

PLANNING BOARD
Meeting Minutes
Thursday, January 28, 2016
Judge Welsh Room
6:30 P.M.

Members Present: John Golden, Grace Ryder-O'Malley, Ryan Campbell and Jim Woods.

Members Absent: Brandon Quesnell

Staff: Gloria McPherson, Town Planner.

At 6:31 pm, Mr. Golden opened the meeting.

1. Public Comments

There were no public comments.

2. Public Hearings

a. Case #FY16-04

Application by Lester J. Murphy on behalf of 3 Cottages LLC requesting Site Plan Approval pursuant to Article 4, Section 4015(a)(1)(5), Site Plan Review by Special Permit, of the Provincetown Zoning Bylaw, to demolish 3 existing cottages and construct two duplex structures resulting in a total of 5 dwelling units on the lot and perform associated site work resulting in the excavation of more than 750 cubic yards of earth at the property located at **52 Creek Road**.

Attorney Jay Murphy, project designer Alan Cabral and property owner Mike Miller presented the application.

Mr. Murphy explained the long process with the ZBA, the relief sought and Special Permit granted to authorize the replacement of 3 cottages with 2 duplexes for a total of 3 principal structures on a lot with substandard area for that number of structures.

Mr. Murphy discussed the review criteria, subsection by subsection, for a site plan review by special permit. They are redeveloping an existing developed site, which is in conformance with the LCP.

Mr. Murphy discussed two waivers from the design requirements of Article 4, Section 4163, *to wit*, (2) & (3), which they are requesting.

Mr. Murphy discussed the items in the ZBL section on Development Impact Statements. He noted that they asked the Fire Department for comment but did not receive anything. With only one additional unit proposed, he doesn't see any significant impact on the town.

Mr. Miller addressed the Board explaining a board with photos and a spreadsheet he developed showing the abutting properties within 300 ft, the number of principal structures on each of the lots and the lot areas. He does not believe that his proposal is out of character with the neighborhood, or significantly more or less dense than abutting properties. The Board thanked Mr. Miller.

Mr. Murphy discussed the final subsection of the Development Impact Statement section, which refers to potential detriment on the ecology of the area. He gave the background of the agreement with the Provincetown Conservation Trust, which included a recorded deed restriction that provided for a buffer zone on this property to the adjacent conservation land. He noted that agreement was made in order to allow development on 52 Creek Road, with a large adjacent parcel preserved for open space. He noted

that there were objections from the Conservation Trust at the Zoning Board hearing, and that they modified the plans to keep the settlement parcel free of construction, which is in keeping with the deed restriction. He also noted that the construction will be kept at least 40 feet from the toe of the slope, so there should be no destabilization of the slope.

Mr. Murphy described the changes the applicant made to the buildings to minimize any concerns about loss of privacy to adjacent buildings, including the removal of roof decks. The driveway remains in the same place as it always have been, and the location of the buildings will block car headlights into adjacent homes. He stated that the review criteria of Section 4035 have been met, along with other requirements of the Zoning Bylaw.

There were no public comments.

Mr. Golden read two letters from abutters into the public record. Both had concerns about the proposal and did not support the current plan.

Ms. Ryder-O'Malley asked whether the units would have basements.

Mr. Cabral stated that some of the structures will have a full basement, other parts of the project will be on piers. Most of the fill will be moved and replaced, rather than removed from the site.

Mr. Woods stated that he did a site visit. He questioned whether a fire truck could pass if a car were parked in parking space #2. Mr. Campbell shared this concern.

Mr. Cabral stated that there would be approximately 12 feet clear from a car in space #2 to the property line.

The Board and applicant agreed that space #2 would be relocated to the rear parking area, where it would be safer to turn around as well.

Mr. Campbell stated that he agreed with one of the letters that native shade trees would be better than the proposed Leland cypress trees.

Mr. Miller stated that the owners of an adjacent property specifically wanted cypress, but since the abutter has sold the property, Mr. Miller is willing to plant shade trees.

Ms. Ryder-O'Malley clarified that there is currently two sheds on the property, but that the proposal has a single shed.

The Board asked the applicant to select lighting fixtures that are Dark Sky compliant.

The Board asked for a revised planting plan showing shade trees at an appropriate spacing, with some understory plantings. Mr. Golden specifically asked for a shade tree on the street frontage, and any plantings should be located so that they do not grow into the street.

The Board asked for a revised site plan showing the relocated parking space.

The Board agreed that the building placement is appropriate to the site and the abutting properties.

Mr. Woods made a motion that the benefits of the proposal for the town outweigh any adverse effects, such as hazard, congestion and environmental degradation. Mr. Campbell seconded. The motion passed unanimously.

Mr. Campbell made a motion to approve the waivers requested. Mr. Woods seconded. The motion passed unanimously.

Mr. Woods made a motion to approve the application of Case #FY 16-04 and grant a Special Permit with the conditions discussed above. Ms. Ryder-O'Malley seconded. The motion passed unanimously.

- b. **Case #FY16-06 (Continue case to the February 11th hearing)**
Application by Lester J. Murphy on behalf of Kathleen C. Meads requesting Site Plan Approval pursuant to Article 2, Section 2320, High Elevation Protection District (A), and Article 4, Section 4015(a)(1)(5), Site Plan Review by Special Permit, of the Provincetown Zoning Bylaw, to construct two duplex structures, one per lot, install a shared driveway and perform associated site work resulting in the excavation of more than 750 cubic yards of earth at the property located at **5 & 7 Georges Path**.

This case had been previously continued to the meeting of February 11.

- c. **Case #FY16-12 (Applicant requests case to be withdrawn without prejudice)**
Application by KA Bazarian Construction and Development on behalf of George Nash and Mark Williams requesting Site Plan Approval pursuant to Article 2, Section 2320, High Elevation Protection District (A), of the Provincetown Zoning Bylaw, to construct a 16'x32', two story accessory artist studio at the property located at **9 Pilgrim Heights Road**.

Mr. Campbell made a motion to allow applicant to withdraw without prejudice and Mr. Woods seconded. The motion passed unanimously.

- d. **Case #FY16-13 (Applicant requests case be postponed to the February 11th hearing)**
Application by 20 Pleasant Street LLC requesting Site Plan Approval pursuant to Article 2, Section 2320, High Elevation Protection District (A), of the Provincetown Zoning Bylaw, to demolish existing garage and build a new residential structure with an expanded footprint, install a new septic system and construct two dormers, and a roof deck with exterior stair case on the existing principle structure with associated site work at the property located at **20 Pleasant Street**.

Mr. Campbell made a motion to postpone Case #FY 16-13 to the meeting of February 11 at 6:30 pm and Mr. Woods seconded. The motion passed unanimously.

- e. **Case# FY16-19**
Application by 26 Alden LLC requesting a Special Permit pursuant to Article 4, Special Regulations, Section 4015, Site Plan Review by Special Permit, of the Provincetown Zoning Bylaw to modify a previously approved site plan case #FY15-2, to eliminate a shed, increase parking by two spots, plant an additional tree, change surface parking from paving to pea stone, place an easement for pedestrian traffic to Motta field, install timber retaining walls on the rear of the property and change wheel stops from concrete to timbers at the property located at **26 Alden Street**.

Bob O'Malley, realtor for the project, submitted photos to the Board.

David Goldman explained that a timber landscape wall was added adjacent to the parking space. The addition of the wall is necessary to maintain the parking spaces as originally approved.

Ms. Ryder-O'Malley confirmed that there are 23 parking spaces proposed, where there were originally 21 approved.

Mr. Goldman explained that the shed was removed and they would like to not reconstruct it.

Mr. Woods asked what the terms of the easement were for the pedestrian access easement.

Mr. Goldman explained that the Planning Board originally asked for access to Motta field, and they worked with the Town Planner to define the location of the easement. He said the stairs will be coming out and there will be a path through the woods.

Mitch Hollander, 28 Alden, stated he has had a problem with the gate toward his property when they cut in the parking. Ms. Ryder-O'Malley and Mr. Woods stated that they performed a site visit and noted that the gate hit the wheel stops of the parking spaces. The applicant agreed to work with the abutter.

Ms. Ryder-O'Malley noted that the Board would prefer to get proposals for amendments to the site plan before the improvements are actually constructed.

Declan Cook, 30 Alden Street, asked if the extra parking spaces were already created?

The Board confirmed that they were already created, and the applicant showed Mr. Cook on the plan where the parking spaces were created.

There was no additional public comment and no letters in the file.

Mr. Woods made a motion to approve application FY16-19 as presented, and Mr. Campbell seconded. The motion passed unanimously.

Mr. Goldman confirmed that the affordable units are occupied.

3. Work Session

a. Pending Decisions

- **Case #FY16-09 (need revised floorplans to stamp and sign, get folder back to DCD)**
Application by Louise Venden requesting Site Plan Approval pursuant to Article 2, Section 2440 (A1a)(2), Permitted Principle Uses, of the Provincetown Zoning Bylaw, to create an accessory dwelling unit within the Res 1 zoning district that comprises of less than 40% of the total gross floor area of existing principle residence at the property located at **16 Thistlemore Road**.

Ms. McPherson stated that she was following up on the plans and that they have not yet been received.

b. Discussion regarding proposed Zoning Bylaw amendments

- Inclusionary Bylaw
- Use Table
- Growth Management Bylaw
- Food Trucks (survey)

David Gardner reported to the PB on the BOS meeting on Monday regarding potential zoning bylaw amendments.

Mr. Woods thought that Judi Barrett's comments were thoughtful and helpful and that the Board would be happy to include and incorporate them in the draft Inclusionary Bylaw as appropriate.

The Board discussed thresholds for the inclusionary requirement.

Mr. Gardner reiterated Ms. Barrett's memo that this needs to be economically viable for the developer.

The Board discussed a tiered approach to the percentage of payment in lieu based on the number of units created, with a smaller percentage for fewer units. The Board generally agreed that a 20% hit for creating a single unit was very high.

Ms. McPherson agreed, but noted that this would have to be vetted by Town Counsel because there is some case law that doesn't seem to allow for different percentages at different thresholds.

Mr. Woods said that the Board had discussed allowing an increased density for larger projects to make the development of affordable units more economically feasible.

Mr. Gardner stated that the goal of Inclusionary Zoning is to create affordable units, so we can't make it too onerous.

Mr. Campbell suggested that the payment in lieu could be paid over the course of perhaps 10 years, with a lien on the property for the value, and could be paid in full upon the sale. This could work well to cover the smaller developments.

Mr. Woods would be ok with lowering the percentage from the originally proposed 20%. Mr. Campbell agreed that a lower percentage makes more sense for the smaller developments, but it could ramp up to 20% for larger developments.

Mr. Gardner clarified that the Board is in agreement that the bylaw is going to apply to an increase of at least one unit.

Mr. Gardner suggested to the board that a Special Permit should not be required if it's just a straight payment in lieu.

Ms. McPherson suggested that to give a process incentive, if a developer is offering to build on-site units as opposed to payment in lieu, land donation, etc... then require only Site Plan Review, no Special Permit. This could incentivize the construction of units with less of a threat of an appeal.

The Board agreed that they would like to meet with developers and realtors for feedback on the next draft of the Bylaw.

Mr. Gardner also brought up the possibility of incentivizing year round rentals, not affordable, perhaps better handled through the Growth Management Bylaw.

Ms. McPherson discussed potential changes to the Use Table, and described the conversation with Town Counsel regarding a restaurant use being a customary accessory use to a hotel or inn, so that restaurants wouldn't have to be allowed in Res1, as long as hotels are allowed, they can have restaurants.

Mr. Gardner discussed potential changes to the Growth Management Bylaw that would give a priority to year round rentals in Category 2 to take them out of Category 3. In the future, there would be changes that would reflect the Inclusionary Bylaw.

Mr. Gardner discussed a possible change to the density schedule for commercial accommodations, to better reflect the existing density, which had been explored but dropped some years ago. Mr. Campbell agreed that something should be done to make it easier for guesthouses to exist and expand, since the town is losing taxable rooms through conversion to residential use.

The Board agreed that they would be focusing on the Inclusionary Bylaw in preparation for annual town meeting

- c. Minutes of April 23, August 27, September 10, September 24, October 8 and October 22, 2015 and January 14, 2016 meetings

This was postponed to the next meeting.

- d. Any other business that may properly come before the Board

There was no other business.

At 9:14 pm, Mr. Woods made a motion to adjourn and Mr. Campbell seconded. The motion passed unanimously.

Respectfully submitted,
Gloria McPherson
Town Planner

Approved _____ Date _____
John Golden, Chair