

Edgartown Planning Board - Meeting Minutes

Tuesday, December 1, 2020, 5:30 PM

The Edgartown Planning Board scheduled a meeting for Tuesday, December 1, 2020, 5:30 PM.

The meeting was audio and video recorded. Attendees participated by video conference, in accordance with Chapter 53 of the Acts of 2020. All supporting materials were provided to the members of this body and made available on a publicly accessible internet website. Members of the public were able to access the site, using the instructions included in the Meeting Agenda. The public was encouraged to follow along using the posted agenda. Deviations from the agenda, if any, were noted.

SITE VISITS

A site visit to 222 Upper Main Street (Assessors' Parcel #20C-27) was scheduled for 9 AM. Some members were in attendance. No deliberation was conducted.

CALL TO ORDER / ROLL CALL

Mr. McCourt called the meeting to order at 5:30 PM, and called the roll:

MASCOLO: Present	MORRISON: Present
MORGAN: Present	SEARLE: Present
CISEK: Present	MCCOURT: Present

A QUORUM WAS DECLARED. (5:31 PM)

The board reserved the right to address unscheduled agenda items out of order, for the convenience of the Board and applicants.

ADMINISTRATIVE

Review of Minutes

Mr. Finn noted that minutes from November 10 and 17 had been prepared and presented to the board for review. After review, it was MOVED by Morrison SECONDED by Searle

	ROLL CALL:
MASCOLO: YES	MORRISON: YES
MORGAN: YES	SEARLE: YES
CISEK: YES	MCCOURT: YES
	APPROVED. (5:33 PM)

Payroll

Mr. Finn noted that Mr. McCourt had approved payroll, and that it was available for review by board members upon request.

Review of changes to Zoning Bylaw

Mr. Finn presented a brief presentation, reiterating the proposed zoning bylaw changes as previously approved.

Mr. Finn also presented draft language for a "Senior Residential Developments" bylaw, summarizing as follows:

Senior Residential Developments

Article:

“To amend the Edgartown Zoning Bylaw by adding Section XV ‘Senior Residential Developments’ as follows:

- The purpose of this article is to provide for a variety of housing types, settings, and residential services to meet the needs of people as they age, and people with disabilities.
- The Planning Board would be the Special Permit Granting Authority (SPGA)
- **MINIMUM REQUIRED:**
 - Two acres of land;
 - 100 feet of frontage
 - Public water and wastewater service at site.
 - Intended for people age 55 or over.
- “Visitability” and universal design is emphasized
- Permitted Structures: Cottage Dwellings, Two-Family Dwellings, Townhouse Dwellings, Continuing Care Retirement Facility, Skilled Nursing Facility
- Permitted Uses: Independent Living, Assisted Living with or without memory care units, Skilled Nursing Services, Physical Rehabilitation Services, Memory Care Services
- Nonresidential uses for residents and guests: Retail (<2,500 sq. ft.), Personal services, Medical office or clinic, Community center, senior center
- Accessory uses: Adult day care center, Staff apartments, common dining laundry or recreation facilities, Conservation, agricultural.
- Limits to the Development
 - Maximum density (based on type of structure)
 - Maximum building coverage (35 percent) on lot for structure
 - Minimum setback: 50 feet from front, 100 feet from the side or rear lot lines.
 - Minimum common open space: 60 percent of the lot area; must be contiguous and usable by all residents of the development.
 - Minimum off-street parking based on types of structures

There was some discussion relative to how “open space” is defined in the context of the zoning bylaw, and how the ‘open space’ would be protected against future development or cutting / clearing.

At 5:48 PM, the matter was tabled to later in the meeting, in order to address scheduled items.

SCHEDULED BUSINESS

5:40 PM - ANR (Lot Line Adjustment)

Jobs Neck Trust (42-1.11, 42-2.12, 55-1, 54-1)

An ANR Plan was presented by Mr. Douglas Hoehn, dhoehn@sbhinc.net

Mr. Hoehn presented an ANR Plan proposing to adjust lot lines on four existing lots, held in common ownership. No change in number of lots was proposed. All lots would have frontage on a way in existence that the Planning Board determined are adequate to provide access to the buildable portion of each lot.

After some presentation and deliberation, it was **MOVED** by Morrison, **SECONDED** by Mascolo

To endorse the ANR as presented.

MASCOLO: YES
MORGAN: YES
CISEK: YES

ROLL CALL:
MORRISON: YES
SEARLE: YES
MCCOURT: YES
APPROVED. (5:33 PM)

Mr. Hoehn noted that he would leave hard copies of the plans for endorsement.

5:45 PM - PUBLIC HEARING - SP(Coastal District): Timothy J. and Mary C. Walsh, 46 Turkeyland Cove Road (37-107)

Construction of a Pool and Pool Cabana in the Inland Zone of the Coast District, and Zone 2 of the Edgartown Ponds Area District

The Edgartown Planning Board scheduled a public hearing on Tuesday, December 15, 2020 at 5:45 PM, at the request of Douglas Hoehn, SBH, Inc., on behalf of Timothy J. and Mary C. Walsh (the Owner) to construct a pool and pool cabana in the Inland Zone of the Coast District, and Zone 2 of the Edgartown Ponds Area District.

This application was made in accordance with Sections 5.1 and 5.6 of the Edgartown Zoning Bylaw. The property is located at 46 Turkeyland Cove Road, Assessors' Parcel #37-107. Application Materials were made available online through a publicly accessible website.

Applicant's agent: Douglas Hoehn, SBH, Inc.

The public hearing was opened at 5:58 PM.

Presentation / Findings

- The proposal is for the installation of a swimming pool and pool cabana.
- The Pool cabana will be 18' x 23', and will be open on three sides.
- The pool would be shielded from neighbors by substantial vegetation and distance.
- Bottom of pool foundation at least 5 feet above high groundwater.
- Fencing would be installed in accordance with health and building codes.
- All lighting would be shielded, downward lit and limited to building code requirements.
- There would be a minimum of excavation, re-contouring & retaining walls.
- No construction damage to vegetation or grade in the Shore Zone or Zone 1 (EPAD) is anticipated.
- Water source is from on site well.
- A dry well is proposed for minor water draw down at end of season.
- If the pool ever has to be totally emptied, water will be transported off site.
- The pool will utilize salt treatment methods.
- The pool cabana as proposed is a pavilion-style structure, open on three sides.
- Vegetation will provide visual screening.
- Pool equipment will be placed within a 54" high cedar fence area, as shown on plan.
- The lot abuts undeveloped wooded area, with conserved open space beyond.

- The swimming pool is roughly 70 feet from the septic system leaching area at its closest point.
- The pool heater will be powered by propane.

Ms. Susan Brown (an abutter) expressed concern about noise generated by the swimming pool machinery, and the capacity of trees to absorb noise; also, the meaning of ‘other site activities’ as noted in the application.

Mr. Norman Rankow (on behalf of the applicant, responding to Ms. Brown) noted that ‘other site activities’ generally refers to landscaping activities on the site. Mr. Rankow also noted that the cedar fence would help to mitigate the impacts of sound, and would visually screen the equipment; further, the equipment as proposed would generate far less sound than older equipment.

Mr. Rankow also noted that a building permit would be required to fully enclose the pool cabana.

There being no further public comment or presentation, the public hearing was closed at 6:08 PM.

Deliberation / Decision

Mr. McCourt noted that the condition relative to sound from equipment would be included with any decision.

There were no other comments from board members.

It was **MOVED** by Morgan, **SECONDED** by Mascolo

To approve the application with Standard Conditions for Swimming Pools.

	ROLL CALL:
MASCOLO: YES	MORRISON: YES
MORGAN: YES	SEARLE: YES
CISEK: YES	MCCOURT: YES
	APPROVED. (6:10 PM)

After the vote, there was some discussion relative to the enclosure for the pool equipment. Mr. Morgan noted that he understood the proposal to include a full enclosure with treatment for sound abatement. Mr. McCourt asked if standard conditions were automatic for any given application. Mr. Finn noted that if the intent of the board was to apply standard conditions with their vote, then the conditions would become part of the decision. Mr. Morgan asked about amending his motion. Mr. Finn noted that the appropriate procedure would be for the board to vote to reconsider (returning to deliberation) and then reconduct the vote to approve, amending as necessary.

It was **MOVED** by Morgan, **SECONDED** by Mascolo

To reconsider.

Mr. Mascolo expressed concern with the purpose and validity of the motion.¹

	ROLL CALL:
MASCOLO: NO	MORRISON: YES
MORGAN: YES	SEARLE: YES
CISEK: YES	MCCOURT: YES
	DECLARED APPROVED. (6:12 PM)

It was **MOVED** by Morgan, **SECONDED** by Searle

¹ Reconsider: “This motion is peculiar in that the making of the motion has a higher rank than its consideration, and for a certain time prevents anything being done as the result of the vote it is proposed to reconsider. It can be made only on the day the vote to be reconsidered was taken, or on the next succeeding day, a legal holiday or a recess not being counted as a day. It must be made by one who voted with the prevailing side. Any member may second it. [...] The Effect of the Adoption of this motion is to place before the assembly the original question in the exact position it occupied before it was voted upon.” (from Robert Rules of Order Online, <http://www.rulesonline.com/ror-06.htm>, retrieved on 12/22/2020)

To approve the application with as presented.

Ms. Morrison asked if the intention of the applicant was to enclose the pool equipment in a full enclosure, or just behind a fence.

Mr. Rankow said that they were only proposing a fence.

Mr. Ted Rosbeck (for the applicant) suggested that the Planning Board might benefit from a site visit to an installed pool, in order to observe first-hand the level of sound created by modern pool equipment.

Mr. Finn suggested that the motion might still reference the Standard Conditions for Pool Equipment, with Condition #6 (requirement for a full enclosure) waived. Mr. Morgan agreed, and amended his own motion with a second by Mr. Searle:

To approve the application as presented, with Standard Conditions for Swimming Pools, with Condition #6 waived.

	ROLL CALL:
MASCOLO: YES	MORRISON: YES
MORGAN: YES	SEARLE: YES
CISEK: YES	MCCOURT: YES
	APPROVED. (6:16 PM)

5:50 PM - PUBLIC HEARING - SP(B-II District) (cont'd from 11/17/2020): Stony Brook LLC, 222 Upper Main St. (20C-27)

The Planning Board continued a public hearing from November 10, 2020, at the request of Geoghan E. Coogan, Esq., on behalf of Stony Brook LLC (Owner) to convert an existing dwelling to a Transient Residential Facility.

Prior to the opening of the Public Hearing, Mr. Finn confirmed that he public hearing had been opened on November 10, but had been immediately continued without presentation or deliberation.

Mr. Mascolo noted that he had acted as a seller's agent for the transaction through which the applicant had purchased the property, but believed that he could act impartially relative to this application.

The public hearing was open at 6:18 PM. Present for the applicant: Mr. Chuck Sullivan, Sullivan & Associates Architects; Attorney Geoghan Coogan.

Presentation / Findings

Mr. McCourt noted that the application as presented before seemed incomplete when first submitted.

Mr. Sullivan noted that he had not been aware that phase one of the project would be required to be referred to the MV Commission. Mr. Sullivan noted applicant hopes to completed "phase one" work prior to June, 2021. "Phase two" would involve an addition to the building, adding six rooms. The applicant hopes to complete application through the MV Commission by June.

Mr. McCourt noted that the full plan needed to be thoroughly reviewed by the Planning Board prior to referral.

Mr. Sullivan noted that the board should now be in receipt of all materials relative to the entire project.

Mr. Sullivan noted that the full project received approval for a municipal sewer connection.

Mr. McCourt noted that he was not ready to simply refer the project to the commission, but to be provided with an opportunity to consider the entire project.

Mr. Sullivan presented the overall project:

- The proposal involves two separate parcels: 222 Upper Main Street (Assessors' Parcel 20C-

29)(“222”) and 230 Upper Main Street, Assessors’ Parcel #20A-86)(“230”)

- Parking the lot would be reconfigured, providing 19 spaces.
- Seven additional parking spaces on 230 are also proposed.
- The two existing curb cuts would join in a horseshoe fashion, with the current curb cut at 222 serving as an ‘entrance’, and that serving 230 to be the ‘exit’. Both curb cuts would cross the shared use path.
- An existing one-bedroom cottage at the south (rear) of the property (“the Cottage”) would be rotated ninety degrees, and be maintained as guest space.
- An existing garage building (“the Garage”) would also be maintained as guest space.
- An existing single-family residence is on 230.
- The Parking and Driveway would be reconfigured this winter.
- The cottage may not be viable to be moved; if a rebuild is necessary, it will be rebuilt in largely the same form as existing.
- The current windows and doors need to be replaced; the trim may also need to be replaced. The aesthetic is not expected to change significantly.
- An existing dormer at the front (over the front entry) is expected to be increased in height.
- An ADA compliant ramp along the front of the building would be constructed to provide access.
- The B-II regulation parking requirements specify one parking space for each room, plus one additional room for every twelve rooms or any fraction thereof.
- Nineteen guest rooms are proposed, resulting in a parking requirement of 21 spaces.
- An easement may be required to legally confirm that both properties share the right to use the driveway; Mr. Norman Rankow (former board member) noted that shared driveways were historically encouraged in the B-II district. Ms. Morrison noted that any shared-use agreement relative to the driveways should be recordable as a covenant, easement or other document.
- Mr. Searle expressed concern about the increased use on the lot, and increase in traffic.
- Mr. Sullivan noted that 230 was currently used by an employee of the applicant’s restaurant (The Town Bar and Grille).
- Mr. Morgan noted that the result would be the reduction of one two-way curb cut.
- The seven spaces noted on 230 are intended for use by the residents of 230. If spaces are necessary to meet zoning bylaw requirements, two spaces can be reallocated to 222.
- The front egress window (front-center of building, second floor) is intended for emergency use only; an access ladder is not required by code. The intention is to provide light and ventilation.
- A traditional “lobby” is not proposed, as most business will likely be done over the phone, or via website.
- No solar or other renewable energy source is proposed at this point.
- Heating and cooling is being retrofitted to use heat pumps.
- Trash pickup will likely not change from current. Barrels and / or a dumpster will be located near the existing storage building at the southeast corner of 222.
- Open space calculations are not yet prepared. That information will be provided by the applicant.
- The project must be referred to the Commission as it is a change of use from residential to

commercial, as is the creation of ten or more parking spaces.

- The driveway finishing is undetermined at this point; the applicant would likely prefer blacktop pavement; however, a pervious solution might also be considered.

Mr. McCourt preferred that the project be reviewed at the town level before it is referred.

Outstanding concerns include:

- Parking calculations
- Open space requirements
- Trash / recycling
- Potential for use of renewable energy on site.
- Designs for the two outbuildings / detached bedrooms.
- A landscaping design, noting which trees are to be removed, which will be retained.

The applicant currently has a permit to demo interior (removal of sheetwork, plumbing fixtures, kitchen). The interior is (generally) stripped clean, in order to better understand the framing and prepare for renovation.

Morgan: Will the Commission look at only the parking? Answer: they will be looking at everything.

Mr. Morgan noted that the town needs this, as other hotels and inns have moved upscale, and that the referral to the MV Commission might result in a greater delay than is necessary. There was some discussion as to the expectations of referral.

Mr. McCourt asked for the Board’s consensus as to referral.

Mr. Morgan said that the project does not constitute a ‘regional’ impact, and could be handled by town boards and departments.

Mr. Mascolo expressed his support for the project, being a smaller inn that helps to bring visitors to the town.

Mr. Rankow suggested the Planning Board pursue a thorough review of the project, prior to referral to the MV Commission.

Mr. Morgan asked about the timing of referral to the MVC. There was some discussion relative to when the project might be referred, and what work the Planning Board can do as the referral is transmitted and scheduled.

Mr. Sullivan stated that he would prefer referring the project as soon as possible, while the Planning Board continues its work. The ability of the board to ‘amend’ a referred application could be exercised.

Mr. Finn was directed to refer the project immediately, and to provide the MV Commission with updated materials as the board continued its review.

It was MOVED by Morgan SECONDED by Searle

To continue the public hearing to January 5, 2021, 5:30 PM.

VOTED:

MASCOLO: YES

MORGAN: YES

SEARLE: YES

MORRISON: YES

MCCOURT: YES

APPROVED (7 PM)

OTHER BUSINESS NOT REASONABLY ANTICIPATED 48 HOURS IN ADVANCE

An application for a De Minimis determination was received from the Dukes County Sherriff’s Department,

for work to be done on the Chappaquiddick Cell Tower, located at 14 Sampson Avenue.

Mr. Anthony Gould, Dukes County Sherriff’s Office, was present to speak to the application.

The proposal involves the installation of very minimal antennas on the tower, and rack-based equipment in the main building. Mr. Finn noted that the original Special Permit allowed for placement of local wireless communication equipment for public safety services.

Mr. Gould noted that other options at other locations had been considered, but were not viable at this time. The placement of equipment on the tower would help to accomplish the goals of the regional system, and would constitute the last step in the process to put the equipment in place. A contractual deadline requires the work be completed prior to January 31, 2021.

Mr. Gould noted that the proposed equipment would represent a significant improvement to regional public safety communication.

There were several comments in enthusiastic support.

Mr. Morgan noted that some objectors to the tower itself could pose a legal objection to the procedure used to review this application. Mr. Finn noted that two outstanding appeals for the tower are still in process in the courts.

Mr. Gould noted that this installation may be a temporary situation, and that a more preferable location was still being researched. Potential sites include the capped town landfill.

It was MOVED by Mascolo, SECONDED by Morrison

To approve the application as presented.

VOTED:

MASCOLO: YES

SEARLE: YES

MORGAN: YES

MORRISON: YES

MCCOURT: YES

APPROVED (7:10 PM)

RECESS

At 7:12 PM, the board recessed.

At 7:16 PM, the board was called back to order.

ADMINISTRATIVE

Mr. Finn noted that he had made a presentation to the Capital Investment Plan Committee in support of the board’s request for funding for Master Plan Consultant Services. To be done: research to determine if the expense can be paid through grants; development of a draft scope of work, etc. Mr. Finn noted that a Master Plan would likely not be ready for review by the Town until Spring of 2023.

Zoning Bylaw Changes

Mr. Finn noted that the State now allows a duration for special permits of up to three years. As a result, Mr. Finn recommended amending Section 17.7.B “Special Permits – Effective Duration” as follows:

All Special Permits shall be ~~limited to twelve~~ **valid for a term of twenty-four** months validity period. ~~If the activity authorized by the Special Permit has not taken place within the twelve month, any extension of said special permit shall require a reapplication.~~

Prior to the end of this term, the applicant may request one twelve-month extension, which may be

granted without a public hearing.

Failure to commence substantial work within the term shall result in the automatic rescission of the special permit.

Mr. Finn asked for approval of the recommendation and inclusion on a warrant article.

Mr. McCourt noted that, currently, an applicant can ask for two one-year extensions on a one-year Special Permit. This would grant two years, with a single opportunity for a one-year extension.

There was some discussion. After, it was MOVED by Mascolo, SECONDED by Searle

To approve inclusion of the proposal on a warrant article.

VOTED:

MASCOLO: YES

MORGAN: YES

SEARLE: YES

MORRISON: YES

MCCOURT: YES

APPROVED (7:20 PM)

Mr. Finn continued with the proposal on Senior Residential Developments:

- Staff Apartments: Residency requirements secured by deed restriction, running with the land.
- Age-Appropriate Design for all structures and outdoor recreation and common areas, including “age in place” design considerations, and compliance with requirements of the Massachusetts Architectural Access Board.
- Architectural planning and design shall incorporate energy efficient design techniques
- Structures near the project property lines shall be designed and located in a manner that reflects consistency with neighboring areas.
- Outdoor recreation or gathering areas shall be located to minimize intrusion on neighboring properties.
- Structures shall be clustered to reduce site disturbance and protect open spaces, natural and environmentally sensitive areas.
- Building design shall avoid use of long, unbroken facades, and shall use design elements to provide visual interest.

Mr. McCourt noted that the language allows the Planning Board a great deal of breadth to adjudicate a proposal, prior to referral to the regional planning agency.

- Design, colors, and materials shall generally correspond to the natural setting of the project site
- Design shall complement the character of Edgartown, and any prevalent design styles within the project area.
- Procedure for application shall follow Special Permit process: public notice, public hearing, compliance with the Zoning Bylaw and Special Permit Regulations.
- Approval may be conditioned by the Planning Board in order to improve the overall design.
- The Planning Board may grant a Senior Residential Development special permit – with or without imposing necessary conditions - only if it finds:
 - That any adverse effects do not outweigh its demonstrated benefits;
 - That social, economic, or community needs are served by the proposal;
 - That any increase to traffic flow is acceptable

- That provision of utilities and other public services is satisfactory; and
- That the natural environment is preserved to the greatest extent possible.
- The Planning Board must find that that the design could not reasonably be altered to improve pedestrian, bicycle, and vehicle safety, reduce visual intrusion of parking areas or other structures, reduce the volume of cut or fill, or reduce erosion, reduce the number of trees proposed to be removed, or provide safer and more efficient access for public safety equipment;
- The Senior Residential Development must meet the purposes, requirements, and standards of the zoning bylaw, and is consistent with the goals of the Edgartown Master Plan.

Discussion

Mr. McCourt noted that there was significant work involved in development of the zoning bylaw proposal. Mr. Finn noted that any zoning bylaw proposal would be subject to legal review by Town’s counsel.

Mr. Ted Rosbeck noted some concerns with other proposed zoning bylaw changes. Mr. Finn noted that he would welcome feedback.

Mr. Cisek asked if the proposed development would target a specific clientele. Mr. Finn noted that the proposal has not been formally presented.

Mr. McCourt noted that the zoning bylaw needed to come first.

Mr. Ed Olivier noted that a letter of intent signed with Navigator Elder Homes of New England calls for them to maintain skilled nursing beds at 50% of Medicaid eligibility, as determined by the most recent census.

It was MOVED by Morgan, SECONDED by Searle

To approve the proposed Senior Residential Development bylaw for inclusion as a warrant article.

	VOTED:
MASCOLO: YES	MORGAN: YES
SEARLE: YES	MORRISON: YES
	MCCOURT: YES
	APPROVED (7:33 PM)

Ms. Morrison asked about a public hearing for the Zoning Bylaws. After some discussion, the board agreed to hold a public hearing on January 12, 2021, 5:30 PM.

The board generally agreed to hold no meetings in February unless necessary; however, given that meetings are likely to continue through remote conferencing, a meeting in February could be attended even by those who are away.

ADJOURN

It was MOVED by Searle, SECONDED by Morrison

To Adjourn.

APPROVED BY UNANIMOUS CONSENT.
(7:35 PM)

Respectfully Submitted,

Douglas Finn
Planning Board Assistant