

# Edgartown Planning Board - Meeting Minutes

Tuesday, September 21, 2021, 5:30 PM

The Edgartown Planning Board scheduled a meeting for Tuesday, September 21, 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.*

## **SITE VISITS**

- No site visits were scheduled.

## **CALL TO ORDER / ROLL CALL**

Ms. Morrison called the meeting to order at 5:36 PM, and called the roll:

MASCOLO: Present

MORRISON: Present

MORGAN: Absent

SEARLE: Present

CISEK: Present

MCCOURT: Present

A quorum was declared.

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

## **SCHEDULED BUSINESS**

### **5:30 PM - PUBLIC HEARING - DEFINITIVE SUBDIVISION: MATTAKESSETT REALTY TRUST II, 268 KATAMA ROAD (36-101)(Continued from September 14, 2021)**

The Edgartown Planning Board continued a public hearing from Tuesday, September 14, 2021 on its own motion to reconsider the conditions of approval of a Definitive Subdivision, granted to the Mattakessett Realty Trust II (Owner) on April 6, 2021, relative to a proposed trail easement as shown on the approved Landscaping Plan.

Application was made in accordance with Section 81W of Chapter 41 of the General Laws and the Edgartown Subdivision Rules and Regulations as amended. The property is located at 268 Katama Road, Assr. Pcl. 36-101.

*Present: Original Applicant: Oliver Snider, Mattakesett Realty Trust II*

The public hearing was continued at 5:38 PM

### **Presentation / Findings**

- Mr. Snider briefly spoke, and noted that he was hoping for one of two outcomes: the continuation of the trail easement at the current location, or the removal of the requirement for the trail easement altogether.

- Mr. Finn provided a summary of options that had been previously discussed:
  - “North Boundary” Option – the existing proposal. Provides a trail easement. Easement increases Puwal Lane travel way to about 16 feet. Trail and screening stay in setback areas for Lot 4 and 5. Provides screening only on the “inside” of the subdivision (no screening of trail from Ms. Gazaille’s side and back yard [Assessors' Parcel 36-100], or Puwal Lane). Estimated use of Snider property: 3,324 square feet
  - “Screened North Boundary” – adjusting the trail south along Ms. Gazaille's property, and a second row of vegetative screening along the boundary. Screening on both sides of the path for the portion running along Ms. Gazaille’s south bound. Easement increases Puwal Lane travel way to about 16 feet. Increased planting cost; Increased easement area for the western portion of the path; greater utilization of Snider property; trail expands 1’ – 2’ beyond setback area of Lot 4. Estimated use of Snider Property: 4,174 square feet
  - “Fenced North Boundary” – no adjustment of trail path, but construction of standard fencing along boundary with Ms. Gazaille's property. Provides a trail easement. Trail easement is as originally approved. Screening on both sides of the path for the portion running along Ms. Gazaille’s south bound. Easement increases Puwal Lane travel way to about 16 feet. No greater utilization of Snider property; Increased screening cost for fencing; fence is not preferred method of screening for Gazaille's; Estimated use of Snider Property: 3,324 square feet
  - “South Boundary” – relocate trail easement to tightly follow south boundary of Mr. Snider's property. Provides a trail easement. Path remains where it has been. Trail exceeds setback area. Higher cost for screening (two sides of easement area, for the total length of the easement, about 475’). Plantings along Puwal Lane would likely be placed closer to boundary line, resulting in restriction of traveled way to original width (10’). Estimated use of Snider property: 5,700 square feet
  - “Interior Trail” – relocate trail easement to boundary between lots three and four in subdivision. Provides a trail easement. Path would be screened, by fence or plantings, at option of Land Bank / Developer. Path would be in Lots 3 / 4 setbacks. Depending on screening option, six to ten feet of easement area (three to five feet on each side of the property line) for about 170 feet. Puwal Lane restricted to original width (10’). Path would require access along Mr. Snider's subdivision. Estimated use of Snider property: 1,020 - 1,700 square feet.
  - “The Nuclear Option” – removal of the trail easement altogether. No take of Snider land. No trail - easement expires. Puwal Lane restricted to original width (10’). Estimated use of Snider property: 0 square feet.
- The trail has allowed access from Katama Road to the Waller Farm since 2014.
- The trail is NOT a special way, or otherwise protected by the Zoning Bylaw.
- The Trail Easement has value to the Land Bank, and the Town.
- The easement represents an asset, granted to the Land Bank, to be exercised (or not) at their discretion.
- Regardless of the status of the trail easement, Mr. Snider is required by the conditions of the subdivision approval to plant screening on the north and south boundaries of his development area.
- Mr. Snider expressed opposition to the "interior trail" option, noting that it would burden his development plans, and would not prefer the trail going down the street, as it would be an inconvenience to the residents of the property, and an imposition on the privacy of each lot.

- Mr. Donaroma (Planning Board rep to Land Bank Town Advisory Board) spoke in favor of keeping the easement and the trail in some form, and the Land Bank's willingness to work with the abutters to address screening and privacy concerns.
- Ms. Donna Gazaille expressed opposition to the trail along its current path, requesting that it be relocated further to the south with more screening to be placed between the trail and her property on Mr. Snider's property.
- Mr. Michael Gazaille expressed opposition to placement of the trail, regardless of this location.
- Ms. Kim Kaplan-Gross asked about the location of the screening, if the trail were to be relocated. Mr. Snider confirmed that the screening would be relocated closer to Puwal Lane, effectively reducing Puwal Lane to its original 10' right of way. Ms Kaplan-Gross noted that the easement in its current location would provide a wider travel lane to Puwal Lane and would thereby benefit the residents of the Town. Ms. Gazaille disagreed with the assessment.
- Mr. Steve Ewing reaffirmed the Land Bank's commitment to working with the neighbors to best screen the trail. Mr. Ewing offered that the Land Bank would secure the easement, but not create the trail until Ms. Gazaille's family no longer owned or control the trail. Mr. Ewing also suggested that double-screening the trail along Ms. Gazaille's lot lines ("Screened North Boundary").
- Mr. Cisek agreed with Mr. Ewing's proposal; Mr. Cisek asked if the trail could be moved further onto Lot 4, or to the south along Ms. Gazaille's property. Mr. Snider replied, saying that the space would be too much of an imposition to the uses on Lot 4.
- Mr. Snider reiterated his interest in keeping the trail easement where it is, keeping the trail easement, but leaving it dormant for a time, or removing the easement altogether.
- Mr. Morgan noted his support for the trail, his interest in protecting Ms. Gazaille's interests of privacy and property values, and was leaning toward removing the requirement for a trail easement at all.
- There was discussion as to how property values are impacted by trail easements generally, and in this location.
- Mr. Gazaille reiterated his interest in eliminating the easement.
- Mr. Donaroma noted that most agree that the path has minimal use, and results in a minimal impact, and should therefore not be a burden to maintain.
- Mr. Snider again reiterated his preference to either keep the path in the current location or to eliminate the requirement.
- There was some discussion as to how trail easements have historically been established.
- Mr. Mascolo noted that the Land Bank recognized the value of trails to the island, and that more time might be necessary to consider all options.
- Mr. McCourt noted that the board should try to make a decision in a timely fashion. Mr. McCourt noted that there should be a way to keep the trail intact, and that if it were allowed to expire, it would not be possible to restore in the future.
- Mr. Cisek opined that the trail should continue where proposed, and screening should be provided along Ms. Gazaille's property line.
- Mr. Snider noted that the 'jog' to the south would be too much of an imposition.
- Mr. Gazaille asked that, if the trail were to remain, that the easement be dormant with a delayed 'activation'.
- Ms. Gazaille asked if the trail were to remain, what would the easement look like? How would the

trail or the road surface be maintained? What surface material?

- Mr. Snider confirmed that the Land Bank would be responsible for maintenance of the trail inside the easement area.
- Mr. Morgan said that he would support a plan to secure the trail easement, with delayed activation for the time being.
- Mr. Finn noted that, if the trail were to remain where it is, the details of the grant of easement was a matter to be negotiated between Mr. Snider, and the Land Bank, with collaboration and cooperation from the homeowners along Puwal Lane.
- Mr. Donaroma noted the Land Bank's willingness to accommodate the needs of the homeowners moving forward.
- Mr. Finn requested that a vote be taken to close the public hearing, to make no changes to the original conditions of approval, and to note for the record the matters discussed.

No further presentation. Public hearing was closed at 6:44 PM.

### **Deliberation / Decision**

It was MOVED by Morrison, SECONDED by Mascolo

*That the original conditions of approval for the Subdivision stand as originally approved; further, that upon recording of a grant of easement or other agreement between the applicant and the Land Bank, the applicant shall forward a copy to the Planning Board for its records.*

VOTED:

MORRISON: YES

MASCOLO: YES

MCCOURT: YES

MORGAN: YES

SEARLE: YES

(5, 0, 0)(6:46 PM)

IT IS HEREBY NOTED THAT:

- The trail easement will be maintained as a six-foot path along the north property boundary.
- That the trail easement will be activated along Puwal Lane only.
- That the trail easement along the boundary will NOT be activated until Ms. Gazaille's property until successful negotiation is completed.

### **REVIEW / APPROVE CONTRACT FOR MASTER PLAN CONSULTANT**

The final contract between the Town through its Planning Board and Dover Kohl and Partners for Master Plan Consultant Services was reviewed.

The timeline for the Master Planning Process was reviewed, with the addition of a second charrette.

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

*To approve the contract, and to authorize Ms. Morrison to sign on behalf of the Planning Board.*

MORRISON: YES  
MCCOURT: YES  
SEARLE: YES

VOTED:  
MASCOLO: YES  
MORGAN: YES  
CISEK: YES  
(5, 0, 0)(5:50 PM)

Mr. Robert Strayton noted that the committee is eager to begin the work, and thanked the board for his support.

## **DISCUSSION: POTENTIAL ZONING BYLAW CHANGES**

### **Swimming Pool regulations**

A second draft of the proposed regulation was reviewed (attached to these minutes for reference). Mr. Finn noted that the language was an attempt to allow by right – and condition - those swimming pools which currently require a special permit, but which are nearly always approved with conditions. Mr. Rosbeck offered several comments and suggestions. There was some discussion related to whether certain passages constituted a potential for a subjective assessment, instead of objective or measurable criteria. There was discussion related to whether there was conflict between the Town Code, Section 153, and the state building code; there was discussion as to whether the Board could simply defer to the Fire Chief on the design and placement of a 'dry hydrant'. The section regarding whether pools are detrimental to scenic vistas was considered.

Mr. Donaroma praised the Planning Board for considering this regulation, and encouraged it to continue working on the language to a successful conclusion.

Mr. Finn noted that he would take Mr. Rosbeck's comments into account, and refine the language for further review.

### **Tree protection and preservation**

A first draft of language that would establish setback areas as 'tree yards' and protect trees of significant size within that area. The board generally approved of the idea. Language would be refined and presented at a later meeting (likely October 19).

### **Eating Establishments / Outdoor Dining**

Mr. Finn provided a first reading of a proposed change to the bylaw that would allow outdoor dining after site plan review, instead of requiring a special permit as currently required. The board generally agreed to consider the language. Mr. Finn noted that he would continue to refine the language for later presentation and review.

### **Deferred**

- Clarification of Coastal District Exemption
- The "Styller" Decision

## **DISCUSSION: FEE SCHEDULE**

Not taken up

**UPCOMING PERMITS / PRESENTATIONS**

The schedule for October was reviewed. Meetings were tentatively scheduled for October 5 and October 19.

**OTHER BUSINESS NOT REASONABLY ANTICIPATED 48 HOURS IN ADVANCE**

No other business was presented.

**ADJOURN**

It was MOVED by Searle, SECONDED by Cisek

*To Adjourn.*

APPROVED BY UNANIMOUS CONSENT.

(7:42 PM)

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These minutes were approved as the official record of the meeting, by a vote of the Planning Board at a regular meeting on October 5, 2021.

Attest:



Douglas Finn  
Planning Board Assistant

**MEETING ATTENDEES**

Doug Finn	Planning Board Assistant, Town of Edgartown)
Lucy Morrison	Planning Board Chair
Fred Mascolo	Planning Board
Mike McCourt	Planning Board
Scott Morgan	Planning Board
Glen Searle	Edgartown Planning Board
James Cisek	Planning Board (alternate)
Jen Smyth	Procurement Officer, Town of Edgartown
Gail Croteau	
Mike Donaroma	Planning Board Rep to Land Bank Town Advisory Board
Steve Ewing	
Donna Gazaille	
Michael Gazaille	
Donna Goodale	
Adam Helfant	
Kim Kaplan-Gross	
Rob Piatkowski	Dover, Kohl and Partners
Ted Rosbeck	
Oliver Snider	
Robert Strayton	