



Meeting Minutes - Edgartown Conservation Commission
September 14, 2022 (4 pm)

Commissioners present: Peter Vincent (Chair), Max Gibbs, Jeff Carlson, Lil Province, Geoff Kontje

Commissioners Absent: Robert Avakian, Christina Brown

Staff: Jane Varkonda (Agent), Kara Shemeth (Admin)

Public in attendance: John Lolley (LE), Chris Alley (SBH), Reade K. Milne (IoB), Michael Cole, Carlos Teles, Dan Gordon, David McCourt, William "Chuck" Sullivan (SA), Nelson Giannakopoulos, (SA), Joseph & Emily Monteiro, Leslie Carter, Norman Rankow, Timothy Moriarty, Michael Berk, John Kett (RH), Reid Silva (VLS)

PUBLIC HEARINGS:

Public Hearing– Notice of Intent

Applicant: **The McCourt Martha's Vineyard Trust**

Address: 85 Chappaquiddick Road (AP 30-63)

Representative: Chris Alley, SBH

Project: Seeking approval for modifications (additions & deletions) to a guest house complex and to establish a location for housing of utilities along with associated site work.

Documents Shared: site plan, aerial

Chris Alley explained that the site plan being presented represents the site as-is, it was discovered that some things had been built that had not been previously permitted and some permitted items were never built, this application aims to permit the structure as it currently exists and to approve the proposed location of a utility shed. This project was brought back to the Con Com and Planning Boards once it was discovered that all previous permits had expired and what was built was not in conformance with what was permitted.

Chuck Sullivan went over the timeline explaining that in 2010 portions were approved by Con Com and Planning and in 2016 the applicant went back to the Planning Board for modifications but neglected to come back to

the Con Com and 49 sq ft of living space was added. 2010 approved total 3255 living 2155 Now: living 2204 (+49 sq ft)

Regarding the proposed location of the well house/ utility shed, Chase International (a geotechnical engineer) provided a report that determined that the area where the utility building is proposed is not a coastal dune. This is contradictory to the expert opinion of MA Coastal Zone Management (CZM) who visited the site during the initial application in 2010 and determined that it IS a coastal dune.

Commissioners requested a profile of the slope where the well house/utility shed is proposed. To date, the Commission has not received alternative options for the well house/ utility shed (as requested previously).

Reade K. Milne, EDG Building Inspector, confirmed that the well house needs to be elevated if it moves into the flood plain and would become a "structure".

Action: A motion was made, and seconded, to approve the changes to the guest house and two detached bedrooms. (The well house is NOT approved by this vote, it will be addressed at a later date once the requested information is received and discussed.)

Passed unanimously

Continued Public Hearings

Lil recused herself

SE20-1657 – Green Hollow LLC & 32 Ocean View Avenue Realty Trust

Address: 35 Green Hollow Road and 32 Ocean View Ave (APs 29-136.1, 137, 138.1, 138.2). (All Commissioners eligible to vote)

Representative: Reid Silva (VLS), Dan Gordon (Landscape Architect), Tim Moriarty (Reily), Michael Bonner (Sullivan)

Project: Seeking permission to cut trees, re-grade the land and install landscape trees and plantings within a Flood Zone on the above referenced properties. The grading and plantings are intended to provide a screening buffer between adjacent properties.

Documents shared:landscape plan, existing conditions plan, aerial

Tim Moriarty explained that Reid Silva had met on site with Randy Jardin and that the Tribe planned to be there to monitor the installation of the five new trees. The Tribe did not request anything further of the applicant.

Action: A motion was made, and seconded, to approve the application as previously presented with the standard conditions and the additional condition requested by the applicants (#5):

1. *All work must comply with the conditions of this order. For any change in approved plans or work, the applicant shall file a new*

Notice of Intent or inquire, in writing, of the Commission whether the change is substantial enough to require a new filing.

2. It is the responsibility of the applicant, owner, and/or successor(s) to ensure that all conditions of this order are complied with. Copies of this order shall be supplied to project manager and contractors.

3. Temporary irrigation is allowed to allow the plantings to establish. It must be removed by the time this permit expires or allowed to remain longer with the permission of the Conservation Commission.

4. Because of the property's proximity to the resource area no herbicides, pesticides, or fungicides shall be used on any portion of the property. This condition shall be considered ongoing and shall not expire with the issuance of a certificate of compliance. Applicant shall abide by the Board of Health regulations for the application of fertilizers.

5. Once established, the trees shall not be altered or removed (except for the replacement of a dead and dying planting with a planting of like kind, size & species) absent the express approval by the Conservation Commission issued pursuant to a new Notice of Intent.

6. Conditions 4-5 are ongoing and do not expire with this Order or the issuance of a Certificate of Compliance

7. An onsite meeting with the General Contractor and the Conservation Agent must take place prior to work beginning.

8. A Certificate of Compliance must be applied for within 60 days of the completion of the installation.

Passed unanimously via roll call vote of eligible Commissioners.

SE20-1652 – Robert Angevine / Cow Bay Corporation -100 Cow Bay Road (AP 12-21) (Peter, Lil, Jeff, Geoff, Christina, Bob)

John Lolley reviewed the project, explained that no modifications are proposed to the cabana or the footprint save replacing rotting structural members that will be exposed once the building is lifted.

The applicant has been advised that regarding the vegetation, it would be beneficial to remove the cherry tree (flush cut) and bittersweet to allow beach plum to thrive. Sand in front and behind the cabana is critical for its protection so the sand should not be removed from underneath the cabana, the structure should be above the sand to allow for sand and air movement. Plywood and construction matting is to be used during work to protect the root systems of existing vegetation and upon final inspection, Commissioners may request the planting of additional beach plums if any do not survive the project.

Action: A motion was made, and seconded, to approve as presented with standard conditions and taking into account what was discussed at today's meeting:

1. *All work must comply with the conditions of this order. For any change in approved plans or work, the applicant shall file a new Notice of Intent or inquire, in writing, of the Commission whether the change is substantial enough to require a new filing.*
2. *It is the responsibility of the applicant, owner, and/or successor(s) to ensure that all conditions of this order are complied with. Copies of this order shall be supplied to project manager and contractors.*
3. *The cherry is to be flush cut and roots are to remain.*
4. *Plywood and/or construction matting is to be used during work to protect the root systems of existing vegetation.*
5. *Sand should not be removed from underneath the cabana, the structure should be above the sand to allow for sand and air movement.*
6. *Planting of additional beach plums may be required by the Conservation Commission if any do not survive the project.*
7. *An onsite meeting with the General Contractor and the Conservation Agent must take place prior to work beginning.*
8. *A Certificate of Compliance must be applied for within 60 days of the completion of the project.*

Passed unanimously via roll call vote of eligible Commissioners.

Discussion Items:

5 Lenssen Way violations: Carlos Teles explained the miscommunication regarding NHESP permission and lack of Con Com approval. Reis Silva has been brought in to do a site plan for the property owners and explained that the buffer is closer to the road and that a good amount of the cutting falls within the 200' buffer and they will be coming to the Commission with an NOI for a proper filing and VLS will be locating the edge of clearing. Reid suggested that once the NOI is filed it would be a good time to determine the full extent of the clearing and if a restoration area was needed.

Commissioners asked if any of these trees fell within areas protected by the new tree bylaw, Reade K. Milne advised that she had not been able to determine that yet. Commissioners asked that a NOI be filed within the next two months.

Pagoda Tree parking:

Jane Varkonda briefed the Commissioners on the recent history, specifically at two meetings in August of 2020 Norman and the Foliards met with Con Com to determine how best to protect the tree and the minutes reflect that it was decided that an 8' buffer from the tree was necessary to prevent any damage to the roots.

Norman Rankow stated that the Foliards can't park their 2 cars there with an 8' buffer and stated that cars have always parked there historically and that the homeowners can not meet that requirement and would like the Commission to reconsider the 8' which they feel is overburdening them.

Commissioners noted that their intention in this ruling was to protect the tree when the application came before them and it should not be on them to make up for the property owner's lack of planning. The health of the tree trumps the convenience of the owners. Norman noted that there was a larger garage proposed and approved that the owners chose not to build and that these spots have historically been parking spots.

Commissioners decided that the best course of action was to get a few opinions from arborists regarding the best way forward. It was noted that even if the area has historically been used for parking, the Commission is well within its rights to improve on conditions and that both cars and the tree were smaller in earlier times.

Waldron – Landscaping 22 Bayside South (36-159.13)

John Kett (Reed Hildebrand) spoke on behalf of the Waldron's as it came to light during the previous view channel discussions that the applicant was supposed to come back before the Commission to review the landscape plan and had not done so.

Landscaping was brought to the Commission in June of 2021 and it was decided that the plan was not approved and would be reviewed when the view channels were discussed. Previously, the applicant committed to planting buffers along the southern and northern property lines, John Kett noted that the southern plants had been installed but the northern line ran into some trouble.

The plan proposes a fescue meadow and gardens along the structure. The applicant installed 2 honey locusts rather than 11 trees that had previously been proposed, all of this was done without approval of the Commission as required by the Order of Conditions.

Commissioners asked why there was "no room" for more trees if the plan includes a meadow and Mr. Kett explained that the owners were "sun people" rather than shade and wanted to ensure that the property got ample sunlight. It was noted that the honey locusts are not native but neither were the 11 other proposed trees.

Action: A motion was made, and seconded, to continue this matter to the next meeting pending a site visit from the water to view the property.

Passed unanimously

418 Edg/VH Road (AP 21-128)- Jane Varkond noted that this 16 acre parcel is tax title land and we should consider utilizing it for conservation property and moth mitigation for town projects. There is also potential to use it for a sand storage area. Commissioners felt this was a good idea and asked Jane to follow up with the Select Board.

TTOR Beach Management Plan - TTOR is putting together a working group and asked that Jane Varkonda be in the group, Jane would like a Commissioner to be on it as well. Jane noted that we would start doing site visits in preparation for the NOI that TTOR plans to file.

Approvals: Commissioners approved the following Conditions:

- Purdy
- 36 Smith's Way (Local)
- 77 North Neck

After research, it was found that the original condition that mandated regular maintenance apply only to portions above the waterline" was inconsistent with prior Orders and that spiles have traditionally been considered part of regular maintenance.

Action: A motion was made, and seconded to approve changing the Condition for 77 North Neck to allow for regular maintenance.

Passed unanimously

Action: A motion was made, and seconded, to approve a three conditions

Passed unanimously

With nothing further to discuss the meeting was adjourned at approximately 5:52 PM