

HARWICH PLANNING BOARD
HARWICH TOWN HALL
732 Main Street - DONN B. GRIFFIN ROOM
THURSDAY, NOVEMBER 15, 2018 - 6:30 PM
MINUTES

BOARD MEMBERS PRESENT: Chairman Jim Joyce, James Atkinson; Joseph McParland; Craig Chadwick; and David Harris, via phone.

MEMBER ABSENT: Allan Peterson and Mary Maslowski

OTHERS PRESENT: Charleen Greenhalgh, Town Planner; Sharon Rooney, CCC and Steve Tupper, CCC.

CALL TO ORDER - 6:30 PM by Chairman, Joyce with a quorum present.

Chairman Joyce announced the Recording & Taping Notification: As required by law, the Town may audio or video record the meeting. Any person intending to either audio or video record the open session is required to inform the Chair.

Cape Cod Commission Staff Presentation on Update of the Regional Policy Plan

Presenters: Sharon Rooney and Steve Tupper from the Cape Cod Commission (CCC)

Ms. Rooney presented a Power Point presentation of the changes proposed to the Cape Cod Regional Policy Plan (RPP). Some highlights were: a regional vision for Cape Cod; Cape Cod Systems (Natural, Built and Community) and the goals and objective associated with these; Key challenges facing the region; Coordinated Regional and Local Planning; Cape Cod Placetypes; and Regional Regulatory Review. A timeline of the update process was also reviewed.

The Board thanked Ms. Rooney and Mr. Tupper for the presentation and taking the time to meet with the Board.

There was a brief discussion about the role of the Assembly of Delegate, which would have to approve the updated RPP as a county ordinance. In response to a question about coastal resiliency and climate change and to what degree and length of time is being looked out, Ms. Rooney explained that climate change is interwoven in the plan and is identified as a key challenge. Through the public outreach process, more has been asked in this area. The RPP will address these issues further.

Board members were pleased to see the ease of process for Local Comprehensive Plan (LCP) updates. CCC staff will be available to assist with the updates as well as providing data online for each Cape Town. The LCP will be more vision oriented rather than technical in nature. A template will be provide.

Board members asked about additional access over the Cape Cod Canal and whether the CCC has a role. Per Mr. Tupper, the CCC is very involved in the discussion process, both with the Army Corp of Engineers (which owns the bridges) and MassDOT through the Canal Studies.

The Board members overall were pleased with what was presented and looks forward to working with the Commission staff on the update of the Harwich Local Comprehensive Plan. The Chair

asked for examples of what the Board can do to reach people once the update begins. Ms. Rooney suggested such things as meetings, vision sessions, engaging the public wherever possible.

Meeting Minutes:

On a motion from Mr. McParland, seconded by Mr. Atkinson, the meeting minutes of October 23, 2018 were approved as amended (minor typo corrections) by Mr. Harris. So voted unanimously by a rollcall vote. (Atkinson – Yes; McParland – Yes; Chadwick – Yes; Harris – Yes; and Joyce – Yes) 5-0-0.

On a motion from Mr. McParland, seconded by Mr. Atkinson, the meeting minutes of November 5, 2018 were approved as written. So voted to approve by rollcall vote. (Atkinson – Yes; McParland – Yes; Chadwick – Yes; Harris – Abstain; and Joyce – Yes) 4-0-1.

Zoning Board of Appeals (November 28) and Historic (November 20) Advisory Opinions No Comments.

Zoning Review, Continued Review and Discussion

Overview and discussion on joint meeting with Board of Selectmen – Accessory Apartments: Mrs. Greenhalgh provided a brief overview of the discussion that the Board Members had with the Selectmen on November 5, 2018. The Selectmen provided a brief overview of each item. The Board will discuss these in greater detail at the November meetings. Additionally, she would recommend that drafts go to the Zoning Legal Counsel before any referrals are made to the Board of Selectmen and public hearings scheduled. As a result of the comments received from the Board of Selectmen some changes were made to the draft by Mrs. Greenhalgh. She reviewed this with the Planning Board. Additionally the consensus was to remove the language regarding “traffic hazards or volume greater than the capacity of the streets affected” as this was subjective in nature.

There was a brief discussion on how to prevent short term rentals. Is there any way to add language to control or prevent short term rental of these units. The intent of the bylaw is to create more affordable rental units. Additionally there was a brief discussion regarding “lot” vs. “parcel”. The language will change to address this. Legal Counsel will be asked to weigh in on this. The language to be sent to Zoning Counsel is as follows:

§325-51

H. Single-family dwelling with accessory apartment.

(1) Purpose. The intent of permitting accessory apartments is to:

- a. Increase the number of small dwelling units available for rent in Town;*
- b. Increase the range of choice of housing accommodations;*
- c. Encourage greater diversity of population with particular attention to young adults and senior citizens; and*
- d. Encourage a more economic and energy-efficient use of the Town's housing supply while maintaining the appearance and character of the Town's single-family neighborhoods.*

(2) Definitions.

OWNER *One or more individuals holding title to the property.*

(3) *Criteria for by-right. An accessory apartment within an existing single-family dwelling structure is allowable by right provided the criteria outline in paragraph 4, items a – k, of this bylaw are met. The Building Commissioner shall review said criteria upon the application for a change of use for said accessory apartment. In addition, the accessory apartment within an existing single-family dwelling structure shall comply with paragraphs 6 and 7 of this bylaw.*

(4) *Criteria for special permit approval. Special permits for single-family dwellings with a detached accessory apartment, may be granted upon determination by the Planning Board that the following criteria have been met:*

- a. Only one accessory apartment is permitted for each principal dwelling unit.*
- b. The accessory apartment may not be held in separate ownership from the principal use.*
- c. Only one of the principal dwelling or accessory apartment may be rented at any given time.*
- d. The accessory apartment shall have a net floor area not exceeding 1/2 of the net floor area of the principal dwelling unit and not more than 900 square feet.*
- e. The accessory apartment shall have not more than two bedrooms.*
- f. At least one off-street parking space shall be provided for the accessory dwelling unit.*
- g. The minimum lot area required for a parcel to allow an accessory apartment shall not be less than 15,000 square feet if the parcel is situated in a RH-1, CV, CH-1, MRL or MRL-1 District; 20,000 square feet if situated in a RL, RM or RR District; and 40,000 square feet if situated in a Water Resource (WR) Overlay District. For parcels existing within an approved Open Space Residential Development or Cluster Subdivision, the lots size shall be consistent with the approved plan.*
- h. The accessory apartment shall be designed so that, to the degree reasonably feasible, the appearance of the property remains that of a single-family property with matching materials, colors, window styles and roof design for one structure, if the apartment is attached, or for both structures, if the apartment is detached.*
- i. The principal dwelling unit and accessory apartment shall meet all wastewater treatment requirements for the combined number of bedrooms.*
- j. The proposed use shall not exceed the building or site coverage for the zoning district.*
- k. If an addition is to be built for the proposed use, the addition shall be set back from front, side and rear lot lines the distance required in the zoning district for new construction.*

(5) *The applicant shall record with the Registry of Deeds for Barnstable County a certified copy of the special permit decision and the special permit shall lapse if it is not so recorded and if it is not duly exercised within two years as provided for under MGL c. 40A, § 9.*

(6) *Transfer of ownership. The provisions of the permit from the Building Commission or the special permit issued by the Planning Board or Zoning Board of Appeals may be transferred with ownership of the property provided all provisions of the Zoning Code of the Town of Harwich and the State Building Code are met.*

(7) *A final determination that the owner failed to comply with these provisions or the termination of occupancy by the owner of the subject property shall be evidence that the rights and benefits conferred under the building permit and/or special permit were abandoned or otherwise*

surrendered and discontinued by the owner and all such rights and benefits shall lapse and the elements that make the accessory apartment a separate dwelling unit shall be removed from the property within 90 days of said final determination, with the owner to comply with all requirements of the State Building Code and Town Zoning in removing elements determined to be unpermitted.

Zoning Along Route 28 – This was another topic that was discussed at the November 5th meeting with the Selectmen. Mrs. Greenhalgh suggest that an idea that could be used is an extension of the Commercial Village Overlay District. Mr. Atkinson like this idea and the Board had looked at West Harwich and zoning in that area. The Board thought that to allow the overlay in particular areas would be a good idea. Mr. Atkinson will work with Mrs. Greenhalgh on this.

Sign Code – “A-Frame” Signs and Fines

The Board reviewed the proposed language and a lengthy discussion ensued regarding enforcement, fairness, and safety. The Board would like to see the proposed language forwarded to Zoning Counsel for review and opinion and once that comes back the Board would like to have the Chamber of Commerce and its members review the draft. The language to be sent to Zoning Counsel is as follows:

The existing definition would be deleted are replaced with the following:

“A-FRAME/EASEL/SANDWICH SIGNS” – Usually a double-faced, freestanding, portable sign made of wood, cardboard, plastic, or other lightweight and rigid material having the capability to stand on its own support(s), with no moving parts or lights.

A new §325-29.H be added to read as follows:

H. A-Frame/Easel/Sandwich Signs.

- (1) A sign permit from the Building Department shall be required;*
- (2) The sign shall be six (6) square feet or less per side, with the height not exceeding 3 feet;*
- (3) The sign area sign area (one side only) shall count towards the total allowable sign square footage for the business;*
- (4) The sign may indicate only the name of the business, the special event, the hours of operation or sale of a product and price;*
- (5) Only one (1) double-faced sign per business may be located on a property; a business with street frontage on two streets, may have one (1) such sign on each street front; however, if there are multiple businesses on a property there shall be no more than one (1) such sign allowable per business regardless of the street frontage;*
- (6) The sign may be displayed only when the business is open to the general public;*
- (7) The sign shall comply with the requirements of §325-26.*

And further that a new §325-29.I be added to read: Violations. Any violations of this bylaw shall be subject to §325-48 (Violations and penalties.)

Retaining Walls for Septic Systems

Mrs. Greenhalgh explained that the currently if a mounded septic system is required on a property and if the retaining wall is over 4 feet in height (bottom of the footing to the top of the wall) it is required to meet zoning setbacks, which means that if the mounded septic system needs to be 15 feet from a lot line, a variance is required from the zoning board of appeals. It was

agreed that this is excessive. After a brief discussion, the Board agreed that the minimum allowable setback should be 10 feet and that if a mounded system needs to be closer than that, zoning board of appeals relief would then be needed. The proposed bylaw should be sent along to Zoning Counsel for review and opinion. The following language will go to counsel:

To see if the Town will vote to amend the Town's Zoning Bylaw §325-16, Table 2 and to add a new subparagraph "R. Retaining Wall(s) for Septic Systems" to §325-17, as follows:

§325-16, Table 2, add a Note "3" to the "Front (feet)", "Side (feet)", and "Rear (feet) columns, which shall read as follows:

"³May be reduced to 10 feet for Septic System pursuant to §325-17.R"

And,

§325-17 add a new subsection "R. Retaining Wall(s) for Septic Systems" to read as follows:

"R. Retaining Wall(s) for Septic Systems. On an improved parcel, a retaining wall(s) associated with the installation of a septic system (e.g. mounded septic system) required by the Board of Health and/or Title 5, may be setback no less than 10 feet to any lot line.

Building Height – Flood Plain

Mrs. Greenhalgh explained that there have been issues with existing buildings within a flood plain and the matter of elevating them for Flood Insurance purposes. The following draft language has been proposed and is based on language from the Town of Dennis, who in turn based it on language used in New Jersey.

To see if the Town will vote to amend the Town's Zoning Bylaw Article XVII – Flood Plain Regulations by 1) changing §325-108 Definitions to §325-109 Definitions and 2) adding a new §325-108 "Special Provisions for Lifting Existing Structures to New and Appropriate Elevations" and by adding four new definitions, alphabetically, to the new §325-109 Definitions, and further to amend §325-2 Word usage and Definitions "Building/Structure Height" paragraph B by deleting the existing language and replacing it, as follows:

§325-108 Special Provisions for Lifting Existing Structures to New and Appropriate Elevations

(1) Notwithstanding the provisions of any other provision of the Harwich Zoning By-law to the contrary, except as otherwise provided pursuant to paragraph (3) of this subsection, a person shall be allowed to lift an existing structure located in an Area of Special Flood Hazard to a new and appropriate elevation, or constructing a staircase or other attendant structure necessitated by such raising without the need for Board of Appeals relief, provided, however, this exemption shall apply only to the minimum extent or degree necessary to allow the structure to meet the new and appropriate elevation with adequate means of ingress, egress and accommodation of typical basement facilities.

(2) Appurtenant to lifting an existing structure, the existing structure may be relocated elsewhere on the lot as long as said relocation does not create a new, or increase the intensity of a setback nonconformity.

(3) The exemption established pursuant to paragraph (1) of this subsection shall not be available to a person who has altered or is seeking to alter the original dimensions of a structure if, had the alteration not been made, the structure could have been raised to meet the new and appropriate elevation either without the exemption or with an exemption of lesser degree than is needed with the alteration.

And,

§325-109 Definitions, as the following:

ATTENDANT STRUCTURE means an area to accommodate utilities, laundry facilities or mechanicals which are otherwise typically located within a basement area.

EXISTING STRUCTURE means any commercial or municipal structure or residential dwelling that currently exists, or existed prior to the catastrophic event, at the time a request is made to elevate.

HIGHEST APPLICABLE FLOOD ELEVATION STANDARD means the one-percent (1%) FEMA base flood elevation plus up to an additional three (3) feet.

NEW AND APPROPRIATE ELEVATION means any elevation to which a structure is raised, or is to be raised, that is equal to or higher than the applicable FEMA base flood elevation, provided, however, in no case shall the new and appropriate elevation exceed the highest applicable flood elevation standard.

After a brief discussion, the Board asked Mrs. Greenhalgh to continue to work on this draft.

The Board Members thanked Mrs. Greenhalgh for the work she has done on the various bylaws.

Briefing and Reports by Board Members

Mr. Chadwick attended a workshop on Community Involvement in Planning. The Board had a brief discussion on various plans and visions for Harwich. A copy of the PowerPoint will be shared with the Board. Mr. Atkinson reported that the CPC has begun its review of the applications received, 8 total. Four were presented by the applicants earlier in November and the remaining will be presented in December. There is adequate funding available to fund all the projects, if CPC votes to approve.

A brief discussion ensued about the Local Comprehensive Plan and the CPC Plan.

Adjourn

On a motion from Mr. McParland, seconded by Mr. Atkinson, the meeting adjourned at 8:44pm.

Respectfully submitted,

Charleen Greenhalgh

Adopted: November 27, 2018