



## OAK BLUFFS PLANNING BOARD

### Special Meeting - Zoning Reform

Meeting Minutes  
MONDAY, October 2, 2023  
7:00 p.m. | Hybrid Meeting

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**Members in Attendance:** Ewell Hopkins, Sean DeBettencourt

**Members Absent:** Erik Albert, JoJo Lambert, Mark Crossland

**Staff in Attendance:** None

**Attendees:** Neva Osse, Franz Osse, Mark Leonard, Dan Williams, Peter Bradford, Diane Street, Vivian Beard, Rita Bartolomeu, Susan Desmarais, Joanne Venable, Eunki Seonwoo, Bo Fehl, Jeffrey DuBard, Maura McGroarty, Ben Scott, Llewellyn Rogers, Charlie Physic, Laura Silber, M. Scheer, Kathleen Koehler

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*Chair Hopkins opened the meeting at 7:00 p.m. A quorum was **not** present.*

#### Zoning Reform Process

The Chair explained that the purpose of these October meetings is to facilitate a process wherein the Planning Board will bring zoning reform recommendations to Town Meeting. The Master Plan was completed a few years ago, and the Board is now attempting to apply what was learned in formulating the master plan to the zoning reform discussion. Town Meeting will require a super majority to advance any zoning reform. So far, the working groups have put together what is only a rough outline of proposed changes. These October meetings are an opportunity for the public, after having read the working group drafts, to express their thoughts about these proposals.

At the end of October, the Board will determine whether it has received enough public input, whether more is needed, and how it may best utilize the public input. The Board can then decide whether it needs more meetings, or another means of soliciting input. At the end of that process, the Board will put together a recommendation of proposed warrant language. That information will be made available to the public. There will be a series of public hearings wherein the warrant language will be proposed and submitted to the public. Then, meeting with the Select Board, the Planning Board will submit an article for Town Meeting. Then, at Town Meeting in April, the warrant language will be presented to the Town of Oak Bluffs, at which time the Town of Oak Bluffs will vote up or down. No determination has yet been made regarding the drafts the working groups have presented.

**The cluster of subjects addressed is as follows:**

- **Minimum Lot Sizes for R3 and R4/Permitted Use Under R1, R2, R3**
- **Mixed Use Zoning**
- **Affordable Housing Waiver Criteria**
- **Short Term Rentals and Fractional Ownership By-Laws**

### Process

The Chair opened the floor to questions about the process.

Pat Ingalls expressed concern about the lack of advertising for these meetings. She suggested the possibility of a newspaper advertisement to reach a broader audience. The Chair thanked Ms. Ingalls for her input and assured her that when the public hearings are held, there is a formal process to be followed, including public notice in the newspaper. In the meantime, Board members have been handing out flyers at the Post Office, and if at the end of these meetings the Board determines that it needs more public input, they may take additional steps to make the process more visible, such as MVTV interviews or the like. The Chair stated that one lesson learned from the Master Plan and from the Streetscape effort, was that despite massive public outreach, there was a low turnout until language was proposed. Once the Board started to say what they were going to do, rooms filled up. And that will be the approach here.

Peter Palches asked for clarification as to what type of meeting this is. The Chair stated that this is a public meeting to get input on the work that was done over the summer on the 14 topics relevant to potential zoning reform. Four topics were to be covered in this meeting, and the Board is soliciting additional additional input from the public. Materials relevant to what is being discussed have been available on the Planning Board website. Mr. Palches further inquired as to whether these materials have been reviewed by Town Counsel. The Chair stated that they have not – the Board is still soliciting public input before money is spent on attorneys. The Chair also stated that the Planning Board has not had any discussion of the materials that are posted online, outside of what has been said at public meetings. The Board has no recommendations as of yet.

Laura Silber suggested that it might be helpful for the public if, when a topic is being covered, the relevant documents could be flagged in the presentation.

### Relevant Lot Sizes for R3 and R4

Peter Bradford was uncertain as to what the draft language was proposing. The Chair stated that this is not complete warrant article language. The proposals submitted by the working groups are merely the starting point. Mr. Bradford stated that it is a little confusing because there is no minimum lot size number assigned to the change. The Chair stated that what the Board wants to know is whether the public feels the minimum lot size needs to be changed at all – in either

direction. Dan Williams inquired as to how the topic of minimum lot size changes came up. The Chair stated that through public input, it was gleaned that the lot size requirements in R3 are antiquated, and that it may be appropriate to reduce the overall size or the setback requirements in that area. Llewellyn Rogers explained that there are a lot of applications submitted to the Zoning Board of Appeals wherein the Applicants are unable to do anything with their property because their lots are non-conforming in the R3 zone and they cannot meet setbacks. This proposal is to allow people who have smaller lots in R3 to have 20 foot setbacks instead of 50 foot setbacks, to avoid having to re-zone the area.

Mr. Williams stated that he has reviewed the appendix of permitted uses, and there appear to be quite a few small lots that appear not to meet the minimum lot size requirements for building. On these lots, the only permitted use would be a boatyard, with a special permit from the Planning Board. Therefore, a lot of these lots remain vacant and it might be advisable to consider what could be done with them.

The Chair reminded that public that if, through this process, the zoning becomes more restrictive, there will be a grace period for existing property owners. Essentially, no one is going to wake up one day and lose the right that they have today.

#### Mixed Use Zoning

The Chair stated that the question is whether we want to expand mixed use zoning or to restrict it.

Michael Wise stated that as soon as town sewer is improved, a lot of the properties that would become mixed use are going to be able to access it, allowing for more possibilities than exist now. The Chair acknowledged that there are other governing factors affecting a person's ability to get a permit, not just zoning. The Chair stated that what would be really helpful to the Board is knowing whether the mixed use language needs to be stronger when an increase in sewer capacity is anticipated.

#### Affordable Housing Waiver Criteria

The Chair stated that there is an ability to lessen the restrictions on a buildable lot if there is a deed restriction commitment to that property. The draft language would lessen the frontage requirements.

Mark Leonard, Chair of the Affordable Housing Committee, stated that current zoning does not identify the minimum frontage requirement, so there have been some decisions made indicating that if you don't meet the standard minimum requirement, which is 80, you are unable to build on lots that are 50 by 100. This is preventing people from using the lots for affordable housing. The draft language would reduce the frontage requirement.

Peter Bradford, who also serves on the Affordable Housing Committee, gave a history of the relevant zoning bylaw and the intent thereof. In discussions with the Committee, they decided that lowering the minimum frontage to forty feet, and allowing the Planning Board to reduce that frontage upon special permit would be effective. Part of the applicant's special permit for affordable housing would speak to frontage. Additionally, Mr. Bradford identified an issue that did not end up in the recommendations: he indicated that the existing special permit for affordable housing requires the applicant to be at 80% of Median income. Currently, if someone is at 80% of Median income, even if someone gives that individual the lot for free, the person still could not get a mortgage that would be sufficient to build a house. The state minimum for Duke's County is 140% median income, which still puts people on the on the bottom end of being able to build a very modest house. Mr. Bradford then proposed that the median income threshold be raised to 140%, which is the Dukes county minimum for affordable housing. In the past fifteen years of having the current bylaw, only three special permits for affordable housing have ever been issued. So the goal is to have a usable bylaw.

Diane Street inquired as to whether there could be a presentation as to what the controversies might be surrounding existing bylaws and proposed changes, as well as who has raised the issue of changing restrictions and zoning. The Chair indicated that he did not wish to characterize the potential controversy surrounding any of the topics, as they are potentially all controversial, but indicated that he would give it some thought, and that he would list the members of the working groups.

#### Short Term Rentals and Fractional Ownership

The Chair stated that we have limited to no language in our Bylaws regarding these topics. So the question is whether we should, and what the goals should be.

Mark Leonard stated that the Short Term Rental topic is a complicated one, with a lot of possibilities to be addressed that are not appropriate for this timeline. As such, there is not a proposal to do anything about short term rentals at this time. With respect to fractional ownership, the language that is proposed is almost identical to that which Edgartown and Tisbury are currently using. It is intended to prevent corporations from purchasing homes in Oak Bluffs and then selling fractional shares to unrelated parties. The language does not prevent families from purchasing homes together. It is strictly intended to prevent corporations from essentially turning residential homes into a business enterprise.

Pat Ingalls inquired as to whether this is similar to what is happening on Nantucket. Mr. Leonard indicated that it is.

Peter Bradford gave an overview of the different categories of properties that are commonly used as short term rentals.

Vivian Beard expressed concern over short term rental regulations, stating that there are situations wherein requiring homeowners to use the property for a minimum number of weeks may not be reasonable or desirable. The Chair expressed that this is valuable input, and encouraged the public to remain engaged and to write letters to the Planning Board.

**Adjourn**

*Minutes approved \_\_\_\_\_, 2023*

Documents on File:

*Agenda; Zoom Video*

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