

PLANNING BOARD

TOWN OF TISBURY
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MEETING MINUTES

DATE: February 1, 2017

TIME: 6:00 PM

ATTENDANCE: Bellante-Holand, Doble, Robinson and Stephenson
ABSENT: Seidman

PLACE: Town Hall Annex, 66 High Point Lane

MINUTES: As referred in the January 26, 2016 Meeting Agenda
January 11, 2017 and January 26, 2017 - Available

APPOINTMENTS:

6:00 PM Douglas Hoehn – Informal Discussion re: Bill Kingsbury and Laura Freeman,
AP 50A2.2

Board members were advised that the property owners of the 9.75 acres parcel of land in the above referenced location were interested in subdividing the property into to three (3) building lots utilizing the existing 50 ft. wide driveway (access easement) off State Road as the subdivision road.

Tisbury Case File #281 illustrated that the lot in question was created through the deep lot provision under the Form C public review process in 1989. Board members were informed that the public review requirement had been deleted from the regulation at town counsel's recommendation because it exceeded state statute.

C. Doble inquired about the property owner's access, because it appeared to her that they were accessing the rear lot through the front parcel outside of the access easement. D. Hoehn submitted a previously endorsed subdivision plan for the applicant's sister, Elsie J. Kingsbury illustrating the access easements granted among family members that weaved in and out of the 50 ft. wide access easement that was created in 1989 and subsequently utilized as additional access for a Small Project subdivision (3 lots) in Tisbury Case File #454.

D. Hoehn explained that the proposal was to create a 40 ft. wide layout within the 50 ft. wide access easement with a turnaround at the end of the road to provide access to the three (3) lots. The issue with the proposal was that portions of the existing dirt driveway were outside the 50 ft. wide access layout. The one branch leading directly to the existing house was going to be abandoned and replaced by the new access from the turnaround. The second branch leading to three lots southeast of the 50 ft. wide access easement

would remain intact. In regards to the small section outside the 50 ft. wide access easement, the property owners wanted to continue its use to protect the big old trees that have grown in the 4 ft. -5ft. drop to the south of the travel way.

B. Robinson concurred with D. Hoehn and inquired about the abutting lots rights over the 50 ft. access easement and the property owner's rights to extend the use of the one portion the dirt driveway to the additional property owners. D. Hoehn explained that the three lots to the south of the property in question belonged to a family member. The property owner's sister had divided her property into three lots in 1992. D. Hoehn indicated that the property owner's attorney believed that they had right to transfer their rights to the other property owners. B. Robinson was concerned about preserving the aesthetics. C. Doble believed they had to receive a clarification about the transference of rights and the potential for overburdening the dirt driveway by adding two lots. D. Hoehn understood, but did not have a written legal opinion on the issue. He did not understand why the sister's attorney did not address this matter when she divided her property. He did not understand why the attorney did not address the issue at the time the subdivided the lots in 1992, unless the decision was predicated on the relocation of the driveway into the access easement. The other alternative was to extend the 50 ft. wide access easement to include the existing dirt driveway. Board members concurred.

C. Doble inquired if the applicant was required to establish a homeowner's association, and if the three lots to the south would be part of the same association. D. Hoehn replied in the affirmative. B. Robinson believed all six lots had to be in the homeowner's association. D. Hoehn inquired if the Planning Board would contact town counsel for an opinion. Board members replied in the affirmative, and offered to contact D. Hoehn to inform him of town counsel's recommendation.

6:15 PM Derrill Bazy re: Student Design Competition (No Show)

C. Doble informed the Board that D. Bazy, a staff member at Island Housing Trust was unable to make his appointment with the Planning Board. She informed the Board that he was soliciting their support of IHT's participation in the 17th Annual Greater Boston Affordable Housing Development Competition co-sponsored by the Federal Home Loan Bank of Boston.

She explained that IHT had contacted the Federal Home Loan Bank of Boston to inquire about participating in the competition because they were interested in having one of the teams look into a mixed use development for IFP's property on Edgartown Road and the abutting land around the proposed connector road. IFP indicated that they would be interested in relocating their storage operations at the airport's business park if space became available. P. Jordi and D. Bazy thought the competition would provide them with viable plan for the area's development.

C. Doble understood that they were partnering graduate students with professionals in the competition "to combine classroom experience with real-world practice in affordable housing". The students were to benefit from the exposure to the "multilevel learning

process of design and production” with housing organizations to address the need for affordable housing over a two month period. At the end of the competition, the participants were going to be rated and awarded a monetary prize.

B. Robinson moved to endorse the concept and D. Bellante-Holand seconded the motion. H. Stephenson supported the idea, but recommended further discussion on the details of their responsibilities. C. Doble agreed and thought they could begin by defining the boundaries. Board members voted. 4/0/0 D. Bellante-Holand offered to assist with housing accommodations.

6:20 PM Marnke Lipke re Accessory Apartments

M. Lipke inquired if the proposed accessory apartment amendment conflicted with the goals and objectives of the Housing Production Plan (HPP). B. Robinson replied in the negative, and was designed to serve as a guide to build a number of affordable units per year. It afforded the town a two year protection from 40B developments.

H. Stephenson commented that the regulations currently allowed accessory units without an affordable restriction as recommended in the proposed bylaw amendment. It concerned her that the proposal complicated the process for an accessory unit, with the insertion of an additional criteria (e.g. affordable) when they lacked a definition for affordable. She understood M. Lipke’s issue with the existing regulation pertained to the percentages and sq. footages because she exceeded both, but did not believe the solution required an additional restriction e.g. affordable component, when it could be addressed by adding the following language:

(c) The accessory dwelling unit 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.

If the accessory unit is contained within the existing structure, except for newly required egresses, the percentage and the square footage requirements may be waived. ...

B. Robinson inquired if she was granting the Zoning Board of Appeals the ability to waive the area requirements if they stayed within the footprint. H. Stephenson replied in the affirmative. B. Robinson thought the language opened the door to expanding the apartments with additions, since the property owner could occupy either unit. H. Stephenson asked M. Lipke about the sq. footage of the second floor. M. Lipke replied 814 sq. ft. D. Bellante-Holand did not understand the need for the waiver when she could create an accessory apartment with a modification.

M. Lipke explained that she was aiming for a simpler solution, and tying the proposal to affordable housing and care giving because of the need and political support. The income from an affordable unit helped seniors on fixed incomes. She preferred the 50% requirement because the additional floors in a house were usually equal in sq. ft. to the first floor. D. Bellante-Holand recalled that the Board also questioned the reality of the enforcement. M. Lipke noted that the building inspector inspected the apartment, but that the DCRHA provided a list of tenants that qualified for the affordable unit, and followed up on the tenant’s eligibility on an annual basis to make sure the unit remained within the affordable housing stock.

B. Robinson expressed a concern about the absence of a monitoring system for the care giver's use of the apartment. M. Lipke indicated that the property owner would have had to provide a physician health provider recommendation. B. Robinson noted that it did not address how the town was going to monitor the use of the apartment by a care giver. It was an oversight, and an issue she would address. C. Doble agreed with H. Stephenson and thought they should just focus on the accessory apartment. She wanted to understand the logic for the proposal to address the problem without creating an inconsistency in another section of the bylaw. H. Stephenson did not think the proposal should be tied to affordable housing. D. Bellante-Holand agreed because they were two separate issues. She thought they should keep the proposal as simple as possible and inquired about the ramifications if they removed the 600 sq. ft. requirement and retained the percentage. She asked M. Lipke if it was essential to use the entire second floor. M. Lipke indicated that it was easier to dedicate the entire floor for the apartment, than to invest additional funds to construct a wall to create storage space.

B. Robinson was concerned that the proposed amendment allowed for the expansion of the apartment. D. Bellante-Holand and H. Stephenson did not understand his concern and asked for an explanation. He replied that the amendment allowed people to circumvent the restriction others had to abide by. H. Stephenson reiterated her preference for eliminating the affordable component in the amendment, adding that she would eventually like to see accessory apartments as a matter of right. M. Lipke in her discussions with the ZBA Administrative Assistant understood that the board would never support that recommendation. B. Robinson further noted that if the town allowed people to build accessory apartments as a matter of right, the market was going to encourage the seasonal rental of the units. C. Doble thought the amendment could be revised to state year round rental instead of "affordable". B. Robinson noted that they'd still need a system to monitor the use and a person to do the job. It was an issue the town was experiencing with the ZBA's decisions.

C. Doble thought they could develop guidelines to enumerate the criteria the applicant had to meet to obtain the waiver, to develop a system to monitor the year round use of the apartment and to explore a tax incentive to encourage the year round use of apartments. D. Bellante-Holand believed the tax incentive placed a financial burden on the community. C. Doble believed the town was already shouldering the burden by not having a monitoring system in place for the units that were not being used as approved. D. Bellante-Holand asked M. Lipke to explain the documentation the town could use to verify the need for a care giver. M. Lipke replied that they could have an annual letter from the primary care physician or visiting nurse to substantiate the need for a care giver.

M. Lipke inquired if the Planning Board would consider sponsoring the amendment for this year. B. Robinson indicated that the Board members wanted to address the issues that were raised in the discussions. M. Lipke preferred having the Board move forward on the amendment. B. Robinson cautioned that that the amendment may not fair well if the Board did not support the language. M. Lipke understood. D. Bellante-Holand reiterated that she still had an issue subsidizing an affordable unit with publically acquired funds (CPC funds) for the property owner's benefit. C. Doble explained that the CPA assigned a certain amount of their funds for affordable housing on an annual basis. It was a fixed dollar amount that everyone had access to including DCRHA.

C. Doble did not think they should amend the bylaw to accommodate one person. D. Bellante-Holand did not want to invest a lot of time without knowing the details and the time frame. B. Robinson advised the Board that they did not have to make a decision on

the proposed amendment. He suggested continuing the discussions until they were prepared to make a recommendation.

C. Doble agreed, and thought they should continue the discussions on the proposal at their next meeting, for a final determination on the amendment. D. Bellante-Holand questioned the benefit in spending additional time on the proposal when they agreed that they would not be prepared to address the amendment for this town meeting, and other priorities.

B. Robinson noted that M. Lipke was meeting with the ZBA on 2/9/17 to solicit their impressions. H. Stephenson volunteered to attend the meeting and report on the discussions. Board members agreed to place the topic on the board meeting agenda on 2/15/17 to render a determination on the proposal and/or the possibility of an alternative bylaw amendment.

BOARD DISCUSSIONS:

1. Zoning Bylaw Amendments

A. Accessory Apartments

B. Public Shade Trees

C. Doble met with the DPW Director to discuss the Town Administrator's recommendation for a road district to protect the street trees. The DPW Director did not favor the recommendation because the road district was designed to comply with the state's protection of public shade trees. The issue they were trying to address was much broader in scope and had to include street trees. She therefore agreed to look into a less complicated solution such as a zoning bylaw amendment and offered to do the research. It would require an inventory of all of the street trees (canopies) they wanted to protect, a set of guidelines and a purpose statement to explain why they had to be protected.

Curb Cuts

C. Doble informed the Board that the DPW Director wanted to delegate the responsibility of performing the site inspection and for determining the suitability of the location of the curb cut, as currently practiced in the Town of Edgartown. She did not know if the process was governed by a town bylaw or zoning regulation, and asked the board secretary if she would contact the Town of Edgartown for the information.

D. Bellante Holand cautioned the Board about adding additional work to the board secretary's workload when they were debating the need for additional staff. It was important to understand what the additional review process entailed and required in time and manpower. B. Robinson did not anticipate that there would be many applications.

Board members requested information about Edgartown's policy and process, and asked the Administrative Secretary to obtain the information.

C. Mobile/Tiny Home Public Hearing

C. Doble understood the Planning Board Chairman had recommended language and scheduled a hearing on an amendment to create housing contrary to the Housing Production Plan consultants' recommendations. She did not feel prepared to comment on the amendment at the hearing on 2/15/17 without having had the opportunity to discuss the specifics of the proposal, the anticipated outcome(s) or benefits, etc. with the Board Chairman. She suggested that they postpone the amendment and cancel the meeting.

Following additional discussions, the board thought they should move forward with the hearing, and to explain why they cannot support the amendment.

2. Committee Reports

C. Doble informed the Board that the MassDOT did not approve the Complete Streets policy they submitted for the town, and was in the process of revising the document to include the information they were recommending.

3. 2016 Town Report

RE: Draft Outline

CORRESPONDENCE RECEIVED:

1. Tisbury Board of Appeals

- A. Special Permit #2272 – Douglas Best, AP 14C02 (in ground pool)
- B. Special Permit #2273 – David Forbes, AP 13D06 (expansion of structure w/in shore zone)
- C. Special Permit #2276- Frederick Rundlet, AP 8D1 (basement apartment/Looks Inn)
- D. Special Permit #2277 – John Alexander Meleney, AP 5H5 (modification of height restriction)
- E. Special Permit #2278 – Andrew Dimmick, AP 11A50 (expansion of structure/shore zone)

Other business not reasonably anticipated 48 hours in advance of meeting

PRO FORM

Meeting opened, conducted and closed in due form at 8:15 P.M.
(m/s/c 4/0/0)
Respectfully submitted;

Patricia V. Harris, Secretary

APPROVAL:

Approved and accepted as official minutes;

Date

Benjamin Robinson
Chairman Pro Tem