the view that zoning controls density and dimensional requirements and where a Town say how big Guest Houses can be, etc. He further stated that rules and

regulations in subdivisions are about the creation of roads and lots. He reiterated that zoning dictates density and use and he thought that this has to get into zoning clearly. Reid Silva also asked exactly what permit is actually being issued here.

- Rich Osnoss asked for the topic to be on the next agenda.
- Peter Cook stated that a thorough review of the zoning bylaws need to be done with an understanding of the intent of the bylaws which may not be the intent any more.
- Chris Alley noted the zoning Bylaw in Oak Bluffs has a zoning bylaw that addresses multiple dwellings and then it refers the applicant to the Planning Board as well.

A motion was made to adjourn the meeting. The meeting was adjourned.

**Next Meeting(s):**

- Monday, Nov. 27, 2023, 4:30PM

**Documents:**

Public Hearing Documents for the Pickle Ball Zoning Bylaw proposal: Hearing Notice, Testimony

Correspondence from Bill Veno re Zoning Overlay CPTC Course

Vineyard Gazette invoice for advertisement of Pickle Ball Courts Use Zoning Bylaw amendment hearing notice

Meeting adjourned at 6:35PM. Minutes respectfully submitted by Jennifer L. Christy