

Edgartown Planning Board - Meeting Minutes

Tuesday, January 4, 2022, 5:30 PM

The Edgartown Planning Board scheduled a meeting for Tuesday, January 4, 2022, 5:30 PM.

The meeting was audio and video recorded. Attendees participated by video conference, in accordance with Chapter 20 of the Acts of 2021. 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 was scheduled for 100 Edgartown Bay Road. Members attended at their own schedule. No deliberation or discussion was conducted.

CALL TO ORDER

The meeting was called to order at 5:32 PM, and the roll was called:

	PRESENT:
FRED MASCOLO	MIKE MCCOURT
SCOTT MORGAN	LUCY MORRISON
GLEN SEARLE	JAMES CISEK (ALT)

A quorum was declared.

SCHEDULED BUSINESS

5:30 PM - PUBLIC HEARING - DEFINITIVE SUBDIVISION: MEETING HOUSE WAY LLC, DIVISION ROAD (37-47)(CONTINUED)

The board continued a public hearing, relative to an application for approval of a definitive subdivision plan, proposing to divide a single parcel into twenty-eight single-family lots, one lot for fourteen townhouse style homes, and a one lot of about thirty acres to be permanently conserved as open space.

At the request of the applicant, it was MOVED by Morgan SECONDED by Searle

To continue the public hearing to June 7, 5:30 PM, Public Hearing will be continued without presentation or deliberation.

	VOTED:
MASCOLO: YES	MCCOURT: YES
MORGAN: YES	MORRISON: YES
SEARLE: YES	CISEK (ALT): YES
	5, 0, 0 (5:33 PM)

5:30 PM - PUBLIC HEARING - SP(Coastal District), SP-Pool(Coastal District): The JSF Realty Trust, 100 Edgartown Bay Road (51-23)

The Edgartown Planning Board held a public hearing on Tuesday, January 4, 2022 at 5:30 PM, at the request of Christopher P Alley, Schofield Barbini & Hoehn, on behalf of The JSF Realty Trust (Owner) To demolish and reconstruct a pre-existing non-conforming structure on a pre-existing non-conforming lot, and to exceed the height restriction of the Coastal District; the property is located in the inland zone of the Coastal District; average natural grade: 4.5 feet.

The Edgartown Planning Board concurrently held a public hearing on Tuesday, January 4, 2022 at 5:30 PM, at the request of Christopher P Alley, Schofield Barbini & Hoehn, on behalf of The JSF Realty Trust (Owner) to construct an in-ground swimming pool within the Coastal District in conjunction with proposed replacement of an existing single-family dwelling.

Application was made in accordance with Section 5.1 of the Edgartown Zoning Bylaw. The property is located at 100 Edgartown Bay Road, Assr. Pcl. 51-23.

The public hearings were opened at 5:35 PM.

Present for the applicant: Mr. Chris Alley (SBH); Mr. Chuck Sullivan (Sullivan & Assoc. Architects).

Presentation / Findings

- The property is located off of Bay Road Circle, but has a street address on Edgartown Bay Road.
- The lot was developed prior to zoning regulations (a pre-existing, non-conforming structure.
- The house on the lot was the original structure on the site.
- The new house proposed will have the same number of bedrooms.
- The septic system is to be upgraded.
- A new garage is proposed.
- A new pool is proposed.
- The property is in the inland zone of the Coastal District due to elevation only.
- The property is below the 10' elevation, and is in the 100-year flood zone.
- The structure as proposed must have the bottom of its first level above the 10' grade.
- Due to the limitations of building code, the applicant hopes to exceed the height restriction in the Coastal District.
- The grade of the lot is proposed to be raised in order to allow for separation of the septic system and ground water; also for aesthetic purposes.
- The foundation will be exposed by about 18".
- The grade increase will range from 2' (at the southeast corner) to about 3'-6" (at the northwest corner).
- The applicant also owns the property abutting the southwest boundary.
- The Conservation Commission hearing continues; concerns expressed relate to runoff; downspouts and gutters are proposed to address the issue.
- About a dozen cedars around the property will be maintained, or moved.
- A swimming pool is also proposed, and requires approval by special permit.
- A small drywell is proposed for seasonal water draw-down.
- Mr. Sullivan: Pool equipment will be enclosed within the garage building.
- The main house is about 30" above grade.
- The property is one of the lowest in the immediate area.
- The height of the highest proposed roof ridge is at about 30' above mean natural grade.

- The interior ceilings are at 8.5' (first floor) and 7.5' (second floor).
- The septic system as proposed has been approved by the Board of Health; the leaching area is about 20' from the nearest property line. Variances were required for approval, and have been granted.
- The excavation from the proposed new structure will provide the bulk of the fill for the grade elevation increase.
- The old house is about 1,780 feet of living space. The proposed house is just over 4,000 square feet (224%)

There was discussion related to raising the elevation / grade of a property in order to comply with building codes, the impact to the viewsheds, and the potential of future development. Ms. Morrison asked whether the board would consider a larger discussion relative to the concerns. Mr. Morgan expressed his concern about continued requests to exceed the height restriction.

Mr. Sullivan noted that, in the past, two special permits were granted to nearby abutting owners, and referred to the text of a previous decision. Mr. Sullivan also noted that the height restriction in other communities begins at the minimum elevation, instead of at mean-natural grade.

The history of decisions made relative to previous decisions were discussed.

It was noted that the Conservation Commission was hoping to hear the Planning Board's opinion prior to concluding their deliberations.

Mr. Alley asked about the purpose of height restrictions in the coastal district, and whether exceeding the height restriction in this case would be contrary to the purpose of the height restriction.

Public Comment: Ms. Maria Bullen noted that many other houses in the area had increased their footprints; her concerns were related to the septic system placement and operation, drainage, and the potential for water trespass.

Mr. Finn noted that conditions of approval could require an approved drainage plan; Mr. McCourt noted that if the drainage plans change, that could change the height of the grade, or the house; Mr. Finn noted that any change to the plan as approved would require further review by the Planning Board.

Mr. Morgan expressed concern with the idea of approving a project with conditions, and suggested that the Planning Board wait for the Conservation Commission completes its review prior to making a final decision.

Mr. McCourt also expressed concern about the height of the structure.

Mr. Finn asked whether the board might forward its sense of the matter or the concerns of the board be forwarded to the ConComm for consideration. Mr. Morgan disagreed, and suggested that the ConComm should make its own decision.

Ms. Morrison noted that the Planning Board has traditionally been the final level of approval on projects such as this.

Mr. Alley expressed concerns with continuous reviews by boards, each waiting on or otherwise dependent of other municipal reviews.

Ms. Morrison asked whether a continuance to a special meeting might be in order.

Mr. Sisselman (owner) noted that he and his wife intended to continue and maintain both adjacent properties.

Ms. Morrison asked for a motion. After deliberation, it was MOVED by McCourt, SECONDED by Searle

To continue the public hearing to Tuesday, January 25, 2022, at 5:30 PM.

VOTED:

MASCOLO: YES

MCCOURT: YES

MORGAN: YES

MORRISON: YES

SEARLE: YES

CISEK (ALT): YES

5, 0, 0 (6:20 PM)

5:50 PM - PUBLIC HEARING - SP(Coastal District): Michael Smith and Phoebe Cole-Smith, 4 and 6 Caleb Lane (30-24.1 & 30-24.2)

The Edgartown Planning Board conducted a public hearing on Tuesday, January 4, 2022 at 5:50 PM, at the request of Chris Alley, SBH, Inc., on behalf of Michael Smith and Phoebe Cole-Smith (Owner) to demolish and replace an existing non-conforming single-family dwelling, and relocate a second non-conforming dwelling on a pre-existing non-conforming lot in the Coastal District.

Application was made in accordance with Sections 5.1 and 10.1.G of the Edgartown Zoning Bylaw. The property is located at 4 and 6 Caleb Lane, Assr. Pcl. 30-24.1 & 30-24.2.

Present for the applicant: Chris Alley, SBH.

The Public Hearing was opened at 6:21 PM.

Presentation / Findings

- The property consists of two parcels, acting as a single lot.
- The lot is non-conforming (size).
- The applicant proposes to move an existing, non-conforming cabin from a location within the side-lot-line setback to another location within the same side-lot setback area.
- The cabin will not be any closer to the side lot line than presently.
- The applicant proposes to demolish the existing principal (single-family) dwelling, and replace it with a new single-story, single-family home with a Flat Roof.
- The current and proposed dwelling are / will be conforming.
- An existing cabin on the western edge of the lot will remain undisturbed.
- A new septic system is proposed.
- All structures meet the height restrictions of the island-roads and coastal districts.
- The board reviewed representations of the proposed structures as seen from the lighthouse, as prepared by the Conservation Commission.
- The cabin cannot be relocated outside of the setback due to limitations on the lot imposed by the new septic system, and wetland setback requirements.
- No public comment was received.

The public hearing was closed at 6:31 PM.

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

To continue the public hearing to Tuesday, January 25, 2022, at 5:30 PM.

MASCOLO: YES
MORGAN: YES
SEARLE: YES

VOTED:
MCCOURT: YES
MORRISON: YES
CISEK (ALT): YES
5, 0, 0 (6:32 PM)

6:10 PM - PUBLIC HEARING – FORM C Modification : Gregory A Pyden, Penny Lane (21-36.211, 21-36.212, 21-36.22 and 21-36.23)

The Edgartown Planning Board scheduled a public hearing on Tuesday, January 4, 2022 at 6:10 PM, at the request of Attorney Martin Tomassian, on behalf of Gregory A Pyden (Owner) for a modification to a covenant filed in association with an approved subdivision plan, originally filed by Steven and Judyth Sack, known as the Penny Lane Subdivision; applicant requests modification and/or removal of restrictions on bedroom counts for the subdivision lots.

Application was made in accordance with Sections 81K-81GG of Chapter 41 of the General Laws and the Edgartown Subdivision Rules and Regulations as amended. The property is located at Penny Lane, Assr. Pcls. 21-36.211, 21-36.212, 21-36.22 and 21-36.23.

Present for the applicant: Attorney Martin “Skip” Tomassian

Presentation / Findings

Mr. Finn reviewed the locus map, and the 1988 covenant (both in project file).

- Mr. Finn noted that the condition in the covenant, restricting the bedroom count on the lots, would likely not be imposed by the current board, as practice is to leave such determination to the Board of Health or the Wastewater Commission as applicable.
- Attorney Tomassian reviewed the history of the project.
- The current property has a three-bedroom septic.
- The structure has a space, noted by the Board of Health as a “private area” that has been historically used as a bedroom.
- The assessors list the property as a three-bedroom house.
- The realtor listed the property as a three-bedroom house.
- The Board of Health describes the property as a two-bedroom house with a ‘private area’.
- No public comment was received.

Deliberation / Decision

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

To file an amended covenant, striking Condition #2 from the November 30, 1988 covenant.

MASCOLO: YES
MORGAN: YES
SEARLE: YES

VOTED:
MCCOURT: YES
MORRISON: YES
CISEK (ALT): YES
5, 0, 0 (6:32 PM)

6:30 PM – ANR – Wasque Partners LLC (Richard and Jennifer Schifter)

The Planning Board reviewed a request for endorsement of “A Plan of Land in Edgartown, Massachusetts,

Being a Subdivision of Lots 2 and 6, Shown on Land Court Plan 5058B and 5858C, Scale 1" = 80', Dated December 9, 2021." The applicant proposed that the plan did not require to require approval under the Subdivision Control Law. The applicant was Richard P. Schifter and Jennifer D. Schifter, Wasque Partners, LLC. The agent was Mr. Charles R. Gilstad.

After review, the Board agreed that the plan showed the adjustment of a lot line between two existing lots, that no new lots were created, and that both lots could be accessed across their own frontage.

It was MOVED by Mascolo, SECONDED by Searle

To endorse the plan as not requiring approval under the Subdivision Control Law.

VOTED:

MASCOLO: YES

MCCOURT: YES

MORGAN: YES

MORRISON: YES

SEARLE: YES

CISEK (ALT): YES

5, 0, 0 (6:45 PM)

6:40 PM - PUBLIC HEARING - SP(Coastal District): Michael A. Bass, Trustee of the Hedjen Trust of 2012, 9 Boldwater Road (38-3.16)

The Edgartown Planning Board scheduled a public hearing on Tuesday, January 4, 2022 at 6:40 PM, at the request of Ken Abbott, SBH, Inc., on behalf of Michael A. Bass, Trustee of the Hedjen Trust of 2012, (Owner) to construct a new pool and pool house in the inland zone of the Coastal District.

Application was made in accordance with Section 5.1 of the Edgartown Zoning Bylaw. The property is located at 9 Boldwater Road, Assr. Pcl. 38-3.16.

Present for the Applicant: Ken Abbott, SBH, Inc.

Presentation / Findings

- The site plan, building elevations, and other exhibits were presented. The property currently is not developed.
- The lot is conforming.
- A principal dwelling is permitted by right.
- All structures would be inside of the Shore Zone, and above the 10' elevation.
- The bottom of the pool is estimated to be at least one foot above ground water.
- Conservation Commission has approved the property (December 29, 2021)
- National Heritage reviewed the project – no concerns.
- A small pool house is proposed. Layout would not constitute either a detached bedroom or dwelling.
- Pool equipment will be within an insulated fence-enclosure on the rear of the pool house.
- A salt filtration system is proposed.
- An adjacent lot is owned by the Association.
- There is no public water service on the lot.
- The board cited its interest in providing some means to provide water in case of fire emergency.
- No public comment was received.
- The pool enclosure as proposed is code compliant relative to gates and/or access.

Deliberation / Decision

There was some discussion as to the difficulty of providing a draft hydrant. The applicant suggested that an underground water storage tank may be a feasible alternative. After some discussion it was agreed that if a draft hydrant could not be facilitated at the site, an underground storage tank would be a functional alternative. There was some discussion as to whether the board had the authority to mandate an underground storage tank in lieu of a swimming pool. The benefits to the homeowner – lower home insurance costs – were briefly noted.

After final deliberation, it was MOVED by McCourt, SECONDED by Mascolo

To approve the application as presented, with Standard Conditions for Swimming Pools; further, the applicant shall install a draft hydrant allowing the pool water to be used for fire emergency, or to otherwise provide an alternate means of storing water for fire department use, such as an underground storage tank; applicant must present proposal to fire chief for review and approval prior to issuance of a building permit.

VOTED:

MASCOLO: YES

MCCOURT: YES

MORGAN: YES

MORRISON: YES

SEARLE: YES

CISEK (ALT): YES

5, 0, 0 (7:03 PM)

7:00 PM - PUBLIC HEARING - SP(Coastal District): Louise Goodsill & Martin Auerbach, 56 Dike Bridge Road (33-4.2)

The Edgartown Planning Board scheduled a public hearing on Tuesday, January 4, 2022 at 7:00 PM, at the request of Chris Alley, SBH, Inc., on behalf of Louise Goodsill & Martin Auerbach (Owner) to construct a guest house on a conforming lot in the inland zone of the Coastal District. .

Application was made in accordance with Section 5.1 of the Edgartown Zoning Bylaw. The property is located at 56 Dike Bridge Road, Assr. Pcl. 33-4.2.

Present for the Applicant: Chris Alley, SBH.

Presentation / Findings

- The property is 4.6 acres in size.
- An existing (pre-existing, non-conforming) dwelling will not be altered.
- A guest house is proposed in the inland zone of the Coastal District.
- An existing shed was constructed some years ago.
- The proposed structure will be 77’ from the front lot line, and 26’ from the side lot line.
- The guest house will be tied into the existing septic system, which has available capacity.
- The proposal is being considered by the Conservation Commission.
- The building is about 15’ above mean natural grade, and about 11’ below the height limit.
- The structure is about 360 square feet in area.
- There is a crawlspace foundation, no basement.
- The structure will be above the 100-year flood.
- There will be minimal impact to the view-shed from the road, and will not be in the shore-zone.
- Minimal disturbance of existing vegetation is anticipated.

- An “efficiency” scale kitchen is proposed.

Deliberation / Decision

After brief deliberation, it was MOVED by Searle, SECONDED by McCourt

To approve the application as presented.

	VOTED:
MASCOLO: YES	MCCOURT: YES
MORGAN: YES	MORRISON: YES
SEARLE: YES	CISEK (ALT): YES
	5, 0, 0 (7:11 PM)

REVIEW OF MINUTES

December 7, December 14

The minutes from December 7 and December 14 were presented. After review, it was MOVED by Morrison, SECONDED by Mascolo

To approve the minutes as written.

	VOTED:
MASCOLO: YES	MCCOURT: YES
MORGAN: YES	MORRISON: YES
SEARLE: YES	CISEK (ALT): YES
	5, 0, 0 (6:22 PM)

OTHER BUSINESS NOT REASONABLY ANTICIPATED

Chambers ANR

Mr. Finn noted a request for endorsement of an ANR plan filed on behalf of Chris Chambers for a division of land that had been received in February of 2019, and referred to the Commission (DRI Checklist #13, Item 2.3) for concurrence.

Mr. Adam Turner noted that the plan was received, and was reviewed by MVC Staff in 2019. Mr. Turner noted that they had requested additional information from the applicant, but due to staffing changes, the application was waylaid. Mr. Turner agreed that, in this case, the application was effectively remanded back to the Town. Mr. Turner did note that if there were any future changes to the property – additional lot-line adjustments, further divisions, etc. – that it should by right be referred to the Commission for review.

There was some discussion relative to what further review of the proposal should be conducted. Ms. Morrison noted that, since the plan appears to meet the three-tier criteria established in the General Law, endorsement cannot be withheld. Mr. Finn reminded the board and applicant that ANR endorsement does not imply nor grant zoning compliance for any new lot to be created.

The history of the division of land was reviewed. The previous ANR (first endorsed in 2017, and appealed by an abutter) was discussed.

After final deliberation, it was MOVED by Mascolo, SECONDED by McCourt

To endorse the plan as not requiring approval under the Subdivision Control Act.

MASCOLO: YES
MORGAN: YES
SEARLE: YES

VOTED:
MCCOURT: YES
MORRISON: YES
CISEK (ALT): YES
5, 0, 0 (7:25 PM)

Stop & Shop Noise Complaint

Mr. Finn provided follow-up on the noise complaint. The cause was a failed compressor that required a short-term mechanical bypass. The compressor is now fixed, and the noise problem is resolved.

Climate Change Committee Update

Mr. Alan Strahler spoke with the board about the Climate Change Committee; Mr. Finn noted that the Planning Board had expressed an interest in having representation on the committee. Mr. Strahler noted that the purpose of the Climate Committee was to inform the public as to the impact of Climate Change, but also to recommend changes to the Zoning and General Bylaws as necessary. The committee would likely meet monthly. The Climate Committee would closely work with the Energy Committee.

Ms. Morrison asked if there was a board member interested in sitting on the committee. Mr. McCourt recommended making a determination at the next meeting.

Mr. McCourt recommended that Mr. Cervone attend the meetings until a formal appointment is made.

Mr. Finn noted that he would advise Mr. Hagerty of the Board's intent.

MEMBER CONCERNS

Mr. McCourt asked about the Town's appointment to the MV Commission, and noted that Mr. Rosbeck has declined to be reappointed. After some discussion, Mr. McCourt noted that he would take the conversation offline with Ms. Morrison as needed.

ADJOURN

It was MOVED by McCourt, SECONDED by Mascolo

To Adjourn.

APPROVED BY UNANIMOUS CONSENT.
(7:30 PM)

Respectfully Submitted,

Douglas Finn
Planning Board Assistant

MEETING PARTICIPANTS

Name (Original Name)

Doug Finn (Staff)(Host)
Alex Cervone (Planning Board), Staff
Fred Mascolo (Fred's iPad), Board Member
Mike McCourt, Board Member
Scott Morgan (Scott), Board Member
Glen Searle (Glen 's iPad), Board Member
James Cisek, Board Member
Lucy Morrison, Board Member

Chris Alley (Chris)
Cynthia Farrington
Barb emery
Chris Alley, Schofield Barbini and Hoehn
Lisa Pyden (iPhone Lisa)
Alex Elvin (Martha's Vineyard Commission MVC)
William Joel
Michael Smith and Phoebe Cole-Smith
Bill Brine
Gregory Pyden (Gregory Pyden's iPhone)
Karen Sisselman
Maria Bullen (Maria)
Alec Berman (Alec W2JU)
William sullivan
Howard Rubin
Paul Clancy
Adam DeMichele
Michael Barrett
Ken Abbott
Richard Joel (Dick's iPhone 11)
Martin Tomassian
Charles Gilstead (Sourati Engineering Group)
Ben Carroll
George Sourati (iPhone)
Ezra Sherman
Joshua Fox
Kris Horiuchi
Daniel Perry
Paul Adler, NAB
Alan Strahler
John Harpole