



The Town of Barnstable
Growth Management Department
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Jo Anne Miller Buntich
Director

Town of Barnstable
Planning Board
Minutes
January 11, 2010
7:00 PM

A regularly scheduled and duly posted Public Hearing for the Town of Barnstable Planning Board was held on Monday, January 11, 2010 at 7:00 PM at the Town of Barnstable, Town Hall, 367 Main Street, Hyannis, MA in the Selectman's Conference Room.. A quorum was met. Also present were JoAnne Miller-Buntich – Director of Growth Management, Ruth Weil – Town Attorney, and Carol Puckett – Administrative Assistant.

Felicia Penn	Present
Patrick Princi	Absent
Marlene Weir	Present
Ray Lang	Present
David Munsell	Present
Paul Curley	Present
Matthew Teague	Present

Felicia Penn opens the hearing at 7:00 PM. The board introduces themselves. JoAnne Buntich introduces new planner with Growth Management, Elizabeth Jenkins.

Felicia Penn reads a summary of the agenda and addresses the lot release request:

SECURITY AND LOT RELEASE REQUESTS

Request for release of lots and security for 85 and 87 Acre Hill Road, Barnstable, MA.

Continued to next meeting to see if fee has been paid.

CRAIGVILLE BEACH DISTRICT - DCPC IMPLEMENTING REGULATIONS

Felicia Penn gives instruction for the public comment and explains that the DCPC has already been nominated by the Town.

JoAnne Buntich gives an overview of DCPC and explains that previously there had been a charter objection to the vote and that Town Council re-nominated the DCPC. They re-nominated by council vote only for the Craigville Beach district and that the Planning Board had planned on having a hearing separate from Town Council hearing. The Planning Board will hear what people have to say and then make recommendations to Town Council and complete their process.

Ray Lang asks if there is a new timeframe. JoAnne Buntich indicates there is a timeframe to complete it as soon as they can.

Public comment is open and Attorney Michael Princi speaks first and indicates that he represents Snowden- Lebel of 5 Hayward Road. He points out where the property is located on a map. He indicates that they oppose DCPC in this district and that they have been put in a truly hardship situation. He indicates that Laurie Snowden-Lebel received approval in 2005 and that it had been frozen. She took 2 lots, and because of the need from the Conservation Commission, she combined the two lots. Therefore, they request a grandfather provision for anyone who was given approval during the first or second approval period. He could suggest some language for the next hearing and could send something to Ruth Weil and JoAnne Buntich for review. He indicates that the DCPC would affect his clients as they would not be able to build their addition

Jack Driscoll of 75 Long Beach Road and president of Long Beach Association speaks next. He indicates that on September 3rd, councilor Crocker talked about converting this into a zoning document but was told they couldn't. The association represents about 70 homes. One of the things they would like to suggest is grandfathering. They would like to take a time period to convert DCPC into a zoning document instead.

Jim Lang of 86 Summerbell Avenue in Centerville and current president of the Christian Camp Meeting Association is representing himself. He indicates that there are 98 families with the village area, has had many meetings and the consensus of the neighbors is that they are in favor and that this area has to be protected. He believes that any choice to go with rezoning is not the avenue to take at this time

Alice Brown of 173 Lake Elizabeth Drive would like to underscore what Jim Lang just said. She is an active member of the Christian Camp Association and does the newsletter. She has owned her property for 25 years, has lived there for 11 years and wants to make certain that it is a special and unique area and that this is not an area for large homes and is in support of the DCPC.

Wayne Chaisson represents the property of 988 Craigville Beach Road, also known as the Barnacle, and agrees with Attorney Princi about grandfathering.

John Gautrau of 103 Long Beach Road, Centerville supports Mr. Driscoll and takes exception to bigger homes. Everything that has been negotiated is already in place and nothing would change and all that zoning would do is to keep local control in elements in the DCPC. He supports them as zoning as opposed to the DCPC.

Meg Lochran of Centerville and president of the Centerville Civic Association indicates that when there was a charter objection she expected that person to initiate a better document or something which he had not. She indicates that there has been a lot of work put into this and if this is sent to the Cape Cod Commission for action that, in her opinion, the CCC would not turn their back on it as it is a barrier beach. She thanks the people involved for their work and dedication to this.

Shirley Fisher does not represent any particular property. She has polled people and as a user of this area does not see this simply as a change to zoning regulations. This is an opportunity for long range futuristic protection. She agrees with the previous speakers about numerous meetings and thinks if the town and Planning Board adopts the DCPC it will put Barnstable in a leadership role. Please support this DCPC.

Barry Weiner is an attorney who represents the Crane family who own 3 properties in three areas that are contemplated to be in the DCPC area. One property is on Long Beach Road, another South Main Street, one in the Craigville Beach area and another in the Cape Elizabeth Road area. They are not in favor of the DCPC method and believe it could be done by way of zoning amendment and not the DCPC process. While the Cranes do not favor this particular document, if you are to pass anything, they would urge that they consider it as a zoning amendment instead of a DCPC regulation. They want to retain local control through the council and the administrative agencies that work for this city and not seed it out to the CCC.

Frederick Tonsberg of 2 Short Beach Road, Centerville agrees with Attorney Barry Weiner.

George Gingold of 469 Elliot Road agrees with Shirley Fisher as his property is outside of the DCPC but supports the DCPC. He thinks that the CCC brings an overarching view to the common issues of environmental concern and ultimately property values are to be determined by environmental protection that exists on the Cape. He urges the Planning Board to approve the DCPC and move forward without fear of the CCC.

Tom Quirk whose family has owned a home in Centerville for over 30 years agrees with George Gingold.

Charles Orr of 157 Long Beach Road and secretary of the Long Beach Association agrees with John Gautrau and Attorney Weiner's comments. He believes that this be turned into a local zoning ordinance and have the Town of Barnstable retain control of it. He is concerned with wastewater management and better control over the fact that this is a barrier beach and none of these are addressed in the DCPC document.

Sue Rohrbach of 432 Main Street, Centerville and former Planning Board member agrees with Shirley Fisher and two others speakers sitting to her right. She thinks that DCPC is the same as zoning with the exception of grandfathering. She thinks it is important that they do this as a DCPC as this is a barrier beach and barrier beaches are not allowed to be built upon in other places and that there is a need for strong regulations in that area.

Peter Fisher of Centerville agrees with Sue Rohrbach.

James Bowes of Centerville agrees with Attorney Weiner for the most part but disagrees that this power be given to the CCC. He doesn't think it should go to the CCC and thinks it should work. He thinks that the height restriction should be from top of foundation and they could put on a simple restriction that they have to stay within one or two feet from that and then use the height restriction from top of foundation.

Larry Hurwitz of 95 Short Beach Road is also in the construction trades and thinks this is better dealt with through zoning.

Nelson Orr of 153 Long Beach Road agrees with Attorney Weiner, Mr. Gautrau and Mr. Driscoll. He indicates that the beach would not be there for the efforts of the Long Beach Association to renourish that beach twice so that people can use that beach.

Felicia Penn asks the Board if they want to close public hearing.

Ray Lang would like Ruth Weil or JoAnne Buntich to go through the procedure of DCPC and wants to know ramifications of spot zoning in this area

Ruth Weil, Town Attorney, goes over the history of the first occurrence of the DCPC process. She explains that the DCPC will apply no matter when someone's house was built.

JoAnne Buntich explains the defining of the Craigville Beach area.

Attorney William E. Rickman Jr. , also a professor of land use at BU, is of the same law firm as Attorney Weiner. He indicates that the Crane family was concerned that if this was adopted as a DCPC regulation that the Town would lose control. If it is adopted as a DCPC implementing regulation what happens after that. The Town could recommend to the CCC changes but would have no control. He wondered why this was done instead of a zoning amendment. There is nothing, in his opinion, that is not proper zoning.

Mr. Curley asks what happens to this whole process if it goes to the CCC.

JoAnne Buntich indicates that it could be a zoning ordinance but they have never approached it that way and they would have to start all over again and would have to assess it. She indicates that the DCPC has been engaged and can't simply change to a zoning process.

Mr. Lebel has looked at the hardship exemption with the Cape Cod Commission and that the fee is \$5000.

Matthew Teague asks if the Cape Cod Commission offers a higher means of enforcement.

JoAnne Buntich indicates that the Commission is not involved in the enforcement of the regulations and that 6 or 7 other districts of critical planning concern that have been approved and are ongoing on the Cape, that to her knowledge, they have not presented any unusual problems regarding the Commission's ongoing involvement or interference with those regulations going forward.

Matthew Teague suggests that they look at some type of grandfathering. Also, he is concerned about environmental issues and asks if this impacts, protects or reverses any of the current complaints about the environmental issues in the area.

JoAnne Buntich indicates that they have met with the Chair of the Board of Health and was of the opinion that their existing regulations are sufficient to protect the environmental resources until such time that some type of wastewater system is in place.

JoAnne Buntich explains to Dave Munsell about lot exemptions.

Marlene Weir asks if they don't adopt this as DCPC this evening, wouldn't there be a rush to permitting?

Ruth Weil indicates that the moratorium would remain in effect and until it was lifted there would not be a rush to permitting. The moratorium stays into effect for 12 months or until the Town sends an implementing regulation to the Cape Cod Commission and the Cape Cod Commission adopts it.

James Bowes clarifies that we are under DCPC until implementing or 12 months.

Mr. Lebel asks about the Pond Village DCPC.

Felicia Penn explains that the Pond Village DCPC was voted down.

Steve Brown of Centerville, as part of the original citizens group that volunteered with the first DCPC, recommends the DCPC and thinks it is an important planning tool that the town should adopt.

**Felicia Penn makes a motion to close public hearing
Seconded.**

Vote:

All in favor.

Vote is unanimous.

Felicia Penn calls a 5 minute break at 8:30 PM.

Back in session at 8:35 PM. .

Paul Curley has a question about the grandfathering.

JoAnne Buntich goes through Section 240-131.4.E regarding grandfathering.

Ruth Weil explains that this applies to both conforming and non-conforming cases.

The Board discusses what this board needs to vote on.

*Marlene Weir makes motion to adopt the proposed DCPC recommendation
Paul Curley seconds*

Felicia Penn polls the Board as to what they want to do.

Ray Lang is okay voting tonight

Marlene Weir is okay voting tonight

Matthew Teague is concerned about the implementing timeline.

Ruth Weil explains projects in the moratorium.

Dave Munsell asks if there have been any changes since the charter objection.

JoAnne Buntich indicates that there have been changes as to the dates but that there have been no substantial changes.

*Dave Munsell is prepared to vote
Paul Curley is ready to vote*

Vote:

AYE: Ray Lang, Marlene Weir, Dave Munsell, Paul Curley, Felicia Penn

NAY: Matthew Teague

Minutes to be voted at the next meeting.

Felicia Penn talks about the Local Comprehensive Plan.

JoAnne Buntich hands out the LCP package and goes through it briefly....

Felicia Penn wants to continue this to next meeting and be prepared to vote on it.

Felicia Penn then looks over the correspondence.

Motion to adjourn.

Seconded

Vote:

All in favor.

Respectfully submitted,

Carol J. Puckett - Administrative Assistant