

From: [Ron Rappaport](#)
To: [Tim Carroll](#)
Cc: [James Malkin](#); [Jennifer Christy](#); richozz@icloud.com; richozz@comcast.net
Subject: FW: Planning Board bylaw regarding farm zoning
Date: Friday, December 8, 2023 3:00:50 PM
Attachments: [Letter to Select Board re proposed zoning bylaws 11292023.pdf](#)

Tim. I understand that the Planning Board has asked the Select Board to forward the “farm” language in your attachment back to the Planning Board so that it can notice a public hearing under G. L. c. 40A, § 5. I would point out that certain terms in the language could benefit from definition and parameters. For example, is the term “farm meals” meant to be limited to the sale of farm products grown and prepared on site and made into take away meals, or to allow restaurant type service with table settings? And are there proposed limitations as to size (number of patrons) and frequency of the listed events? If the text of the bylaw does not provide these parameters, there arguably will be no limits on these functions and uses, and the by law be challenging for the Zoning Officer to enforce. I also assume that the terms “classes” and “workshops” are intended to be specific to agricultural farming operations.

I would also note that G. L. c. 40A, § 3 – the legal basis for an agricultural exemption under zoning – places minimum requirements on the percentage of products for sale which must be raised/grown on site or in Massachusetts in order to qualify as an agricultural use.

While I understand that getting answers to these questions will hopefully come out of public hearings, the Select Board may wish to ask the Planning Board to provide some further definition in advance of noticing the statutory hearing so that the public is on notice of what the proposed amendment is seeking to accomplish.

I hope that this is helpful.

Ron

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WITH OUR OFFICE BY TELEPHONE.

From: Tim Carroll [mailto:townadministrator@chilmarkma.gov]
Sent: Tuesday, December 5, 2023 6:37 PM
To: Ron Rappaport (rrappaport@rrklaw.net)
Cc: James Malkin (jimmalkin@gmail.com); Jennifer Christy; richozz@icloud.com; richozz@comcast.net
Subject: FW: Planning Board bylaw regarding farm zoning

Ron

The Select Board did not vote to send the Farm Bylaw memo back to the Planning Board tonight. They tabled any action until December 14th.

They are requesting that the Planning Board meet with them on the 14th to review the request, and are asking Town Counsel for an opinion on whether the contents of the memo are adequate under chapter 40A section 5. In particular the phrase “of a proposed zoning ordinance or by-law”. Or any other information that Town Counsel deems relevant.

...Adoption or change of zoning ordinances or by-laws may be initiated by the submission to the city council or board of selectmen of a proposed zoning ordinance or by-law by a city council, a board of selectmen, a board of appeals, by an individual owning land to be affected by change or adoption, by request of registered voters of a town pursuant to section ten of chapter thirty-nine, by ten registered voters in a city, by a planning board, by a regional planning agency or by other methods provided by municipal charter. The board of selectmen or city council shall within fourteen days of receipt of such zoning ordinance or by-law submit it to the planning board for review.

There was some discussion that the Planning Board didn't submit a formal Ch 40A sec 5 memo to the Select Board on the Big House bylaw until they had fleshed out the concept enough for it to be a draft bylaw. It was asked if this farm bylaw amendment should have been more extensively described.

Tim

Tim Carroll

Town Administrator
Town of Chilmark

508-645-2101 O 508-627-0034 M 508-645-2110 F

Pursuant to the Open Meeting Law, please refrain from REPLY ALL if it might be construed as deliberation between a quorum of any public body.

From: Jennifer Christy <townclerk@chilmarkma.gov>
Sent: Friday, December 1, 2023 8:33 AM
To: James Malkin <jimmalkin@gmail.com>; Tim Carroll <townadministrator@chilmarkma.gov>
Cc: Bill Rossi (bill.rossi@compass.com) <bill.rossi@compass.com>; Marie L (marie.chilmarkselectboard@gmail.com) <marie.chilmarkselectboard@gmail.com>; Assistant Exec Sec <asstexecsec@chilmarkma.gov>; Richard Osnoss <richozz@comcast.net>; Richard Osnoss <richozz@icloud.com>
Subject: RE: Planning Board bylaw regarding farm zoning

Good Morning Jim,

The Planning Board voted, at their meeting on Nov. 27th, to propose a zoning bylaw amendment to 4.1, G.

The letter to the Select Board, dated Nov. 29, 2023, will begin the process of a public hearing.

Thank you,

Jennifer

Jennifer L. Christy
Chilmark Planning Board
Administrative Asst.

Chilmark Town Hall
401 Middle Road, Beetlebung Corner
Chilmark, MA 02535

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jchristy@chilmarkma.gov

From: James Malkin <jimmalkin@gmail.com>
Sent: Thursday, November 30, 2023 6:40 PM
To: Tim Carroll <townadministrator@chilmarkma.gov>; Jennifer Christy <townclerk@chilmarkma.gov>
Cc: Bill Rossi (bill.rossi@compass.com) <bill.rossi@compass.com>; Marie L (marie.chilmarkselectboard@gmail.com) <marie.chilmarkselectboard@gmail.com>; Assistant Exec Sec <asstexecsec@chilmarkma.gov>
Subject: Re: Planning Board bylaw regarding farm zoning

Tim - please ask Jennifer if the Planning Board is proposing this amendment or is the Planning Board simply beginning a process to explore this amendment.

Also - I suggest that at some point, the Town will need Counsel advice that should this or similar language become a bylaw, would this trigger MVC referral and whether special permits would be required.

JMM
jimmalkin@gmail.com
617 416 2984

Getting older is no problem, you just have to live long enough.

On Nov 30, 2023, at 17:28, Tim Carroll <townadministrator@chilmarkma.gov> wrote:

FYI this will be on your agenda for Tuesday's meeting.

Tim Carroll

Town Administrator

Town of Chilmark

508-645-2101 O 508-627-0034 M 508-645-2110 F

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