



## OAK BLUFFS PLANNING BOARD

Meeting Minutes

APRIL 25, 2019

5:00 p.m. at Oak Bluffs Fire Station, 6 Firehouse Lane, Upstairs Meeting Room

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

**Members Absent:**

**Staff in Attendance:** Kim Leaird (*Administrator*)

**Attendees:** Glenn Chalder (*Planimetrics*), Alex Tang, Peter Bradford (*AHC*), Christine Todd (*OBA*), Judi O'Donoghue, Llewellyn Rogers, Chris Baer, Simon Shapiro, Pat Ingalls, Jim Riager (*Reliable Market*), Richard Toole, Dick Cohen (*Assoc. Commissioner on Disabilities for Dukes County*), Kathy Laskowski, Gregory Pattison, Kristina Almquist, Bill Veno (*MVC*), Christine Flynn (*MVC*), Charlotte Ancel (*Eversource*), Jason Balboni, Stephanie Mashek (*MVCS*), Amy Haight (*MVCS*), Juliette Fay (*MVCS*), Jim Bishop (*AHC*), Philippe Jordi (*IHT*), Kris Chvatal, Adam Wilson (*Eversource*), Brian Packish

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*Chairperson Hopkins opened the meeting at 5:02 p.m.*

### **Approval of Minutes**

Member Crossland made a motion to accept March 14 and March 28 meeting minutes as written. Member Lambert seconded. Motion passed 3-0-1 as new board member Bill Cleary was not present for those meetings.

Chairperson Hopkins congratulated Bill Cleary on his election and welcomed him to the Board.

### **Election of Officers**

Member Erik Albert nominated Ewell Hopkins as chair and all were in favor. Member Mark Crossland nominated Erik Albert to serve as vice chair and all were in favor.

### **Master Plan**

After a year-long public process that included a number of surveys, forums and listening sessions, public outreach at Harbor Fest and other events, the Master Plan Update Committee voted on March 25 to send a final draft to the Planning Board for ratification.

Consultant Glenn Chalder (*Planimetrics*) underscored the value of a Master Plan -- it helps support the grant seeking process. He provided a separate Economic Development Strategy document. Once ratified, both documents must be forwarded to the DHCD (Department of Housing and Community Development).

Chair Brian Packish thanked everyone who contributed time and effort in getting it to this point.

Chairperson Hopkins said they had received comments from Disability Commissioner Dick Cohen after the committee had voted to send it to the Planning Board. He said he would like to propose two sidebars that help expand language around accessibility. Under 7.3, he proposed they add: *“Oak Bluffs seeks to improve the accessibility of everyone in the community...”*

Member Albert so moved and made a motion to ratify the Master Plan. Member Crossland seconded. All were in favor.

### **Eversource – Preliminary Site Plan review, DRI Referral**

Chairperson Hopkins asked the board to consider whether the Eversource application was complete and if there were thoughts. Some questions are – would the Board hold hearings? Would the Board hold a point-of-view and include it as part of this application? He said scale of this project is significant and all Town departments need to weigh in.

He said he'd propose accepting that the application is complete.

Charlotte Ancel, Director of Clean Energy for Eversource and team leader on this project thanked the Planning Board for having them and said the Planning Board has their commitment to accommodation...among other things, it will enable reduction on reliance of the diesel-fired peakers used now and so will reduce greenhouse gas, cost to customers. Eversource has as one of its core values to do project in places that work for the communities that are hosting them. They have been attempting to reach out to various departments but we appreciate the comprehensive work the Planning Board has done. She also said if there is any accommodation the Board would like, they are interested in doing it. We'd like that in advance of meeting in front of the Martha's Vineyard Commission.

Patty Roads, who lives on Haypath, said she believes they will be in her backyard and asked to hear more about the project and what environmental consequences might be. She has a well and livestock... At a high level,

Charlotte Ancel said at a high level, the island is served by four underground cables that come out of Woods Hole. When the populations swells in summer (15,000 to 125,000) we see a significant surge in use and those cables become strained. To avoid an outage, we currently rely on five very large diesel-fired generators. The point of this project is to use lithium ion battery storage instead. They are the same batteries that are in our cell phones and our cars to make a more locally distributed system so that we can retire the diesel-fired peakers. Reliability to island is most important thing, but this project is all about reducing the carbon emissions. The battery is highly regulated by the EPA, is a low-risk fire risk, and they've made a commitment to work on a state-of-the-art fire design, we'd like to fund fire safety training for the life of the battery (20 years) for the Oak Bluffs fire department and any equipment. Chief Rose has asked for an evacuation plan in the highly unlikely event that it would be needed. Their plan shows no impact to soil.

Brian Packish thought that before anything the Planning Board should receive technical assistance from an independent person that Eversource should fund. He said there's a tremendous amount of potential value in this project but there's also a tremendous amount of potential hazard.

Charlotte Ancel said they will provide that funding. This project is subject to Dept. of Public Utility Land Use and so all of these issues are also being looked at by the Dept. of Public Utilities. She said they

respect the Planning Board thinks it should have gone local. Eversource received a very strong opinion from their attorney that they did not need to do so, however they want to work collaboratively to make it work.

#### **40B Application Update – Elio Silva**

The Corridor is an interest of the Planning Board – the area includes Community Services, the YMCA, Island Elderly Housing, and the ice arena. Chairperson Hopkins showed a large map of the area and pointed out a 7-acre parcel next to the arena and said that this is Town land and they are looking at developing housing there. On the other side of this 7-acre parcel is the 8 acres that Elio Silva purchased. He said that he expects there will be ongoing conversations about this area and he wants to invite any and all to attend Planning Board meetings so that rumors don't fly.

Chairperson Hopkins said that in lieu of zoning reform, there are other ways to bypass local zoning to do something good for the community if an applicant can prove its benefits (a friendly 40B supported by the town or a hostile 40B which doesn't have town support but still has enough support that the state will consider it). Chairperson Hopkins said the Town needs to decide if it can support Elio Silva's project to move forward with a friendly 40B.

He thanked Elio Silva for attending and acknowledged that he was not obligated to do so.

Elio Silva said he wanted to speak because there are a lot of rumors going around about what he plans to do with the parcels he purchased (8 acres and 4 lots). He said he has lived in Oak Bluffs for 29 years and often said that he would build 200 residences in ten years – so he understands the rumors.

He summarized where he is now with plans to develop area: Along with eight partners, he is working with two law firms (one in Boston, one in Mashpee) on a 40B application. Right now, the plan is for just one building about 70 feet from Edgartown-Vineyard Haven Rd. It will have 18 residential units, the Island Food Pantry, and a grocery store – and be about 27 feet tall. With a 40B, mixed use is allowed but it has to be incidental. He said they very much want to take the area and neighbors into consideration. It won't be very visible from the road. Their intention is to have something concrete to formally present to the Town in a few weeks, but until then he is here to share and be transparent. He is interested mostly in year-round housing for teachers and other service professions (firefighters, policemen, nurses, doctors, etc.) because most affordable housing will not work for them (income too high). He hasn't spoken yet with the high school but envisions maybe a contract for teacher housing.

Chairperson Hopkins opened floor to questions. He asked if Elio had any questions about who to contact for town input, and suggested Jim Bishop and Mark Crossland should be reached out to re: the affordable housing component.

Elio said that based on acreage, they could do 90-110 units if they did a forced 40B.

Jim Riager from Reliable Market asked how big the market would be and wanted to know what a 40B entails.

Elio said that the plan is for the building to be two stories. Upper floor is 18 residences. Lower level would be approximately 4,000 sq. foot for Island Food Pantry; back of the room service and the retail store will be 12,000 sq. ft.

A 40B is an application to the state that bypasses local zoning to get state approval for something you couldn't do otherwise. This is possible when a municipality does not meet at least 10% affordable housing. (Oak Bluffs has never hit this percentage).

Kristina Almquist, resident who lives on Meshacket, third lot in. Her question was around zoning and she said she thought they were not zoned for retail, just light industrial plus the existing nonprofits. Chairperson Hopkins said that's what the 40B process is about. The state would have to do that diligence and determine it was for the greater good. But yes, right now, that area is not zoned for what Elio wants to do.

Christine Todd asked if it goes through the town first to determine if it's going to be a friendly 40B vs. an unfriendly 40B. Meaning could he just bypass the town because the Town has yet to hit a threshold of 10% affordable housing.

Kris Chvatal, former Planning Board member who lives across street on Ryan's Way, said that he had been through a 40B before. He said we have not met 10% required level for affordable housing but we can have a plan in place that shows we're working towards 10% and that gets us out of the 40B.

Chairperson Hopkins said that was a good point and that there are other aspects of due diligence at town level. He also pointed out that there were a lot of people present who know about affordable housing.

Gregory Paterson who lives at 49 Meshacket Way said he was concerned about increased traffic, lighting, and even property values. This has been a very rural area and he is worried about how it will impact his own personal experience and even property values.

Chairperson Hopkins said tonight's meeting was an example of transparency and that the Planning Board wants and welcomes community participation and engagement to make it a positive project. He also wanted to encourage them to also understand the applicant's legal rights.

Jim Bishop, chair of Affordable Housing, said that Member Crossland is the Planning Board's representative to Affordable Housing committee. He spoke about the Feasibility Study under way and that they are hoping that they'll be given 60 units. Many times, with affordable housing, the land comes off of the tax rolls. He commended Elio for not wanting to do that. There is a large segment of the population that makes too much money for Affordable and yet can't afford "Market Rate". There is only x acreage available to do this type of work. The bottom line in Oak Bluffs is we need to hit 10% Affordable within five years per the HPP to stave off a "hostile 40B". What Elio is proposing to do is for the greater good and he said he found Elio Silva to be very honest.

Kris Chvatal said water pressure is an issue there, especially in summer. He agreed there's a pressing need for housing but said this area is the last real rural/farming area in Oak Bluffs. What he doesn't want to see here is retail and this project sounds like retail with incidental housing -- instead of housing with an incidental retail part. It's not just traffic, it will also be 6am deliveries, etc.

Lori Perry lives in Meshacket and asked about the sewer. Chairperson Hopkins said there are still questions and no answers yet but yes, sewer must be addressed.

Judy Donohue lives on Bellevue. Doesn't understand how 40B comes into play. Chairperson Hopkins said the Board would schedule hearings on what a 40B is and is not with experts.

### **Map 50 Parcel 31 (Oak Bluffs Resident Home Site at 0 Edgartown-Vineyard Haven Road)**

Member Crossland gave an update on the RKG feasibility study of this area for these 8 acres and land that abuts the arena plus (the doughnut hole) 32 acres. Consultant RKG will be here in the next three weeks to walk the property. Chairperson Hopkins said they would publicize the visit so others could attend.

Jim Bishop mentioned that if Elio's project goes through they might be able to share a package plant that would get them out of zone 2, eliminating demand on sewage plant. This is down the road, but something to consider running with Elio's system.

Member Cleary asked if it's something the YMCA and Community Services would be able to tie into. Jim said no but might be able to do a shared plant and maybe split cost and expand it. He said it was too early in the process yet.

The next Affordable Housing meeting is at 5pm next Tuesday (April 30).

### **Community Services Campus Application / Review of Criteria Topics**

The Planning Board referred the Community Services application to Commission and expects the decision to be ready and released in the next week or so. At the next or a future meeting, Adam Turner will present the Commission's findings and decision and conditions. At that point the Board can schedule its own hearings and can only add more restrictions but can't lessen what the MVC has imposed.

The criteria he reviewed:

- **Village Road**: Island Elderly Housing is landlocked and its only access is via Village Road. In the beginning they 40 units but are now up to 97 units. The YMCA and Skate Board Park did not yet exist. The state has very specific criteria for fire and emergency access, dimension of road, materials, lines of sight, etc. Village Road does not conform.
  - Chairperson Hopkins said he has reached out to the landowner (the High School) and to each area nonprofit and will use an engineer to assess this road. He said if we permit without taking into consideration this problem we're exacerbating the issue.
  - Requested data from Sheriff's office regarding 911 calls to assess how it's used for emergency services. This is a step the Commission didn't do. If we can't get the road fixed we shouldn't exacerbate the situation.
  - Maybe we can move [the road] slightly west – this will be one of the first things we need to look at...
  - One of the questions he has for the school is do you have plans for area to left of campus and is that the reason they don't want to move [road] and if so, what are the plans?
  - He's brought this concern to each nonprofit's Board.
- **The environmental impact** of this development and the commitment, or not, to zero-net gain. What is standard as it applies to best practices? He said he has info about LID (Low-Impact Development) techniques.
  - Chairperson Hopkins proposed doing a peer review and hiring an independent person to evaluate.

- He said the communication between the nonprofits could be better.
- He asked if other members had any thoughts to add to so that applicant could hear anything else. Member Albert expressed concern about the pedestrian access.
- Loves idea of being able to traverse whole area via foot what he had suggested to Commission they look at and they declined.
- Foot traffic through the woods and well preserved trails, would like to see project to include thought of developing those trails so people could walk there from Featherstone for example.

Stephanie Mashek, on board of Community Services, asked about the peer review and environmental consultant and who would pay for that. Would an environmental peer review be done on the whole area or just on MVCS project. Chairperson Hopkins said it would just be this project but he expects it would inform future applications. The Planning Board has published Rules and Regulations that outline fees they are able to charge for peer review.

Stephanie Mashek said she also wanted to make one point of order: she said there are a few members from Community Services was not informed of this meeting.

Chairperson Hopkins said this agenda item was meant to be preparation for the board review – he said he was unable to update rest of Board outside of a public hearing. The Board is not deliberating tonight.

### **Review of Planning Board Regs. Governing Fees and Fee Schedules, Adopted June 20, 2001**

Mass. General Law allow Planning Boards to charge professional review fees and the Planning Board adopted a fee schedule back in 2001 – 18 years ago. Member Cleary said he'd work with PB administrator to look at fees and recommend a new schedule. Process must include noticing proposed schedule and hold a hearing.

### **Subcommittee Appointments**

Discussion about different subcommittee appointments and who wanted to sit on which committees. Keeping appointments as-is for now.

### **Parking Mitigation Review**

William Coggins, Havenvine Realty LLC, 16 Circuit Ave., as it pertains to Special Permit granted February 28, 2014. Mr. Coggins had paid in full just prior to tonight's meeting.

Member Lambert said she still thought that everyone should have to pay into parking mitigation, that it was not fair only a few were imposed with the fee. Chairperson Hopkins said this is a zoning issue and that his goal is to look for grant money for zoning reform. This question is something to look at, but it would still need to go through Town Meeting.

### **Site Suitability Tool / Land Feasibility Software Presentation**

Member Lambert gave a presentation on the different applications of using the Site Suitability Tool, still in beta form, commissioned by the MVC.

## **Board Updates**

**Ewell Hopkins** – Has goal to pursue Mass. Municipal Vulnerability Preparedness Grant in either June or July. Letter in packet from Mass. Audubon. Oak Bluffs has MVP classification which allows us to go after grants – he wants to fund zoning reform in this area.

**Goodales** – Chairperson Hopkins has asked administrator to try to compile a comprehensive view of state and federal regulatory oversight of Goodales. He has significant expansion plans. Plan is to assemble a comprehensive view and publish on site.

Abutter present said smell of asphalt is overwhelming and asked who to complain to? She said there once was a very strong neighborhood watch group that has since sold homes and left. Chairperson Hopkins said to let administrator know these concerns and bring to the Planning Board.

## **Adjourn**

Member Albert made a motion to adjourn, Member Crossland seconded.

Meeting was adjourned at 7:17 pm

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*Minutes approved May 23, 2019*

## **Documents on File**

- **Agenda**
- **Board packet**
- **Sign In Sheet**