



OAK BLUFFS PLANNING BOARD

Meeting Minutes

THURSDAY, FEBRUARY 25, 2021

5:00 p.m. | Virtual Zoom Meeting

Members in Attendance: Ewell Hopkins, Erik Albert, Bill Cleary, Mark Crossland, JoJo Lambert

Members Absent:

Staff in Attendance: Kim Leaird (*Administrator*)

Attendees: Joe Sollitto, Paul Hartel, Gail Barmakian, Marc Drainville, Patrick Hickey, Anastasia Rudenko, Pete Bradford, Rob Brennan, Eric Peters, Maria Danielson, Jason Danielson, Deborah Watrous, Tom Zinno, Sharon Cooke, Llewellyn Rogers

Chairperson Hopkins opened the meeting at 5:06 p.m.

Approval of Minutes

Member Lambert made a motion to approve the minutes from February 11, 2021. Member Cleary seconded. All were in favor.

CONTINUED Public Hearing: 35 Circuit Ave., Parking in the B1 District

Public hearing was opened on February 11, 2021 and continued. *In accordance with the provisions of M.G.L Chapter 40A, Section 11 M.G.L., and Oak Bluffs Zoning Bylaw 5.1.5 (Parking in the B1 District), the Planning Board will hold a public hearing on Thursday, February 11, 2021 at 5pm on the application of Lighthouse Trust, 230 Jones Rd., Unit 6, Falmouth, MA 02540, Paul Hartel, Trustee, for property at 35 Circuit Avenue, Oak Bluffs; Map 8, Lot 269. Applicant seeks approval to pay a parking mitigation fee in lieu of providing required number of parking spaces in the B1 District.*

Chairperson Hopkins the number of spaces required in the B1 district, the calculation should be based on the total new floor area as detailed under 5.1.3.

5.1.3 Required Off-Street Parking Spaces in the B1 District.

1. Retail sales and services establishments: one parking space for each 100 sq. ft. of new floor area for the first 500 sq. ft. and one parking space for each additional new 200 sq.

The bylaw does not differentiate between retail vs. storage space. Per the building permit application and plans, the total square footage increase is 1,983 sf (not 1,445 sf). **In addition, per a 2018 parking mitigation (Kennebec Farm Stand) decision made regarding “piggyback” spaces, the Planning Board stated “... ‘piggyback’ spaces [are not] effective (one car parked in front of another car) and that the spaces the Applicant alleged as two was really just one space. There was board consensus that the two piggyback spaces on the side are to be considered just one spot and that this decision should inform future decisions in that regard.”**

He noted that there is a deed restriction agreement with Wastewater Commissioners dated December 2020.

An adjustment was made to the calculations and Bill Cleary made a motion to accept the new calculation — \$875 for four spaces** (counting the 5 spaces as 4 due to one being a ‘piggyback’ space).

A roll call vote was taken and motion passed 5-0.

***Please note that an error was made in calculations and actual decision states:*

The formula used to calculate Parking Mitigation Payment Due:

First 500 sq. ft. of new floor space: \$500 + (\$75 x 7 spaces) = \$1,025

*\$1,025 - \$300 for four provided [leased] spaces = **\$725***

(The Applicant’s lease with MVCMA expires December 31, 2021. Should the lease not be renewed, the annual payment shall increase accordingly.)

CWMP Summary - Review and discussion

Gail Barmakian introduced the topic by saying that the CWMP is a wastewater management plan, an environmental tool — not a planning tool. They are mandated by the state and federal government to manage wastewater in ways that are environmentally sound, i.e., the amount of nitrogen in the ponds. While they work together with planning to meet the needs of the town, right now the priority is to clean our ponds.

Chairperson Hopkins said that this has been an ongoing debate: how can we take the CWMP as a tool for smart growth and expansion. While there may be ancillary benefits, you are stating that the primary focus is protecting water quality. Growth and planning of the town are of utmost concern, especially when there is uncontrolled growth without a vision and looking at the needs of the community. He said he thought the CWMP a fantastic tool for planning because planning will be directly impacted by how well we can responsibly manage human waste; it will directly affect the kind of growth projections and patterns of the town.

Gail Barmakian said that unlike big cities and towns, smart growth for this island has to take in several environmental factors, including wastewater that has been put on the back burner in favor of climate change and sea level rise.

Chair Hopkins said he does not consider the CWMP and sewerage to be synonymous, planning will extend beyond just sewer, but he asked how do they work together where we have tremendous planning challenges. What aspect of the CWMP is appropriate for the board to consider as town planners.

Gail said the role that the planning board may play in this is to have a net neutral plan through zoning — where new areas are introduced to sewer and enable them to grow size-wise but not any more than what Title 5 would allow. This does not include certain projects such as affordable housing. Priority need is environment and that is why the engineers went to different sources, and identify potential needs of the town as today, they could change 10 years from now and some is incorporated into the plan. She reiterated that the CWMP was an environmental project, not a planning project.

Marc Drainville gave a presentation on where the town is with the CWMP. He said that this springs from the federal Clean Water Act that requires the state to manage the environmental problem that exists within the town with an excessive amount of nitrogen with the watershed (like Lagoon Pond and Sengekontacket). Not only do we need to remediate, we need to think about future population growth and managing future wastewater.

Chairperson Hopkins noted and appreciated that the slide includes storm water because the town’s infrastructure and impermeable surfaces also have a direct impact and need to be managed as well.

Marc Drainville said that 85% of wastewater is coming from septic systems and as engineers they had to come up with a quantity of wastewater flow to be managed and settled on a future of 920,000 gallons. While that may not seem like a lot to everybody, there are constraints they are working under. Two-thirds of calculated future flow can be managed through the town’s existing centralized treatment system with some upgrades to the treatment facility.

The amount allocated for the wastewater facility is a mixture of what is going there now and a portion for future population growth and development as well as a portion of the environmental needs. The unallocated portion is an estimation using the maximum the state allows so that town can get the most attractive funding and it is not an insignificant number.

Planning Period Wastewater Needs

- Wastewater needs

	gpd (maximum month)
Existing Flow	244,000
Future Flow	Up to 920,000*
Existing Effluent Disposal Capacity	620,000**
Minimum flow to be addressed by non sewerage solutions	300,000

* Future Flow includes existing flow PLUS environmental needs as well as an allocation for growth

** Includes portions that will need to be restored



Gail said unallocated future flow is the same amount of flow we are taking in now: everyone who is hooked up now, all of the flow we have now. This is all part of the measure of what is “unallocated”.

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Marc Drainville said yes, that is accurate with a caveat: this is a step-by-step plan.

Chair Hopkins asked if they would be evaluating all approved technologies that are allowed and would incorporate them into the plan. Gail said yes.

Chair Hopkins said his biggest takeaway is the whole concept of net neutral planning and the standard established by Title 5 as we know it. He said he would do some additional research because it’s important to get this messaging out. There is the perception in the community that if we prioritize this plan it would allow properties that otherwise could not expand, to expand — to take severe restricted bedroom count limitations off the table and allow people to expand and this will be a tough nut for a lot of people to absorb.

2040 Estimated Wastewater Needs



Gail said in addition, the money is not here yet. Taxpayers are going to be supporting a large portion. The state does now want to use sewerage as a developmental tool. Part of the criteria to get a grant is that it be a net neutral project. Taxpayers that don’t have sewer are going to be paying for somebody else that is going to benefit is inequitable. That is not the intent of this.

Tom Zinno said it’s really a numbers game: how much nitrogen is in pond; the systems that are there, if they’re working properly; how much nitrogen is going into the ponds right now and going into the watershed. The I/A systems will be taking large part of what’s going in now in helping to clean the pond. Newer technologies will take burden off of sewer also.

Peter Bradford said it's extremely important to get the CWMP right, not only for the impaired watersheds but also to secure the future of housing for the next generation.

He said it was extremely disheartening at the last meeting to hear the consultant and the committee brush off the idea of Zone 2 as if it's a benefit to the plan that properties in this area are limited in development. All of Zone 2 is actually in the impaired watershed, so it is an environmental driver, so the benefits of that area go beyond that of the environmental benefits. Benefits of sewerage Zone 2 will help promote within the densest area of town, help grow the tax base, and support many capital expenditures that we have coming in the near future. It will pick up the most homes, reduce the nitrogen in the watershed and will have the lowest property infrastructure costs because it's the closest area of the plant, many of the existing homes were developed in the 80s and 90s, and their septic systems are reaching the end of their lifespan.

The fact that the entire conversation around Zone 2 was that the well water was not overloaded with nutrients, so we shouldn't consider it I feel is ridiculous. That's where the majority of year round homes are, not to mention the inequity created by Zone 2 in real estate developability. As an example he actually had to buy two as-of-right buildable lots in order to get one bedroom on one of those lots. My neighbor has the identical lot with a 3-bedroom home.

Considering sewerage Zone 2 would right that inequity and we also have a zoning bylaw that allows a special permit for affordable housing on a 5,000 square foot lot which no one can use because of Zone 2. Sewerage Zone 2 solves the problem and creates many opportunities to use that by law. I think the way to get this right is with much more public input — we had an exhaustive outreach for Streetscape, the Housing Production Plan and Master Plan that happened before the plan was drafted and guided the process.

Most importantly of these is the comprehensive wastewater management plan, because it controls what everyone can do with their property for the next 20 to 30 years. It can't be made within a vacuum, the town literally needs to notify every property owner within the watershed that this plan will determine what they can and can't do with their property in the future.

I think we should be mailing every property on a notification stating enough starting an unbiased online survey, a paper survey that last long enough to get a lot. of residents both year round and seasonal as well as a few well published public input information sessions outside of these joint meetings and let the citizens guide the process, not just the weight so out of commission in this committee.

The idea that three elected officials determine the future of our community is extremely disheartening. As it seems like they're trying to create reasons why we can't do what we really need to do, rather than the future of how we can. I've heard that people won't want to pay the betterment or the annual fees, when in fact the cost of installing an I/A system is similar to that of the betterment and the annual maintenance of an I/A is similar to that of the annual wastewater. This is not just a fix-the-ponds plan, it needs to be literally comprehensive, the only way to do that is to kill two birds with one stone by choosing an area to sewer that also helps with housing.

Creating a stream to pay the debt allowing Zone 2 properties, to develop accordingly creates greater tax valuation. And, to be more equitable and distribute the cost of upcoming capital expenditures, the only reason to sewer other already built areas is to limit development. With the most density of the town, smart growth puts density where it already exists, wastewater commission is to provide services not zoning.

Peter Bradford asked if the Santo system (?) will have any greater reduction. He said as of now we have other systems that are quite a bit lower but he state still doesn't approve them for anything greater than 90 milligrams.

Gail said that in Zone 2 if you're interested in putting in one of those systems, you may be able to get provisional permission from Board of Health.

Peter said currently the smallest property that you can put an I/A system on and get one bedroom is actually 6,666.66 square feet. So when you said that the only lots that would be affected would be those around 3,000 the actual number of that is 6,666.66 square feet—that's the smallest lot you can use an I/A system with for one bedroom according to the DEP. So my question is, will that be going down below 5,000 square feet, so allowing say someone who has a 10,000 square foot who wants to have two bedrooms rather than one.

Marc Drainville said he would need to go back and investigate that question.

Patrick Hickey said re: I/A systems you can develop without being sewerred. As an example he said Woodside Village has had an I/A system since 2005, 2006 and made the point that you don't necessarily need sewer to have development. The more users you have on a system, the more consistent flow you have, and the better consistent nitrogen reduction you have. Wastewater is treated through a biological process, you have micro organisms that feed off of the waste and you have to maintain enough food for those micro organisms—so if you have individual systems that work well, [they need consistency] so if you have a homeowner go away for a week or two on vacation, it will have a significant impact on the biomass that treats the wastewater. As a planning tool, this is very difficult because you have to get Homeowners to agree with each other to share costs. However, if you can have multiple homes feeding into one I/A system, such as the package plant you're going to have more consistent nitrogen reduction.

CONTINUED Public Hearing: Lagoon Ridge / CapeBuilt Partners – Modifications to a Special Permit

A public hearing was opened on February 11, 2021, and continued. *In accordance with the provisions of Chapter 40A, Section 11 M.G.L. and the provisions of Oak Bluffs Zoning Bylaw, Section 10.3, the Planning Board will hold a virtual public hearing on **Thursday, February 11, 2021**, at 5:00 p.m. via Zoom to consider **Modifications to the Special Permit** approving the Lagoon Ridge Subdivision Plan granted April 3, 2018, to Lagoon Ridge LLC of 126 Nash Hill Road, Haydenville, MA 01039 under Oak Bluffs zoning bylaws **7.3 Flexible Development**. Lagoon Ridge LLC has authorized CapeBuilt Partners LLC to file this Application for Amendment of Special Permit, seeking modification of Conditions 10, 11 and 12 of the Lagoon Ridge Special Permit in order:*

- 1. To INCREASE the number of Affordable Units constructed under the Special Permit from three (3) to four (4), to be located on two (2) lots in Cluster C as duplex units;*
- 2. To FURTHER RESTRICT the additional Affordable Unit by its designation as one of the five (5) Units restricted for occupancy by persons 55 years of age or older; and To provide for the ORDERLY RELEASE AND DEVELOPMENT of lots and Units, beginning first with Cluster C, proceeding next to Cluster B, and concluding with Cluster A, so as to further minimize any impact of the "build out."*

The hearing was closed to public comment. Chairperson Hopkins said a decision was drafted and edits made to Conditions 10, 11, and 12 which allowed the modifications that CapeBuilt requested. The special permit modifications only pertain to CapeBuilt. The board deliberations included discussion about staging and clearing. Member Crossland made a motion that there be no clearing for the exclusive purpose of staging. It would be acceptable to clear an area meant for a dwelling and used initially for construction staging. Member Cleary seconded it. A roll call vote was taken and all were in favor, 5-0.

Chairperson Hopkins went through detriments and benefits of the modifications as stated.

1. Social, economic, or community needs which are served by the proposal.

Beneficial, voted 5-0.

2. *Traffic flow and safety, including parking and loading.*

Beneficial, voted 4-0 (Member Cleary voted neutral)

3. *Adequacy of utilities and other public services.*

Beneficial, voted 5-0

4. *Neighborhood character and social structures.*

Beneficial, voted 5-0

5. *Impacts on the natural environment.*

Neutral, voted 5-0.

6. *Potential fiscal impact, including impact on town services, tax base, and employment.*

Neutral, voted 4-0 (Member Crossland voted neutral)

Member Crossland made a motion to approve the Modification to the Special Permit granted to Lagoon Ridge, April 3, 2018 with the condition regarding staging. Member Albert seconded the motion. A roll call vote was taken and all were in favor. Motion passed 5-0.

Board Updates

Member Cleary gave an update on the energy production plan. A public hearing has been scheduled for March 25 to again go over the amendments to the solar bylaw in advance of town meeting.

Member Crossland gave an update on affordable housing and work they're doing with consultants on holding a Community Forum on March 12.

Chair Hopkins went through the board packet to bring attention to some of the correspondence he's had. The town received the grant to work on sidewalks around bus stop and skatepark. There are a couple of upcoming projects including one on Dukes County Ave.

Adjourn

Member Lambert made a motion to adjourn. Member Lambert seconded. All were in favor.

Meeting was adjourned at 6:35 p.m.

Minutes approved March 25, 2021

Documents on File: *Agenda; Board packet; zoom video*