



OAK BLUFFS PLANNING BOARD Zoning Reform Subcommittee

FRIDAY, DECEMBER 17, 2021

9:00 a.m. at Oak Bluffs Town Hall, Downstairs Meeting Room

MEETING MINUTES

Subcommittee Members: Mark Crossland, JoJo Lambert, Llewellyn Rogers, Mark Leonard, Tom Zinno

Members Absent: John Bradford

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

Attendees: George Sourati

1928 / 1948 Bylaws

Need amendment written to incorporate these two earlier versions into the Town Zoning Bylaws. Consult with Michael Goldsmith.

5.4.5: Erosion Control

Discussion about language designed to limit clear cutting; requiring a special permit required for clearing more than 40% of a lot.

- George Sourati said this is problematic in some areas. For example in zones requiring a 10-20ft buffer on a 10,000sf lot numbers are not possible. You would need at least 6,000sf.
- Tom Zinno said you need a bylaw re: buffer zone and once you go beyond a certain %, you'd be required to re-plant.
- Discussion about how write amendment and designate by zone
- Question about enforcement: who?
- George Sourati asked if there would be a distinction between new and existing property and Lou said new. Reduce down to 40%
- Tom said zoning needs to be specific within the district because it changes picture. We need to be fair to those who are building. He said this is complicated: involves septic, number of bedrooms, etc.
- JoJo Lambert said we need to save trees
- Tom said he has compiled files from other towns and suggested that what they are doing can be helpful to OB
- Mark Leonard said that once you give a waiver, it becomes a policy
- George said an 1,800sf one-story house would need to clear all [of a lot] but 3ft. Could look at 10ft from road "remains" a buffer and stays untouched. If [an applicant] wants to change, they go to the ZBA.
- Tom said the goal is to make the language clear so that everything does not need to go to the ZBA.
- Mark Crossland moved to continue the discussion to the next meeting.

3.4 Accessory or Guest Apartment

Discussion about how to craft a deed restriction so that brokers can point prospective buyers to the bylaws.

- Financial penalty for violation
- Need to educate brokers
- JoJo suggested talking to Tisbury to see how it's working there – are people complaining.
- Lou said he'd run changes he proposes in 3.4 by Michael Goldsmith.
- JoJo said that someone needs to live in the main house full-time.
- Discussion about adding an incentive around an affordable housing component.
- Tom said it should be deed-restricted with a penalty.
- George said that might not be legal. What about those property owners who are only seasonal residents?
- Tom said that the CWMP will inform this. There will be a limit on bedrooms. He said this bylaw needs to be comprehensive and include the Board of Health. He suggested looking at other towns and not rush these changes.
- Mark L. asked about the proposed change of just one allowed bedroom as most people, especially those who have children, would need two.
- Why is the proposed 750sf limitation a condition and not a term
- There was disagreement on what qualifies as square footage: stairways, decks and porches were thought not to be habitable spaces and should not be counted. Porches, however, should have language limiting their size.
- Tom said that if we add 20% language to "new" lots, they could have a standalone guest house

4.4 Accessory Structures in the R1, R2, R3 and R4 Districts

Discussion about how best to describe gross floor area

- Should we include overhangs in the calculation? Some thought it should just be the footprint counted
- Discussed again breaking out square footage by district
- Discussed detached bedroom needs to have a bathroom
- Discussion about how to include sanitary code. Important for departments to work together and make sense

11.0 Definitions

In addition to looking at definitions of Floor Area, Gross

- Add definition for a Shed and Garage

Adjourn

Meeting was adjourned at 12pm. Next meeting scheduled for Friday, January 7, 2022 at 10am

See attached bylaw changes that were considered at this meeting

3.4 ACCESSORY OR GUEST APARTMENT

Present:

3.4 ACCESSORY OR GUEST APARTMENTS

3.4.1 Purpose. For the purpose of (a) providing small additional dwelling units to rent without adding to the number of buildings in the Town, or substantially altering the appearance of the Town, (b) providing alternative housing options for elder residents, and (c) enabling owners of single family dwellings larger than required for their present needs, particularly elderly homeowners, to share space and the burdens of home ownership, an accessory or guest apartment is a permitted use in the R1, R2 and R3 Districts, subject to the following conditions:

3.4.2 Conditions. The Building Commissioner shall verify that all of the following conditions have been met:

1. A plot plan of the existing dwelling unit and proposed accessory apartment shall be submitted, showing the location of the building on the lot, proposed accessory apartment, location of any septic system and required parking. A mortgage inspection survey shall be sufficient to meet this requirement.
2. The house must have been owner occupied by the applicant for the five previous years and must continue to be owner occupied after the conversion is allowed. An affidavit shall be provided stating that one of the two dwelling units shall be occupied by the owner of the property, except for bona fide temporary absence; seasonal occupation by the owner shall not disqualify the applicant.
3. Not more than one accessory apartment may be established on a lot. The accessory apartment shall not exceed 750 sq. ft. in floor space and shall be located in the principal residential structure on the premises or in an accessory structure.
4. There must be at least 7500 square feet of open space on the lot which is unpaved and unoccupied by any structure.
5. The external appearance of the structure in which the accessory apartment is to be located shall not be significantly altered from the appearance of a single-family structure.
6. Sufficient and appropriate space for at least one (1) additional parking space shall be constructed by the owner to serve the accessory apartment. Said parking space shall be constructed of materials consistent with the existing driveway and shall have vehicular access to the driveway.
7. No permits under this section may be granted within the coastal district.

3.4.3 Special Permit. If the applicant is unable to satisfy one or more of the conditions set forth above, the Board of Appeals may, by special permit authorize such dwelling unit. Such special permit may be granted by the Board of Appeals only upon a finding that the construction and occupancy of the apartment will not be detrimental to the neighborhood in which the lot is located and after consideration of the factors specified in Section 10.3 of this Zoning By-Law, governing special permits.

Suggested Possible Language:

3.4 ACCESSORY OR GUEST APARTMENTS

3.4.1 Purpose. For the purpose of (a) providing small additional dwelling units to rent without adding to the number of buildings in the Town, or substantially altering the appearance of the Town, (b) providing alternative housing options for elder residents, and (c) enabling owners of single family dwellings larger than required for their present needs, particularly elderly homeowners, to share space and the burdens of home ownership, an accessory or guest apartment is a permitted use in the R1, R2 and R3 Districts, subject to the following **terms:**

1. The lot, dwelling and all the building shall be in single ownership.
2. The house must have been owner occupied by the applicant for the 2 previous years and must continue to be owner occupied after the conversion is allowed. In the case of a newly constructed principal structure the 2 years will start on the date of the Certification of Occupancy is granted.
3. At no time shall both portions of the property be rented.
4. An affidavit shall be provided stating that one of the two dwelling units shall be occupied year around by the owner of the property, except for bona fide temporary absence for no more than 4 months.
5. Accessory Apartment shall not access the non-habitable portion of the accessory structure, such as basements, storage areas, garages and the likes from the interior of the apartment nor will the accessory apartment that is in the principle structure have access to the habitable space within the principle structure.
6. Accessory Apartment shall consist of no more than one living room, one bathroom, one kitchen and one bedroom.

7. Applicants that are affiliated with a Home Owners Association or the likes will submit a letter of said Association with approval or disapproval of project.

8. An Accessory or Guest Apartment in any residential district is allowed by Special Permit issued by the Board of Appeals.

9. A Guest Apartment cannot be a standalone structure.

3.4.2 Conditions. The Building Commissioner shall verify that all of the following conditions have been met:

1. A plot plan of the existing dwelling unit and proposed accessory apartment shall be submitted, showing the location of the building on the lot, proposed accessory apartment, location of any septic system and required parking. A mortgage inspection survey shall be sufficient to meet this requirement.
2. Not more than one accessory apartment may be established on a lot.
3. The accessory apartment shall not exceed 750 sq. ft. in floor space, which will include all habitable space, closets, bathrooms hallways, interior stairways, decks, porches and no deductions for wall thicknesses, and shall be located in the principal residential structure on the premises or in an accessory structure.
4. Any new entrance to the principal residence or accessory structure shall be on the side or rear of building.
5. There must be at least 7500 square feet of open space on the lot which is unpaved and unoccupied by any structure.
6. The external appearance of the structure in which the accessory apartment is to be located shall be of the same architectural design and have same material and color scheme as principle structure.
7. Sufficient and appropriate space for at least one (1) additional parking space shall be constructed by the owner to serve the accessory apartment. Said parking space shall be constructed of materials consistent with the existing driveway and shall have vehicular access to the driveway. All parking spaces and driveways will be tied together so to have the appearance of one combined driveway/ parking area, extra curb cuts are not allowed.
8. No permits under this section may be granted within the coastal district.

(Note Next Page with 3.4.3 is suggested for Clarity)

3.4.3 Special Permit. If the applicant is unable to satisfy one or more of the conditions set forth above, the Board of Appeals may, by special permit authorize such dwelling unit. Such special permit may be granted by the Board of Appeals only upon a finding that the construction and occupancy of the apartment will not be detrimental to the neighborhood in which the lot is located and after consideration of the factors specified in Section 10.3 of this Zoning By-Law, governing special permits.

SECTION 11.0 DEFINITIONS

Present:

Structure: A combination of materials assembled at a fixed location to give support or shelter, such as a building, framework, retaining wall, tent, reviewing stand, platform, bin, fence, sign, flagpole, recreational tramway, mast for radio antenna or the like. * For the purposes of this bylaw, a fence six (6) feet or less in height, or a wall four (4) feet or less in height shall not be considered a structure.

Floor Area, Gross: The total square feet of floor space within the outside dimensions of a building including each floor level, without deduction for hallways, stairs, closets, thickness of walls, columns, or other features

Suggested Possible Language:

Structure: A combination of materials assembled at a fixed location to give support or shelter, such as a building, framework, retaining wall, tent, reviewing stand, platform, bin, fence, sign, flagpole, recreational tramway, mast for radio antenna or the like. * For the purposes of this bylaw, a fence six (6) feet or less in height, or a wall four (4) feet or less in height shall not be considered a structure. **When a deck is more than 30 inches from ground grade it will be deemed Structure.**