

## Planning Board Minutes 07/23/18

### APPROVED

#### Chilmark Planning Board July 23, 2018

Present: Rich Osnoss, Mitchell Posin, Janet Weidner, Joan Malkin, Peter Cook, John Eisner

Not Present: Chris MacLeod, Jennifer Christy, Admin. Asst.

Public & Board/Comm. Members: Clark Goff, Jessica Roddy, Ann Wallace, Caroline Flanders, Billy Meegan, Wendy Weldon

Staff:

Meeting was called to order at 4:30 PM

- **Guest House Zoning Bylaw Discussion:**

- Mr. Osnoss opened the discussion and invited those present to join the discussion on whether an increase in the allowable size of a Guest House would be preferable to the Town.
- The Board discussed the issue of attracting more attendees to meetings on the Guest House issue.
  - It was noted that a mention of the issue again in the Town Columns would be beneficial. It was noted that a mention in the Town Columns would be good prior to a public hearing.
- Mr. Posin stated that a representative of an island bank is working on providing some scenarios that would show what income would be needed to afford a lot in Town and to afford to build a house and guest house in Town.
- Ms. Roddy asked if it could be found out how many guest houses are in Town. Ms. Roddy also asked for information on how many houses are 1200 sq. ft. or less and how many are between 1200 sq. ft. and 1500 sq. ft. Ms. Roddy asked if the Board could look into how West Tisbury feels about their increase in allowable Guest House size.
- The Board members also discussed following up on the meeting with the West Tisbury Planning Board
- Mr. Posin requested information regarding how many applications have there been to exceed the allowable square footage, how many additions have been built and how many tear-downs have been allowed. Ms. Malkin asked Mr. Posin to clarify that his interest is in how many applications have been made for demolition of a building.
- Ms. Roddy suggested increasing the Accessory Apartment permissible size from 800 sq. ft. to something large, 1200 sq. ft. possibly, and limit that increase to family members, caregivers and qualified affordable housing applicants. She also proposed moving ahead with the Housing Committee's proposal to allow for the division of a lot resulting in less than one acre Homesite lots. She noted that this would allow for less expensive rents for people of a certain income. Ms. Roddy also suggested that the age limit for Youth Lots be increased, possibly to 45 years of age. Ms. Roddy feels these suggestions would help to solve an affordability issue for people in a middle-income strata.
- Ms. Roddy stated that although the Housing Committee would prefer that lots remain perpetually affordable they do recognize that the Youth Lot program is popular and people in Town would like it to remain active.
- Discussion occurred regarding the turnover of Youth Lots and whether it is a problem. It was noted that it did not appear that the program has been utilized to monetize the lot and it was requested that Ms. Christy please find data regarding Youth Lots and the application of the program.
- Mr. Osnoss brought the topic back to the number of houses that were built in the past that were smaller than those that are built today and he noted the reasons may have been economical and site-related. He stated he would like to look at the data that shows the size of built houses in Town so that the Board can understand how things may have changed over the years in terms of size of dwellings.
- Ms. Roddy stated her goal is to limit upsizing of Guest Houses due to the fact that it is her view that people of means will purchase properties with the knowledge that they will be able to rent larger sized Guest Houses and profit from this lot and prices will rise further exacerbating the issue of expense for middle income families.

- Ms. Weldon noted that many of those who build or who have a Guest House are year-rounders move into that structure and rent the larger main residence in order to make the maximum amount of rental income. She noted that she does not believe making bigger Guest Houses is only about summer residents maximizing the use of their lots, but about year-round younger people who may be able to build two dwellings, one a Guest House, and be able to live comfortably in the Guest House and rent the main house resulting in a maximized income from the rental that subsequently allows them to live in Chilmark.
- Mr. Meegan asked for clarification of the process that the Planning Board is following and what the end result will be. Mr. Osnoss stated that discussion is happening at this point about the idea of increasing the allowable size of Guest Houses in Town. He noted that the Board is attempting to come to a point of understanding before a public hearing or hearings are held this coming fall.
- Mr. Meegan stated that his family applied for a Guest House special permit when they were allowed on two acre lots and he summarized the history of the initiation of the Youth Lot process and how the Homesite Housing bylaw developed.
- Mr. Meegan described how the Homesite Housing bylaw developed over five years.
- Mr. Meegan expressed a need to understand the overall objectives of the Board taking into account the fact that the Board recently proposed, and the Town passed, the Residential Building Size Regulation limiting living area and the Board is now considering the increase of living area for Guest Houses. Mr. Meegan suggested that consideration be given to the idea of allowing a larger Guest House if the owner places it into the Homesite “pool” and creates another affordable housing option that is also affordable in perpetuity. He mentioned that this option would guard against larger Guest Houses being built to further monetize the lot rather than provide an option for allowing middle income residents to continue living in Chilmark.
- Mr. Osnoss stated his view is that the limit in Total Living Area already in the zoning bylaws makes a limit on the size of the Guest House irrelevant.
- Mr. Eisner stated his view that the issue is rather not one of Total Living Area but one of which and how many dwellings on the lot may be “monetized”. He noted that Accessory Apartments, for example, are regulated in a way that Guest Houses are not. He further stated that he does not see a connection between making Chilmark more affordable for middle income residents and increasing the size of Guest Houses.
- Ms. Malkin asked Ms. Weldon to elaborate on her view that a larger Guest House would be better for families to move into for the summer while they rent their larger main house. Ms. Weldon stated she felt that a larger Guest House is just more accommodating. Ms. Weldon also posed the idea of whether a 1200 sq. ft. Guest House on a lot is very much different from a lot with an 800 sq. ft. Guest House and a 400 sq. ft. Accessory Apartment. She mentioned that the expense of building a 1200 sq. ft. Guest House may be less than building two separate buildings that add up to 1200 sq. ft. and would, therefore, be more available to middle income families as an option.
- Mr. Posin stated that each lot has a septic system designed for a specific number of bedrooms and the bedrooms in all of the dwellings must not exceed that septic system limit. It was Mr. Posin’s view that the limit of the septic system on bedrooms establishes the density of the lot and not the number of dwellings.
- Ms. Malkin noted that a 3 acre lot can accommodate multiple septic systems and it was noted that the most that a septic system may provide for is 12 bedrooms. It was also noted that a lot must provide 10,000 sq. ft. per bedroom (an acre is 43,560 sq. ft.).
- Mr. Cook noted that an increase in the size of a Guest House does not necessarily address the issue of affordable housing and it is not clear that an increase in the permissible size of Guest Houses was within the scope of the original Residential Building Size Regulation. He noted that all proposals would need to qualify for a special permit. He further noted that he would like to see a proposal that is written up, by an advocate, who details the idea to allow Guest Houses at some larger size. He noted that the parts of this proposal would be:
  - Worded simply
  - Question is well-defined
  - Statement of fact that is agreed upon based on data
    - # of Guest Houses now
    - Regulations currently in effect
  - Arguments for the proposal: Who benefits from the proposal and what could be affirmed?

- Mr. Cook noted that without a proposal that is structured similarly to the above, it is difficult to view the proposal and also try to envision alternatives in order to ascertain whether the proposal may be adjusted to assist middle income residents or those in need of affordable housing.
- Mr. Cook reiterated that it would be very beneficial to start out with something that is very well-defined so that it is the focus of the discussion. He also noted that a moderator and a presenter of the proposal would be beneficial too. It is helpful to use this format because elements of the proposal that are strengths and weaknesses may be recognized quickly and discussed.
- Ms. Malkin noted that one issue with that proposal presentation structure suggested by Mr. Cook is that it is possible that the way to proposal “rolls out” may be affected by the debating and oratorical skills and knowledge of the presenter and those arguing for and against the proposal.
- Ms. Malkin also noted that it is incumbent on the Board to consider how any proposal will affect the Town in 10, 15 and 20 years.
- Mr. Meegan inquired whether the goal would be to bring a bylaw amendment proposal to the Town Meeting in spring 2019. Mr. Osnoss stated that the plan and calendar for bringing forward a proposed zoning bylaw amendment had not been considered yet and noted that the Board has not yet reached any consensus on what proposal to bring forward. Mr. Osnoss further stated that the Board intends to continue gathering information until a proposal comes forward.
- Mr. Meegan asked the Board to follow along on a description of how he may be affected by the zoning bylaws in the future. He noted he has a three acre lot with a main house that is 2400 sq. ft. and a Guest House that is 800 sq. ft. for a total of 3200 sq. ft. He stated that he has a shop also that is 24 x 26 ft. and noted that based on current zoning bylaws he could convert that shop to an Accessory Apartment. It was confirmed that Mr. Meegan could conceivably do this since Accessory Apartments may be up to 800 sq. ft. Mr. Meegan noted that it seemed that the existing zoning bylaws appear to satisfy the possible need he and his family may have to make rental income while also having a year-round place to live and providing a place for a child to have year-round dwelling. Mr. Meegan stated his intent was to look at the proposal for a larger Guest House and how it would apply to him. He reiterated that the Accessory Apartment bylaw appears to provide a structure for achieving the goal of year-round housing for offspring and for providing rental income for the resident.
- Mr. Osnoss noted that 800 sq. ft. may be too small for some. Ms. Malkin noted that the larger family on-site could reside in the main house.
- Mr. Posin stated his reason for advocating for a specially permitted 1200 sq. ft. Guest House would be to encourage people of middle income to buy land in Chilmark and successfully live in Town and was not necessarily advocated in order to provide for expanded usability of lots already owned, some for a very long time, by people already in Chilmark.
- Mr. Posin admitted that \$750,000 for a home is a difficult price to come up with. But, he reiterated, if there is a possibility of a rental home that could be useful to live in or to rent and that person is resourceful and may be able to build the structures then a change to the allowable size of Guest Houses may indeed help these middle income people afford to buy and live in Chilmark.
- Mr. Eisner inquired how much interest there is in the Town for increasing the size of Guest Houses. He suggested a fact sheet.
- Mr. Cook stated the reason for working to table the issue at the 2018 Town Meeting was in order to prevent a simple gut reaction to the proposal and to have a chance to gather facts that illuminate the need and possible impact of an increased Guest House size proposal. He stated the idea was to get the facts out there and to see if a change in allowable size of Guest Houses is actually the tool that is needed to solve the problem that is identified.
- Ms. Weldon stated the Residential Building Size regulation has encouraged lot owners in Town to look at their property in terms of total living area and how they have allocated that area. Ms. Weldon asked if there is data on how many lots in Town have created a detached bedroom and/ or Accessory Apartment. Ms. Roddy stated it is very few.
- Ms. Malkin restated Ms. Roddy’s idea that if the lot owner wants to provide more living area for a caregiver or family member then increasing the permissible size of an Accessory Apartment may be a more preferable solution. She further noted this would guard against larger Guest Houses.
- Discussion occurred about the limitations in the bylaw governing Accessory Apartments.
- Mr. Meegan restated his wish that any more living area permitted for lots be created to specifically address the need for housing and not create a space that “goes to the highest bidder on the open market.”
- Mr. Osnoss noted that the master plan and other documents the intention to maintain the character of the Town is always mentioned.
- Ms. Weldon noted that wealthier lot owners may take advantage of an increase in the permissible size of a Guest House, but that it is important to recognize that they also pay considerable taxes on their larger homes. She noted that the Town’s tax base is

supported by 85% of the seasonal people.

- Mr. Cook stated that accessory living space is an issue for year-round residents and suggested that the topic of an increase in size of Guest Houses and the term "Guest House" could be taken out of the present discussion so that the focus of the discussion may be placed directly on the search for an applicable solution for the problem as presented rather than limiting the solution discussion by focusing on one type of specially permitted structure.
- Mr. Osnoss suggested the consideration of allowing lot owners to allocate their by-right living area amount among separate dwellings on their lot without special permits. He recognized that there is a fear of a lot owner who has built a 3500 sq. ft. house on three acres, for example, and who then applies for a special permit to exceed the allowed living area on the lot in order to build a Guest House that could be, if a proposal moves forward, 1200 sq. ft. He suggested that this possibility be mitigated by allowing a lot owner to build a 1200 sq. ft. Guest House only if they do not exceed the by-right amount of living area for their lot. He further noted that it allows larger Guest Houses for some who would like it, but it does not encourage the maximization of living area.
- It was noted that this idea would allow those who have built a main house of between 2000 and 2300 sq. ft. on a three acre lot, for example, to build, as of right, a 1500 to 1200 sq. ft. Guest House as long as they agreed to not ever apply for a special permit to exceed their by-right total living area.
- Discussion occurred regarding what would possibly occur with lots in the future with new owners.
- Discussion also occurred about the ramifications if a person builds an 800 sq. ft. guest House and then also builds a 400 sq. ft. detached bedroom, essentially gaining 1200 sq. ft. of extra living area.
- Mr. Posin asked how many people have come to the Zoning Board of Appeals to exceed the limit of allowable living area. Ms. Weldon thought there may be ten applications so far made to the ZBA.
- Ms. Weldon asked what everybody's biggest fear is if the Town allows larger Guest Houses.
  - Mr. Meegan stated his fear is that the larger bylaw allowance would be utilized by those for whom cost is not a factor and would not in the end be solving the problem of creating affordability for middle income families.
  - Mr. Posin suggested the Board consider the previously stated idea that the allowance for a larger Guest House be reserved for only those within a certain income strata.
  - Mr. Meegan stated that this would not be a possible solution.
  - Ms. Weidner stated that a restriction such as this would be difficult to police and verify.
- Ms. Roddy reminded the Board that the Housing Committee has a proposal they are discussing to allow for less than an acre Homesite lots and Youth Lots.
- Ms. Weldon asked that the Board consider this change to allow for less than one acre Homesite lots & Youth Lots and noted it would be appreciated by the ZBA.
- Ms. Roddy also noted the Housing Committee has been discussing raising the Youth Lot age limit to 45 years of age. Mr. Meegan noted that if density is the issue then he would want perpetuity of affordability of a Youth Lot.
- Ms. Weidner stated most people have not sold their Youth Lots and noted that although they are able to sell after 10 years at market rate the majority have not done so. Ms. Weidner stated the Youth Lot program has been very successful from her perspective and it is beneficial to the Town to have various different tools to solve the housing issue.
- Ms. Weidner further stated that there may have been people who had been waiting for an affordable housing situation who then received a Youth Lot and are now no longer on the affordable housing waiting list.
- Mr. Meegan stated a Youth Lot just sold last year for about 1 million dollars.
- Mr. Cook suggested that an added condition to section 6 of 6..12 could possibly satisfy the issue that people are concerned with.
- Mr. Osnoss stated the discussion would continue at the next meeting on August 13<sup>th</sup>.
- Ms. Malkin stated she would send an email to Ms. Christy to ask that she collect some information for the August 13 meeting.
- **Form F Covenant Release Dunkley et al subdivision (5 Tree Frog Lane Road Approval & Release)**
  - Ms. Flanders introduced herself and described the issue and need for a release from the Form F Covenant.

- Ms. Flanders stated that the developers of the 4 lots most likely did not return to the Board at the completion of the construction of ways and the installation of municipal services to request a release from the Form F covenant. She noted that the current owners are two owners “out” from the developers.
- Mr. Osnoss read aloud the Form F Covenant of Malcolm Dunkley, Margaret Mary Dunkley and Jennifer M. Riseborough and the Planning Board.
- Ms. Malkin made a motion to release the lot 4. The motion was seconded and voted unanimously to release.
- Mr. Osnoss stated Ms. Christy will prepare the release documents and the Board members eligible to vote would visit the Town Hall to sign the release document.
  
- **Update from Subcommittee on the Menemsha Master Plan Work:**
  - There was no update from the subcommittee.
  
- **North Tabor Farm Solar Array Proposal Referral to the MVC:**
  - The Board did not take any action on the review of the referral packet.
  
- **Mass DOT follow-up letter:**
  - The Board reviewed the letter and a motion was seconded and approved to send the letter to the MassDOT.
  
- **Correspondence:**
  - The Board reviewed other correspondence, noted that two of the special permit applications on the agenda for the upcoming ZBA meeting are to exceed the total living area amount for the lots. The Board took no action.
  - The Board reviewed the correspondence from Martina Thornton re marijuana. The Board took no action.
  
- **Other Topics addressed:**
  - Ms. Malkin noted there is a shack that has been renovated to be more than a shack and it is below the flood zone. The owners want to raise the house, but the house will exceed the allowable height in the area. The owners are therefore going to raise the house two feet, but it will still be in the flood zone. She noted that Aquinnah has dealt with the issue by not counting the area in the flood zone. Ms. Malkin noted that this is an issue that should be considered since the problem will be encountered more and more often. Ms. Malkin stated a second solution would be to allow a higher height limit by special permit.
  - Ms. Malkin stated the Conservation Commission may develop a proposal to address the situation. Ms. Malkin suggested various restrictions that could be included in the proposed zoning amendment and stated the purpose is to guard against buildings being stuck in the flood zone.
  - Ms. Weidner stated this topic would be a great one for a fall joint meeting of the Planning Board, ZBA and ConComm.
  - Ms. Malkin wondered how many houses there are in Town that have first floors are in the Shore District but below the flood zone. Ms. Malkin asked if Ms. Christy could try to find this information/data.
- **Minutes:**
  - The minutes from June 11, 2018 were reviewed and approved as written.
  - The minutes from June 25, 2018 were reviewed and approved with one change.
  - The minutes from July 9, 2018 were reviewed and approved as written.
  - The minutes from July 13, 2018 were reviewed and approved as written
- **Next Meetings:**
  - August 13, 2018, 4:30PM
    - Ms. Malkin asked that the Guest House data be provided at all future meetings.

- **Documents:**

- North Tabor Farm solar array proposal referral

Meeting adjourned at 5:35PM. Minutes respectfully submitted by Jennifer L. Christy