



PLANNING BOARD
February 27, 2013
Judge Welsh Hearing Room

Members Present: **Mr. John Golden, Chair**
 Ms. Dorothy Palanza
 Ms. Marianne Clements

Other Staff Present: **Mr. David Gardner, Assistant Town Manager**
 Ms. Maxine Notaro, Permit Coordinator

The meeting was called to order at 6:00 p.m., by Member John Golden.

Public Hearing:

Member John Golden, read the following into the record:

“The Provincetown Planning Board will hold a Public Hearing on Wednesday, February 27, 2013 to hear comments from the public on the following proposed changes to the Zoning Bylaws of the Town of Provincetown”.

Member John Golden asked the public if anyone was here regarding proposed changes to Article 1, Art Gallery’s that it has been taken off the agenda for this evening.

Member Dorothy Palanza informed the Board that she would recuse herself; she has filed disclosure of financial interest with the Board of Selectmen. The Board of Selectmen was unable to meet prior to this meeting.

Mr. David Gardner, Assistant Town Manager, informed the remaining members of the Board, the hearing was published but they lack a quorum not allowing them to take action and move the article to the warrant. Therefore no discussion on this article will take place.

Member Dorothy Palanza returned to the hearing.

A member of the public asked the Board if there were any comments being heard by the public?

Ms. Maxine Notaro, Permit Coordinator, informed the public that the Board takes public comment following each article, however, any conversations regarding Article 1, Art Gallery’s will not be discussed tonight.

Mr. David Gardner, Assistant Town Manager, told the Board it was at their discretion to hear public statements.

The member of the public insisted she make a brief comment understanding the Board cannot vote on the article.

Member John Golden asked the individual to come to the microphone and to be brief.

Member Dorothy Palanza left the hearing.

The individual introduced herself as Rebecca Mazzariti, resident of Provincetown and a member of the Zoning board informed the Board she was speaking as a private citizen and in opposition to Article 1. It's important to remember that most commercial spaces could contain art galleries and are located in mixed use buildings. As the article is written there is no process to notify abutters or allow for public comment. Ms. Mazzariti is also concerned with the proposed redefinition of art gallery with language that appears to be loose and broad sweeping. The language suggests a description that just about anything can be a work in progress or considered art.

Lastly, if this language went to town meeting for a vote the non-resident population could possibly be affected by the proposed changes and would be disenfranchised, as they are not able to vote at town meeting.

Mr. David Gardner, Assistant Town Manager, again, reminds the Board they are not working under a quorum and would like noted that other letters were received regarding Article 1 that cannot be shared.

Member Dorothy Palanza returned to the hearing.

- **Article 2: Scale Bylaw**

See if the Town would vote to amend the Provincetown Zoning Bylaw, Article 2 and district regulation section 2640, building scale as follows:

“Each application for a building permit accept were the total volume is reduced shall contain information on building volume of all structures within 250 ft. of the center of the proposed renovation, if a structure exists, or if the center of the proposed new building except for non-residential single use, stand alone structures 2160 ft. or less or take any action there to.

Member John Golden opened the meeting to public comment.

Mr. Bruce Glimore, Attorney, on behalf of Mr. Sikorski, an applicant who would be affected by this change, stated it's his understanding that this Article was not petitioned, he has received Town Councils proposed changes and has chosen to submit his own changes as it pertains to grandfathering. Mr. Gilmore wants to be assured that any change to the bylaw would be done in equity and fairness to everyone. Mr. Gilmore requests that the Board approve changes to this bylaw with a grandfather provision.

Mr. David Gardner, Assistant Town Manager, instructed the Board to take a look at the recommendation from Town Council and the recommendation by Mr. Gilmore.

Mr. Siniko requests the Board be objective in their decision making process regarding the proposed changes to the scale bylaw.

Mr. Brian Wall, Attorney, on behalf of Mr. Siniko emphasized the point of fairness previously stated by Attorney Gilmore. His client has spent money upon the reliance of this bylaw. The project proposed at 294 Bradford Street is a perfect example of how the bylaw doesn't apply to all new structures.

Mr. Anthony Fisher informed the Board that he supports the proposed change to this bylaw.

Mr. Ted Malone told the Board that he was in support of the proposed scale bylaw change, however, is confused with when the effective date is for the changes and who they apply to.

Member John Golden read Town Council's recommendation for the language proposed for the scale bylaw, as follows:

"Each application for a building permit where a total volume is reduced shall contain information on the building volume of all structures that fall wholly or partially within the 250 ft. from the center of a proposed renovation or if a structure doesn't exist, from the center of the proposed new building except for non-residential, single use, stand alone structures of 2160 ft. or less. This provision should take effect as provided for under General Bylaws provided, however, that any property owner or his/her designee with a project or development plan pending before the Planning Board, the Zoning Board of Appeals, or the Conservation Commission prior to February 14th, 2013 shall be excluded from the provisions of this section 2640 as amended.

Board Discussion:

Member Dorothy Palanza feels it's not just one case being effected we need to make a determination whether to protect those in the process or let the bylaw just take effect.

Member Marianne Clements prefers the change recommended by Town Council to exclude any project filed prior to February 14, 2013, and include a grandfather provision.

Mr. David Gardner, Assistant Town Manager, reminds the Board the goal of tonight's meeting is to approve final language for submission to the warrant. The Board is not making recommendations on the articles tonight. They will do that after hearing the input of the public at their next public hearing.

Mr. David Gardner, Assistant Town Manager advised the Board they needed to decide between language proposed in the public hearing notice with no grandfather provision or

the alternate language from Town Council including the grandfather provision. The Board needs to take action to approve the language as submitted, or amend the language as proposed, or seek an alternative.

A motion made by Member John Golden to accept the changes to the bylaw with the grandfather provision as submitted by Mr. Gilmore. The motion was seconded by Member Marianne Clements. VOTE 2-0-1 (Dorothy Palanza).

- **Article 3- Outdoor Lighting and Illumination**

Copies of the proposed changes have been provided to the public.

To see if the Town will vote to amend Town Bylaw Article 3, general requirements section 3430 illumination – waive reading.

Member John Golden opens the meeting to public comment.

A member of the public asked if the Town had any way of measuring a Lux or a Lumen.

Member Dorothy Palanza informed the public that the Town would have to purchase an instrument to measure a lux or a lumen.

Two Letters were received regarding the proposed changes to the lighting/illumination bylaw both in favor.

Board Discussion:

Member Dorothy Palanza feels this bylaw needed to go before the Town as a general bylaw not a zoning bylaw in order to have a conformity deadline. Ms. Palanza suggests we ask the Board of Selectmen to consider this as a general bylaw.

Mr. David Gardner, Assistant Town Manager, is concerned that this is not the way the article is drafted and the warrant closes on Friday, March 1, 2013. Mr. Gardner is not sure the comfort level of the Board of Selectmen is there to sponsor this article as a general bylaw on such short notice.

Mr. Russ Moore, Building Commissioner, wanted to clarify for the Board there is nothing in general bylaw or zoning bylaw that supersedes the requirements of the Electric Code or Building Code. There are specific codes for lighting on egresses, etc. On the Commercial side the egress discharge or path of light needs to illuminate the public way, etc.

The Board discussed changes pertaining to the maximum lux's and lumen's allowed as it pertains to the use of holiday lights, etc.

Mr. Ted Malone a member of the Ad Hoc Zoning Bylaw Committee, feels this article is ahead of times, suggesting the Board should hold off on this Article and place on the fall Town Meeting Warrant.

Mr. David Gardner, Assistant Town Manager informed the Board that they needed to determine weather to go forward with the proposed article or take the recommendation from the Ad Hoc Zoning Bylaw Committee and revise the proposed article to have ready for the fall Town Meeting Warrant.

A motion made by Member Marianne Clements to hold the proposed changes to Article 3 and resubmit as a general bylaw for the fall Town Meeting Warrant. The motion was seconded by Member Dorothy Palanza. VOTE 3-0-0.

Mr. Gardner informed the Board there were three petitioned articles for the warrant, as follows: Scale bylaw, vegetation removal, and earth removal.

The next meeting of the Planning Board will be held on March 18, 2013 in the Judge Welsh Hearing Room.

A motion made by Member Dorothy Palanza to adjourn at 7:30 p.m. The motion was seconded by Member John Golden. VOTE 3-0-0.

Respectfully submitted,

Edward Atwood

Edward F. Atwood
Recording Secretary

Approved by _____ on _____, 2013

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