

Edgartown Planning Board - Meeting Minutes

Tuesday, January 19, 2021, 5:30 PM

The Edgartown Planning Board scheduled a meeting for Tuesday, January 19, 2021, 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.

CALL TO ORDER / ROLL CALL

Mr. McCourt called the meeting to order at 5:32 PM, and called the roll:

MASCOLO: Present

MORRISON: Present

MORGAN: Present

SEARLE: Present

CISEK: Present

MCCOURT: Present

A quorum was declared.

SCHEDULED BUSINESS

5:30 PM - PUBLIC HEARING – SP (CONTINUED FROM DECEMBER 1, 2020): 32 OCEAN VIEW REALTY TRUST, 32 OCEAN VIEW AVE. (29-137)

Application to construct a pool cabana on a pre-existing non-conforming lot in the Inland Zone of the Coastal District

The board continued a public hearing from December 1, 2020, relative to a request from William Sullivan, Sullivan & Associates Architects, on behalf of 32 Ocean View Realty Trust(Owner) to construct a pool cabana on a pre-existing non-conforming lot in the Inland Zone of the Coastal District.

The public hearing was continued at 5:32 PM.

Mr. Finn noted that the applicant had requested a continuance to a date certain, of at least one month. Mr. Finn suggested March 16, 5:30 PM.

It was MOVED by Searle, SECONDED by Morrison

To continue the public hearing to March 16, 2021, 5:30 PM.

VOTE BY ROLL CALL

MASCOLO: YES

MORRISON: YES

MORGAN: YES

SEARLE: YES

CISEK: YES

MCCOURT: YES

VOTE: 5, 0, 0. (5:34 PM)

The board agreed to take certain agenda items out of order.

ANR ENDORSEMENT – DELPHINE MENDEZ DE LEON (21 QUAMMOX RD / 4 JASON DR)

Endorsement of a plan proposing a lot-line adjustment. No new lots will be created.

Ms. Kara Shemeth presented a plan that proposed a minor lot-line adjustment between two existing parcels, located at Quammox Road and 4 Jason Drive (Assessors Parcel Numbers: 34-40.3, 34-52)

The board reviewed the plan.

Finding

The division on the plan is not a "subdivision", as it shows a proposed conveyance/other instrument (namely "Parcel A") that adds to or takes away from, or changes the sizes and/or shapes of the lots in such a manner, so that no lot affected is left without frontage as required by the Town of Edgartown zoning bylaw, which requires 50 feet.

It was MOVED by Searle, SECONDED by Morrison

To endorse the plan as not requiring approval under the subdivision control law.

VOTE BY ROLL CALL

MASCOLO: YES

MORRISON: YES

MORGAN: YES

SEARLE: YES

CISEK: YES

MCCOURT: YES

VOTE: 5, 0, 0. (5:37 PM)

ZONING BYLAW WARRANT ARTICLES - REVIEW / APPROVAL OF AMENDED LANGUAGE

The board reviewed potential changes to the proposed zoning bylaw amendments, previously submitted for inclusion as warrant articles on the 2021 Town Meeting warrant. Changes were recommended by Mr. Finn, Mr. Matt Poole (Board of Health agent), Ms. Reade Milne (Building Inspector) and after receiving written and verbal testimony at the public hearing opened on Tuesday, January 12 (public hearing closed on January 12; written record remained open for submissions through Tuesday, January 19, 5:00 PM).

Recommended changes were as follows (change highlighted in yellow):

- - -

AMENDMENT to Definition of "Pool House", suggested by Mr. Peter Rosbeck, is recommended by Reade Milne, Matt Poole, and myself (change highlighted in yellow):

POOL HOUSE: A structure solely intended to be accessory to a swimming pool. A pool house shall be limited to a single room not greater than 400 square feet, and a 1/2 bath. A pool house shall not be conditioned space, and shall not contain facilities for cooking. Storage areas for pool equipment shall not be included in area calculations, and shall not be accessed from the inside of the pool house.

It was MOVED by Morgan, SECONDED by Searle

To approve the change as presented and recommended.

VOTE BY ROLL CALL

MASCOLO: YES

MORRISON: YES

MORGAN: YES

SEARLE: YES

CISEK: YES

MCCOURT: YES

VOTE: 5, 0, 0. (5:39 PM)

Mr. Finn reiterated the expectation that the definition did not impose restrictions or limitations on any given structure, but simply established an expectation.

- - -

Change to Article XV, Senior Residential Developments, Section 15.2.A.3 as proposed, suggested by Forrest Filler, and recommended by Matt Poole and Doug Finn (change highlighted in yellow):

3. Public water and/or Public wastewater service available to the site.

Change to Article XV, Senior Residential Developments, Section 15.6.G, as proposed; change suggested by Forrest Filler, and recommended by Matt Poole and Doug Finn (change highlighted in yellow):

15.6.G ~~The A~~ development shall proposed to be served by public water and public wastewater utilities shall be considered highly advantageous.

After brief discussion, it was MOVED by Morrison, SECONDED by Mascolo

To approve the change as presented and recommended.

VOTE BY ROLL CALL

MASCOLO: YES

MORRISON: YES

MORGAN: YES

SEARLE: YES

CISEK: YES

MCCOURT: YES

VOTE: 5, 0, 0. (5:44 PM)

A CHANGE to the amendment to Section 5.4 (“Cape Pogue DCPC”) as proposed is suggested by Town Administrator James Hagerty and recommended by Bruce McIntosh and Doug Finn (amendment language is highlighted in yellow):

... and further to amend the Edgartown Zoning Bylaw Section 5.4 (“Cape Pogue DCPC”) by adding section 5.4.G as follows:

5.4.F. Cape Pogue DCPC Advisory Committee

A Cape Pogue DCPC Advisory Committee shall be established to foster cooperation in management of public and private lands in the District, to advise the Planning Board on applications for Special Permits, and to propose wildlife management and recreations guidelines.

1. Membership shall include one representative from each of the following organizations, appointed by that organization:

a. Edgartown Conservation Commission

b. Edgartown Board of Health

c. Mass. Department of Environmental Management

d. Mass. Department of Fisheries, Wildlife, and Environmental Law Enforcement

e. The Trustees of Reservations Membership

f. The Trustees of Reservations Staff

g. County of Dukes County

h. Martha's Vineyard Commission

i. Cape Pogue Property Owner (appointed by the ~~Chappaquiddick Island Association~~ **Edgartown Board of Selectmen**)

~~j. Conservation/Wildlife Specialist (appointed jointly by Sheriffs' Meadow Foundation, Vineyard Conservation Society, and Vineyard Open Land Foundation)~~

k. Edgartown Police Department

l. Edgartown Planning Board

m. Edgartown Marine Advisory Committee

n. Edgartown Harbormaster

o. Edgartown Shellfish Constable

Additional members may be appointed by the Planning Board.

5.4.G Enforcement

The Marine Advisory Committee, Shellfish Constable and Conservation Agent, Zoning Enforcement Officer, Chief of Police, and Harbormaster shall jointly establish, review, and promulgate rules to carry out the Goals and provisions of this section, the intent of this Zoning Bylaw, and the Guidelines delineated in the MV Commission Decision Designating the Cape Poge District as a District of Critical Planning Concern, as adopted in 1988 and as amended.

For purposes of this section, the office of the Edgartown Harbormaster, the office of the Edgartown Building Inspector, and the Edgartown Police Department, shall jointly and severally be authorized to administer and enforce special permits issued under this section, and all rules and regulations applicable to the Cape Pogue DCPC.

Mr. Finn noted that the changes as originally proposed would likely be met with greater scrutiny at the Commission level, and suggested slight modifications to the composition of the Advisory Committee as proposed. Further, Mr. Finn recommended an expansion to 5.4.G to create a committee to create and approve rules for enforcement.

After deliberation, it was MOVED by Morgan, SECONDED by Searle

To approve the change as presented and recommended.

	VOTE BY ROLL CALL
MASCOLO: YES	MORRISON: YES
MORGAN: YES	SEARLE: YES
CISEK: YES	MCCOURT: YES
	VOTE: 5, 0, 0. (5:49 PM)

Mr. Finn asked if the board wanted to schedule a new public hearing to provide an opportunity for public comment on these changes.

After some discussion, the board agreed that no further public hearing was necessary, and endorsed pushing the changes to Town Meeting.

Mr. McCourt asked for a final motion.

It was MOVED by Searle, SECONDED by Morrison,

To approve all changes as final, and forward them to the Board of Selectmen for inclusion in the 2021 Town Meeting Warrant.

	VOTE BY ROLL CALL
MASCOLO: YES	MORRISON: YES
MORGAN: YES	SEARLE: YES
CISEK: YES	MCCOURT: YES
	VOTE: 5, 0, 0. (5:51 PM)

Administrative Update

Mr. Finn noted that payroll had been reviewed by Mr. McCourt, and was available for review.

Mr. Finn also noted that he had been working with Ms. Morrison and the MV Commission to put together a presentation on the use of factory-constructed 'cottage' homes as a potential avenue for development of community housing on the Vineyard. The presentation will be on Friday, January 29, from 10 AM to Noon. An invitation will be sent out to all board members.

Mr. McCourt asked for an update on the Master Plan process. Mr. Finn noted that much could be done and started in the short-term, while the board waited for the funding article's review and potential approval by Town Meeting.

Mr. McCourt encouraged the board to support the start of the process as soon as possible.

Mr. Cisek suggested it should proceed. Mr. Morgan, Mr. Searle, Mr. Mascolo and Ms. Morrison supported.

Mr. McCourt directed Mr. Finn to begin organizing the process, develop a preliminary budget for the overall project, and to otherwise proceed. (5:58 PM)

6:00 PM - PUBLIC HEARING - SP(COASTAL DISTRICT): ANTHONY AND REBECCA HULL, 28 BOLDWATER ROAD (43-3.37)

Application to construct a new 2 bedroom 900 square foot guest house (guest house will be served by an independent septic system)

The Edgartown Planning Board scheduled a public hearing on Tuesday, January 19, 2021 at 6:00 PM, at the request of Nelson Giannakopoulos, Architect, Sullivan & Associates Architects, on behalf of Anthony and Rebecca Hull (Owners) to construct a new two-bedroom 900 square foot guest house; guest house will be served by an independent septic system. Application was submitted in accordance with Sections 5.1 and 5.6 of the Edgartown Zoning Bylaw. The property is located at 28 Boldwater Road, Assr. Pcl. 43-3.37.

Application Materials were made available for review online at a publicly accessible website.

Present for the applicant: Mr. Nelson Giannakopoulos, Architect, Sullivan & Associates.

The public hearing was opened at 6:02 PM.

Presentation / Findings

- The site plan was presented, showing the construction of a new, two-bedroom guest house.
- The exterior details will match the main house (cedar trim and shingles).
- Ridge height at the highest point is 21 feet, one inch; highest point of the flat roof is 11' 6-3/4" (both measured from MNG)
- The guest house will be served by a new, separate septic system (septic system design is under review by the Board of Health).
- The lot size is about six and one-half acres.
- The current driveway will serve both residences.
- No swimming pool is proposed.
- An existing ground-mounted solar system is current on site.
- The guest house will be at least 300 feet from the nearest neighboring dwelling.
- An approved septic design shall be required prior to issuance of a building permit. ****CONDITION**
- Approval from Boldwater Architectural Review Committee is anticipated, and is a prerequisite for

final approval of an order of conditions from the Conservation Commission.

- The Planning Board has approved oversized guest houses in the area; given that the guest house is not oversized, the project appears to be a ‘modest’ application.
- Advanced treatment is not required by the Board of Health in this case.
- The structure is a single floor structure, with a single main room, two bedrooms and a single full bath.
- The solar photovoltaic array already on site will help to reduce the energy usage on site; the client plans a conduit to the roof, to allow easy installation of future solar panels on the roof of the guest house.
- No letters or other comments were received.
- No members of the public spoke to the project.

There being no further comment, the chairman closed the public hearing at 6:12 PM.

Deliberation / Decision

It was MOVED by Morrison, SECONDED by Searle

To approve the application with standard conditions for construction; further, an approved order of conditions, and an approved septic system design shall be required prior to issuance of a building permit.

	VOTE BY ROLL CALL
MASCOLO: YES	MORRISON: YES
MORGAN: YES	SEARLE: YES
CISEK: YES	MCCOURT: YES
	VOTE: 5, 0, 0. (6:12 PM)

There was some informal discussion relative to the Town’s website.

The board was polled as to their availability for meetings in February. The board agreed to forgo public meetings for February, and scheduled meetings for March 2 and March 16.

There were some concerns expressed about keeping more than one unregistered vehicles on a property.

There was a brief update relative to improvements on Mill Hill Road.

There was a brief discussion about the possibility for improvement to bicycle and pedestrian access along Upper Main Street.

**6:30 PM - PUBLIC HEARING (CONT’D FROM JAN 5, 2021, DEC 15, 2020, NOV 10, 2020) – SP (B-II DISTRICT):
STONY BROOK LLC, 222 UPPER MAIN ST. (20C-27)**

Application to convert an existing dwelling to a Transient Residential Facility.

The Edgartown Planning Board continued a public hearing from November 10, December 15, and January 5, 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. This application was made in accordance with Sections 3.2.B.1.e and 3.2.B.2 of the Edgartown Zoning Bylaw. The property is located at 222 Upper Main St., Assr. Pcl. 20C-27. Copies of the application are available in the Planning Office for public review.

Prior to continuance of the hearing, the board noted Mr. Mascolo’s prior disclosure of a prior business relationship with the applicant that did not constitute a conflict of interest, and that Mr. Mascolo has filed the necessary disclosure form with the Town Clerk.

The public hearing resumed at 6:31 PM.

Mr. Finn noted that the building inspector has given preliminary approval for the applicant to submit a building permit application for the repairs and renovations to the existing building that serve the current purpose of private dwelling (an allowable use).

Mr. Chuck Sullivan (for the applicant).

Presentation and Findings

The addition of a cooking facility (a stove) to the proposed 'coffee station' qualifies the structure as a residential dwelling, and the applicant is eligible to receive a building permit for the proposed repairs and renovations.

- A landscaping and drainage plan was presented.
- The parking plan as presented would be implemented for "phase one".
- Four parking spaces proposed for 230 Upper Main Street are not required for compliance for the proposed use on 222 Upper Main Street.
- Two existing curb cuts will be maintained; however, they will be one-way (one in, one out).
- 21 parking spaces are proposed, meeting the B-II Parking requirements for Phase II as proposed.
- Large oak trees on the property are proposed to be retained.
- One older tree at the north-west corner of the parcel may not be viable; if it is to be removed, separate applications will be made as necessary.
- A drainage plan proposed four dry-wells for disposal of roof stormwater.
- The parking spaces on 230 Upper Main will be reserved for residents on 230 Upper Main Street.
- The stove, as proposed for the residential renovations, will likely be removed upon approval of the change of use.
- If there is a significant delay in the issuance of a special permit, the property may continue to be used as a residential structure.

Mr. Morgan: The town needs additional rooms, additional inns, in order to continue and promote local tourism.

There was discussion relative to whether the proposal meets the requirement in the zoning bylaw. Mr. Finn noted that some of the details were yet to be determined.

DRIVEWAY and PARKING: The ADA spots would likely be finished with concrete; the remaining driveway and parking areas would be finished with peastone, and would remain 'pervious'. The entrance and exit aprons of both driveways might be finished with concrete where it would not impact the root systems of existing trees.

Mr. Coogan (for the applicant) hoped that the majority of the details would be ironed out by the Town prior to the Commission taking up the matter.

Mr. McCourt expressed some interest in looking at the front yard landscaping, the window layout, and other visual elements of the project. There was some examination of other properties close to the subject property.

Mr. Sullivan noted that no other immediately adjacent properties featured fences along the sidewalk.

There was some discussion relative to other special permit projects that had been approved with specific conditions relative to exterior design.

Mr. Morgan stated that he would like to see the project forwarded to the Commission.

Ms. Morrison noted that the project is at the Commission, but the project has not been acted on as of yet.

Mr. Finn noted that the board retains the approval on the overall project. Mr. McCourt reaffirmed that the board can further condition a project, provided that such conditions do not contradict the MV Commission’s Decision.

Mr. McCourt reminded the board members of the lessons learned from a previous project, and the need to maintain a single course of review by a single organization at any given time, in order to avoid conflicts between the various reviewing authorities.

There were other comments relative to the overall Upper Main Street Streetscape. Mr. Mascolo noted that the town would benefit for new inns, and additional rooms for rent.

Mr. James Joyce noted that the Town did in fact have more rooms than before, due to VRBO, AirBnB and other rentals in residential properties.

The board was reminded that the change of use could not be acted on until the MV Commission’s process was concluded.

Mr. Finn noted that he could draft a document relative to the use on the site and other aspects of the development, and forward that to the Commission for consideration.

It was MOVED by Morgan, SECONDED by Mascolo

To ‘release’ the special permit application to the MV Commission, and support the MV Commission review process.

VOTE BY ROLL CALL

MASCOLO: YES

MORRISON: YES

MORGAN: YES

SEARLE: YES

CISEK: YES

MCCOURT: YES

VOTE: 5, 0, 0. (7:12 PM)

Mr. Finn noted that he would draft a letter to the Commission, noting the board’s concerns, and its interests in the property. (7:12 PM)

7:00 PM - PUBLIC HEARING (CONT’D FROM JAN 5, 2021) – SP – PETER DEFEO AND DARA FRIGOLETTO (41 SO WATER STREET)

Applicant requests modification to a condition on a Special Permit still in effect, related to approval of extension to a pier; original special permit was granted in 2007.

Mr. Searle recused himself from the discussion and deliberation, citing a potential conflict of interest.

Mr. McCourt continued the public hearing at 7:14 PM.

Presentation / Findings

Mr. Finn read portions of a letter from Mr. Ron Rappaport, legal counsel for the Town of Edgartown, dated January 15, 2021 (included in Project File). From the letter:

“...the Planning Board, as the special permit granting authority, has the same discretion to amend a special permit as it has to grant the special permit in the first place... In undertaking your review, you should make sure that the standards governing the issuance of a special permit are met. See G. L. c. 40a, § 9, and the applicable provisions of the Zoning By-Laws (Section 6.4 - governing the Surface Water District) and Section 17.7 (general special permit standards).”

The letter also noted that Condition #13 from the original 2007 Special Permit Decision does not apply in this case.

“The ‘exclusive use’ language in the Special Permit means exactly what it says: the owners of those four Vietor lots, (when the special permit was sought) are the only persons entitled to use the pier. The Special

Permit does not grant the owners of those lots any property rights to use the pier.”

Mr. David Vietor noted that, as the former owner of 31 South Water Street, he was ‘constrained’ by the provisions of the Special Permit, including Conditions #13 and #17, and that the sale of the property was at a lesser value than if it had a pier.

Mr. Norman Rankow asked that the board further amend the Special Permit by striking the entirety of Condition #17, and asked for a continuance to explore that as an option.

Mr. DeFeo stated that their request was to modify Condition #17 to allow Mr. Rankow to construct the 5’ x 18’ landing, to permit stern-to docking, as previously discussed. They are otherwise satisfied with the conditions of the special permit, and are not requesting any further modifications.

Mr. Rankow reminded the board that they have the ability to change the conditions of the special permit on their own motion.

Mr. DeFeo again reminded the board that they are not requesting further changes, outside of the very specific request.

Mr. Finn (upon request by Mr. McCourt) reminded the board of the intent of the letter from Town’s Counsel. There was some discussion relative to the overall process, the approval of Mr. Rankow’s 5’ x 18’ landing, the history of the property transfers, the conveyance of rights to the use of the pier connected to Mr. DeFeo’s parcel, the current usage rights to that same pier, and the easements describing the current use of lot 327.1.

The capacity of the area to support a potential pier on Mr. Rankow’s property was explored. The purpose of and benefits provided by the landing to Mr. Rankow were discussed. The automatic rights that accompany a pier (ability to tie a boat along any side of the pier) was briefly discussed.

The ownership and use of parcel 20D-327 was discussed.

Mr. Rankow reminded that no application for a dock was ever submitted to any town board or committee; however, he noted that a narrow ‘slip’ could be constructed, with no navigational change to the area.

Mr. DeFeo noted that all current property owners purchased property with the conditions of the 2007 Special Permit already in place, and asked the Board to grant only the request that has been made.

Mr. McCourt asked if there was further comments.

Mr. Mascolo asked if there was an ownership issue over the dock, and whether the dock at 20D-328 infringes on the “water rights” of lot 20D-326.1.

Mr. DeFeo reminded the board that the matter regarding Condition #13 was conclusively decided. Mr. Rankow questioned whether he had the ability to request a further modification of Condition #17 at some point in the future.

Mr. McCourt clarified that the board could not modify Condition #13 without a new public notice and hearing. The modification to Condition #17 as requested would not allow Mr. Rankow to construct a pier.

There being no further comment, Mr. McCourt closed the public hearing at 7:54 PM.

Deliberations / Decision

Mr. Cisek stated his opinion that approval would prove to be a benefit to Mr. Rankow.

Mr. Mascolo clarified that Mr. Rankow has two spiles to tie up to currently.

It was MOVED by Mr. Morgan, SECONDED by Ms. Morrison

To approve the modification to Condition #17 as requested.

MASCOLO: YES
MORGAN: YES
MCCOURT: YES

MORRISON: YES
CISEK: YES
(SEARLE: ABSTAINS)
VOTE: 5, 0, 1. (7:55 PM)

OTHER BUSINESS

Mr. Finn noted that a number of attendees were in attendance, and noted that he would remain after the conclusion of the meeting to update those individuals on the actions taken by the Board earlier in the meeting in regard to the modifications to the zoning bylaw changes, and to answer questions as possible.

ADJOURN

It was MOVED by Cisek, SECONDED by Morrison

To Adjourn.

APPROVED BY UNANIMOUS CONSENT.
(6:59 PM)

Mr. McCourt remained; all other members left the meeting.

###

RECORD OF WRITTEN COMMENTS

LETTER – From Ted Rosbeck, dated December 17, 2020

LETTER from Mr. Patrick Ahearn, dated January 8, 2021.

LETTER from Forest Filler, on behalf of the MV Hospital and Navigator Homes of Martha’s Vineyard, dated January 11, 2021.

LETTER from Matt Poole and the Edgartown Board of Health, dated January 12, 2021.

ATTACHMENTS

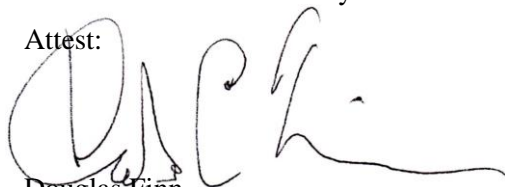
MEMORANDUM – to the Planning Board from Finn, dated 12/14/2021

ZONING CHANGES – Presentation, as presented at meeting (PDF)

###

MINUTES APPROVED by a vote of the Planning Board, taken on March 2, 2021.

Attest:



Douglas Finn
Planning Board Assistant

Excerpt from proposed zoning bylaw changes, with
comments from Ted Rosbeck (12/16/2020)

POOL HOUSE: A structure solely intended to be accessory to a swimming pool. A pool house shall be limited to a single room not greater than 400 square feet, and a ½ bath. A pool house shall not be conditioned space, and shall not contain facilities for cooking. Storage areas for pool equipment shall not be included in area calculations, and shall not be accessed from the inside of the pool house.

From Ted Rosbeck:

I previously asked if an air conditioner in a pool cabana would be considered conditioned space and you said it would not, but the 2015 ICC definition states otherwise. It states. “An area, room or space that is enclosed within a building thermal envelope and that is directly heated or cooled.” In any event of heat vs cool, what is the exact purpose of this language and why is it necessary? I believe the concern has been size and/or accessory buildings in general being designed as bedrooms and called something else. The restrictions in size, bathrooms and access are going to severely limit that ability, but the restriction in “conditioned space” seems unreasonable punitive without accomplishing the intent of the change. If someone wants another bedroom, the no heat/ac isn’t going to stop it. That said, many cabanas have mini splits to allow people to cool down next to the pool in the summer or heat up in the shoulder seasons, what is wrong with that and frankly what reason would we have to deny someone that right?

On a related note, what specifically is the definition for “facilities for cooking”. What is the purpose for this language? Does this include a grill? Pizza oven? If not, I would either leave this out or add some exclusions. Maybe only restrict the facilities for cooking inside the 400sqft space?

MEAN NATURAL GRADE: The natural grade, of undisturbed land relative to a given structure or portion of a given structure. The mean natural grade shall be calculated by as the average of the natural elevation at the four (4) most remote corners of a structure or portion of a structure, as determined by the Building Inspector.

From Ted Rosbeck:

“The proposed language seems to directly contradict itself and seems to leave more room for arguments and less clarity. Specifically, the addition of “or portion of a given structure” technically allows either the applicant or the building inspector to argue NOT to use the average of the 4 corners and rather choose ANY portion of a given structure. For example, technically this language would allow you to ignore the structure as a whole across the MNG and rather say that

the MNG is X in only in “a portion” of the structure and thus you can base the height off of only that portion. Was there a specific reason for adding this language? If so, maybe it can be tweaked to not be contradictive.

FRONTAGE: All lots created after April 9, 1985 will have a minimum frontage of 50 feet on a street.

No part of a structure, including projections from a structure, eaves, gutters and cornices, shall be located or constructed closer than the minimum Setback as defined herein.

Mechanical equipment that generates noise (such as generators, air-conditioners, pool equipment, etc.) may be placed closer than the minimum Setback, but no closer than five feet to any lot line, provided that adequate measures have been taken to minimize any noise pollution from such equipment.

In accordance with Section 6 of Chapter 40A of the General Laws, structures intended to provide assistance to individuals with physical impairments such as ramps and chair lifts are exempt from Setback restrictions.

From Ted Rosbeck:

“I would try to remove the language “adequate measures”, as that is extremely vague and likely to be a source of contention and constant discussion. My recommended language is still somewhat vague, but does require it to be enclosed in some way and provides the building inspector flexibility to make that call, but does not make it so open ended to provide no direction.

Recommended:

Mechanical equipment that generates noise (such as generators, air-conditioners, pool equipment, etc.) may be placed closer than the minimum Setback, but no closer than five feet to any lot line, provided that it **is enclosed in a way to minimize noise pollution from such equipment**. In accordance with Section 6 of Chapter 40A of the General Laws, Setbacks may by right contain structures intended to provide assistance to individuals with physical impairments, such as ramps and chair lifts.

PATRICK AHEARN

ARCHITECT

January 8, 2021

Town of Edgartown Planning Board
Town Hall
70 Main Street
Edgartown, MA 02529

Re: Proposed Zoning Changes regarding Pool Cabanas

Dear Planning Board Members,

Over the last thirty years I have designed over 50 pool cabanas associated with either new houses or renovations in Edgartown. They have varied in size from 250 square feet to 600 square feet of habitable space. Some have had ½ baths, others with a shower included. Most have stackable washer / dryers and towel storage. Most have an undercounter refrigerator, small sink and or dishwasher. None have included a stove or facilities for cooking. Some have included a storage area for patio furniture or cushion storage. Pool equipment is often placed inside the structure as many Boards request this (historic or neighbor concerns). These pool cabanas and associated pools have been added greatly to extending and enhancing the use of the homes that we have designed. No one has ever considered using these cabanas for sleeping or other uses that I have described to my knowledge. The proposed changes to the zoning code will significantly affect the quality of life that these facilities have offered to the homeowners. Not being able to have a shower or stackable washer / dryer for towels is unreasonable. Not being able to condition the space is also unreasonable and inconsistent with definition of habitable space.

If the space is not heated it can not be considered habitable space. Furthermore, the definition of habitable space per the Massachusetts Building Code is as follows:

A space in a building for living, sleeping, eating, or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable space.

Therefore, per the definition of the State Building Code the proposed limitation of no more than 400 square feet would exclude the bathrooms, toilet rooms, closets, or storage / utility spaces which I would not see an issue with. As I stated most cabanas constructed and permitted to date have been in the 250 square feet to 600 square feet range per the definition of the State Building Code.

In conclusion, these accessory structures have enhanced the livability of many homes in Edgartown and provide a reasonable and important component to the enjoyment of their homes. The proposed zoning code changes significantly change and limit the uses of these structures unnecessarily.

Respectfully submitted,



Patrick Ahearn, FAIA

**TOWN OF
EDGARTOWN**

WEBMAIL

Douglas Finn <dfinn@edgartown-ma.us>

Letter to Planning Board Re: Article XV Senior Residential Developments

1 message

Forrest Filler <forrest@local-preservation.com>

Mon, Jan 11, 2021 at 4:07 PM

To: Doug Finn <dfinn@edgartown-ma.us>

Cc: Mark Nicotera <mnicmv@gmail.com>, "Olivier, Edward" <EOLIVIER@partners.org>, Renee Lohman <rlohman@navigatorelderhomes.com>

Doug,

Thank you for taking the time to speak with Mark Nicotera and I today regarding language in Article XV.

Attached please find a letter from our project development teams for the Board's review for tomorrow's public hearing. This letter is being submitted on behalf of Martha's Vineyard Hospital and Navigator Homes of Martha's Vineyard. I am copying Ed Olivier, CFO of MVH, and Renee Lohman, President of Navigator.

Thank you for your consideration.

Best regards,

Forrest

-

Forrest Filler

Professional Associate, AIC

MS Architectural Design and Historic Preservation

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Local Preservation and Construction LLC



01112021 EPB Letter from MVH and Navigator.pdf

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January 11, 2021

Douglas Finn
Planning Board Assistant
Edgartown Planning Board

Mr. Finn,

We are concerned that the current language contained in Article XV Senior Residential Developments, specifically sections **15.2.3** and **15.6.G**, is too restrictive. We recognize that section **15.8.B** may provide some relief to our concerns.

We propose the following changes due to limits in the existing and future public utility capacities:

1. **15.2.3 Applicability** *At least one of the following services be available to the site: public water, and/or wastewater service.*
2. **15.6.G Development Standards** *The development shall be served by at least one of the following: public water and/or public wastewater utilities.*

Respectfully submitted,

Project Development Teams
Martha's Vineyard Hospital
Navigator Homes of Martha's Vineyard

**TOWN OF
EDGARTOWN**

WEBMAIL

Douglas Finn <dfinn@edgartown-ma.us>

Zoning By-Law amendment defining "pool house"

1 message

Matt Poole <mpoole@edgartown-ma.us>

Tue, Jan 12, 2021 at 5:50 PM

To: Douglas Finn <dfinn@edgartown-ma.us>

Cc: Reade Milne <rmilne@edgartown-ma.us>, Janet Hathaway <jhathaway@edgartown-ma.us>

Dear Doug,

The Edgartown Board of Health met on December 29, 2020 to review and discuss the proposed Edgartown Zoning By-Law change which adds a definition for "pool house". After discussion and consideration, the board voted unanimously to support the proposed definition as written. The Board of Health recognized the benefit of clarifying what constitutes a pool house and believes that having a clear definition for these structures will provide important clarity and assistance when determining wastewater flows resulting from use of these structures.

Please feel free contact me if you have any questions for the Board of Health on this matter.

Sincerely,

Matt Poole

Edgartown Board of Health Agent

508-627-6120



Edgartown Planning Board

P.O. Box 5130, 70 Main Street, Edgartown, MA 02539

Tel: (508) 627-6170 Fax: (508) 627-6173

planningboard@edgartown-ma.us

MEMORANDUM

To: Edgartown Planning Board
Fr: Douglas Finn, Planning Board Administrator
Re: Cape Pogue DCPC Warrant Article Amendment
Dt: January 14, 2021

As a follow-up to our public hearing, I have reviewed the comments and letters received by the Planning Board, and the concerns expressed by Town residents.

For your consideration, I would like to suggest the following amendments to the Zoning Bylaw warrant articles as submitted and proposed.

AMENDMENT to Definition of "Pool House", suggested by Mr. Peter Rosbeck, is recommended by Reade Milne, Matt Poole, and myself (change highlighted in yellow):

POOL HOUSE: A structure solely intended to be accessory to a swimming pool. A pool house shall be limited to a single room not greater than 400 square feet, and a ½ bath. A pool house shall not be conditioned space, and shall not contain facilities for cooking. Storage areas for pool equipment shall not be included in area calculations, and shall not be accessed from the inside of the pool house.

*** We are removing the requirement that a pool house not be heated or cooled.*

AMENDMENT to Article XV, Senior Residential Developments, Section 15.2.A.3, suggested by Forrest Filler, and recommended by Matt Poole and myself (change highlighted in yellow):

3. Public water and/or Public wastewater service available to the site.

*** This would remove the requirement that a site be served by BOTH public water and public sewer, but must be served by one or the other.*

AMENDMENT to Article XV, Senior Residential Developments, Section 15.6.G, suggested by Forrest Filler, and recommended by Matt Poole and myself (change highlighted in yellow):

15.6.G ~~The~~ A development ~~shall~~ proposed to be served by public water and public wastewater utilities shall be considered highly advantageous.

*** This would assert that the project need not be served by public water or public sewer, but a proposal that provides both would be highly preferable.*

AMENDMENT to Section 5.4 (“Cape Pogue DCPC”) is suggested by Town Administrator James Hagerty and recommended by Bruce McIntosh and myself (amendment language is highlighted in yellow):

... and further to amend the Edgartown Zoning Bylaw Section 5.4 (“Cape Pogue DCPC”) by adding section 5.4.G as follows:

5.4.F. Cape Pogue DCPC Advisory Committee

A Cape Pogue DCPC Advisory Committee shall be established to foster cooperation in management of public and private lands in the District, to advise the Planning Board on applications for Special Permits, and to propose wildlife management and recreations guidelines.

1. Membership shall include one representative from each of the following organizations, appointed by that organization:

- a. Edgartown Conservation Commission
- b. Edgartown Board of Health
- c. Mass. Department of Environmental Management
- d. Mass. Department of Fisheries, Wildlife, and Environmental Law Enforcement
- e. *The Trustees of Reservations Membership*
- f. The Trustees of Reservations Staff
- g. County of Dukes County
- h. Martha's Vineyard Commission
- i. Cape Pogue Property Owner (appointed by the Chappaquiddick Island Association **Edgartown Board of Selectmen**)
- j. ~~Conservation/Wildlife Specialist (appointed jointly by Sheriffs' Meadow Foundation, Vineyard Conservation Society, and Vineyard Open Land Foundation)~~
- k. Edgartown Police Department**
- l. Edgartown Planning Board**
- m. Edgartown Marine Advisory Committee**

n. Edgartown Harbormaster
o. Edgartown Shellfish Constable

Additional members may be appointed by the Planning Board.

*** After careful review of the changes that the Board originally proposed to the DCPC Advisory Committee, it appears that those changes would contract the MVC Enabling Legislation, as well as the 1988 Decision (as amended) establishing the Cape Pogue DCPC. Therefore, the proposed amendment retains the membership from Mass DEM, Mass F&W, and the County.*

5.4.G Enforcement

The Marine Advisory Committee, Shellfish Constable and Conservation Agent, Zoning Enforcement Officer, Chief of Police, and Harbormaster shall jointly establish, review, and promulgate rules to carry out the Goals and provisions of this section, the intent of this Zoning Bylaw, and the Guidelines delineated in the MV Commission Decision Designating the Cape Pogue District as a District of Critical Planning Concern, as adopted in 1988 and as amended.

For purposes of this section, the office of the Edgartown Harbormaster, the office of the Edgartown Building Inspector, and the Edgartown Police Department, shall jointly and severally be authorized to administer and enforce special permits issued under this section, and all rules and regulations applicable to the Cape Pogue DCPC.

*** This would authorize the MAC, the Shellfish Constable, Conservation Agent, Building Inspector, Chief of Police, and Harbormaster to jointly establish rules for water uses. Enforcement of rules, and any Special Permits, would be by the Harbormaster and the Edgartown Police Department (water-based activities and uses) and the Building Inspector (land-based activities and uses). As with the above, this language does not contradict the MVC Guidelines; rather, it defines how the Town shall administer the District, and enforce the MVC Guidelines and Edgartown Zoning Bylaw.*

Both changes to the Cape Pogue DCPC, as proposed, will be forwarded to the MV Commission for review.

I would like to take five minutes at the end of our meeting on the 19th to review, and (if the board agrees) vote to adopt these three amendments to the Zoning Bylaws. In keeping with the spirit of MGL 40A Sec. 6, I recommend a public hearing sometime in March to receive public comment on these amendments, and the proposed zoning bylaw changes as a whole.

Contact me if you have questions (office: 508-627-6170 or cell: 508-560-6602). Thanks!