

K. DeLong, Asst.  
TOWN OF ORLEANS  
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## **PLANNING BOARD**

**October 12, 2010 - Minutes**

A meeting of the Orleans Planning Board was called to order at 7:00 p.m. in the Nauset Meeting Room at the Orleans Town Hall. **Present:** **Chairman:** Kenneth McKusick; **Vice-Chairman:** Chet Crabtree; **Clerk:** John Ostman; John Fallender; and Steve Bornemeier. **Associates:** Chip Bechtold and Paul McNulty. **Planning Department Staff:** George Meservey. **Also Present:** **Board of Selectmen**  
**Liaison:** Jon Fuller.

### **ORLEANS COMPREHENSIVE PLAN**

#### **Status Report for Planning Board Actions**

Meservey explained that according to the Orleans Town Charter, the Planning Board is required to annually develop a status report of the progress of the 180 actions in the Orleans Comprehensive Plan and report the Planning Board's priority recommendations to the Board of Selectmen by November 15<sup>th</sup>. Meservey noted that all town boards, committees and lead responsible agencies are requested to annually report on the progress they have made on each of their individual action items. Meservey discussed multiple action items specifically designated for Planning Department and Planning Board oversight. Planning Board members discussed issues such as land acquisition/disposal; parking; traffic; village center issues; lighting; signage; streetscape; feasibility of underground utilities; general appearance of the Industrial District; landscape designs; redesigning dangerous intersections; and the feasibility of affordable assisted living facilities.

McKusick noted that the two items requested of the Planning Department are (1) To begin the explanation of land use in Orleans and potential needs, and (2) Advise the Planning Board on the process for fixing the intersection at Routes 39 and 28.

### **ZONING BYLAWS**

#### **Potential Issues for the 2011 Annual Town Meeting**

Meservey presented the following potential issues for inclusion on the May 2011 Annual Town Meeting, noting that numbers 1-4 have greater significance and need to be addressed, whereas numbers 5-10 could be addressed at a later time:

1. **Amend Floodplain District F. §164-19 to update reference new FIRM Maps (effective July 1, 2011).**

Meservey explained that there are revised Floodplain District regulations to reference a new Floodplain map which need to be adopted by the Town before July 1, 2011.

**ACTION:** There was a consensus of the Planning Board to forward this issue to the Zoning Bylaw Task Force for recommendation and referral back to the Planning Board for a public hearing.

2. **Amend Groundwater Protection Districts, §164-17.C. to incorporate District 1 protection around new Well #8.**

Meservey explained the Groundwater Protection District reference to the maps needs to be updated to reference a newer date (previous maps are dated 1991). Meservey stated that a new Groundwater Protection District map will be created and stamped in by the Town Clerk. Meservey stated that there are four Groundwater Protection Districts in Town:

**District 1:** There is a four hundred foot radius around the well where no encroachment of any kind is allowed.

**District 2:** This is the theoretical zone of contribution of any water that falls within that watershed under a drought condition and 24 hour per day pumping for an extended period of time – which contains the watershed area that could contribute to any of the wells from the high end of the water basin which are calculated by an engineer and ultimately reviewed and approved by the Department of Environmental Protection.

**District 3:** This area generally falls within approximately ½ mile of wells, which involves some limitations such as the requirement that 30% of the land remain in its natural state, noting that some zoning “allowed uses” are appropriate.

**District 4:** The rest of the town falls within this district, with no substantive requirements.

**ACTION:** There was a consensus of the Planning Board to forward this issue to the Zoning Bylaw Task Force for recommendation and referral back to the Planning Board for a public hearing.

3. **Sign Regulations, §164-35 to Allow Off-premises Advertising Banners at Eldredge Field.**

Meservey explained that this potential zoning amendment has been initiated by the Board of Selectmen and they will forward a memorandum to the Planning Board after their October 20, 2010 meeting. Meservey indicated that this amendment deals with the

advertising banners at Eldredge Field which are currently prohibited by zoning since they are off-premises signs and there may be some sentiment to make an allowance for them.

**ACTION:** There was a consensus of the Planning Board to forward this issue to the Zoning Bylaw Task Force for recommendation and referral back to the Planning Board for a public hearing.

#### **4. Sign Regulations, §164-35 Concerning Banners over Public Streets**

Meservey explained that this potential zoning amendment has been initiated by the Board of Selectmen and they will forward a memorandum to the Planning Board after their October 20, 2010 meeting. Meservey described that this amendment deals with a section of zoning which allows non-profit agencies to petition the town to allow them to hang banners in specified locations across Main Street and over Eldredge Park Way to advertise non-profit or civic events. Meservey stated that some worthy organizations are not non-profit (and are categorically prohibited), but they should be allowed the same privilege of advertising on banners. Meservey stated that the Board of Selectmen would like to keep the regulations within their authority, but want zoning to allow the consideration to permit other types of banners. Fallender questioned the possibility of creating a separate bylaw to deal with signs and banners in public places. Meservey responded that in Massachusetts sign regulations are historically part of zoning, which would ultimately be controlled and enforced by the Board of Selectmen.

**ACTION:** There was a consensus of the Planning Board to forward this issue to the Zoning Bylaw Task Force for recommendation and referral back to the Planning Board for a public hearing.

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#### **5. Temporary Signs**

Meservey explained that a temporary sign is not associated with the primary use of the property (i.e. wine tasting at a retail liquor store). Meservey suggested that the Planning Board request a clarification from the Building Commissioner of the enforcement problems with this issue. The Planning Board could give the Building Commissioner guidance of the intention of the bylaw, which may not require a zoning bylaw change.

**ACTION:** There was a consensus of the Planning Board to forward this issue to the Building Commissioner for his comments on enforcement issues.

#### **6. Customary Home Occupations**

Meservey explained that the 1999 version of the Orleans Comprehensive Plan indicated the need to amend the definition of customary home occupation, which has not been done to date. Meservey noted there is low demand for this issue where only 2-4 petitions are filed each year. Meservey explained that the current definition is obsolete to the modern way of doing business. Meservey stated that the Zoning Board of Appeals uses the eight criteria listed in §164-44.C in making a determination about a Special Permit application:

#### **§164-44. Special Permits**

*C. Criteria. Special permits may be granted when it has been found that the use involved will not be detrimental to the established or future character of the neighborhood and the town and when it has been found that the use involved will be in harmony with the general purpose and intent of the chapter and shall include consideration of each of the following:*

- (1) Adequacy of the site, in terms of size, for the proposed use.*
- (2) Suitability of the site for the proposed use.*
- (3) Impact on traffic flow and safety.*
- (4) Impact on neighborhood visual character, including views and vistas.*
- (5) Adequacy of the method of sewage disposal, source of water and drainage.*
- (6) Adequacy of utilities and other public services.*
- (7) Noise and litter.*
- (8) Impact on groundwater quality and recharge volume and the water quality of coastal and fresh surface water bodies.*

**ACTION:** There was a consensus of the Planning Board to forward this issue to the Zoning Board of Appeals for recommendation and referral back to the Planning Board.

#### **7. Commercial Space in the Rural Business District**

Meservey explained that two years ago the town changed the allowable density for residential apartments from six to three units per acre in the Rural Business Districts in East Orleans and South Orleans. Meservey noted that with that change there was a concern raised by a property owner as to the purpose of the Rural Business District. The property owner's question was in order to maintain viability; the size of retail stores could be increased in that district.

**ACTION:** There was a consensus of the Planning Board to invite Jeffrey Karlson to meet with the Planning Board and further research this issue.

#### **8. Transient Housing**

Meservey stated that the Building Commissioner has raised a question regarding the allowance in zoning for lodging houses as different from renting two rooms to up to four people which can be done in any district. Meservey noted that a lodging house is a commercial entity, and there is a question of when the renting of rooms can be considered a lodging house or a tourist home. Meservey stated that the Building Commissioner would like to have a clear definition of transient housing for his reference.

**ACTION:** There was a consensus of the Planning Board to forward this issue to the Building Commissioner for his comments on problems and his recommendations.

#### **9. Non-Commercial Wind Facility Regulations**

Meservey noted there have been discussions of whether there is a need for separate regulations for non-commercial wind facilities. Meservey stated that currently any

commercial or non-commercial wind facility requires a Special Permit from the Zoning Board of Appeals. Mesurvey stated that commercial wind facilities must meet ten stringent criteria, including but not limited to, lot size and type, setback requirements, noise limitations, fencing, hazards, etc. Mesurvey noted that there is a disclaimer in the bylaws for non-commercial wind facilities which allows the Zoning Board of Appeals to waive any of the requirements, provided the proper criteria for the issuance of a Special Permit are met. Mesurvey stated that demand has been low for this issue.

**ACTION:** There was a consensus of the Planning Board to forward this issue to the Zoning Board of Appeals for recommendation and referral back to the Planning Board.

#### **10. Village Center District**

Mesurvey explained that there were seven items from the Recommendations to Consider from Peg Barringer's Village Center studies that could be considered for zoning bylaw amendments:

1. Increased transparency for shop windows.
2. Encourage residential development in the Village Center.
3. Design guidelines and standards to address plazas and parking lots.
4. Adopt a Formula Business Bylaw to limit formula stores.
5. Revise zoning to encourage street walls and facades, including side setbacks.
6. Prioritize first floors for retail and restaurant use.
7. Encourage increased density and mixed use multi-level buildings and consider a minimum building height for new buildings.

### **VILLAGE CENTER PLANNING**

#### **Village Center Subcommittee Report**

McKusick noted the Village Center Subcommittee has selected Chet Crabtree to be their spokesperson. McKusick reminded the Planning Board of an upcoming meeting with the Board of Selectmen and Peg Barringer on December 15, 2010 regarding the Village Center Market Study recommendations. Crabtree stated that meetings are being held to gain input from business owners and the assistance of the Chamber of Commerce with six subcommittees on aesthetics, infrastructure needs, business development, promotion and marketing of Village Center businesses, long-term vision, and traffic & safety. Ostman noted that the Town and business community is working together as a team to help this project move forward. Ostman noted that whatever is done in the Village Center will ripple out to other parts of town.

### **SUBDIVISION FEES**

Fallender presented a spreadsheet which was an analysis of the various Planning Department costs involved in regulatory functions in comparison to other Cape towns. Fallender stated that the only fee change recommendation is to raise the fee for an Approval Not Required application to Three Hundred Dollars (\$300.00). Planning Board members discussed the following proposed fee schedule:

Approval Not Required Plan:	\$300.00
Additional Lot Fee:	\$100.00
Preliminary Plan:	\$300.00
Additional Lot Fee:	\$100.00
Definitive Plan:	\$600.00
Additional Lot Fee:	\$150.00
Definitive Modification:	\$150.00
Release of Covenant:	\$150.00
Additional Lot Fee:	\$50.00

**MOTION:** On a motion by **John Ostman**, seconded by **John Fallender**, the Board voted to approve the amended schedule of fees which is based on a 50/50 share of costs between users and the Town, and to forward it to a public hearing advertisement.

**VOTE: 5-0-0 The motion passed unanimously.**

#### **APPROVAL OF MINUTES: September 28, 2010**

**MOTION:** On a motion by **John Fallender**, seconded by **John Ostman**, the Board voted to approve the minutes of September 28, 2010.

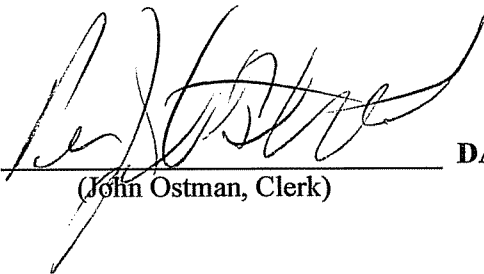
**VOTE: 5-0-0 The motion passed unanimously.**

#### **ADJOURNMENT**

**MOTION:** On a motion by **John Ostman**, seconded by **Chet Crabtree**, the Board voted to adjourn at 8:34 p.m.

**VOTE: 5-0-0 The motion passed unanimously.**

**SIGNED:**



(John Ostman, Clerk)

**DATE:**

11/9/2010

**LIST OF HANDOUTS FOR OCTOBER 12, 2010 PLANNING BOARD MEETING:**

1. *Memorandum from George Meservey dated October 6, 2010 entitled Orleans Comprehensive Plan – Status Report Update*
2. *List of 2011 Potential Zoning Amendments for Planning Board Consideration*
3. *Planning Board Fees Spreadsheet*

**Planning Board Minutes**

1. *Planning Board Minutes for September 28, 2010*