



PLANNING BOARD
March 27, 2013
Public Hearing at 6:00 p.m.
Judge Welsh Hearing Room

Members Present: Mr. John Golden, Mr. Mark Weinress,
Ms. Dorothy Palanza, Ms. Marianne Clements
Ms. Grace Ryder- O'Malley

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.

The Board introduced and welcomed a new member of the Planning Board, Ms. Grace Ryder-O'Malley.

Member John Golden read the following for the record.

Pursuant to MGL Chapter 40A Section 5, the Provincetown Planning Board will hold a public hearing on Wednesday, March 27, 2013, at 6:00 p.m. in the Judge Welsh Hearing Room, Town Hall, 260 Commercial Street, Provincetown MA, 02657 to hear comments from the public on the following proposed amendments to the Provincetown Zoning Bylaws for the April 1, 2013 Annual Town Meeting Warrant, including any proposed petitioned articles concerning land use or development.

Public Comments:

Mr. David Gardner, Assistant Town Manager, informed the Board that in addition to hearing public comment on the proposed article changes, the Board will also be approving their report for Town Meeting on April 1, 2013.

Article 24 Scale Bylaw

To see if the Town will vote to amend the Provincetown Zoning Bylaw, Article 2, Districts and District Regulations, Section 2640, Building Scale, as follows:

C. Procedure. Each application for a building permit, except where the total volume is reduced, shall contain information on the building volume of all structures that fall wholly or partially within two hundred and fifty (250) feet of the center of the proposed renovation if a structure exists, or of the center of the proposed new building except for stand-alone nonresidential accessory use structures of 2160 cubic feet or less.

Mr. David Gardner, Assistant Town Manager, reminded the Board at their last public hearing in February they voted to place this article on the warrant to correct the perceived loophole in how the radius for scale is determined for a vacant parcel. Proposing the radius is drawn from the center of the proposed building. The article includes extensive grandfathering that would allow and applicant with an application in process prior to February 14, 2013, would be except from this bylaw change.

Member Mark Weinress asked for clarification regarding how the radius is drawn when multiple buildings are proposed. Mr. Gardner explained that any vacant lot proposing multiple buildings would have to provide a radius for each structure to determine scale.

Member John Golden opened the meeting to Public Comments regarding Article 24.

Public comments in opposition heard from:

Mr. Anthony Fisher, Mr. Jonathan Sinaiko, & Mr. Brian Wall, Attorney on behalf of Mr. Sinaiko & Mr. Donald Beal (non-abutter).

Public comments in favor heard from:

Mr. Bruce Gilmore, Attorney on behalf of Mr. Sikorski.

Mr. Paul Gavin, Assessor, informed the Board if Article 24 passes at Town Meeting the current programming the Assessor's office uses to currently determine scale would need to be upgraded in order to effectively serve the needs of the Town; the current program is not able to pinpoint the center of a proposed building/structure. Mr. Gavin wasn't able to provide a cost estimate for the upgrade without spending a bit of time research.

Mr. Russell Braun, Building Commissioner, informed the Board the permitting process would get a little more costly to the applicant and the Town.

Member John Golden closed public comments.

Board Discussion:

Member Dorothy Palanza, and Member Mark Weinress want to Amend Article 24 to include language pertaining to vacant lots.

Mr. David Gardner, Assistant Town Manager informed the Board they can propose and amendment on Town Meeting floor.

A motion made by Member Marianne Clements to amend Article 24 to include language after “proposed new building on a vacant lot”. The motion was seconded by Member Mark Weinress. VOTE 5-0-0.

Member Dorothy Palanza feels Article 24 goes against the towns Local Comprehensive Plan and the Boards description of scale. Ms. Palanza feels it allows applicants to take unfair advantage of the LCP and the definition of scale. Ms. Palanza in would like to support Article 25 without the grandfathering provision.

Members Mark Weinress and Marianne Clements stated their support for Article 24 with the grandfathering provision to protect current applicant in the process.

Member Grace Ryder O’Malley would prefer to abstain due to being a new member.

A motion made by Member John Golden to recommend Article 24 as amended to Town Meeting. The motion was seconded by Member Marianne Clements. VOTE 3-1-1.

Article 25 Scale Bylaw Amendment (Petitioned by Mr. Jonathan Sinaiko)

To see if the Town will vote to amend the Provincetown Zoning Bylaw, Article 2, Districts and District Regulations, Section 2620, Building Scale, as follows:

C. Procedure. Each application for a building permit, except where the total volume is reduced, shall contain information on the building volume of all structures that fall wholly or partially within two hundred fifty (250) feet of the center of the proposed renovation if a structure exists, or of the center of the proposed new building except for stand-alone non-residential accessory use structures of 2160 cubic feet or less or take any other action relative thereto.

Mr. Sinaiko would like to go forward with Article 25 as amended.

Member John Golden opened the meeting to public comment.

There was one comment in favor of Article 25 from Mr. Ted Malone.

Member Mark Weinress would like the Board to remain neutral and allow Article 25 to go before Town Meeting as a petitioned article.

A motion made by Member Mark Weinress to reserve recommendation on Article 2. The motion was seconded by Member Marianne Clements. VOTE 5-0-0.

Article 26 Earth Removal (Petitioned by Mr. Jonathan Sinaiko)

To see if the Town will vote to amend the Provincetown Zoning Bylaw, Article 3, General Regulations, by adding Section 3510, as follows:

Section 3510 Earth Removal

The removal from any premises of more than 50 cubic yards of sand, gravel, stone, topsoil, or similar materials within any 12 month period shall be allowed only by Special Permit in accordance with Section 5300.

Member John Golden opened the meeting to public comments.

Mr. Bruce Gilmore, Attorney on behalf of Mr. Sikorski is concerned with how such a bylaw would be enforced and which department would handle it.

Mr. Ted Malone spoke in opposition to Article.

Board Discussion:

Member Mark Weinress asked Mr. Sinaiko (petitioner) how he came up with 50 cubic yards. Mr. Sinaiko informed the Board that the articles language was taken from other Cape Town's Earth Removal bylaw.

The Board decided to no recommend Article 26 and to allow more time for discussion.

A motion made by Member Marianne Clements not to recommend Article 26 Earth Removal to Town Meeting. The motion was seconded by Member Mark Weinress. VOTE 5-0-0.

Article 27 Natural Cover Removal (Petitioned by Mr. Jonathan Sinaiko)

To see if the Town will vote to amend the Provincetown Zoning Bylaw, Article 3, General Regulations, by adding Section 3500, as follows:

Section 3500 Natural Cover Removal

A Special Permit from the Planning Board is required for exposing more than 5,000 square feet of bare earth through either removal or filling on any parcel of contiguous parcels in the same ownership, (or, if in different ownership, is part of a common proposed site development scheme) unless in conjunction with a currently valid building permit or Special Permit for earth removal under Zoning Bylaw, or within streets which are either public or designated on an approved subdivision plan.

Member John Golden opened the meeting to public comments

No Comments were made by the public.

Board Discussion:

Member John Golden expressed his support for Article 27.

Members Dorothy Palanza and Mark Weinress support this article and reserves the right to make additional changes in the Special Permit process.

A motion made by Member Dorothy Palanza to recommend Article 27 for Town Meeting. The motion was seconded by Member Marianne Clements. VOTE 5-0-0.

Article 29 Art Gallery By-law Amendment (Petitioned by Ms. Debra Nadolney)

Member Grace Ryder O'Malley informed the Board she would be recusing herself from this discussion because she is employed by the Provincetown Art Association.

To see if the Town will vote to amend the Provincetown Zoning Bylaw, Article 1, Definitions and Section 2460, Special Permit Requirements, as follows:

Art Gallery shall mean premises for the preparation, sale, display or barter of paintings, sculpture, original, limited edition graphic arts and photographs created by individual artists on a single piece basis, but not including premises used by caricaturists and portrait artists working on a single-sitting, non-appointment basis. To read, Art gallery shall mean premises for the preparation, sale, display or barter of "fine art" as defined in General Laws c. 104, sec 1.

General Laws c. 104A, Sec. 1

“Fine Art”, a painting, photograph, wearable art, drawing, fiber-based work, ceramic-based work, metal work, conceptual-based art, glass-based work, an installation, a work that is created or displayed using computers, digital devices and/or new technology such as, but not limited to, digital prints, digital photographs, CD Roms, a sound work, an electronic-based work, a work of graphic art, including an etching, lithograph, off set print, silk screen/screen print, or work of graphic art of like nature, a work of calligraphy, an artist’s book, or a work in mixed media including collage, assemblage or any combination of the foregoing art media.

Member John Golden opened the meeting to public comments.

Comments in Opposition heard from:

Evelyn Gaurdiano, Mary Beth Cashetta, Francine D’Olympio, Meryl Cohn, Rebecca Mazzarati, and Carolyn Kramer.

Comments in Favor heard from:

Tina Trudel, Susan Goldberg

The Board closed the public comments.

Board Discussion:

Mr. David Gardner, Assistant Town Manager informed the Board the flaw in the proposal even though it excepts the need for a special permit as the definition stands you would still need to get a Entertainment license issued from zoning.

Member Dorothy Palanza informed the Board that the MGL Chaps 140, 177A, 181A, and 138A as it pertains to Entertainment, makes no reference or mention of art gallery.

Member John Golden does not wish to make a recommendation for Town Meeting in regards to Article 29.

Member Mark Weinress sees both sides of this issue and stressed his concern regarding noise and how one defines performance art vs. entertainment.

A motion made by Member Dorothy Palanza to recommend Article 29 for Town Meeting as amended. The motion was seconded by Member Mark Weinress. VOTE 2-2-1.

Mr. David Gardner, Assistant Town Manager, requested the Board make an alternate motion due to a split vote.

A motion made by Member John Golden to not make a recommendation of Article 29. The motion was seconded by Member Marianne Clements. VOTE 5-0-0.

Member Grace Ryder O'Malley returned to the meeting.

The Board would like to include the following into their Report to Town Meeting:

Not to recommend Earth Removal bylaw, stating it is important but the Board would like more to review and discuss.

Natural Cover bylaws intent it to save as much of the existing landscape as possible and to reduce the disturbance to wildlife habitat.

Minutes:

The minutes of March 18, 2013 were moved to the next meeting of the Planning Board for review and approval.

The next meeting of the Planning Board is April 1, 2013, Town Meeting

Adjournment:

A motion made by Member Marianne Clements to adjourn the meeting of the Planning Board, March 27, 2013, at 9:20 p.m. The motion was seconded by Member John Golden. VOTE 5-0-0

Respectfully submitted,

Edward Atwood

Edward F. Atwood
Recording Secretary

Approved by _____ on _____ 2013.

