



## **August 5, 2024**

# **Cape Cod National Seashore Advisory Commission**

Superintendent Presentation:  
Zoning

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## Cape Cod National Seashore Lands Management & Zoning Issues

- Park authorized 1961. (PL 87-126)
- One of the early national park service areas created from lands not already in federal ownership.
- Total 43,560 acres w/ approx.
  - Approx. 27,000 acres federally owned.
  - Approx. 2,600 acres town-owned
  - Approx. 11,930 acres state incl. submerged lands
  - Private lands 1,900 acres/ some 600 privately owned properties
- Approx. number of private properties by town:  
251 Wellfleet, 211 Truro, 105 Eastham,  
1 Chatham, 1 Orleans, 1 Provincetown



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## The Act of 1961

- Acquisition of private property by condemnation
- Suspension of Condemnation parameters
- Defined “Improved Properties”
- Established basis for Secretary’s Zoning Standards



## Suspension of Condemnation – Cape Cod Model

- Protection for private owners of “improved properties”  
(park issues a certificate to landowners that their property will not be taken by eminent domain if their property meets the definition and continues to meet zoning)
- Mechanism for Secretary of the Interior to protect park values relative to improved properties

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## **“Improved properties” definition from park legislation**

Section 4 of the seashore enabling legislation defines an improved property as:

“a detached, one-family dwelling the construction of which was begun before September 1, 1959, . . . together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated. “



## Termination of Suspension from Condemnation

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- Nonconforming Variances and Uses
- Sets parameters for revocation

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- the Secretary of the Interior is authorized to withdraw the suspension of his authority to acquire, by condemnation, “improved property” that is made the subject of a variance or exception which, in his opinion, fails to conform or is in any manner opposed to or inconsistent with preservation and development of the seashore as contemplated in the said Act.

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## Retaining the Character... 1962

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## Retaining the Character: Secretary's Zoning Standards Regulations of 1962

- Established objectives and purposes for local zoning bylaws for the Seashore District (36 CFR Part 27)
- “Zoning bylaws for the Seashore District shall be consistent with the objectives and the purposes of the Act of August 7, 1961, so that - to the extent possible under Mass. law - the scenic, scientific, and cultural values of the area will be protected, undeveloped areas will be preserved in a natural condition, and the distinctive Cape Cod character of existing residential structures will be maintained.”
- “To contribute to the effect of prohibiting the commercial and industrial use, other than existing commercial or industrial use not inconsistent with the purposes of the Act of August 7, 1961”

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## Minimum Zoning Standards

Under local zoning, ...use of existing dwellings as residences and accessory uses customarily incidental to the use of the principal residence...

|  | Lot<br>Size | Max<br>Height | Road<br>Frontage | ( Setbacks ) |      |      |
|--|-------------|---------------|------------------|--------------|------|------|
|  |             |               |                  | Front        | Side | Rear |
| <b>Wellfleet – National Seashore Park District</b> | 3<br>Acres  | 28'           | 200'             | 50'          | 35'  | 35'  |
| <b>Eastham – Seashore District F</b>               | 3<br>Acres  | 30'           | 150'             | 50'          | 25'  | 25'  |
| <b>Truro – Seashore District</b>                   | 3<br>Acres  | 30'           | 150'             | 50'          | 25'  | 25'  |

### How did it work?

- Towns wrote zoning bylaws in 1963-1966 consistent with the minimum standards of the federal Zoning Standard Regulation, and then enforced
- Adoption of bylaw was optional by each town, but failure to adopt would expose 'improved properties' in that town to condemnation

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## 1980s – CCNS Use Guidelines for Private Property Redevelopment

- 50% rule for expansions of livable space from floor area of the single-family residence on Sept. 1, 1959.
- 50% of total livable space in accessory space (for example: A guesthouse, studio, or garage) up to 50% of the total potential livable floor area of the main residence.
- These were guidelines, not federal law or regulation, which has caused confusion.
- Basis for many of the zoning bylaws the towns have adopted

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## Town Zoning & Site Plan Review objectives

Provide flexibility for property owners to adapt structures, and preserve traditional visual quality and character of built structures:

- size, scale, and mass
- use intensity
- lot or site coverage
- character and style

Environmental concerns:

- conservation/wetlands
- health/septic
- groundwater
- key views/scenic resources
- sensitive species and habitats
- night sky lighting / light pollution

Towns have addressed demolition delay for historic structures, and solar and wind siting in their bylaws.



## What do the towns see as zoning challenges and best practices?

What is the status of compliance with the intent of the Secretary's minimum standards?

Ongoing and newer issues:

- Traditional/historic character
- Water quality
- Coastal resiliency
- Rental properties
- Accessory Dwelling Units
- Consistency among the towns?

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