



K. Derly, Asst

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ORLEANS PLANNING BOARD

January 24, 2012 - 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; **Clerk:** Charles Bechtold; Kenneth McKusick and John Fallender. **Associates:** Andrea Shaw-Reed. **Planning Department Staff:** George Meservey; and **Secretary:** Karen Sharpless. **Also Present:** **Board of Selectmen Liaison:** Jon Fuller. **Absent:** Paul McNulty.

7:00 P.M. – PUBLIC HEARING – PROPOSED ZONING AMENDMENTS

Chet Crabtree opened the public hearing at 7:00 p.m. Charles Bechtold read the legal ad into the record.

MOTION: On a motion by **Steve Bornemeier**, seconded by **Kenneth McKusick**, the Board voted to defer reading the entire legal ad at the meeting.

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

Meservey gave an explanation of the Orleans Comprehensive Plan charge to the Planning Board to protect the community character. Meservey described how proposed zoning amendments are reviewed by the Zoning Bylaw Task Force and then are forwarded to the Planning Board for a public hearing.

§164-4 Definitions: Formula-based Restaurants

Meservey explained how research has shown that formula businesses can have the potential to erode the Orleans seaside character and uniqueness which creates homogenization from one town to another. Meservey noted that standardized businesses have the same offerings from one location to the next which can erode the character of a town. Meservey noted that more money will go back to the local economy from Mom and Pops businesses than a business that is headquartered elsewhere. Meservey pointed out that the Orleans Comprehensive Plan charges the Planning Board to take the necessary steps to protect the community character by regulating formula type businesses. Meservey referred to comments made at the 2008 public hearing regarding formula businesses. Meservey noted that existing formula businesses in town would be grandfathered and would have to go through the Special Permit process by the Zoning Board of Appeals for any proposed expansion. Planning Board members discussed the definition of a formula based business: *"A type of retail sales establishment, restaurant, tavern, bar take-out food establishment or other food establishment that is under common ownership or control, or is a franchise, and which, along with ten (10) or more other establishments maintains two (2) or more of the following features:*

- (1) Standardized menu / standardized array of merchandise.*
- (2) Trademark or service mark.*
- (3) Standardized interior décor.*
- (4) Standardized color scheme.*
- (5) Standardized uniform.*
- (6) Standardized signs.*

Public Comments:

Bob Wilkinson (Pershing Lane) stated he has been a businessman in town for 34 yrs and feels that we are special and prosperous due to our uniqueness. Wilkinson stated that he strongly feels that formula based businesses should be prohibited in town, especially in the downtown. Wilkinson stated his opinion that people come to the Cape because it is unique. Wilkinson noted that there is a constant call to keep young people on the Cape and in Orleans. Wilkinson stated it would be an economic mistake to bring formula based businesses in town with the result that Orleans looks like “every other town USA”. Wilkinson noted that the economic impact of formula businesses is that revenue and profits are taken off Cape.

Kevin Flynn (Nauset Knolls Lane) complained that he lives near Nauset Beach and has to constantly pick trash off his lawn from fast food restaurants in other towns.

John Sergeant (Crystal Lake Drive) questioned whether there is any provision for existing formula based restaurants to be architecturally the same for the town.

Robert Summersgill (Jack Knife Point Road) stated his support of the comments of previous speakers and stated that the existing collection of restaurants and coffee type restaurants does a fabulous job of adding vitality and interest in the town center. Summersgill stated we have a nice mix of existing establishments and don’t need formula based businesses to upset the balance.

Don Krohn (Kenneth Lane) also supported previous speaker comments. Krohn stated it has been a battle to keep Orleans as it currently exists. Krohn questioned where the businesses would be allowed and stated that Special Permits from the Zoning Board of Appeals are easy to get with legal representation. Krohn stated he wants the Planning Board to revisit formula based businesses in general in order to defend the character of the town.

May Haynes (Longview Drive) questioned how the decision on formula based businesses would be decided and stated that is lovely and don’t want the town to be seen as “anywhere USA”. Haynes stated that beauty is in the eye of the beholder and we don’t need them here.

Dan Davis (Great Oak Road) stated he is glad there is a lack of formula chain restaurants as seen in may other towns in the US.

Susan Milton (by letter) supported the bylaw.

CONSENSUS: There was a unanimous agreement in the audience in support of the proposed bylaw.

Planning Board discussion:

Planning Board members unanimously agreed to support the formula based business bylaw.

MOTION TO FORWARD: On a motion by **Kenneth McKusick**, seconded by **John Fallender**, the Board voted to forward the proposed zoning bylaw regarding Formula-Based Restaurants to the Board of Selectmen for inclusion in the May 2012 Annual Town Meeting warrant.

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

§164-4 Definitions: Customary Home Occupations

Mesurvey noted that many residents want to use part of their home for a home office (with no employees, on-site sales or other observable impacts) which should be exempt from the current requirement for a Special Permit from the Zoning Board of Appeals.

Kenneth McKusick requested that the following Customary Home Occupation be read into the minutes:

To amend the zoning bylaws 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 provide there is no outside display of goods. **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.**

Public comments:

There were no comments from the audience.

Planning Board comments:

Planning Board members unanimously agreed to support the proposed customary home occupation bylaw.

MOTION TO FORWARD: On a motion by **John Fallender**, seconded by **Kenneth McKusick**, the Board voted to forward the proposed zoning bylaw regarding Customary Home Occupations to the Board of Selectmen for inclusion in the May 2012 Annual Town Meeting warrant.

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

§164-4 Schedule of Use Regulations: Renting of Rooms, (not transient)

Mesurvey stated that a clarification is needed in the bylaws regarding the renting of rooms (not transient {less than 30 days}). Mesurvey noted that the bylaw would allow a homeowner to let rooms on at least a monthly basis.

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 dwelling unit (not transient)	P	P	P	P	P	O	O	O	P

Public Comments:

Susan Milton (by letter) stated that she is against any change in the bylaws restricting transitory stays in Bed & Breakfast type establishments.

Kevin Flynn (Nauset Knolls Lane) questioned a house near him which is permitted to rent up to 14 people and wondered if that would be considered a hotel or Bed & Breakfast.

Bob Wilkinson (Pershing Lane) questioned if a Bed & Breakfast is allowed in the residential district if they are not renting more than two rooms. When he received a positive response from Meservey, he stated if it is not broken, don't fix it – there are no problems with B&B's.

Planning Board Comments:

McKusick questioned the impact this bylaw would have on Bed & Breakfast owners. Meservey responded that new overnight accommodations are only allowed in the General Business District and no lodging houses area allowed in Residential Districts. McKusick questioned whether Milton's letter raises issues that are not being addressed. Planning Board members were informed that the Building Commissioner has requested a clarification to the definition.

MOTION NOT TO FORWARD: On a motion by **Kenneth McKusick**, seconded by **Steve Bornemeier**, the Board voted **NOT** to move the proposed bylaw on Renting of Rooms (Not Transient) to the Board of Selectmen for inclusion in the May 2012 Annual Town Meeting warrant.

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

§164-4 Definitions: Contractor's Yard

Planning Board members discussed the following amendment to the definitions:

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. For the purpose of this bylaw a single vehicle used by the owner for the storage of small items of material and equipment that are used on a day by day basis in carrying out his trade, and/or used by the owner for transportation purposes, shall not be classified as a contractor's yard.

COMMERCIAL	R	RB	LB	GB	VC	I	CD#	SC	MB
<u>Contractor's Yard</u>	O	O	A	A	O	P ⁴	O	O	O

Public Comments:

Kevin Flynn (Nauset Knolls Lane) noted that garbage trucks can be used before 7:00 a.m. with backup beepers.

Planning Board Discussion:

Planning Board discussed adding “and trailers” to the language about single vehicles.

MOTION: On a motion by **Charles Bechtold**, seconded by **Kenneth McKusick**, the Board voted to leave the bylaw wording as presented.

VOTE: 4-1-0 The motion passed by a majority. (Chet Crabtree voted against).

MOTION TO FORWARD: On a motion by **Kenneth McKusick**, seconded by **John Fallender**, the Board voted to forward the proposed zoning bylaw to the Board of Selectmen for inclusion in the May 2012 Annual Town Meeting warrant.

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

MOTION TO CLOSE PUBLIC HEARING: On a motion by **John Fallender**, seconded by **Kenneth McKusick**, the Board voted to close the public hearing for the 2012 proposed zoning by-law amendments.

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

ANNUAL REVIEW OF SUBDIVISION FEES

Planning Board members discussed the current subdivision fee schedule and agreed that it is adequate.

MOTION: On a motion by **Charles Bechtold**, seconded by **John Fallender**, the Board voted to keep the present fee schedule.

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

NEW BUSINESS

Request for Road Name Change: Dawn Drive to Skunks Bluff

Meservey stated that road name was changed in 2009 and a request has been received to change it back to Skunks bluff which would only affect two property owners.

Kevin Flynn (Nauset Knolls Lane) stated it is only a driveway which has always been known as Skunks bluff.

CONSENSUS: Planning Board members agreed that all abutters must be notified of the proposed change and it will be reviewed at the February 14th Planning Board meeting.

MASSACHUSETTS CULTURAL DISTRICT DESIGNATION

Planning Board members discussed the Massachusetts Cultural District designation which is used for towns with a concentration of cultural activities. Bornemeier noted that it could help the Planning Board in efforts to foster vitalization of town center through the following goals:

1. Attract artists and cultural enterprises.
2. Encourage business and job development
3. Establish the district as a tourist destination.
4. Preserve and reuse historic buildings.
5. Enhance property values.
6. Foster local cultural development.

Kenneth McKusick noted that there are a lot of issues that need to be resolved and requested that more information be obtained and brought back to the Planning Board for review.

AMENDED MOTION: On a motion by **Steve Bornemeier**, seconded by **John Fallender**, the Board voted to direct George Meservey to proceed with research and report back to the Planning Board on the feasibility of this issue.

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

COMMITTEE UPDATES

Board of Water & Sewer Commissioners - Kenneth McKusick gave a report on the Board of Water & Sewer Commissioners current issues including a meeting with the Town of Eastham regarding water issues.

Community Preservation Committee - Steve Bournemeier gave a report on seven projects under review by the Community Preservation Committee:

Orleans Community Partnership – John Fallender gave a report on the Orleans Community Partnership.

CORRESPONDENCE

- *Memorandum to Board of Selectmen entitled Proposed Amendment to Outdoor Lighting Bylaw*
- *Massachusetts Estuary Project (MEP) Linked Watershed Embayment Model Peer Review – Scientific Peer Review Panel Report, dated December 30, 2011*
- *Department of Environmental Protection Waterways Regulations Program – Chapter 91 for Peter Galloway to maintain an existing pier, ramp and float at 25 Cheney Road.*

APPROVAL OF MINUTES: December 13, 2012

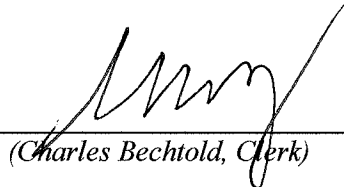
MOTION: On a motion by **John Fallender**, seconded by **Kenneth McKusick**, the Board voted to approve the minutes of December 13, 2011 as amended.

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

ADJOURNMENT

MOTION: On a motion by **Steve Bournemeier**, seconded by **John Fallender**, the Board voted to adjourn at 8:30 p.m.

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

SIGNED:  **DATE:** 4/5/12
(Charles Bechtold, Clerk)

LIST OF HANDOUTS FOR JANUARY 24, 2012 PLANNING BOARD MEETING:

1. *Public Hearing Notice for Proposed Zoning Bylaw Amendments.*
2. *Comparison of Planning Board Fees with Local Towns.*
3. *Memorandum from George Meservey entitled, "Massachusetts Cultural District Designation", dated January 6, 2012.*
4. *Letter from Elizabeth M. Barnes regarding changing a road name from Dawn Drive to Skunks Bluff, dated January 17, 2012*
5. *Memorandum to Board of Selectmen entitled, "Proposed Amendment to Outdoor Lighting Bylaw", dated December 15, 2011.*
6. *Massachusetts Estuary Project (MEP) Linked Watershed Embayment Model Peer Review, Scientific Peer Review Panel Report, dated December 30, 2011.*
7. *Department of Environmental Protection Waterways Regulations Program, Notice of License Application – Chapter 91 for Peter Galloway, dated January 23, 2012.*
8. *Planning Board Minutes for December 13, 2011.*