

**New Marlborough Planning Board
Wednesday April 22, 2015**

Attendees:

Chair: Patricia Hardyman

Members: Judy Hattendorf, Jamie Mullen, Charlie Parton

Other attendees: Ellie Katzman
Tara White (Selectman)
Jane Tant (Secretary)

Call to Order: 7:01 pm

Review and Approval of Minutes of Prior Meetings:

Minutes of the April 8, 2015 meeting were approved.

Minutes of the April 15, 2015 meeting were approved as amended. Vote was 2 in favor with 2 abstentions.

Public Comment:

Ms. Hardyman introduced the members of the Board to Mr. Katzman.

Ms. Hardyman stated three revisions to the Protective By-laws are being proposed.

The first revision she noted is to section 3.3.1.2. The revision is limited to 3.3.1.2.e which is to be replaced with the following wording: "The maximum gross floor area (GFA) shall not exceed 1,200 square feet." This replaces current wording which states "The maximum net living floor area shall not exceed 1,200 square feet."

Ms. White inquired as to the reason for the change.

Ms. Hardyman stated the Planning Board had become aware of creative interpretations of "net living floor area" to produce much larger accessory dwelling than intended by the Planning Board. The goal is to limit the potential for an accessory dwelling to become the largest or principal dwelling on a property.

Ms. Hardyman then directed attention to handouts detailing the second revision – an addition of section 3.3.1.3 Accessory Apartment. She noted the Planning Board desired to add this section for several reasons:

- To add moderately priced rental residential properties to the town
- To allow seniors to provide residential space for caregivers
- To allow seniors an opportunity to gain rental income and thereby remain in their homes

Ms. White inquired if this provision would make it possible for a property owner to have both an accessory apartment and an accessory dwelling.

Mr. Mullen noted section 3.3.1.3 should apply only to apartments constructed in an existing principal residence or structure attached to the principal residence.

Mr. Parton called attention to the proposed paragraph 3.3.1.2.c.1 which stated "An accessory apartment shall only be constructed within an existing principal building or structure, an existing attached accessory building or structure, or an existing detached accessory building or structure."

After some discussion, Board members agreed their intent would be better captured by deleting the last clause of 3.3.1.3.c.1 so that it read, "An accessory apartment shall only be constructed within an existing principal building or structure, or an existing attached accessory building or structure."

Ms. Hardyman then noted the third proposed revision to the By-laws is a new definition of "Maximum Gross Floor Area". She read the definition, "The sum of all enclosed or covered areas capable of being used or finished for habitable space of each floor of the building, measured to the exterior faces of the enclosing walls, columns, or posts. A space shall be considered "capable of being used or finished for habitable space" if it meets Massachusetts Building code occupiable ceiling height requirements."

There were no questions or comments regarding this definition.

Ms. Hardyman closed the public meeting at 7:30 pm.

Review of Mail:

- Copy of email from Board Member Jamie Mullen which was read into the record of the April 15, 2015 meeting.
- Handwritten note dated April 21, 2015 from Jan Johnson to Board Member Holly Morse. (Text of the note included as "Attachment A" below.)
- Handwritten note dated April 21, 2015 from Jan Johnson to Board Member Charlie Parton. (Text of the note included as "Attachment B" below.)

Old Business:

Ms. Hardyman noted again the approval of the Board's application for District Local Technical Assistance (DLTA) for 2015. She stated she was uncertain of the amount of funding which this represented. Mr. Mullen stated although approval of DLTA applications was delayed due to the Governor's fiscal review he understood that the program was fully funded on a level funding basis.

Ms. White asked if the funding would apply through December 2015.

Ms. Hardyman replied in the affirmative.

Ms. Mullen indicated his expectation that funding might amount to 40 hours of support from Berkshire Regional Planning Commission but confirmation would be forthcoming at our meeting with Brian Domina (BRPC) on Wednesday, April 29th.

Ms. Hardyman noted she has been informed the Select Board will provide notice in the next week as to the approved rate of remuneration for a person to conduct an inventory of maps and flat files in Planning Board custody. She understood the rate would be between \$12.50 and \$15 per hour.

Board discussion then focused upon a review of the results of the April 15, 2015 meeting regarding the application of Jan Johnson to conduct poultry processing on Mill River Farm. Ms. Hardyman noted the conclusion reached at this meeting that a plain reading of Massachusetts General Law (MGL) Chapter 40A Section 3 indicates this provision prevails over town By-laws. Mr. Parton added that Board should have an opportunity to discuss the application of MGL Chap. 40A, Sect. 3 with Brian Domina of the Berkshire Regional Planning Commission (BRPC) at the next scheduled Board meeting. Ms. Hardyman agreed to seek further clarification from Mr. Domina. She also agreed to consult with Town Counsel on the matter.

Mr. Mullen noted the comprehensive rewrite of the Town Protective By-laws defeated in the last Town Election included a provision which would have allowed free-standing meat processing facilities in the agricultural district subject to special permit.

Ms. White noted that Ms. Johnson reported current meat processing is often accomplished using mobile devices and this would create a new scenario not addressed by the defeated By-law rewrite.

Ms. Hardyman reminded the Board that during development of the Comprehensive Plan the possibility of forming an Agriculture Commission was discussed.

Mr. Mullen noted that an Agriculture Commission might include interested farmers, a member of the Select Board, a member of the Planning Board, a representative of the Board of Health and a member of the Conservation Commission. He then distributed copies of excerpts from the Handbook of Massachusetts Land Use Planning Law by Mark Bobrowski concerning agricultural uses.

New Business:

Ms. Hardyman noted the full text of section 3.3.1.3.c.1 was cited in the proposed warrant to be presented at Town Meeting. This text did not reflect the deletion of the final clause agreed to by the Board. Ms. Hardyman noted she would send a copy of the revised language to the Select Board and contact the Town Moderator to make him aware that the Planning Board would make a make such a motion for revision from the floor at Town Meeting.

Mr. Mullen reminded the Board of the requirements of the Open Meeting Law concerning email communication. He noted that discussion is limited to process issues (e.g. attendance, date, time, place of meeting) and may not be deliberative.

Mr. Parton asked Mr. Katzman if he had any comments. Mr. Katzman responded that he attended to be sure the Board received some support for the time and effort they had invested in responding to community needs.

Ms. Hardyman stated the Board continues to seek community input. The revisions to the Protective By-laws discussed earlier in the meeting were available for review in the library and publically posted. The Board has discussed how to increase and improve community outreach. Additionally, the DLTA application included support to gauge community concerns.

Ms. Hattendorf added the Planning Board would benefit from having a member with multi-generational ties to the Town.

Mr. Mullen stated that in any future revision to the By-laws it would be good to meet with town civic groups such as the fire company and emergency responders.

Mr. Parton agreed and noted that future revisions should be in "small bites" and accompanied by education opportunities.

The meeting was adjourned at 8:35pm.

Attachment A

Dear Holly,

Many thanks for all the work that's been done and for the meeting you chaired about chicken processing in New Marlborough.

I hope to establish that raising poultry and processing on-farm is a real gain for our community.

Thanks also for your public service and for the voice you bring. I especially appreciated your comments among the cascade of emails about Wired West.

Best,
Jan

Attachment B

Dear Charlie,

I wanted to thank you for all the work concerning chicken processing in our town, and especially to thank you for your kind words of support. I look forward to welcoming you for a tour of the farm, and to establishing that on-farm processing is a real gain for our community.

Best,
Jan