

Planning Board Public Hearing
Wednesday, February 28, 2007
Judge Welsh Hearing Room, Town Hall
260 Commercial Street, Provincetown, MA 02657

Members Present: Anne Howard, Ellen Battaglini, Kevin Rich and Joe DeMartino

Staff Present: Maxine Notaro, Permit Coordinator

Meeting called to order at 7:02 p.m.

Joint meeting with the LHP to discuss Zoning Bylaw Revisions

Article 4170- LHP reported that they do not want to change from 33% to 20% as suggested by Planning Board. LHP and Planning Board exchanged and reviewed each others revised versions.

Anne Howard felt the proposed Planning Board article would offer more opportunity for affordable housing than does the LHP version. The Planning Board article offers more incentives, options and the 20% is better for the developers. The Growth Management bylaw is still in place for the 33%. The change at 20% is more attractive than the 33%.

Kevin Rich asked if the bylaw was an affordable housing bylaw or a bylaw to dissuade conversions. There are loopholes in the existing bylaw that need to be firmed up.

A.J. Alon said the LHP closed up the loopholes with the proposed LHP bylaw. The proposed Planning Board article is a drastic change. There might be someone out there that would want to do 20% but no one is stepping up except for one developer and that developer is doing more than the 33%.

People know what they are getting when they purchase a property that is a restaurant or hotel/motel.

Joe DeMartino said when someone purchases a hotel, motel or restaurant; they are purchasing a piece of property that under zoning has other potential for that property. The proposed LHP bylaw takes that away from the property owner. This is a taking and it is punitive. It is in the town's best to have affordable housing but the 33% is ownership and problematic. The 20% strikes a balance.

A.J. Alon said when a business is allowed to convert to residential; it takes away from people who rely on jobs. Beach Grill was a good example. The voters of the town voted this article in and it needs to be upheld.

Joe DeMartino mentioned that approximately two sessions ago, it was stated by A.J. Alon that the purpose of the bylaw was to stop development.

A.J. Alon said he has made it known from the beginning that he is in favor of the 33% for conversions.

Ted Malone said the Growth Management Bylaw originally had 25% affordable and was increased to 33%. The Growth Management Bylaw was created to slow down growth. Also, zoning is a taking of our rights for the public good.

What the bylaw is doing is allowing changes to create new growth. The town has been engrossing growth for a long time. This bylaw was the same as someone that has vacant land.

Joe DeMartino said he agrees that all zoning is a taking but their needs to be a balance and the 20% is the balance.

Kevin Rich said he does not see why they would not include as many options as possible.

A.J. Alon asked who was going to be managing the money. Also, there are other negatives such as off-site housing that is a form of ghettoizing.

Anne Howard said the way the proposed planning board article is written, ghettoizing would not be allowed. The preamble to 4170 is, trying to do it and how it can be done. She is not familiar with how to manage the money.

A good example is: the Bradford House Hotel is on the market. That property is turnkey operation. The fee in-lieu-of could be used to purchase some buildings that are available in town. The Planning Board is trying to garner more affordable housing than just close loopholes.

Noah Taylor said he is fairly new to the LHP. However, the proposed Planning Board article as written, is complicated and difficult to understand.

Kevin Rich said it was actually compromised from other bylaws from other towns that already use it and it works. The Attorney General approved the existing bylaw, however, it has never been tested in the courts. The idea of the proposed Planning Board article is not to make it so that it can be challenged.

Anne Howard discussed the possibilities of what could happen. It would depend on how the articles where numbered, which one would be presented first on Town Hall floor. It could be that both would be defeated.

A.J. Alon said the LHP did take into consideration some of the concerns that the Planning Board had and those were incorporated into the LHP proposed article.

Joe DeMartino briefly discussed Section 4A of the proposed Planning Board bylaw.

Martha Hevenor said 4170 is a policy choice. It deals with conversions and inclusionary and options. Perhaps the conversions should be one bylaw and the inclusions and options should be a separate bylaw.

Anne Howard said it sounds like it might need three separate bylaws.

Martha Hevenor said a taking means total loss of the property. When a property has other options for uses, it is not a taking.

A.J. Alon said the draft proposal by the LHP does have the language required to accomplish conversions. The Planning Board's version is complicated.

Joe DeMartino said the Planning Board's version adds language that is also required. It does add complexity but zoning is complex.

Anne Howard said she would like to see, in the future, more of a roundtable with others involved because zoning is complicated.

A.J. Alon said he likes the idea of making an inclusionary bylaw separate and would support it later.

Joe DeMartino said he supports the Planning Board proposed amendment. The Planning Board should forward their amendment to the Selectmen for review and submission to the warrant. This is why the members serve as volunteers to the town. With the help given by Martha Hevenor, he feels the Planning Boards version is best.

Motion: to send the Planning Board 4170 version to the Selectmen for review and to be placed on the Warrant for the April 2007 Town Meeting.

Moved: Kevin Rich **Second:** by Joe DeMaratino **Vote:** 3:0:1 (Anne Howard)

Motion to adjourn at 8:47 p.m.

Moved: Joe DeMartino Second: by Ellen Battaglini Vote: 4:0:0

Respectfully submitted,
Maxine Notaro
Permit Coordinator

Approved by _____ on _____