

Public Hearing

October 13, 2015

The Provincetown Planning Board will hold a Public Hearing on Tuesday, October 13, 2015 at 6:30 p.m. in the Judge Welsh Hearing Room, Town Hall, 260 Commercial Street, Provincetown, MA, to hear comments from the public on the following proposed amendments to the Provincetown Zoning Bylaws for the October 26, 2015 Annual Town Meeting Warrant, as well as any proposed General Bylaw articles and petitioned articles concerning land use or development. The proposed amendments are indicated below, with proposed deleted text stricken through and proposed added text underlined. A copy of these proposed zoning bylaws is available for public inspection at the Office of the Town Clerk, Provincetown Town Hall, 260 Commercial Street, Provincetown, MA during regular business hours.

Article 12. Zoning Bylaw Amendment – Article 2 Section 2440 Use Regulations Article:

To see if the Town will vote to amend the Provincetown Zoning Bylaws, Article 2, Districts and District Regulations, Section 2440, Permitted Principal Uses, to allow for accessory dwelling units in the Res2 Zoning District, as follows:

Add a footnote to Principal Use, A1a3, Single Family Dwelling, three or more per lot, as follows:

A1a	Single Family Dwelling	Res 1	Res 2	Res 3	TCC	GC	S	M
3.	three or more per lot (each separate structure)	NO	NOPB ²⁰	YES ⁸	YES ⁸	YES ⁸	NO	NO

Footnote: 20. One accessory dwelling unit may be allowed in the Res1 Zoning District, for a total of two dwelling units per lot, and in the Res2 Zoning District for a total of three dwelling units, only if the following criteria are met: ~~the accessory dwelling unit~~ is for year-round rental only; it is limited in size to 600 square feet if it is a free-standing dwelling unit or 40% of the gross floor area if it is located within the principal residence.

Or to take any other action relative thereto.

Two-Thirds Vote (G.L.c.40A, §5); Planning Board public hearing and report under G.L. c.40A, §5.

Article 13. Zoning Bylaw Amendment – Article 2 Section 2440 Use Regulations Article:

To see if the Town will vote to amend the Provincetown Zoning Bylaws, Article 2, Districts and District Regulations, Section 2440, Permitted Principal Uses, to make the Planning Board, rather than the ZBA, the Special Permit Granting Authority for two dwelling units on a single lot in the Res2 Zoning District, as follows:

A1a	Single Family Dwelling	Res 1	Res 2	Res 3	TCC	GC	S	M
2.	two per lot (each separate structure)	PB ²⁰	<u>BAPB</u>	YES ⁸	YES ⁸	YES ⁸	NO	NO

Or take any other action relative thereto.

Two-Thirds Vote (G.L.c.40A, §5); Planning Board public hearing and report under G.L. c.40A, §5.

Article 14. Zoning Bylaw Amendment – Article 2 Section 2440 Use Regulations Article:

To see if the Town will vote to amend the Provincetown Zoning Bylaws, Article 2, Districts and District Regulations, Section 2440, Permitted Principal Uses, as follows:

A1a	Single Family Dwelling	Res 1	Res 2	Res 3	TCC	GC	S	M
3.	three or more per lot (each separate structure)	NO	NO PB ²⁰	YES ⁸	YES ⁸	YES ⁸	NO	NO
4.	four or more per lot	NO	NO	PB	PB	PB	NO	NO
A1b	Two Family Dwelling	Res 1	Res 2	Res 3	TCC	GC	S	M
3.	three or more per lot	NO	NO	YES ⁸	YES ⁸	YES ⁸	NO	NO
4.	four or more per lot	NO	NO	PB	PB	PB	NO	NO
A2	Multi Family Dwelling	Res 1	Res 2	Res 3	TCC	GC	S	M
	<u>Three units</u>		NO	NO	YES ⁸	YES ⁸	YES ⁸	NO
	<u>Four units or more</u>		NO	NO	PB	PB	PB	NO
B13	Large-scale Ground-Mounted Solar Photovoltaic Installation	Res 1	Res 2	Res 3	TCC	GC	S	M
			<u>BAPB</u>	<u>BAPB</u>	<u>BAPB</u>	<u>BAPB</u>	<u>BAPB</u>	YES
								YES
D7	Medical Marijuana Treatment Center	Res 1	Res 2	Res 3	TCC	GC	S	M
		NO	NO	<u>BAPB</u>	NO	<u>BAPB</u>	NO	NO

Footnotes:

1. Except "YES" in ~~W-B-ResB~~ for banks and for professional offices including real estate, insurance, and accounting, without stock in trade, with no more than one firm or 2,000 square feet per building and no more than one building per lot.

~~8. Except "BA" pursuant to Article 4 if the total number of dwelling units on a lot will result in four (4) or more dwelling units.~~

12. After March 1, 1983, for any new construction, any substantial increase in intensity or use or any renovation of an existing structure to include the defined use, a Special Permit as specified in Sec. 5300 may be granted by the Board of Appeals: (a) only upon its written determination that the proposed fast food establishment does not create any adverse effect due to hazard or congestion especially including traffic impacts as determined by a traffic impact assessment prepared by the applicant according to Institute of Transportation Engineers guidelines regarding carrying capacity/level of service of the affected streets and any proposed mitigation sufficient to offset those impacts; (b) only if the applicant can demonstrate that the proposed use will not overburden public water, septage or solid waste facilities; (c) only if the applicant provides and enforceable plan for the mitigation and control of trash and litter generated by the proposed establishment; (d) anyonly if the architecture and signage conforms to traditional Cape Cod style; and (e) only if, in order to assure that the concerns of the abutters and residents will be considered as a significant factor in the

determination of the benefits or adverse effects of the proposed fast food establishment on the neighborhood and the Town, the Board of Appeals shall make a specific Finding of Significance regarding the response to the proposed use.

Or to take any other action relative thereto.

Two-Thirds Vote (G.L.c.40A, §5); Planning Board public hearing and report under G.L. c.40A, §5.

Article 15. Zoning Bylaw Amendment – Article 1 Definitions

To see if the Town will vote to amend the Provincetown Zoning Bylaws, Article 1, Definitions, as follows:

Manufactured Home means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities.

For flood plain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles. See Section ~~3400~~4300 Manufactured Homes and Campers.

Or to take any other action relative thereto.

Two-Thirds Vote (G.L.c.40A, §5); Planning Board public hearing and report under G.L. c.40A, §5.

Article 16. Zoning Bylaw Amendment – Article 4 Section 4028 Special Regulations

To see if the Town will vote to amend the Provincetown Zoning Bylaws, Article 4, Special Regulations, Section 4028, as follows:

4028. The Planning Board may require the following information in connection with site plan review. In deciding which requirements will apply to a specific application, the review authority shall consider the size and intensity of the use, and the unique circumstances of each application.

(No change to items sections a. through i.)

j. Grading Plan with existing and proposed topography at two-foot contour intervals, only if new, or expanded parking and/or drainage structures are proposed, including the volume and area of graded or excavation material if expected to exceed greater than ~~2000~~750 cubic yards or an area greater than the minimum lot size in the zone in which the parcel is located;

(No further changes to this section)

Or to take any other action relative thereto.

Two-Thirds Vote (G.L.c.40A, §5); Planning Board public hearing and report under G.L. c.40A, §5.

Article 17. Zoning Bylaw Amendment – Article 2 Section 2320 High Elevation Protection District Regulations

To see if the Town will vote to amend the Provincetown Zoning Bylaws, Article 2, Districts and District Regulations, Section 2320, High Elevation Protection District, as follows:

C. Special Regulations for HEP Districts A and B. All new construction or additions and expansions, including but not limited to decks and other non-enclosed structures, even if the overall footprint is not being enlarged or any excavation, land removal or earth moving of more than 2500 cubic feet that will alter the topography from natural grade, whether or not subject to a building permit shall be subject to Site Plan Review as specified in Section 41604000 with additional requirements as specified herein.

Or to take any other action relative thereto.

Two-Thirds Vote (G.L.c.40A, §5); Planning Board public hearing and report under G.L. c.40A, §5.

Article 18. Zoning Bylaw Amendment – Article 4 Section 4810 Inclusionary Housing Bylaw

To see if the Town will vote to amend the Provincetown Zoning Bylaws, by inserting as a new Section 4810 as follows:

Section 4810 Inclusionary Housing By-Law

1. Purpose and Intent

The primary purpose of this bylaw is to:

1. Encourage the creation of a range of housing opportunities for households of all incomes, ages and sizes in order to support a strong, stable and diverse year round community and a viable and healthy local workforce and to prevent the displacement of Provincetown residents;
2. Mitigate the impact of condominium conversions and residential development on the availability and cost of housing;
3. Provide a mechanism by which condominium conversions can contribute in a direct way to increasing the supply of affordable and middle income housing;
4. Provide a mechanism by which residential development can contribute in a direct way to increasing the supply of affordable and middle income housing in exchange for a greater density or intensity of development than is otherwise permitted as a matter of right;
5. Support the goals of Provincetown's December 2006 Affordable/Community Housing Action Plan and its January 2014 Update.

A secondary purpose is to create dwelling units eligible for inclusion in the Town's Subsidized Housing Inventory.

2. Applicability

This inclusionary by-law shall apply in all zoning districts to the following uses:

- (a) Except as identified under Section 2(c) below, any development that results in an increase in the number of dwelling units, whether by new construction or alteration, expansion, reconstruction, or change of existing residential or non-residential space or use; and
- (b) The conversion to condominiums of two or more dwelling units, even if there is no increase in the total number of dwelling units; (need feedback from Town Counsel)
- (c) Any subdivision of land resulting in at least one additional lot;
- (d) Any health care-related development that includes 6 (this number needs to be analyzed) or more independent living units.

3. Special Permit

The development of any project as identified in Section 2(a)-(d) above shall require the granting of a

Special Permit from the Planning Board. The application procedure and requirements for the special permit shall be as defined in Section 5300 of the zoning bylaw.

Additionally, the project must comply with the provisions of Article 4, Sections 4000 and 4100.

None of the above shall relieve the applicant of complying with other provisions of these Bylaws.

4. Mandatory Provision of Affordable Units for all Development

As a condition of approval for a Special Permit, the applicant shall contribute to the local stock of affordable, median and middle income housing in accordance with the following requirements:

(a) For projects consisting of a total of 5 dwelling units or more, at least 20% of the units created shall be established as affordable housing units in any one or combination of methods provided for below. For the purpose of calculating the 20% affordable housing contribution, all numbers shall be rounded to the nearest whole number. (Or take a payment-in-lieu for a percentage of a unit?)

- (1) The affordable housing units shall be constructed or rehabilitated on the locus subject to the special permit (see Section 5); or
- (2) The affordable housing units shall be constructed or rehabilitated on a locus other than the one subject to the special permit (see Section 6); or
- (3) In lieu of providing such units as specified above, an applicant may provide a payment of equivalent value to the Housing Trust Fund in accordance with Section 4b, below (providing a payment-in-lieu of providing affordable units on site does not allow an applicant to increase the number of market rate units on site);
- (4) Land dedication (*or land dedication with permitting in place for affordable units?*)

(b) For projects consisting of between 1 and 4 dwelling units, a Housing Contribution to the Housing Trust Fund in the form of a payment in-lieu of creating a partial unit shall be made accordance with the following:

1 unit	20%
2 units	40%
3 units	60%
4 units	80% of the average cost of a dwelling unit, containing the average number of bedrooms for the units in the particular development, in Provincetown in the calendar year prior to the date the first building permit is pulled, the average cost to be determined on an annual basis in January by the Provincetown Assessor based on the average sale price of all 1BR, 2BR, 3BR, 4BR, etc... dwelling units that sold in Provincetown in the previous year.

5. Provisions Applicable to Affordable Housing Units On-Site

(a) Siting of affordable units: All affordable units constructed under this by-law shall be situated within the development so as not to be in less desirable locations than market rate units in the development and shall, on average, be no less accessible to public amenities as the market-rate units.

(b) Minimum design and construction for affordable units: Affordable housing units within market rate developments shall be integrated with the rest of the development and shall be compatible in exterior design and interior features, appearance, construction and quality of materials with other units. The number of bedrooms in each affordable unit shall be made a part of the Special Permit and shall be based on local need as determined in consultation with the Community Housing Counsel for each project.

(c) Timing of construction or provision of affordable units or lots: The development of affordable housing units shall take place at the same rate and timeframe as the development of market rate units.

1) Building permits for any phase shall be issued at a ratio of 4 (four) market rate units to 1 (one) affordable unit. Building permits for subsequent phases will not be issued unless all the required affordable units in the preceding phase are constructed and the affordable housing restrictions recorded. The last unit permitted, constructed and occupied shall be a market rate unit.

2) The project may also be constructed in its entirety with all permits issued at once provided that the occupancy permits are issued at a ratio of 4 (four) market rate units to 1 (one) affordable unit. The last occupancy permit to be issued shall be for a market rate unit and shall not be issued unless all affordable units are occupied and the affordable housing restrictions recorded. (Sections 1 and 2 can be tightened and combined)

3) The Building Commissioner may grant a modification to the rate and timeframe requirements so long as the last unit permitted, constructed and occupied is a market rate unit.

6. Provision of Affordable Housing Units Off-Site

In lieu of providing such units on site, an applicant subject to the bylaw may develop, construct or otherwise provide affordable units equivalent to those required by Section 4 off-site. All requirements of this bylaw that apply to on-site provision of affordable units shall apply to provision of off-site affordable units. In addition, the location of the off-site units to be provided shall be approved by the Planning Board as an integral element of the special permit review and approval process. Providing affordable units off-site does not allow an applicant to increase the number of market rate units on site.

(This section needs to be further analyzed)

7. Distribution

Distribution of affordability for rental or ownership units as Low Income Community Housing or Moderate Income Community Housing or Middle Income Community Housing shall be set as determined by the Planning Board in consultation with and recommendation of the Provincetown Community Housing Council, and made a condition of the Special Permit under this Bylaw.

8. Maximum Incomes and Selling Price; Affordable Housing Inventory

Maximum incomes and sales prices and rents are set forth in Article 1 Definitions. (The Affordable Housing definition currently doesn't have anything about Middle Income Community Housing, which will have to be added to be consistent with revisions to Section 7. However, Middle Income units will not count toward the SHI).

9. Preservation of Affordability; Use Restrictions

(a) Affordable housing units created in accordance with this by-law shall use affordable housing restrictions that are recorded at the Barnstable County Registry of Deeds and that require the units to remain affordable in perpetuity. Such affordable housing restriction shall grant, among other things, the Town's right of first refusal to purchase the property in the event that a subsequent qualified purchaser cannot be located.

(b) The Planning Board shall require, as a condition for special permit under this bylaw, that the applicant comply with the mandatory set-asides and accompanying restrictions on affordability, including the execution of the affordable housing restriction noted in Section 9(a) above.

10. Segmentation

Developments may not be phased or segmented to avoid compliance with conditions or provisions of this by-law.

11. Conflict with Other Bylaws

The provisions of this bylaw shall be considered supplemental of existing zoning bylaws. To the extent that a conflict exists between this bylaw and others, the more restrictive bylaw, or provisions therein, shall apply.

12. Severability

If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of Provincetown's zoning bylaw.

Or to take any other action relative thereto.

Two-Thirds Vote (G.L.c.40A, §5); Planning Board public hearing and report under G.L. c.40A, §5.

John Golden, Chair

Posted: www.provincetown-ma.gov 9/17/15 5:00 pm dj

The Banner: September 24 & October 1, 2015