

Case No. 43-22

Application filed: 17 November 2022

### 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 relating to the request by the Harbor View Hotel Owner LLC to modify a special permit originally issued in 2008, amended in 2018, and approved by the Martha's Vineyard Commission (MVC) in 2022. The project involves: (1) the demolition of the Bradley Cottage and the construction of a 9231 s.f. replacement structure containing a 3550 s.f. spa and four guest rooms (construction of a 7080 s.f. structure approved in 2018), (2) the demolition of the Morse Cottage and the construction of a 7785 s.f. replacement structure (construction of a 7080 s.f. replacement structure approved in 2018), (3) new construction of the 8780 s.f. Pease Cottage (construction of 9066 s.f. structure approved in 2018), and (4) the demolition of the Snow Cottage and the construction of a 4373 s.f. replacement structure (Snow Cottage reconstruction approved in 2018 - no new modifications are proposed.) The proposed spa will not be open to the general public. The property is located at 131 North Water Street (Assr. Pcl.20B-107) in the R-5 Residential District

1. On 17 November 2022 the application, a true copy of which is marked "A," was presented to the Town Clerk.
2. Because of the complexity of the project and a number of moving parts, the applicants agreed to waive the necessity of holding the public hearing within 65 days of the receipt of the application.
3. An advertisement, a true copy of which is marked "B," was published in the Vineyard Gazette on the 10<sup>th</sup> and the 17<sup>th</sup> of March 2023.
4. 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, 29 March 2023, the hearing was opened and held via Zoom. The following board members were in attendance: Martin Tomassian – Chair, Carol Grant, Nancy Whipple, Thomas Pierce, and Robin Bray - alternate. Mr. Tomassian opened the meeting and read the necessary requirements for conducting remote meetings in compliance with both the Governor's order and the Open Meeting Law.

Marilyn Vukota of McCarron, Murphy & Vukota gave a brief introduction to the project. The initial request for modifications to the 2018 Master Plan was submitted to the ZBA in September of 2020. The application was then referred to the MVC on 15 September 2020. The MVC decision was filed on 27 August 2021 and then appealed to Superior Court by the applicants. A revised decision was issued by the MVC on 12 July 2022.

Ms. Vukota said that all the work approved under the 2018 Master Plan on the main building and on the Roxanna Building (formerly the Mayhew Building) has been completed. The modifications now before the board concern just four of the eleven buildings on the Harbor View campus: three of which will be demolished and rebuilt and one of which will be a new build.

Bernard Chiu, the owner, noted that when the hotel was originally built in 1891, there were no other buildings in the vicinity. He said that his company has invested \$35 million to bring the hotel back to its original grandeur. In addition to renovating both the interior and the exterior of the buildings, new energy efficient mechanical systems have been installed, along with new landscaping.

Mr. Chiu noted that the hotel has been the recipient of numerous awards in recent years including: Condé Naste's Reader's Choice Award, *Travel & Leisure's* Best New Hotels of 2021, and *Cape Cod Life's* Best of the Cape and Islands 2022, among others.

Mr. Chiu commented that the Harbor View provides 1.7% of Edgartown's operating budget. Edgartown room occupancy tax has risen from \$280,000 in 2017 to \$600,000 in 2022 – an increase of 132%.

Mr. Chiu said that he hopes the board will approve the proposed scaled-down modifications to the 2018 plan.

Rod Jané, vice-president of development for Upland Capital, said he has worked with Mr. Chiu for over 25 years. He said that he is taking over the presentation because of the untimely death of the excellent Sean Murphy. He said his aim is to give the board an overview of the improvements that have been done as well as the modifications to the 2018 plan they would like approved.

Jané catalogued the improvements made to the main building and the Roxanna building, which is adjacent to the pool. He noted that all the guest rooms in the main building have been renovated and all window-unit air conditioners removed. The restaurant and ballroom were also renovated and a new wine cellar installed.

Jané noted that 67 arborvitae were installed along the boundaries of four neighboring properties as well as 200-feet of new wood fencing. In response to concerns of neighbors, the trash and recycling operations were relocated away from the abutters and improved. The number of pickups were also reduced; no pickups are made prior to 8 a.m. Kitchen fans were made quieter and more efficient. Town sidewalks and entrances on Fuller Street were also improved. Neighboring bounds were re-surveyed.

Mr. Jané said that Mr. Chiu has always made it a priority to work with his neighbors.

Mr. Jané then highlighted the proposed modifications currently before the board.

1. Spa will be relocated from the main building to the basement of the new Bradley Cottage. Spa square footage will be increased by 1875 s.f. to 3550 s.f., however the number of treatment rooms will remain at five.

2. Ballroom expansion of 1288 s.f. will not be built and the ballroom dining function capacity will be reduced from 216 to 135.

3. Expansion of 51 guest rooms in the Roxanna building will not be built, a reduction of 8097 s.f.

4. Bradley Cottage, which will include the spa, was approved at 7080 s.f. in 2018 and at 9,650 by the MVC, will be reduced by 419 s.f. to 9231 s.f. The Bradley Cottage was approved in 2018 as a three-story structure. The current proposal is for two stories above grade and one below.

5. Morse Cottage will be increased from the approved 7080 s.f. to 7785 s.f. - an increase of 705 s.f.

6. No changes are proposed to the 2018 approved square footage of the Snow Cottage, which will remain at 4373 s.f.

7. The proposed Pease cottage was approved in 2018 at 9066 s.f. has been reduced by 286 s.f. to 8780 s.f. and relocated to the adjacent asphalt parking area rather than on the Great Lawn.

The overall square footage approved in 2018 has been reduced by 5547 s.f., from 113,759 s.f. to 108,212 s.f. Mr. Jané also commented that all four of the cottages approved in 2018 were three-story, above-ground structures; the Bradley Cottage will now have just two stories above grade.

The number of parking spaces provided will remain at 97. The number of guest room keys has been reduced from 146 to 135.

Mr. Jané then reviewed the modifications on the site plan overlay, which illustrated the difference between the footprints of the existing buildings and the proposed. Existing and proposed elevations of the Bradley, Morse, and Snow Cottages were reviewed, as were the elevations of the proposed Pease Cottage.

Mr. Jané reiterated that the spa will not be open to the public, only to hotel guests and guests of hotel guests. He said the proposed hours are 8 a.m. to 8 p.m. As noted before, there will be five treatment rooms. Mr. Jané commented that in the 2018 plan, the spa was located on the first floor of the main building. He said he believes this is a much better location.

Mr. Jané then addressed the new construction schedule, which has been extended to three years from the date that all permits required for construction are obtained and per the conditions outlined in the revised MVC decision. Exterior construction will take place only between 7 a.m. and 6 p.m., Monday through Saturday, from October 1<sup>st</sup> up to Memorial Day.

Mr. Jané concluded his presentation by thanking the board and reiterating that the overall plan for the hotel has been reduced in scope and footprint from the 2018 plan

Mr. Tomassian then asked if there were any letters from town boards or departments. The assistant replied that there were none. Mr. Tomassian then asked if anyone wished to speak in favor of the proposal. Alice Mattison who has owned 100 North Water Street since 1975, said that she is thrilled with what Mr. Chiu and his team have done to the hotel. She said that Mr. Chiu has brought the hotel back to where it should be, and she encouraged everyone to visit the hotel and enjoy its facilities. She said that she has known the Chius since 1990 and that they are a wonderful family.

Mr. Tomassian said that letters had been received from Lynn Allegaert of 14 Thayer Street, from Eugene & Sara Barbato and Janice Barbato Conroy & Francis Conroy of 122 North Water Street, Lisa & Joe Wargo of 124 North Water Street, and from Dylan Sanders of Sugarman, Rogers, Barshak & Cohen, P.C. - representing neighbors Robert Forrester, Geoff Caraboolad, Jim Swartz, and Rich Zannino. Mr. Tomassian assured those present that all four letters had been distributed and read by the board members and the applicant's attorneys. He said that if the authors of the letters were present, they were welcome to speak, but asked that they not reiterate their letters in their entirety.

Eugene Barbato said that he believed the scale and mass of the proposed cottages was out of proportion and urged the board to refer the application to the Historic District Commission (HDC). The assistant noted that the project will need approval from the HDC in order to get a building permit. Mr. Barbato was primarily concerned with the renovations to the Snow Cottage, which is adjacent to seven abutting properties. He said that he believed the construction would have a significant negative effect on the residents in the neighborhood.

Lynn Allegaert of 14 Thayer Street said that she would like the board to require the Harbor View to abide by a 2008 written agreement with the prior owners of the hotel, which requires that her property be completely screened from the hotel. Ms. Allegaert noted that the grade of the Harbor View property is 4-feet higher than her abutting lot. She said that without adequate screening the Pease Cottage will destroy her privacy and loom over her backyard patio and pool.

Lisa Wargo of 124 North Water Street said she was also concerned about the size and massing of the proposed new cottages, noting that some are tripling their size. She said that even though the number of guest keys are reduced, the total number of guest rooms is increasing, which will result in an increase in foot and vehicle traffic. Ms. Wargo urged the board to revisit and reverse portions of the 2018 proposal.

[No one from Sugarman Rogers added commentary to their letter of 28 March 2023, which raised a number of concerns including: negative changes to the neighborhood resulting from the reconfiguration of the pool bar and its use as an entertainment space, the use of 119 North Water Street and its dock as an ancillary guest house, and the increasing commercialization of the area. Mr. Sanders noted in his letter that some of these activities had been curtailed after complaints from the neighbors.

In his letter, Mr. Sanders also asked that ZBA impose 'meaningful enforceable mechanisms' on the use of the spa, set limits on the hours of construction, and other conditions imposed by the 2022 MVC Settlement Decision. Mr. Sanders stated that he believed the permit

should be denied as the project will be more objectionable to the neighbors and detrimental to the character of the area.]

Mr. Jané said that in 2018, 14 Arborvitae were planted along the shared boundary of the Allegaert property. Ms. Allegaert complained, and 13 more Arborvitae were planted. He submitted a photograph of the densely planted boundary for the record. He said he was surprised and confused by Ms. Allegaert's comments.

Mr. Jané said that no modifications to the approved 2018 plans for the Snow Cottage are proposed. The 2018 permit is still valid.

Mr. Jané noted that the total number of bedrooms is down slightly. He noted that it has been shown that more traffic is generated from two single bedrooms than from one two-bedroom unit.

Mr. Jané said that he worked with Mr. & Mrs. Wargo to effectively screen their property by planting twenty or thirty 8 to 10-foot high Arborvitae. In addition, new fencing was installed along the entire shared property line. He commented that the Wargos had a hand in designing the fencing. He said that the Harbor View has tried to be very good neighbors and will continue to work closely with the abutters.

Mr. Tomassian then closed the public portion of the hearing for discussion by the board.

Ms. Grant asked how much higher the new Snow Cottage will be. Mr. Jané said that the current cottage is between 26 and 28-feet high. The new cottage will be 32-feet high. He noted that the new third story will be within the roof pitch. He reiterated that the new Bradley Cottage has been reduced from a three-story, above-grade structure to a two-story, above-grade structure.

Mr. Pierce said that although he was not on the board in 2018, it appears that the proposed modification has reduced the overall scope of the project from its 2018 iteration. He said he believed that if not for the pandemic, the Harbor View could have gone ahead and built what was approved in 2018 without coming back to the ZBA. He said he thought that moving the Pease Cottage off the Great Lawn and reducing the height of the Bradley Cottage were both improvements. He said he believes that the Harbor View has been responsive to the neighbors.

Ms. Bray noted that the Morse Cottage has been increased by about 10% from the 2018 plan. She asked if the height had been increased as well. Mr. Jané replied that there is no increase in height; it remains at 32-feet. Ms. Bray asked if Ms. Allegaert could explain her concerns. Mr. Tomassian cautioned that that would involve reopening the hearing.

Ms. Whipple said that the presentation allayed many of her concerns, and that she is in favor of allowing the modifications.

Mr. Tomassian said that he agreed with Mr. Pierce. If it were not for the pandemic and the fire in the Mayhew building, the 2018 plan would have been built. He noted that the Harbor View went through a thorough and lengthy MVC process which, he said, he would not wish on his worst enemy. He said he believed this plan was basically an improved and slightly scaled down version of the plan approved by the board in 2018.

Mr. Pierce made a motion to approve the modification as presented. He said he believed the Harbor View had done its best to screen the property and ensure the privacy of its neighbors. He said he believed relocating the Pease Cottage off the Great Lawn was an improvement over the 2018 plan, as was reducing the Bradley Cottage to two above-grade stories.

Ms. Grant seconded the motion and voted to grant the special permit for the same reasons.

Ms. Bray, Ms. Whipple, and Mr. Tomassian also agreed to grant the permit for the same reasons.

Motion carried unanimously 5-0 by roll-call vote.

Respectfully submitted,

Lisa Morrison  
Assistant