

**FINAL REPORT**  
**July 13, 2015**

**Residential Size By-law Impacts**  
**Planning Board/ZBA Report to Town**

The “Residential Building Size Regulations” zoning bylaw was approved at the April 2013 Town Meeting. The purpose of the bylaw was generally to limit the size of residential structures to protect the Town’s rural character and to ensure that new development would be built in scale with past development practices. Property owners are subject to a ‘total living area’ threshold, set in relation to lot size, but may exceed that limit with a special permit. The Zoning Board is required to consider 13 criteria in determining whether to issue a special permit. In addition, the bylaw sets an absolute upper limit on ‘total living area’, again relative to lot size.

On the floor of Town meeting, an amendment to the bylaw was approved which requires the Planning Board and the Zoning Board of Appeals to jointly meet and review the efficiency, and address unintended consequences, of the bylaw and to report to the Town every two years. Accordingly, the Planning Board and the Zoning Board of Appeals met on May 27<sup>th</sup> and June 24<sup>th</sup> 2015.

This report provides information concerning the number of special permits during the period 2013-2014. (Although the bylaw was passed in April, its approval had been expected and it is assumed that the impacts started in early 2013. Accordingly, calendar data is used in this report.) This report also provides data for the immediately preceding two-year period for the purposes of comparison.

Finally, this report discusses the administrative effects of the bylaw on the Zoning Board of Appeals.

**CONSTRUCTION ACTIVITY**

**Special Permit Activity (2013-2014) (‘total living area’ over the threshold)**

|                                    | 2013-2014 (with bylaw) | Additional Living Area                               |
|------------------------------------|------------------------|--|
| New residences                     | 0                      | N/A  |
| Renovations/additions/guest houses | 5                      | <u>497 SF average, ranging from 202 SF to 866 SF</u> |

All of the 2013-2014 special permit applications were approved by the ZBA. In 2015 there has been one application for a permit for an addition of 1,165 square feet, which was conditionally approved.

**Summary of Residential Building Permits Issued: 2011-2014**

|                                    | 2011-2012 (without bylaw) | 2013-2014 (with bylaw) |
|------------------------------------|---------------------------|------------------------|
| New residences                     | 17                        | 17                     |
| Renovations/additions/guest houses | 35                        | 29                     |
| Total number of building permits   | 52                        | 46                     |
| Total square footage               | 99,000 SF (49,500/yr)     | 53,000 SF (26,500/yr)  |
| Average new residence size         | 4,360 SF                  | 2,570 SF               |

## ANALYSIS OF SPECIAL PERMIT ADMINISTRATION

### ZBA Hearings: 2013-2014

|   |     |
|---|-----|
| Total permits/variances/appeals hearings (including bylaw hearings) | 46* |
| Bylaw special permit hearings                                       | 5   |

Generally, ZBA hearings for permits, variances and appeals are completed within a single meeting session. (Specifically, during 2013-2014, 3 hearings were continued to additional meeting sessions.) Hearings for the five special permits under the new bylaw have all been completed within a single session.

Abutters within 1000' are required to be notified of an application for a special permit under the bylaw. (This is in contrast to the 300' notification for other proceedings before the ZBA.) No abutter has appeared at any special permit hearing under the bylaw.

## CONCLUSIONS

Since the enactment of the new bylaw, there has been a reduction in the:

- average size of new residences by over 40%;
- total square footage of construction activity related to home building by approximately 46%; and
- number of projects (new residences and additions/renovations/guesthouses) by approximately 10%.

Of note, the Island-wide number of new residential building permits has remained relatively constant in the 2011-2014 timeframe.

In addition, since the enactment of the new bylaw, there have been no special permit applications for new residences. However, three of the 18 building permits for new residences not requiring a special permit were within 1.5 percent of the 'total living area' threshold (which would require a special permit).

Taken together, the above data would suggest that the new bylaw – and not, say, economic factors – has impacted the trends observed in Chilmark.

The ZBA has reviewed 2 to 3 special permit applications per year under the new by-law. Given their regular workload (i.e. permits, variances and appeals), the additional work posed by the new bylaw (approximately 10%) is not considered burdensome by the ZBA.

Both the Planning Board and the ZBA feel that, although this review has been helpful, it would be premature to propose any amendments to the bylaw at this time. There have been only a handful of special permit applications, not all of the 13 criteria have been relevant in each case, and no special

permit application has been filed for a large new residence (which, it is assumed, would present more complicated issues for consideration). In particular, the Planning Board and the ZBA share the view that there have been an insufficient number and variety of special permit applications to assess the appropriateness of the 13 criteria and more fully identify helpful clarifications of these criteria. They believe that by the next biennial review, there may be sufficient additional data to enable them to determine whether any modifications to the bylaw are warranted.

Finally, both the Planning Board and the ZBA believe that special permit application process would be more informative and efficient if property owners attended the hearing before the ZBA.

\* the total reflects the number of applications