

Case No. 18-21
Date Filed: 29 March 2021

RECORD OF PROCEEDINGS

I, Lisa C. Morrison, assistant to the Zoning Board of Appeals of the town of Edgartown, hereby certify that the following is a detailed record of proceedings pertaining to the request of VIC MV Hotel LLC d.b.a. The Hob Knob Inn to amend a 1997 special permit and allow a manager's apartment to be converted to a guest suite. The property is located at 128 Upper Main Street (Assr. Pcl. 20C-179) in the R-5 Zoning District.

1. On 29 March 2021 the application, a true copy of which is marked "A," was presented to the Town Clerk.
2. In addition, an advertisement, a true copy of which is marked "B," was published in the Vineyard Gazette on 2 April and 9 April 2021.
3. Notice of the hearing, a copy of which is marked "C," was mailed, postage prepaid, to the petitioners; the abutters - owners of land adjacent to the subject property within 300 feet of the property lines - all as they appear on the most recent, applicable, certified tax list; and to all the proper town boards and departments.

On Wednesday, 21 April 2021 the hearing was opened and held via Zoom. The following board members were in attendance: Pam Dolby - Acting Chairman, Carol Grant, Nancy Whipple, John Magnuson, and Robin Bray. Dolby said that she had been reading the correspondence and would like to continue the hearing in order to consult with town counsel. She said her research has shown that the Hob Knob has received lodging licenses to rent 17 rooms since at least 2009. She noted that these licenses are issued by the Selectmen and then confirmed by the Building Inspector who does a walk-through prior to issuing a lodging permit. In view of this, she said she would like to consult with town counsel to confirm that a zoning violation exists. The board voted unanimously to continue the hearing to its next meeting on May 5th.

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On Wednesday, 5 May 2021 at 2:45 p.m. the board reconvened via Zoom for the continuation. Notice of the continuation was posted in the Town Hall, on the town's website, and the agenda was emailed to persons of interest. Dolby noted that both she and

the assistant had spoken with town counsel about her concerns. Town counsel said that it is his understanding that buildings can be grandfathered, but not uses. The hearing was then opened and the notice read. Dolby then asked for the applicant's presentation.

Marilyn Vukota, attorney for the applicant, said she was present to request an amendment to the 1997 special permit that would allow the inn to rent out the manager's apartment as a guest suite, bringing the total number of rentable rooms from 16 to 17 rooms. Ms. Vukota commented that the inn has received a license from the town to rent 17 rooms and has been paying room taxes for at least the last 15 years. She said she had some trouble grasping the concerns voiced by the abutters as the room would be occupied one way or another, either by a resident manager or by an inn guest. She said the discrepancy was not picked up by the attorney for the applicant, who bought the inn in 2015.

Diane Carr who, with her partner, Bill Booth, is co-owner and operator of the inn said they purchased a 17-room inn in 2015 from the previous owner. She said she had worked at the inn for a year prior to purchase and there was never any question that the inn had 17 rentable rooms. She said that she and her partners have followed all the rules and received licenses every year for a 17-room inn. She said the vicious and ugly allegations from certain abutters - hinting that something nefarious is going on - has got to stop. She reiterated that she has done nothing wrong and has followed the rules.

Dolby then asked if there were any letters from town boards or departments. There were none. Letters in favor of the project were received from abutter Martin Tomassian and from the Edgartown Board of Trade. Mr. Tomassian noted that the current manager is usually at the property from early in the morning until often as late as 10 p.m. He said it was a well run establishment. Mr. Tomassian said that the application currently before the board is the result of 'activism' on the part of some disgruntled neighbors who have inundated the building inspector with emails.

The letter from the Board of Trade noted that many small inns have been lost in recent years to residential development. The letter noted that the Hob Knob and its owners are a driving force in the community. The letter concluded by noting that the proposed change is minimal and will have no negative effect on the town or its residents.

Letters of objection were received from Maggie Boris of 9 Tilton Way, Arthur Buckland of 6 Tilton Way, Carol & James Wolff of 119 Upper Main Street, William Fruhan of 136-140 Upper Main Street, Dianne & Curtis Carlson of 6 Peases Pint Way, and Jane Chittick of 113 Main Street. The assistant noted that a letter from Joel & Sande Weinstein was rescinded after the Weinstains learned that no expansion of the inn was proposed as part of this application; several abutters seemed to be similarly mistaken. Several abutters wanted the inn fined for violating the 1997 special permit and suggested that the inn should refund the town a minimum of \$300,000 for illegally renting the manager's suite since 2015.

Dolby asked if any one wished to speak in favor of the modification. Christopher Celeste said that being a guest at the Hob Knob was his introduction to Edgartown. He said that inn is a great benefit to the town. He said the area is currently a mix of residential and commercial properties and that allowing the inn to modify the special permit will make no appreciable difference in the neighborhood.

Dolby then asked if any opponents wished to speak. William Fruhan said that he would like to register his objection to the modification and reiterate that the violation resulted in \$300,000 of ill gotten gains. He said that the inn needs to pay restitution.

Jane Chittick took issue with Ms. Vukota's claim that the attorney for Ms. Carr was not aware of the conditions of the 1997 special permit. She said that even a cursory title search would have included the special permit. Chittick then outlined her concerns [see email dated 19 April 2021 in file.]

Chittick said that she discovered the violation back in July and informed the owners during the MV Commission meetings. She said the owners did nothing to correct the situation. She informed the Building Inspector of the violation back in January, who directed the owners to apply for a modification. Chittick said that the town should not allow special permits to be violated without repercussions. She said she agreed with Fruhan that the inn should be fined.

James Joyce of Green Avenue commented that looking at the plan, he counts 18 not 17 rooms. Ms. Carr explained that the suite consists of a bedroom and a sitting room that share an entrance - the bedroom is only accessible through the sitting room.

Ms. Vukota commented that the inn has existed in its current location since the 1980s, well before a lot of the neighbors owned their homes. She said that the owners are not trying to get away with anything, as several abutters have alleged. The owners have paid their taxes and received licenses from the town each year. All they are looking for is a small amendment - no change of use is proposed, the room would still be used for human habitation. She noted that there is nothing in any of the special permits that specifies which room is to be designated as the manager's. She said that she is relatively new to this case as she is stepping in for her colleague, Sean Murphy, who passed away recently. She said she is flummoxed by the reaction of the neighbors, which appears to be overly vindictive. She said she has not heard anything that indicates how the neighbors will be negatively affected by the modification.

Ms. Dolby then closed the public hearing for discussion among the members. Ms. Whipple commented that she totally agrees with Ms. Vukota's characterization and sees this as much ado about nothing. Mr. Magnuson agreed and said that there is no change of use and no expansion, and it is his understanding that the manager lives nearby.

Ms. Grant said that the inn is well run and the site appropriate. Ms. Bray noted that the inn is an asset to the town, and noted that the town has been granting them a license to rent 17 rooms for over 15 years. She agreed that this is a minimal change and a minimal request.

Ms. Bray made a motion to approve the request for a modification and allow the inn to continue to rent 17 rooms and not require a manager to live on site. She said that the fact that a manager lives nearby satisfies the requirement and that allowing the room to be occupied by a guest rather than a manager will not have a negative impact on the abutters or the neighborhood.

Mr. Magnuson seconded the motion and voted to approve the modification for the same reasons. Ms. Grant, Ms. Whipple, and Ms. Dolby also voted to grant the modification. Unanimously approved by roll-vote, 5-0.

Respectfully submitted,

Lisa C. Morrison, Assistant