

Aquinnah Planning Board Plan Review Committee Meeting March 19<sup>th</sup>, 2019

Members Present: Peter Temple, Chairman, Sarah Thulin, Jim Newman, Jim Mahoney, Jo Ann Eccher, Isaac Taylor, Jim Wallen

Not Present: Berta Welch

Also Present: Makenzie Brooks, John Miller, Tom Murphy, Reid Silva, Jed Smith, Elissa Turnbull

Meeting opened at 6:36pm

The Committee reviewed the 2/19 and 3/12 minutes. Sarah made a motion to approve the 2/19 minutes as presented. Motion was moved by Jim M. The Committee voted 5-0-2, the motion passed. Sarah made a motion to approve the 3/12 minutes as presented. Motion was moved by Jim N. The Committee voted 5-0-2, the motion passed.

The Committee met with Makenzie Brooks, head of the Housing Bank campaign. Peter disclosed that he is a member of Housing Bank Committee. Makenzie gave a brief history on the development of the Housing Bank and informed the Committee about the upcoming warrant article requests: article creating and establishing the all island Housing Bank (modeled after Land Bank) and an article requesting that each town direct 50% of their short-term rental tax revenue to fund the Housing Bank. Aquinnah is currently collecting 4% on room tax and the Selectmen are considering increasing to 6%. The Committee discussed the following: estimated revenue for the Housing Bank from tax revenue; limitations on approving the 50% funding (town can opt out of the bank after 5 years); the citizen petitions and other town selectmen opposition; current override for Aquinnah and FY20 school budgets; use of Housing Bank funding for not only all types of year round housing but infrastructure as well; island sustainability and the need for year-round housing; Housing Bank operation overhead; uncertainty around the tax itself for rental owners and the tax transition for those owners. Makenzie informed the Committee that there is two-step process following town warrant approval: warrants will be sent to the legislator for finalization and then return to the towns to vote again which will allow time for towns to assess the revenue that the tax brings in (this process takes at least a year and could take up to 2-years). The Committee thanked Makenzie for her time.

The Committee scheduled their next meeting for Tuesday April 23<sup>rd</sup>, 2019 at 6:30pm. May meeting is scheduled for May 28<sup>th</sup> (Sheriffs Meadow hearing had been continued to this date).

PBPRC reopened a continued hearing to act upon a request from UMB Bank NA Trustee and Jessie Benton of 315 State Road Map 11 Lot 47 for Special Permits to site and construct a 675sf addition to an existing structure where total footprint of all structures on the lot will exceed 2,000sf and is within the Coastal DCPC (hearing continued from 12/11/18 & 2/12/19). Applicant requested to continue the hearing to April. Peter entertained a motion to continue the hearing to April 23<sup>rd</sup>, 2019 at 7:00pm. Motion was moved by Sarah and seconded by Jim N. The PBPRC voted 7-0, the motion passed.

PBPRC opened a meeting to act upon a request for a zoning determination from Matthew Burlage of 5 Clay Pit Road map 4 lot 102 to conduct perc test to design a Title V septic system. Reid Silva presented the plan: Burlage is looking to subdivide the lot but needs a viable perc to ensure that lot can hold a septic system and well. Perc test will be done with a backhoe. The

Committee requested that a qualified archeological observer be present for the digging. Peter entertained a motion to approve the perc test in the location shown on the plan submitted in the presence of a qualified archeological observer who has the ability to stop the work if they require it. Motion was moved by Jim N and seconded by Jim M. **The Committee voted 7-0, the motion passed.**

PBPRC opened a hearing to act upon a request from Thomas & Christine Murphy of 2 Old South Road Map 10 Lot 29.2 for Special Permits under sections 3.5, 11-3.1, 13.4-3 & 13.4-8 of the Aquinnah Zoning Bylaws to site and construct a 168sf shed on an open/highly visible lot within the Moshup Trail DCPC. At the site visit, the Committee found that the shed will be slightly visible during the winter, however, it doesn't break the tree line and shouldn't be visible during the summer with the heavy vegetation along the road. Applicant plans on siting the shed on 6 hand dug sonotubes (suggestion from the manufacture as the safest support). The Committee determined that since the location of the shed is not far from the existing foundation and there is a sprinkler system and well nearby, the area is most likely disturbed. Jo Ann moved to approve the plan as presented with 6 hand dug sonotubes conditioned upon the following: no white trim and lighting must comply with the Towns Exterior Lighting Bylaw. Motion was seconded by Sarah. **The Committee voted 7-0, the motion passed.**

The Committee discussed the FY20 PB budget. Peter informed the Committee that in changing the duties of the PB Assistant, the rate of pay will increase. In addition, the PB will be budgeting for a Zoning Administrator. While it is still being discussed, Peter noted that the pay will be around \$150/per decision and the fees collected for Zoning Determination will be put into a revolving fund. Peter will be attending the upcoming Finance Committee meeting to review these budget changes.

Sarah, acting chair, reopened a continued hearing to act upon a request from John Miller of 25 Old South Road Map 9 Lot 175 for Special Permits to site and construct a 144sf addition with a roof deck (hearing was continued from 11/13/18 & 12/11/18). Isaac was recused. John Miller presented amended plans to construct a 130sf (10ftx13ft) addition at the height of 11ft (including the railings for the roof top deck). Addition will be sited under the existing roof ridge line, supported by sonotubes (encased with natural wood) and sited within the setbacks. Applicant requested that the trim of the windows and doors be white to be consistent with the existing structure. The Committee determined that the white trim will not be visible from any public way. Based on the findings, Sarah entertained a motion to approve the plans as presented. Motion was moved by Jim W and seconded by Jim M. **The Committee voted 6-0-1, the motion passed.**

PBPRC opened a continued hearing to act upon a request from Domini Amy L TR and Stanley LIM TR of 42 Lighthouse Road Map 6 Lot 43 for amendments to a Special Permits dated December 24, 2018 under sections 3.8-4, 3.9-1-3 and 12.3-3 of the Aquinnah Zoning Bylaws to site and construct a curb cut and driveway within the Gay Head Cliff DCPC (hearing continued from 2/12/19). Isaac was recused and spoke on behalf of the applicant, his father Hugh Taylor. Peter informed the Committee that per Town Counsels opinion, it is clear that the lot was divided prior to December 22, 1975 (grandfathering for roadside district) and Hugh purchased the Outermost Inn lot prior to 1975 and therefore the lots were in separate ownership as of 1975. However, there is case law that states that technically, just because grandfathering requirement was met, if the lots are in common control or common use, it can be overridden. Given the facts from previous hearings, it appears that there is common control of the Outermost Inn lot and the "Barn" lot

(map 6 lot 43). Isaac stated the following: assuming that the curb cut is legal, there is no negative impact on the neighborhood; the proposed driveway and its relation to the neighboring curb cuts is not uncommon (not requesting an unusual curb cut); the proposed access makes more sense than having to use the Outermost Inn road which would cause more traffic and disturbance to the Inn. The Committee reviewed the plot plan and discussed the following: how there have been no new curb cuts on Lighthouse road (aside from Hart); process to change the deeded easements along the Outermost Inn Road; maintaining the integrity of Lighthouse Road when there is an existing viable access to the lot; the degree of common control and use of the lot; the ability that the applicant has to grant an easement to the lot; the necessity of the curb cut and driveway now; the right of the "Barn" lot to create a curb cut and the right of the applicant to grant easement over the Outermost Inn lot to the "Barn" lot.

Isaac stated that technically the two lots are not in common control because the "Barn" lot is part of a separate trust but that the applicant has been utilizing the lot partially. He added that it can be seen as Hugh giving himself an easement to the lot but that doesn't change the value of the curb cut and having it separate from the Outermost Inn lot. Peter stated that there is another option: let the "Barn" lot remain as is with no curb cut and if the Inn sells in the future, then the lot would be in a different position in regard to the curb cut. There was further discussion regarding Town Counsel documents on common control. Due to the uncertainty of the Committee determining whether there is common control over the two lots, the Committee requested that the applicant present legal documents on whether there is common control or not. Peter entertained a motion to continue the hearing to April 23<sup>rd</sup>, 2019 at 8:00pm. Motion was moved by Jim W and seconded by Jim M. **The Committee voted 6-0-1, the motion passed.**

PBPRC opened a meeting to act upon a request from Matthew Born of 6 Clay Pit Road Map 4 Lot 104 to amend a special permit dated December 15, 2017 by adding a bathroom on the second floor of the approved garage where total footprint on the lot will exceed 2,000sf. Jim Wallan was recused. Jed Smith, on behalf of the applicant, presented the proposed plans to add a bathroom (shower, sink and toilet) on the second floor of the garage (Board of Health has counted this area as the fourth bedroom on the current 4-bedroom septic system (bathroom septic will tie into current system)). A letter from the applicant dated 3/13/19 was read into the minutes where the applicant claims that the space will be used for recreational purposes (use had been originally presented as storage). Wanting to make sure that the current and future owners understand that the space cannot be used as a separate apartment/residence/guest house, the Committee determined to treat the space as a detached bedroom and condition it as such. In addition to the bathroom, the applicant requested the addition of a 48sf (6ftx8ft) outdoor shower. The Committee determined that both the bathroom (no increase in footprint) and outdoor shower are minimal additions to the footprint and not detrimental to abutters and therefore do not require a noticed hearing. Based on the findings, Peter entertained a motion to approve the amended plan, with a bathroom, as a detached bedroom and the addition of an outdoor shower as shown on the plan not to exceed 48sf. Motion was moved by Sarah and seconded by Jim M. **The PBPRC voted 6-0-1, the motion passed.**

The Committee discussed the preliminary site visit for Herskovits of 10 Deer Path. Hutker Architects plans on submitting a special permit application for renovation for the existing structure. At the site visit, it was evident that there had been a large amount of unpermitted clear cutting. The Committee discussed the clear cutting and the visibility of the structure and proposed additions from Moshup Trail. The Committee agreed that this is a clear-cutting violation and requested that

the Tree Warden assesses the cutting and clearing and issue a violation notice to be enforced by the Building Inspector. Peter entertained a motion affirming that there has been a clear-cutting violation on this property and proceed with an enforcement action. Motion was moved by Jo Ann and seconded by Isaac. **The PBPRC voted 7-0, the motion passed.**

The Committee briefly discussed the recent activity at the Tribe: clearing and cutting of trees and removal of soil. Peter stated that Tribal Lands are not under the DCPC and therefore, the clear-cutting bylaws do not apply.

Next, the Committee reviewed the proposed bylaw changes. Subsequent to Town Counsel review, the Committee made an additional change: removing the following wording from section 13.14-2A "...The Zoning Administrator and the Alternate can be the Building Inspector, The PBPRC Administrator or Assistant, a member or a former member of the PBPRC or any other person that the PBPRC decides, in its discretion, is sufficiently knowledgeable of the Zoning By-laws and guidelines ...". The Committee made other minor grammatical changes. There was brief discussion on the Zoning Administrator duties as defined in the bylaw and budgeting for the position as well as compensation for the Tree Warden. Peter entertained a motion to approve the changes made in the proposed bylaws (deletion of who the Zoning Administrator and Alternate can be and grammatical changes). Motion was moved by Jim M and seconded by Jim N. **The PBPRC voted 7-0, the motion passed.**

With no other business, the meeting adjourned at 8:50pm.

*Respectfully submitted,*

*Sophia Welch*

*Board Administrative Assistant*