



ORLEANS TOWN CLERK

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ORLEANS PLANNING BOARD

December 13, 2011 - 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:** Chet Crabtree; **Vice-Chairman:** Steve Bornemeier; Kenneth McKusick and John Fallender. **Associates:** Paul McNulty and Andrea Shaw-Reed. **Planning Department Staff:** George Meserve; and **Secretary:** Karen Sharpless. **Also Present:** **Board of Selectmen Liaison:** Jon Fuller. **Absent:** **Clerk:** Charles Bechtold.

Chairman Crabtree requested Paul McNulty vote in the absence of Chip Bechtold.

PROPOSED ZONING AMENDMENTS

Formula-Based Restaurants

Planning Board members discussed options for a proposed formula-based business bylaw for restaurants using a summary review of recently adopted bylaws from Chatham and Wellfleet with Attorney General approval. Concerns expressed were the intent to preserve the character of Orleans with its existing unique restaurant options that are not found in other towns. Meserve read the following proposed amended definition under §164-4 to Planning Board members for discussion:

Restaurant, Formula-based – *A restaurant business which does or is required by contractual or other arrangement or as a franchise to maintain two (2) or more of the following items: standardized (Formula) array of services and/or merchandise including menu, trademark, logo, service mark, symbol, décor, architecture, façade, layout, uniforms, color scheme, and which are utilized by ten (10) or more other businesses worldwide regardless of ownership or location.*

Planning Board members discussed how to regulate formula based restaurant businesses in the various districts in town and whether they should be allowed through the oversight of a Special Permit from the Zoning Board of Appeals. Planning Board members discussed special requirement criteria for formula-based businesses through a new section to be numbered §164-38E. Planning Board members discussed interior and exterior criteria and whether they should be considered under the proposal.

MOTION: On a motion by **Kenneth McKusick**, seconded by **John Fallender**, the Board voted to forward the proposed zoning bylaw regarding formula based businesses to be advertised for a public hearing as written with an "A" under Village Center for Formula-based businesses.

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

MOTION TO RESCIND: On a motion by **Kenneth McKusick**, seconded by **Chet Crabtree**, the board voted to rescind the motion written above and reopen the issue regarding a question of inserting an "O" under Village Center instead of "A" for formula-based businesses.

VOTE: 3-2-0 (John Fallender and Steve Bornemeier voted in opposition)

Planning Board members reopened the discussion of formula-based businesses

MOTION: On a motion by **Kenneth McKusick**, seconded by **Chet Crabtree**, the Board voted to insert in the Schedule of Use Regulations §164-4 an “O” under Village Center for formula-based businesses and forward it for advertisement for a public hearing.

Commercial	R	RB	LB	GB	VC ^s	I	CD ⁶	SC	MB
Restaurant, Formula-based Business	O	O	A	A	O	A	O	O	O

Note: P = Use Permitted

O = Use Prohibited.

A = Use allowed, A, under Special Permit by the Zoning Board of Appeals as provided in section 164-44.

VOTE: 3-2-0 (John Fallender and Steve Bornemeier voted in opposition)

Customary Home Occupation Definition

Planning Board members discussed the following proposed amendment to the Zoning Bylaws §164-4 to add the following definition:

Customary or Self-Employed Home Occupation – This term shall include carpenters, electricians, painters, plumbers, paper-hangers, shellfish opening and the storage of fishing equipment as customarily carried on in the town, masons, radio and TV repairs, dressmaking, hand laundering, home handicrafts, home cooking, lawn mower and bicycle repairs, the practice of any recognized profession and any others of similar nature, which may be approved on Special Permit by the Zoning Board of Appeals, provided it is not injurious, noxious and offensive to the neighborhood, and provided there is no outside display of good. **This definition does not include a home office which has no non-occupant employees, on-site sales, or any other external evidence of the occupation.**

MOTION: On a motion by **John Fallender**, seconded by **Kenneth McKusick**, the Board voted to forward the article regarding Customary Home Occupation definition to advertise for a public hearing.

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

Renting of Rooms, not transient

Planning Board members discussed amending §164-13 Schedule of Use Regulations as follows:

RESIDENTIAL	R	RB	LB	GB	VC	I	CD#	SC	MB
The renting or leasing of not more than 2 rooms, nor to more than 4 persons, by a family resident in a dwelling unit (not transient).	P	P	P	P	P	O	O	O	P

Note: P = Use Permitted

O = Use Prohibited.

A = Use allowed, A, under Special Permit by the Zoning Board of Appeals as provided in section 164-44.

MOTION: On a motion by **Kenneth McKusick**, seconded by **Paul McNulty**, the Board voted to forward the proposed zoning bylaw regarding “non transient” rental of rooms for advertisement for a public hearing.

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

Contractor's Yard

Planning Board members discussed the following proposed amendment to the Zoning Bylaws §164-4 to add the following definition:

Contractor's Yard – A premises which is used by a building contractor or other tradesman or landscaper for the fabrication of subassemblies or the storage of supplies or equipment.

COMMERCIAL	R	RB	LB	GB	VC	I	CD#	SC	MB
Contractor's Yard	O	O	A	A	O	P ¹	O	O	O

Note: P = Use Permitted

O = Use Prohibited.

A = Use allowed, A, under Special Permit by the Zoning Board of Appeals as provided in section 164-44.

Mesurvey explained that the term “contractor’s yard” does not currently exist in the Schedule of Use Regulations and suggested the addition as noted above.

MOTION: On a motion by **John Fallender**, seconded by **Kenneth McKusick**, the Board voted to move the proposed zoning bylaw forward to advertise for a public hearing.

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

Floodplain District Update

Mesurvey referred to an e-mail from Laura Keating (Camp Dresser & McKee), dated December 1, 2011 which states the following: “It was recently decided by FEMA that the Barnstable Countywide study would be combined with the updated coastal analysis study. Therefore, there will be no Letter of Final Determination (LFD) issued for the MapMod Countywide study this year”, therefore the Town does not need to update the zoning bylaws on this issue at this time.

GENERAL BYLAWS

Outdoor Lighting Bylaw Enforcement

Planning Board members discussed the Orleans General Bylaws Chapter 122, Outdoor Lighting and noted the need for enforcement for non-compliant businesses. The purpose of the Outdoor Lighting Bylaw is noted in the following:

§122-1. Purpose.

“The regulation of outdoor lighting is intended to: enhance public safety and welfare by providing for adequate and appropriate outdoor lighting, provide for lighting that will complement the character of the town, reduce glare, encourage energy savings, and minimize light trespass onto other properties”.

Planning Board members agreed that it is important for the Town to be able to enforce the Outdoor Lighting By-law and inform business owners so they can remedy non-compliant lighting situations with the following language:

§122-8. Enforcement and Violations.

*“This By-law shall be enforced by the Building Commissioner, or his designee. **Any person, firm or corporation violating any section or provision of this By-Law shall be fined not more than one hundred (100) dollars for each offense. Each day that such offense continues shall constitute a separate offense.**”*

MOTION: On a motion by **John Fallender**, seconded by **Kenneth McKusick**, the Board voted to forward the amendment to the Outdoor Lighting Bylaw, as shown above, to the Board of Selectmen with a recommendation that a public hearing be held:

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

Demolition Delay Bylaw

Planning Board members discussed comments from Attorney Michael Ford (Town Counsel) regarding a "Minimum Maintenance Bylaw" otherwise known as "demolition by neglect" (DBN) by the National Trust for Historic Preservation. Planning Board members agreed that they have provided as much input as possible, and it is now the responsibility of the Orleans Historical Committee to forward the proposed bylaw to the Board of Selectmen for a public hearing.

VILLAGE CENTER STREETScape PLAN

Planning Board members discussed their approval of the work done on the Village Center Streetscape Plan prepared by the Cape Cod Commission. John Fallender described a new committee called the "Project Development Committee" formed under the Orleans Community Partnership. Fallender and Bornemeier agreed that there is a lot of enthusiasm on the committees to raise funds and move forward with various projects with input from business owners, residents and visitors.

Planning Board members noted that in the 2011 Orleans Village Center Streetscape Plan, the Cape Cod Commission recommends the following proposed improvement plan under the Implementation Section:

Action 1: Adopt streetscape plan.

Action 2: Transfer streetscape plans to engineering survey for construction plan, coordinate with Mass DOT.

Action 3: Establish a Phasing Plan for public improvements.

Action 4: Identify potential funding sources.

Action 5: Issue requests for proposals for labor and materials (as needed).

Action 6: Engage individual property owners to further the plan.

OLD BUSINESS

Complete Release of Covenant – 106 & 110 Beach Road

Planning Board members discussed a request for a Complete Release of Covenant on behalf of property owners, Phil & Claire Ruggieri for property at 106 Beach Road and noted that all conditions of the covenant have been met.

MOTION: On a motion by **Steve Bornemeier**, seconded by **Paul McNulty**, the Board voted to authorize the Planning Board Chairman to sign the Complete Release of Covenant for 106 Beach Road for Phil & Claire Ruggieri.

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

NEW BUSINESS

Cancel December 27, 2011 Planning Board Meeting

MOTION: On a motion by **John Fallender**, seconded by **Steve Bornemeier**, the Board voted to cancel the Planning Board meeting on December 27, 2011.

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

COMMITTEE REPORTS

Orleans Community Partnership - Fallender gave an update regarding the progress of the Orleans Community Partnership.

Board of Water and Sewer Commissioners - McKusick - gave an update on the progress of the Board of Water and Sewer Commissioners and meetings held with the Town of Eastham on water related issues.

Community Preservation Committee - Bornemeier gave a list of the following requests for funding:

- **Federated Church** – \$121,000 to replace the heating system plus add air conditioning.
- **Orleans Planning Department** - \$4,500 for the Nauset Beach Access Plan.
- **Affordable Housing Committee** - \$70,000 for the Affordable Housing Trust Fund.
- **Orleans Conservation Trust** - \$120,000 for the Fleck Acquisition II: a Conservation Restriction on two pond front lots on Twinings Pond.
- **Habitat for Humanity of Cape Cod** - \$600,000 for Namskaket Affordable Homes.
- **Orleans Historical Society** - \$7,000 for Orleans Historical Society glass plates & lantern slides archival preservation, digitization and storage.
- **Odd Fellows** - \$96,762.16 for Odd Fellows Hall restoration including a commercial kitchen, patio and design.

CORRESPONDENCE

Subdivision Modification - Lots 1, 2 and 3 - Sage's Way

Planning Board members were informed of a letter from Attorney Duane Landreth regarding ongoing issues for an approved subdivision containing Lots 1, 2 and 3 on Sage's Way.

Chapter 91 License - Pleasant Bay Narrows Trust - 111 Davis Lane

Planning Board members were informed of a Chapter 91 License entitled, "Pleasant Bay Narrows Trust Revetment Extension" for the purpose of supplementing and improving a revetment.

APPROVAL OF MINUTES: November 22, 2011

MOTION: On a motion by **John Fallender**, seconded by **Kenneth McKusick**, the Board voted to approve the minutes of November 22, 2011.

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

ADJOURNMENT

MOTION: On a motion by **Kenneth McKusick**, seconded by **Paul McNulty**, the Board voted to adjourn at 8:30 p.m.

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

SIGNED:


(Charles Bechtold, Clerk)

DATE:

2-14-12

LIST OF HANDOUTS FOR DECEMBER 13, 2011 PLANNING BOARD MEETING:

1. *Zoning Bylaw proposals*
2. *Formula Business By-Law from Wellfleet.*
3. *Summary of Wellfleet and Chatham Formula Business Bylaws*
4. *Comments on Minimum Maintenance Bylaw*
5. *E-mail from Laura Keating (CDM) entitled, "FIRM updated - Orleans, MA", dated December 01, 2011.*
6. *Outdoor Lighting Bylaw, Chapter 122*
7. *Letter from Attorney Duane P. Landreth at LaTanzi, Spaulding & Landreth, P.C., entitled, "Subdivision Modification – Land Court Plan No. 16642, Lots 1, 2 and 3 Sages Way", dated November 21, 2011.*
8. *Letter from Ryder & Wilcox entitled, "Pleasant Bay Narrows Trust Revetment Extension", dated December 5, 2011.*
9. *Planning Board Minutes for November 22, 2011.*