

Planning Board Minutes
Monday, August 23, 2010
Grace Gouveia Building, Room 6
26 Alden Street, Provincetown, MA 02657

Planning Board Members Present: Howard Burchman, Marianne Clements, Peter Page and John Golden.

Excused Absent: Dorothy Palanza.

Staff Present: Maxine Notaro, Permit Coordinator and Russ Braun, Building Commissioner.

Also present from the AdHoc Zoning Bylaw Revision Committee was Anne Howard, Ginny Binder, David Nicolau and Ted Malone.

Howard Burchman called the meeting to order at 6:03 p.m.

Agenda

Public Comments

None.

Workshop on Zoning Bylaw Amendments

Discussion on Recommendation for Formula Business Regulated District Bylaw and Section 2600 Design Standards and 2560 Dimensional Schedule. (please see attached recommendations).

Recommendation 2 of the Ad Hoc Zoning Bylaw Revision Committee is the Formula Business Regulated District.

Both the Planning Board and the Ad Hoc Zoning Bylaw Revision Committee felt this Bylaw was not ready to take forward to Town Meeting at this time.

Russ Braun said David Gardner wanted the two committees to discuss it.

Howard Burchman said the present bylaw as presented by Barbara Rushmore and passed at the last town meeting still needs addressing and, the town has not heard back from the Attorney General yet.

Ginny Binder asked if David Gardner wanted the Planning Board to table it.

Anne Howard and Howard Burchman both agreed that this bylaw cannot go forward until they hear what the Attorney General has to say. Everyone agreed this required more discussion and work; therefore, it will not be brought forward for this Town Meeting.

Recommendation 6 of the Ad Hoc Zoning Bylaw Revision Committee on Section ~~3300-2600~~ Design Standards and 2560 Dimensional Schedule

Ginny Binder explained the intent of the Ad Hoc Revision Committee was to re-work certain bylaws that would make them easier to read for those referring to them. For example, under 2560 Dimensional Schedule they took the roof configuration table and made it simpler.

Russ Braun said the recognition is, now that the town has an historic district there is language within the bylaws that is irrelevant. There are conflicts within the bylaws that refer to roof pitches, such as, in the Dimensional Schedule at present it says Hip and gable roofs with a pitch of at least 4/12, yet the language in 3330 Roofs it states 6 on 12 pitch. The same bylaw further mentions that flat roofs shall be avoided. The Ad Hoc Revision Group eliminated this language. The Historic District Commission would be addressing the type and style of roofs required within the Historic District. Flat roofs outside of the Historic District may be ok. Shed roofs fall under all

other roof types. Shed roofs are a kin to gable and should be recognized, which is what the working group addresses in the Dimensional Schedule.

Ginny Binder said the basic idea on the re-write on this one was to have it in a table making it easier to follow.

Russ Braun said not only that, it also does the following 3 things: 1. it makes it consistent; 2. there's the existence of the Historic District and their recognition; and, 3. recognizing roofs that were omitted and allow those to be really what they should be.

David Nicolau questioned building height allowed in the High Elevation District as to where would one measure from if stepped up.

Russ Braun said you would measure from the four corners of the building pre-construction.

2560 Dimensional Schedule (table)

It was the consensus of the members present from both committees to remove the "ed" on the word arched or domed so the line would now read: Mansard, gambrel, arch or dome roofs (feet).

Also discussed was changing where it references High Elevation 3900 to 2320, as 3900 no longer exists.

There are approximately six articles to bring to Town Meeting. A couple of the members from both Planning and the Ad Hoc Committee discussed only bringing two major bylaw revision articles to Town Meeting at a time. Zoning can be difficult for the public to understand and follow unless well versed in it.

Motion: To refer Recommendation 6 of the Ad Hoc Zoning Bylaw Revision Committee to the September 20, 2010 Planning Board Hearing with corrections made.

Moved: Peter Page. Seconded: Marianne Clements. Voted: 4-0-0.

Minutes of August 2, 2010

Motion: To approve as presented.

Moved: Howard Burchman. Seconded: Marianne Clements. Voted: 4-0-0.

Any other business that shall properly come before the Board

None.

Adjournment

Motion to adjourn at 6:55 p.m.

Respectfully submitted,
Maxine Notaro, Permit Coordinator

Recommendation 2 of the Ad Hoc Zoning Bylaw Revision

Committee on May 12, 2010 and approved on _____

1. Refer to the Planning Board, the following Zoning Bylaw Amendment: _____

Formula Business Regulated District. To see if the Town will vote to amend the Provincetown Zoning Bylaws so as to add the following provisions with respect to Formula Business Establishments by adding the following:

2360 *Formula Business Regulated District.*

2361 Definition:

"Formula Business" means a type of retail sales establishment, restaurant, tavern, bar, or take-out food establishment which is under common ownership or control or is a franchise, and is one of ten or more businesses or establishments worldwide maintaining three or more of the following features:

(a) Standardized menu or standardized array of merchandise with 50% or more of in-stock merchandise from a single distributor bearing uniform markings.

(b) Trademark or service mark, defined as a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of the goods from one party from those of others, on products or as part of the store design, such as cups, napkins, bags, boxes, wrappers, straws, store signs or advertising devices.

(c) Standardized signage and color scheme used throughout the interior or exterior of the establishment.

(d) Standardized uniform, including but not limited to, aprons, pants, shirts, smocks or dresses, hat and pins (other than name tags).

(e) Standardized facade and signage.

2362 Purpose:

The purpose and intent of the Formula Business Regulated District (FBRD) is to address the adverse social and economic impact of standardized businesses on Provincetown's ~~historic residential community~~ community character. Formula Business uses are regulated in the FBRD in order to maintain a unique retail and dining experience. Formula Businesses frustrate this goal by detracting from Provincetown's overall historic experience and threatening its tourist economy. The proliferation of Formula Businesses will have a negative impact on the Town's economy, historical relevance, unique character and economic vitality.

(1) Location

The location of the Formula Business Regulated District (FBRD) shall encompass the Town of Provincetown.

(2) Permitted Uses

Any use permitted in the underlying zoning district shall be permitted, except for those specifically prohibited below in Section 3.

(3) Regulated Uses

~~Formula Business uses are regulated in the FBRD in order to maintain a unique retail and dining experience. Formula Businesses frustrate this goal by detracting from Provincetown's overall historic experience and threatening its tourist economy.~~ The proposed use of any building or structure for a Formula Business establishment shall require both a Special Permit from the Zoning Board of Appeals and a site plan approval of the Planning Board as well as the business

license. The impact on the neighborhood and Town visual character and the impact on surrounding businesses of any Formula Business establishment shall be a criteria for approval. or take any other action relative thereto.

(Submitted by Barbara Rushmore and others)

2. Refer to the Planning Board, the following Zoning Bylaw Amendment: _____

Add to Section 2440 Use Table:

2440 Permitted Principal Uses

		Res 1	Res 2	Res 3 Res B	TCC	GC	S	M
B11	Formula Regulated Businesses	No	No	BA	BA	BA	No	No

Recommendation 6 of the Ad Hoc Zoning Bylaw Revision Committee on August 11, 2010 and approved on _____

1. Refer to the Planning Board, the following Zoning Bylaw Amendment: _____

Section ~~3300-2600~~ Design Standards

~~3310-2610~~ Purpose

~~Provincetown is a unique community: unique in its location, in the degree of its economic dependence on tourism, and in its architectural heritage. Few towns have so much of their historic architecture still in existence and maintaining its visual character as a 19th century seaport is of vital importance to the Town since it forms the base of its economic survival as a place tourists want to visit. The design standards required by this Article are intended to ensure that all development or redevelopment occurs in a manner that preserves, restores and respects this the unique architectural heritage and community character that is Provincetown. Roof Configuration and Building Scale are important contributing elements to the experience of the streetscape and the character of the community. Specifically, t~~The regulations in this Section of the Zoning By-Laws arise from the community character analysis and Goals, Objective and Policies contained in Chapter III of the Provincetown Master Plan, the Local Comprehensive Plan.

~~3320~~ 2620 Applicability

All new construction and any development (new buildings or rehabilitation projects that add dwelling units, commercial guest units, commercially usable space or Equivalent Dwelling Units*) in the Town of Provincetown that alters the exterior façade or roof configuration of an existing structure not specifically excluded from these provisions, shall be required to submit a site plan, architectural floor plan and elevation drawings of the existing and proposed buildings or renovations, and other supporting documents. If such development meets the standards set forth in this Article, then it may be approved by the Zoning Enforcement Officer. If such development fails to meet any one of the standards, then it shall be referred to the Board of Appeals ~~for review~~ accompanying an application for a Special Permit. The

Board of Appeals may ~~approve plans~~ grant a Special Permit for a proposed development that differs from the standards contained herein provided that it finds the design of the proposed development meets the requirements for granting a Special Permit ~~to be in conformity with the objectives of the Town of Provincetown, as listed herein.~~ The Board may attach conditions to a development approval to ensure that the objectives are met, or it may deny the development as inconsistent with the ~~failing to meet the Town's objectives.~~ ~~(An Equivalent Dwelling Unit is based on the sewerage flow estimates for a three bedroom house as specified in Sec. 15.02 of 310 CMR 15.00: The State Environmental Code, Title 5.)~~
~~3330~~ 2630 Roofs.

A. Applicability: This section is applicable in all zoning districts.

B. Purpose: ~~Provincetown is a 19th Century seaport town which has a distinctive architectural character. Part of that character is attributed to roof pitches in the range of (6 in 12) and (14 in 12) this means for every 12 units of horizontal distance, a roof shall rise from 6 to 14 units in height with the exception of a few Victorian buildings and recent structures, all of the town's buildings conform to this range in roof pitch. Since flat-roofed buildings of the same height as pitched-roof buildings would appear substantially more bulky, and would, therefore alter the traditional character of the town, they shall be avoid ed. The existing buildings in the town range from one and one-half to three stories. Although heights are often mixed, the maximum height to be permitted in different areas of town shall be consistent with Section 2560 of the Provincetown Zoning By-Laws.~~

The streetscape and community character that exist in Provincetown are the result of the compatible relationships among historic roof styles resulting from an architectural heritage that spans three centuries. Part of that community character is based on the large number of buildings of modest size and bulk, generally not more than 2 and 1/2 stories. The purpose of this regulation is to enhance community character by limiting the bulk above the second story and to mitigate potential negative impacts on adjacent properties.

C. Roof Pitch

~~1. Standards All new developments as specified in Section 6100 shall have roof pitches between (6 in 12) and (14 in 12) except a hip roof which shall have at least (4 in 12) and mansard and gambrel roofs which shall have no specific pitch requirement, unless a Special Permit is granted by the Board of Appeals as specified in Section 5300 in conformance with the requirements listed below.~~

~~2. Dormers: Dormers shall have a minimum pitch of 4:12. No part of a dormer shall extend above the ridge height of the roof from which it projects.~~

~~3. Board of Appeals Approval No approval for deviation from the above standard shall be granted unless the Board of Appeals finds that the deviation from the standard is in keeping with the standards for a Special Permit, the objectives of the Master Plan and is appropriate for one of the following reasons:~~

~~a. The function of the structure or the structure's importance to the community as a whole, justifies a different roof pitch. For example, a residential structure would not merit this sort of consideration, while a~~

~~church or public building might. A supermarket or warehouse structure with a need to span large floor areas may also be exempted, however, the design of a shopping center that looks like normal shopping centers is contrary to the purpose of this By-Law. Thus, in granting a deviation, the Board of Appeals shall be looking for a design that breaks up the typical straight front of the center and creates internal pedestrian areas and spaces.~~

~~b. Other features of the proposed design are such that the deviation of the roof pitch is not disruptive to the character of the area. There may be other advantages of the design that can make up for the difference in roof pitch. For example, a lower pitch may allow buildings further inland to retain a view of the bay.~~

~~c. The cost of replacing the roof of an existing building, where the roof would not otherwise be modified, is too high given the improvement in character that would result. For example, if a roof deck had been added that disrupts the character of the surrounding area, removal would be justifiable; requiring a small affordable housing unit to replace an entire roof would be justifiable.~~

D-C. Roof Configuration: Gable, Hip and Shed are the predominant roof forms in the Provincetown architectural tradition. Modifications of these roof configurations can transform the bulk of buildings. Therefore, above the second story of a building, limits are as follows:

- 1) dormers can not exceed coverage of 50% of the floor area directly below the contiguous roof in which the dormer will be located; and,
- 2) knee walls above the floor plates cannot exceed three feet in height.

Roof configurations that exceed these limits are prohibited. Other roof forms exist that by design enclose more volume on the upper floor and would be considered a full story: mansard, gambrel, and arched or dome roof forms therefore are prohibited above the second story. Flat roof form is also prohibited above the second story, except on dormers. Nothing shall prohibit modified roof configurations or combinations of roof forms provided that they comply with the definition of story and half story.

No existing gable roof shall be replaced with a different roof configuration without a Special Permit from the Board of Appeals, which shall specifically address, in addition to the requirements of Section 5330, the solar access available to neighboring structures (reference Chapter 637 of the Acts of 1985), and public safety including Fire Department facilities.

D. Building Height: The maximum height to be permitted in town shall be consistent with Section 2560 of the Provincetown Zoning By-Laws.

E. Relief under this Section: The Board of Appeals may grant a Special Permit deviating from the above standard if the ZBA finds that the deviation from the standard is in keeping with the standard criteria for granting a Special Permit, the objectives of the Local Comprehensive Plan and is appropriate for one of the following reasons:

- 1) The function of the structure or the structure's importance to the community as a whole, justifies a different roof configuration.
- 2) Other features of the proposed design are such that the deviation of the roof configuration is not disruptive to the character of the area.

2560 Dimensional Schedule (See Section 4100 for additional multi-family and commercial accommodation requirements)

Requirements	Residential			Commercial		Sea-shore	Public Use
	RES1	RES2	RES3 RESB	TCC	GC ⁽³⁾	S	M
Min. Lot Area (square feet)	8,000	5,000	5,000	5,000	7,000	120,000	--
Min. Lot Frontage (linear feet)	50	50	50	50	70	--	--
Min. Front Yard (feet)	30	20 ⁽¹⁾	20 ⁽¹⁾	10	30	50	--
Min. Side Yard (feet)	15	6	6	5 ⁽²⁾	15	25	--
Min. Rear Yard (feet)	20	15 ⁽¹⁾	10 ⁽¹⁾	10	25	25	--
Max. Lot Coverage (%)	40	40	40	40	40	--	--
Max. Number of Stories ⁽⁴⁾ (Refer to Story in Definitions)	2 1/2	2 1/2	2 1/2	2 1/2	2 1/2	2 1/2	2 1/2
Max. Building Heights ⁽⁵⁾							
Hip, gable and Shed roofs with a pitch of at least 4/12 (feet) ⁽⁶⁾	33	33	33	33	33	33	33
Mansard, gambrel, arch, or dome roofs (feet)	28	28	28	28	28	28	28
All other roof types Flat roof defined as less than 3/12 pitch (feet)	23	23	23	23	23	23	23
Harborfront setback (see above 2540)							

1. Or, if smaller, the average of the setbacks of the buildings on the lots thereto on either side, a vacant lot being counted as though occupied by a building set back the minimum required distance.
2. May be reduced to zero with a party wall (jointly owned by owner or abutting properties) meeting the requirements of the State Building Code, provided that access to the rear of the property is maintained for emergency vehicles.
3. Residential uses shall comply with requirements of the Res3 District.
4. For the number of stories allowed in High Elevation District, see Section ~~3900~~ 2320 High Elevation District. Mansard, gambrel, arched, domed, and flat roofs shall not exceed two stories.
5. Height limitations shall not apply to chimneys, TV antennae with poles of ten (10) feet or less, or spires, cupolas and widow walks that do not enclose more than thirty-five (35) square feet of floor space or exceed ten (10) feet in height or occupy more than five (5) percent of the roof area. If the roof is composed of multiple forms, the maximum height for each type of roof shall apply to each respectively. For Building Height allowed in High Elevation District, see Section 2320 High Elevation District.
6. and all other roof forms that enclose a top floor in accordance with the definition of a 1/2 story.