

Tuesday, August 19, 2014
Planning and Economic Development Board
155 Village Street
Medway, MA 02053

Members	Andy Rodenhiser	Bob Tucker	Karyl Spiller-Walsh	Tom Gay	Matt Hayes	Rich Di Iulio
Attendance	X	X	X	X	Absent with Notice	X

ALSO PRESENT:

Consultant, Gino Carlucci, PGC Associates
 Susy Affleck-Childs, Planning and Economic Development Coordinator
 Judi Barrett, RKG Associates

NOTE - These minutes were transcribed from an audio recording.

The Chairman opened the meeting at 7:00pm.

Citizen Comments:

Pine Ridge/Candlewood Drive: Mrs. Khalsa, 12 Candlewood Drive:

The resident at 12 Candlewood Drive was present and had three issues which she wanted to bring forth to the Board:

1. There was supposed to be emergency access road connecting Candlewood Drive to Island Drive. It is currently overgrown.
2. Sidewalks were to be repaired on Candlewood.
3. Road on Candlewood has potholes and was supposed to be updated for handicap accessibility.

She would like to see these improvements done. Mrs. Khalsa reported she called Mr. Yorkis and left a message and did not get a call back. She also spoke with Mr. Claffey and he commented that the access road was fine the way it is and indicated that there will not any more improvements on Candlewood.

The Board was made aware that the Pine Ridge OSRD decision specifically referenced the emergency access. There is also a remaining bond for Candlewood. John Claffey did not develop the Candlewood subdivision, but he bought the road from Vincent Manzelli in order to provide access to the Pine Ridge land. Candlewood was developed back in 1993. Mr. Manzelli built the houses and Mr. Claffey needed the access and right to use the roadway to access the Pine Ridge parcel. The bond money remaining is \$40,000 for Pine Ridge and \$38,000 for Candlewood.

It was suggested to have the Engineer create a punch list and contrast this with the decision. A letter will then be sent to Mr. Claffey with a timeline for completion. All units have been conveyed.

The Board wants to get Candlewood Drive accepted.

Zoning Bylaw Recodification - Consultant Judi Barrett:

The Board's discussion began by looking dates for scheduling future meetings. There will be a work session on Saturday, September 6, 2014. On September 9, 2014, the focus of discussion will be non-conforming uses and structures. The Board will have a packet of information to review by August 28, 2014. There will be further discussion and focus on dimensional requirements. If there are any big issues which seem to be of concern, these can be discussed at one of the workshop sessions.

Article One (See Attached)

Consultant Barrett explained that there is a principal in creating a zoning document for the public, and that is that there must be a title and then a statement of purpose. This must be broad and it is a principal to avoid what is hard to define. For example, traditional New England architecture. The definition of those kind of items needs to be in the substance of the document.

The second thing recommended is to always reference Chapter 40 A and the Home Rule Amendment. This needs to be within the context. In 1966, the principals changed. Chapter 40 A tells what you can do regarding zoning. It is important to reference both items. . This only needs to be referenced once in the document. When items are repeated in lots of sections, it causes confusion. There should be only one section referencing Special Permits. This will prevent inconsistencies. The bylaw will shrink without this repetition. It was recommended to keep a running record of what was discussed and changed during these meetings. When the public hearing begins, the created record of discussion should be available for any residents who may ask. This also prepares the board to answer any questions during the hearing. The format of the document will be set up with articles, sections and a line under the major sections.

Article Four (See Attached)

The current bylaw lists two items which are not really districts. In order to have a district, it must have a map of identity. There is no map adopted for OSRD. The floodplain is a district with a map. The map is specifically defined. This is an overlay district. It will reference this in the text of the bylaw. The boundaries are defined by environmental features. Typically, the Zoning Board of Appeals handles the flood districts. The Adult Retirement Community should not be noted as a district.

Mr. Barrett comments that there is currently no section on interpreting the zoning map. For example, is the zoning boundary at the edge of right of way or at the centerline? This is not included in the current bylaw. Typically, there is some language to define the lines in regards to

streets. There should be a section on how to interpret the lines. Judi did not include it, but other towns do have this included. It is typically to the center line. Judi will provide standard language and the board can review it. Consultant Carlucci will then review and compare it. The current bylaw is silent on lines. If this is not defined, IT falls to the interpretation of the building inspector.

Member Tucker is concerned that this is adding something beyond the scope of what Judi has been asked to do by the town.

Judi responded that adding something like definitions is done in recodification. This is related to what she has been hired to do. Recodification is cleaning up and identifying information that might be missing. Building Inspectors want this to be clear. It was recommended to get the opinion from the Building Inspector.

Judi explained that in Plymouth and Newton, residents need to get a certificate of compliance which is verification that someone is zoning compliant.

The Board had a warrant article for the spring town meeting which was worked on with the Building Inspector to help clarify enforcement and fines but this was pulled by the Town Administrator.

Judi explained that the zoning enforcement officer cannot be criticized for not doing his job when the language does not support him.

Susy explained that the town is currently scanning all the Zoning Board of Appeals decisions into a database which can be retrieved. . This will be helpful in the future.

The Board communicated that there are big issues in town with non-conforming uses. This topic will need to be discussed further in a workshop. The town needs to determine what is acceptable for non-conformances created prior to zoning. This would be a big effort to figure out and determine what is legit and non-legit within town. The existing language is very broad now. She recommended not creating overlays, it increases use conflicts. This is not a good idea. Why not just change the zoning?

The criteria for a variance are subject to the specific standards in state law, but you cannot add conditions to this. Findings can be made, but those are based on dimensional items. The board does use their discretion and the language says the ZBA can issue use variances. Judi would recommend taking this out.

Judi recommended allowing use variances by special permit and do not identify as overlay. You do not need an overlay. The boundaries need to be defined.

The overlay was done since there were existing businesses already there, office, store, and hairdresser.

Judi commented that if someone uses an existing 2,500 square foot building, what matters is the use and dimensional components. The character of this building is not zoning but can be covered in historic district review. This is how to regulate appearance and character. It is not a zoning issue. The DRC is for review and comments if appropriate for a specific areas. People have the right to do things with their property.

This overlay is currently working. The adaptive use acts as a district by itself already with its own characteristics.

Judi is still working on a table of uses.

Site Plan Review:

Judi asked the question, why is there not a system in place for site plan review at the staff level. In other towns, this is typically the function of the building inspector. Some plan review is not about use but operation, design and function. You regulate the issuance, but cannot reject if you do not like the use. The board does not have the capacity to enforce it. This is up to the Building Inspector. Judi asked, why the public should have to be notified if it is a small change. This is technical, it is not a policy decision. . It was explained that the Town of Wellesley has a policy that every building permit application is advertised in the newspaper. It was suggested that a site plan committee could be formed to serve as an administrative technical review committee. In Barnstable, there is no site plan review since it is a technical function, parking standards are specific, and buffers are defined. This is not discretionary.

There was a comment that the Town of Medway may not be ready to have substantive, proactive zoning enforcement.

Susy and Gino will work on defining site plan review at the administrative level.

For the next meeting, a framework with suggestions will be presented to the Board to review.

Other Business:

Learning Tree Center (157 Main Street) - Sign Site Plans:

The Board is in receipt of the final site plan for the Learning Tree Center.

On a motion made by Bob Tucker and seconded by Tom Gay, the Board voted to endorse the plan for Learning Tree Center at the conclusion of the meeting. (Karly Spiller-Walsh abstained from vote.

Capital Improvement:

The Board was made aware that the Capital Improvement Budget process for FY2016 has started. Susy is recommending putting in for funding for professional to help the DRC with updating the Design Review Guidelines. The Board is in support of this. Susy wants to be more proactive in going to the capital improvement committee meetings.

Member Gay will not be able to attend the special meeting on September 16, 2014.

Meeting Minutes:

On a motion made by Bob Tucker and seconded by Tom Gay, the minutes of the July 29, 2014 were unanimously approved.

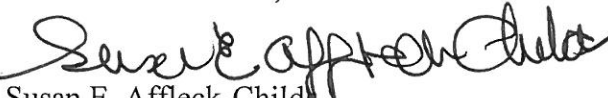
Adjourn:

On a motion made by Karyl Spiller-Walsh and seconded by Bob Tucker, the Board voted unanimously to adjourn the meeting at 9:30 pm.

Respectfully Submitted,


Amy Sutherland
Recording Secretary

Reviewed and edited,


Susan E. Affleck-Childs
Planning and Economic Development Coordinator

ARTICLE 1. PURPOSE AND AUTHORITY

1.1. Title

The full title of these regulations shall be the "Zoning Bylaw of the Town of Medway, Massachusetts." These regulations shall be referred to herein as the "Zoning Bylaw" or "these Bylaws."

1.2. Purposes

This Zoning Bylaw is enacted in order to promote the general welfare of the Town of Medway; to protect the health and safety of its inhabitants; to encourage the most appropriate use of land throughout the town, and to further the goals and policies of the Medway Master Plan, and to increase the amenities of the town, all as authorized by, but not limited by, the provisions of the Zoning Act, Massachusetts General Laws, Chapter 40A, as amended, and Section 2A of 1975 Mass. Acts 808.

1.3. Authority.

This Zoning By-Law is enacted in accordance with the provisions of Massachusetts General Laws, Chapter 40A, any and all amendments thereto, and by Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts.

1.4. Applicability.

All buildings or structures hereinafter erected, constructed, reconstructed, altered, enlarged, or modified, and the use of all premises in the Town, shall be in conformity with the provisions of this Bylaw. No building, structure, or land shall be used for any purpose or in any manner other than as expressly permitted within the district in which such building, structure, or land is located. Where the application of this Bylaw imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants, or agreements, the provisions of this Bylaw shall control.

1.5. Amendment.

This Bylaw may from time to time be changed by amendment, addition or repeal by the Town Meeting in the manner provided for in Massachusetts General Laws, Chapter 40A, Section 5, and any amendment(s) thereto.

1.6. Severability.

The invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision herein.

ARTICLE 4. ESTABLISHMENT OF DISTRICTS

4.1. Districts

For purposes of this Bylaw, the Town of Medway is divided into the following districts:¹

Agricultural Residential I
Agricultural Residential II
Commercial I
Commercial III
Commercial IV
Commercial V
Business/Industrial
Industrial I
Industrial II
Industrial III
Flood Plain/Wetland Protection (Overlay)
~~Adult Retirement Community Overlay District~~
Adaptive Use Overlay District
Groundwater Protection District

4.2. Zoning Map

Except for the Flood Plain/Wetland Protection District and Groundwater Protection District, the boundaries of these districts are defined and founded on the map entitled, "Town of Medway Zoning Map," dated June 30, 2001, as may be amended and revised, signed by the Planning and Economic Development Board and filed with the Town Clerk, which map, together with all explanatory matter thereon, is hereby incorporated in and made a part of this Bylaw.

All Flood Plain/Wetland Protection Districts shall be located and bounded as shown on the map described in Article 5, Section 5.X² herein, which is incorporated in and made a part of this Bylaw.

The Groundwater Protection District shall be located and bounded as shown on the maps described in Article 5, Section 5.X herein, which is incorporated in and made part of this Bylaw.

4.3. Lots Divided by District Boundaries

Where the boundary line of a zoning district divides a lot that was held in one ownership on the date that said boundary was established, the use regulations of the less restrictive district shall

¹ Open Space Residential Development Overlay and Adult Retirement Community Overlay District removed from list for now; they need discussion. I do not see them on the Zoning Map as mapped districts. They are referred to in notes on the map. If OSRD and ARCPUD are special permitted use allowed only in the AR-I and AR-II districts under certain conditions, they do not have to be named as districts; they are simply a use allowed by special permit, subject to the requirements of the Bylaw and any conditions imposed by the PEDB.

² "X" will convert to an actual cross-reference later in this process.

apply in the more restrictive district for a distance of twenty-five (25) feet, provided that the dimensional regulations of the district in which more than fifty (50) percent of the lot is located shall apply throughout.³

³ I realize that Medway's zoning doesn't have a split lot provision today, but it would be very wise to create one. Split lot regulations are very common and they can help to prevent a problem before it happens. I'll remove it if you wish, but I'm putting out there for discussion.