



PLANNING BOARD
TOWN OF TISBURY
P.O. BOX 602
TOWN HALL ANNEX
VINEYARD HAVEN, MASSACHUSETTS 02568
(508) 696-4270
www.tisbury.ma.gov

2023 ZONING BYLAW AMENDMENTS

Article 1 To see if the Town will vote to amend the existing text in Section 03.01 of the Tisbury Zoning By-Laws entitled Types of Districts by adding the bold print as shown below, or take any action relative thereto:

TZBL 03.01 Types of Districts:
For the purposes of this Bylaw, the Town of Tisbury is divided into the following types of use districts:

- Residential District 10 (Map Symbol R10)
- Residential District 20 (Map Symbol R20)
- Residential District 25 (Map Symbol R25)
- Residential District 50 (Map Symbol R50)
- Residential District 3A (Map Symbol R3A)
- Business District 1 (Map Symbol B1)
- Business District 2 (Map Symbol B2)
- Lagoon Harbor Park (LHP)**
- Waterfront/Commercial (Map Symbol W/C)
District

Proposed:
Add: Lagoon Harbor Park (LHP)

Reason:
In Existence since 1985

Article 2 To see if the Town will vote to amend the existing text in Section 04.02.08 of the Tisbury Zoning By-Laws entitled Use of premises or building thereon in connection with one's trade by adding the proposed language as shown below, or take any action relative thereto:

TZBL 04.02.08

Original: Use of premises or building thereon in connection with one's trade by a resident carpenter, electrician, painter, plumber, or other artisan, provided that no manufacturing or business requiring substantially continuous employment of more than one (1) person on the premises be carried on. No outside storage of material's connected with said business shall be permitted in Residential Districts.

Proposed: Use of premises or building thereon in connection with one's trade business, provided that no manufacturing or business involving regular employment of more than one (1) person, not including the property owner or primary occupant, working on the premises be carried on. Outside storage of materials and equipment must be screened from abutting properties and public or private ways. Only two (2) vehicles connected with said business, inclusive of employee vehicles, shall be allowed and all such parking, whether overnight or for any period of the day, shall be entirely within the property boundaries. No vehicle larger than 26,001 pounds (lbs.) requiring a class B CDL license shall be permitted to park on said premises. Outdoor operations associated with said business will be limited to between 8AM-5PM Monday through Saturday. No outdoor business activities shall occur on Sunday. It shall be considered a violation of this Bylaw if regular daily gathering of employees or use of equipment occurs that exceeds noise, illumination and odors restrictions as stated in Bylaw Section 07.09; limiting noise and disturbance to abutting properties may be required by the Town Building Inspector. The use of vegetative or other means of screening and noise reductions may also be required by the Building Inspector

Reason: Clarification that only one person can be employed on the property full time and that you cannot have multiple commercial vehicles. A common zoning complaint has been a tradesperson parking multiple work vans or trucks on the lot and then workers report to the home early in the morning to get in their van for the day causing extra noise in residential neighborhoods. And noise caused by use of equipment outdoors.

Article 3

To see if the Town will vote to amend Section 04.04.02 of the Tisbury Zoning By-Laws entitled Multiple Family Dwelling and Structures by amending the second unnumbered paragraph and the Fourth unnumbered paragraph under the heading “EXCEPTION” to expand the provisions that the Planning Board may waive for certain affordable housing developments to include Section 04.04.02 (i) and to clarify the scope of the Planning Board’s conditioning authority in granting such waivers, as shown in the following underlined and bold text, or take any action relative thereto:

Original:

EXCEPTION

To promote year round affordable and community housing, the Planning Board through the special permit granting process may grant the following exceptions:

Where a minimum of twenty-five percent of the dwelling units are permanently deed restricted for affordable housing and an additional twenty-five percent of the dwelling units are permanently deed restricted for community housing, the Planning Board may waive the requirements in Section 04.04.02 (b),(d), (e), (j) and (l), if the Planning Board finds that the development does not disproportionately impact the visual character of the adjacent neighborhood.

Affordable and community dwelling units shall be subject to the requirements and restrictions overseen by the Dukes County Regional Housing Authority for certification and annual recertification.

In deliberating upon applications made under this Section 04.04.02, the Planning Board considerations shall include, but are not limited to:

- health, safety and traffic impacts;
- overcrowding and congestion;
- preservation of open spaces and scenic values;
- protection of natural resources;
- compatibility of proposed uses and structure(s) with the neighborhood;

Further, the Planning Board shall give particular consideration to consistency with master planning policies and impacts upon municipal problems and projects.

The Planning Board shall not grant a Special Permit under this Section 04.04.02 unless it has found good and sufficient evidence that the plan is appropriate to the intent and purposes of the Zoning Bylaws, does not conflict with master planning policies, will not significantly aggravate an identified municipal problem(s) or impede municipal project

Proposed:

Where a minimum of twenty-five percent of the dwelling units are permanently deed restricted for affordable housing and an additional twenty-five percent of the dwelling units are permanently deed restricted for community housing, the Planning Board may waive the requirements in Section 04.04.02 (b),(d), (e), (j), (i) and (l), if the Planning Board finds that the development does not disproportionately impact the visual character of the adjacent neighborhood **and does not, as conditioned, unduly burden public or private infrastructure serving the property.**

Affordable and community dwelling units shall be subject to the requirements and restrictions overseen by the Dukes County Regional Housing Authority for certification and annual recertification.

In deliberating upon applications made under this Section 04.04.02, the Planning Board considerations **and conditions may** include, but are not limited to:

- health, safety and traffic impacts;
- overcrowding and congestion;
- preservation of open spaces and scenic values;
- protection of natural resources;
- compatibility of proposed uses and structure(s) with the neighborhood;

Further, the Planning Board shall give particular consideration to consistency with master planning policies and impacts upon municipal problems and projects.

The Planning Board shall not grant a Special Permit under this Section 04.04.02 unless it has found good and sufficient evidence that the plan is appropriate to the intent and purposes of the Zoning Bylaws, does not conflict with master planning policies, will not significantly aggravate an identified municipal problem(s) or impede municipal project.

Article 4 To see if the Town will vote to amend the existing text in Section 09.01.06 of the Tisbury Zoning Bylaws entitled Height of Structures by adding the proposed language as shown below, or take any action relative thereto:

TZBL 09.01.06

Original: Height of Structures: The maximum height of structures as measured vertically from the mean natural grade level shall be as follows: Twenty-four (24') feet for a pitched roof and thirteen (13) feet for a flat or shed roof (which is a roof of pitch one (1) in four (4) or less).

Proposed: The maximum height of structures as measured vertically from the mean natural grade level shall be as follows: Twenty-six (26') feet for a pitched roof and Thirteen (13') feet for a flat or shed roof (which is a roof of pitch one (1) in four (4) or less). Chimneys used solely for exhausting smoke/gas are exempt from the maximum height limit.

Reason: Moving structures in the Coastal District generally requires raising the height of the structure. Surveyor/Engineer requested this change.

Article 5

To see if the Town will vote to amend the existing text in Section 04.03.13 of the Tisbury Zoning Bylaws entitled Accessory Apartments by striking condition (b) as underlined below, or take any action relative thereto:

TZBL 04.03.13

Original: Accessory Apartment Purpose and Intent; The purposes of this Bylaw are to:

1. Provide affordable, community and year-round rental housing within the architectural context of the Town's single family home character.
2. Provide an opportunity for family members and seniors who choose to live in a close proximity but separate to remain within that family environment.
3. Provide caregiver housing for the health and security concerns of elder or disabled homeowners who wish to remain in their home.
4. Provide homeowners with additional income to help them retain ownership of their homes.
5. Protect residential stability, property values, and the single-family character of the neighborhoods.
6. Make it possible for the Town to supervise and monitor such additions for code compliance and safety.

Conditions:

Only one accessory dwelling unit is permitted in a single family residential dwelling pursuant to a special permit issued under the provisions of Section 04.03.13 and provided that:

- (a) The lot on which the accessory apartment is situated is not in either the R3A or the Coastal District.
- (b) The requirements of Schedule A (section 13.00) are met.
- (c) No more than one (1) accessory apartment shall exist on a lot. If a guesthouse or accessory apartment exists on the lot, no additional accessory apartment shall be allowed.
- (d) The accessory apartment shall measure no more than forty (40) percent of the existing habitable area not to exceed six- hundred (600) square feet in all residential districts. At no time shall either dwelling unit be made a condominium and held in separate ownership. The appearance of the building shall remain that of a single-family residence in keeping with the character of the neighborhood.

Proposal: Strike the condition.

Reason: An accessory apartment is contained within an existing dwelling, unlike a guest house which is detached but within regulation 04.03.08 the lot area must exceed, by 25% or more, that required by Schedule A for a single-family dwelling.

(If the lot or the dwelling thereon is non-conforming in any way does that preclude an apartment entirely?)

Article 6

To see if the Town will vote to amend the Tisbury Zoning By-Laws by adding a new Section 07.17, entitled Time Share, Interval and Fractional Ownership Units, as set forth below, or take any action relative thereto:

TZBL 07.17 Time Share, Fractional and Interval Ownership Units:**Proposed: .01 Findings and Purpose.**

The purpose of this section is to preserve and protect limited housing stock in the Town from the market pressures attendant to time share, interval and fractional ownership uses and to protect neighborhoods from the impacts of such uses.

- a. Fractional ownership, interval and time share units have similar character as commercial hotels, motels, lodges, and other commercial occupancy uses due to their transient nature and multiple short-term occupancies. Such commercial or quasi-commercial use is inappropriate in residential areas due to the increased traffic generation and multiple occupancies disturbing the peace and quiet of residential neighborhoods.
- b. The needs of transient occupants are averse to the interests sought to be protected and preserved in residential neighborhoods, because commercial uses for transient occupants may sacrifice other values critical to residential neighborhoods.
- c. The Town deems it necessary and appropriate to protect the existence of year-round residences and the quiet and peace of the Town by preventing unwarranted commercialization from encroaching therein, including commercialization caused by the misuse of single-family residences.

.02 Definition.

- a. Time Share, Interval or Fractional Ownership Unit. Any Dwelling Unit which is owned by a limited liability company, corporation, partnership, or other joint ownership structure in which unrelated persons or entities own, sell, purchase or otherwise for consideration create or acquire any divided property interest including co-ownership or fractional or divided estates, shares, leaseholds, or memberships which are subject to, or subsequently bound by any agreement limiting the right or functional ability of interest holders or their designees to occupy or use the property to their respective interests or any other agreement which limits interest holders' or their designees' use of the property to fractional reservations through stay limitations of any duration. Such use is established by any of the following elements:
 1. co-ownership or fractional or divided estates, shares, leaseholds, or memberships which are openly advertised, marketed, or offered for sale and sold individually at separate times.
 2. centralized or professional management.
 3. reservation systems.
 4. maximum or minimum day limits on each interest holder's occupancy or use of the property; or
 5. management agreements or fees reflective of interval use or ownership, irrespective of whether the agreement may be cancelled individually or by any party.

.03 Prohibition of fractional ownership, interval, and time share units.

The use of any dwelling unit in the Town as a fractional ownership, interval or time share unit is prohibit in the residential districts R-10, R-20, R-25, R-50, and the R-3A

- a. Exceptions.
 1. This section shall not be deemed to preclude the creation of mortgages, liens, easements or other similar interests encumbering the residential property as a whole to secure a loan or for any other legitimate purposes.
 2. This section shall not apply to non-commercial groups, such as families, partnerships, associations, or trusts with divided interests or agreements in which the real estate is held and transferred within the family, partnership, association or trust, as opposed to sold in fractional or divided interests on the open market.

.04 Severability.

If any section, subsection, sentence, clause or phrase of this section is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter.