

# Edgartown Planning Board - Meeting Minutes

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Tuesday, February 21, 2023, 5:30 PM

The Edgartown Planning Board scheduled a meeting for Tuesday, February 21, 2023, 5:30 PM.

*The meeting was audio and video recorded. Attendees participated by video conference, in accordance with Chapter 22 of the Acts of 2022. 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.*

## **CALL TO ORDER**

Meeting called to order at 5:31 PM. Present: Lucy Morrison (Chair); Mike McCourt, Glen Searle, Scott Morgan, James Cisek (alternate).

Absent: Fred Mascolo.

Others present: Doug Hoehn, Julia Livingston, Mike Tomkins (VLSE) Tracey Smith, Penn Edmonds;

## **SCHEDULED BUSINESS**

### **5:30 PM - PUBLIC HEARING (CONT'D FROM 02/072023 ET SEQ.) - SP: MARTHA'S VINEYARD HOSPITAL, INC., 490 EDGARTOWN VINEYARD HAVEN ROAD (11B-243)**

**Application to construct and operate a Senior Residential Facility, comprised of a seventy (70) bedroom skilled nursing facility, to be contained within five (5) "houses" each of which will have fourteen (14) bedrooms; also to construct a seventy-six (76) bedroom Workforce Housing complex, consisting of seven (7) structures; also to conduct site activities including clearing of land, grubbing, grading, filling, trenching, installation of utilities, construction of support structures, roads and parking areas, construction of paths, lighting, and landscape elements, and all other work necessary thereto.**

Present for the Applicant: Geoghan Coogan; Also present: Chris Alley (SBH, Inc.), Ed Olivier, Ed Pesce, Denise Schepici, Mr. Mark Nicotera, Mr. Neil Lemieux, others; also present: Matt Poole (Health Agent), Linda Armor, Others.

The public hearing resumed at 5:32 PM

### **Presentation / Comments**

Ms. Morrison noted some general concerns:

- The applicant clarified the offer to stockpile firewood outside the gates of the site, for availability to the public on a first-come first served basis.
- The Storm Water Pollution Prevention Plan ("SWPP") is anticipated to be developed and finalized prior to construction activities; the Plan is required to be available 30 days before the MPES permit application is submitted to the EPA. The applicant is comfortable with providing a copy of that plan to the Town for review by the Highway Superintendent and Building Commissioner.

- Applicant has offered to sort and separately dispose of construction materials based on type (cardboard, clean wood, metal scraps, sheetrock, and material that is not recyclable or reusable.)
- “Wetting Agents” shall not include chemicals or additives, but simply consist of water.
- “Workforce Housing”: As offered by the applicant: the goal is to prioritize workforce housing units to year-round employees.

There was extensive discussion in regard to the off-site nitrogen mitigation process, scheduling, prioritization of implementation (based on economic status and septic-failure process). It was noted that the MV Hospital would be providing funding, with other entities making determinations as to which specific properties would be considered for the upgrades.

- Mr. Cisek asked if there could be a ‘play area’ developed for on-site use by residential families and their children. Mr. Olivier suggested that there could be two areas – immediately to the south of the southern-most buildings, and immediately to the south of the northern-most housing buildings – that could include ‘play areas.’
- The applicant offered to engage in discussion with neighbors to ‘fine-tune’ their landscaping plan to enhance natural screening to Teaberry Lane abutters.

Mr. Morgan asked for clarification in regard to the Board of Health’s conditions relative to the off-site nitrogen mitigation. The board heard extensive comments on the topic, from Matt Poole (Edgartown Health Agent), Mr. Ed Pesce, and Chris Alley (SBH, Inc.)

- The proposal is based on the MVC’s allowable Total Nitrogen Daily Load limits.
- Mr. Alley described the extensive calculations and processes that led to the decision to the decision to use off-site mitigation

Mr. Morgan asked if the off-site mitigation would actually offset the higher-than-allowable nitrogen generation on the site, and whether the excessive nitrogen level on the subject property would impact water quality.

Mr. Pesce noted that nitrogen loading does not impact the quality of ground-water from a human-use standpoint – there is no risk to public health relative to the amount of nitrogen being deposited in the ground; the risk is to plant and aquatic life, and the mitigation as proposed will help to reduce or minimize the impacts that this development will have on the site.

There was some discussion relative to the potential to tie into the municipal sewer system; it was determined that, while the opportunity MAY exist in the near future, and if so, that opportunity MAY become available to the applicant, it is not yet an option; the proposal as presented is what should be considered.

The septic system monitoring for off-site mitigation systems was discussed; it was noted that the off-site monitoring and management would be paid for by the applicant for the first five years; after that point, management of those systems would be paid for by the separate property owners.

The on-site systems would be maintained and ground-water quality monitored by the applicant in perpetuity at their own expense.

It was understood that the off-site systems would be ‘marketed’, designed and installed by TRI and the Town in cooperation; the applicant would simply provide funding.

Mr. Morgan asked if the use of medications on site would impact water quality through the septic systems; Mr. Pesce noted that the de-nitrifying septic systems do a very good job at removing up to 80%

of medication remnants from greywater from on-site septic systems.

Mr. Searle asked questions about noise mitigations for generators. Mr. Mark Nicotera noted that the generators would be ‘embedded’ into the hillside, with about ten-vertical feet of earthwork helping to reduce sound; the generator enclosures are designed to reduce sound; and there is a significant distance between the generators and the nearest residential homes.

Mr. Searle asked if there was a traffic design that illustrated the increase in traffic. Mr. Pesce: The Traffic study in 2020 did note traffic counts and increases; the peer-reviewed study confirmed the anticipated impacts.

Mr. McCourt noted the enormity of the effort expended to review the application. Mr. McCourt asked whether the project could be connected to the municipal wastewater system? Mr. Coogan: The option does not exist at the moment. Ms. Morrison clarified the question: If the option existed, what would the applicant do? Mr. Coogan: If the option existed, we would take advantage of it. Ms. Morrison: at what point does the option to connect to municipal wastewater no longer become feasible? Mr. Lemieux: an earthwork contract will likely be awarded as soon as permitting becomes possible; if a municipal septic connection is offered inside of three months from approval by the Planning Board, it might be considered; however, if more than 90 days out, the option likely would not be able to be exercised.

There was brief overview as to the timing of the decision process by the Wastewater Commission.

Ms. Morrison: Construction start time is noted as 7 AM to 5 PM. Ms. Morrison suggested that 8 AM to 6 PM might be more reasonable. Mr. McCourt: The site needs to be monitored; no objection to 7 AM. Mr. Morgan: I’d rather see 8 AM to 6 PM. Mr. Searle: 8 AM to 6 PM. Mr. Lemieux: The schedule is generally four ten-hour days; a fifth day (Friday) is sometimes required; 7 AM to 5 PM is consistent with standard construction processes; Mr. Cisek: 7 AM to 5 PM is fine with me.

The MVC Decision and conditions of approval were reviewed. It was noted that the MVC conditions must be adhered to; the town can be MORE restrictive, but not less.

The Board reviewed the testing regimen for on-site and off-site advanced treatment septic systems.

Mr. McCourt: Is the applicant required to upgrade systems if a more efficient one is developed? It was noted that the systems being installed are ‘cutting edge’, and anticipated to be effective and in-use for at least the next twenty years, with significant upgrades not anticipated in the next several years.

Ms. Morrison also noted that the DEP has a process to review new types of systems and would need to be heavily involved in monitoring their effectiveness.

#### Public Comment

Mr. John Schaefer spoke in favor, citing the benefits to on-island health-care options, both through the hospital and the Navigator Homes project, and the benefits of the staff housing options.

Ms. Linda Armour spoke in opposition, expressing concerns about the environmental impact, the nitrogen mitigation proposal, the potential for traffic congestion, and the potential cost of the services to long-term residents. “This is not for the average senior.” Ms. Armour suggested that smaller separate facilities in each of the on-island towns would have been a better option.

Mr. Chris Johnson spoke in favor of the project, citing the benefits of the staff housing.

Ms. Cindy Trish spoke in favor of the project, citing the benefits of the skilled nursing facility and the staff housing.

Mr. Rob Ianelli spoke in opposition, citing the location as inappropriate; Mr. Ianelli asked whether a

higher earthen berm could be built, and more mature landscape materials (taller evergreen trees) could be installed? Mr. Pesce responded that a constructed earthen berm would result in greater disruption to the existing natural landscape, and may not be acceptable to the Natural Heritage. Mr. Pesce agreed that the landscape plan could be reviewed for specific materials that are proposed to be used; Mr. Coogan also agreed that a site visit for neighbors could be scheduled at some point in the early Spring.

Mr. Pesce noted that the design of the overall site had changed significantly over the past two years in an attempt to address neighbor concerns, and to maintain as much visual screening and separation wherever possible.

Ms. Juliet Mulinare asked several questions in regard to the maintenance costs of the proposed off-site mitigation systems. Mr. Alley: Roughly \$800-\$1,000 per year. Ms. Mulinare: who pays for that? Mr. Pesce: The hospital for the first five years. Ms. Mulinare: if not regularly maintained after year five, do the systems fail? Mr. Poole: if the system fails, it will still meet title V requirements, but would no longer be considered “advanced nitrogen treatment.”

Mr. Poole also noted that the Title V rewrite, anticipated to be enacted in the next fifteen years, will mandate advanced nitrogen treatment for all new or rebuilt systems, and so such costs will be incurred by all septic system owners.

Ms. Mulinare: Are the concerns raised by the Police / Fire still valid, or have they been addressed? Mr. Pesce noted that the Chief had reviewed the access to the site, and access to the individual buildings, and has approved the site plans.

Ms. Mulinare asked whether similar facilities elsewhere had resulted in impacts to call numbers of the local Fire / Police / EMS services. Mr. Olivier: Mr. McNamee’s memo outlined some concerns; however, the size and capacity of the facility as proposed would result in an increase of about three new ambulance / transport calls per month. The on-site trained staff will help to remediate that burden. The workforce housing side is anticipated to result in very few new police calls (in a similar facility elsewhere) resulted in one call in seven years.

Ms. Mulinare noted that the traffic study was done during the Covid-19 Pandemic, and asked whether the sample size was sufficient, and if the proposed crosswalk was included in the transport study. Mr. Pesce: The data analysis was peer-reviewed, and the raw data was adjusted using Mass DOT standards. In addition, the proposed crosswalk was a recommendation of the traffic study, and is proposed for that reason.

Mr. John Murry spoke in favor of the project, citing housing, access, and effectiveness of the design.

Mr. Ben Hall spoke in opposition to the project, citing traffic, congestion, overdevelopment, costs of the service expected to be provided, and other concerns, calling the site an ‘industrial size development’. Ms. Schepici responded that the staff housing was ‘inextricably linked’ to the success of the senior housing properties and the MV Hospital. Ms. Schepici also objected to the description of the development as ‘industrial-sized’, stating that this was a skilled nursing residential facility, no more or less. Ms. Schepici also noted that the finances of the proposal have been reviewed and developed in order to maintain the viability and success of the proposal.

Ms. Morrison noted the time, and asked if board members were available to continue the public hearing; all members affirmed their availability. Ms. Morrison stated that the continuance would be only to hear a closing statement from the applicant prior to closing the public hearing, and thereafter to deliberate on the application.

Ms. Morrison then declared with the GENERAL CONSENT of the board

*To continue the public hearing to February 28, 5:30 PM, for the exclusive purpose of hearing a closing statement from the applicant, thereafter to close the public hearing, and deliberate.*

WITHOUT OBJECTION. (7:22 PM)

**6:30 PM – PUBLIC HEARING (Continued from Jan 24, Dec 13, Nov 29, 2022) - SP: Eastern Wall, LLC, 58 Oyster-Watcha Road (41-1.1)**

**Construction of a guest house “larger than 900 square feet in total liveable area” within the coastal district.**

Present: Applicant, Lenard Schleifer. Agents: Michael Barclay, Chris Alley, SBH.

Mr. Morgan recused himself from deliberation at 7:23 PM.

Public Hearing was continued at 7:23 PM.

**Presentation:**

Mr. Schleifer noted the exhibit in the project file relative to Massachusetts Case Law regarding the authority of a SPGA in considering Public Hearings.

Mr. Schleiffer offered to limit his proposed guest house to no more than 1,349 square feet.

After brief deliberation, the board generally that the compromise was reasonable.

Ms. Morrison noted that the guest house would be limited to no rentals of the guest house; applicant agreed.

Ms. Morrison asked about stormwater management; Mr. Alley noted that soils were very ‘porous’, and surface water was not at issue; Mr. Alley noted that stormwater management structures for roof runoff would be included in the revised plans which would be submitted to the Planning Board.

There being no further public comment, it was MOVED by Morrison, SECONDED by [Searle](#),

*To approve the oversize guest house as follows:*

*The guest house is limited in size to no more than 1,349 square feet in gross floor area as measured from the exterior wall surfaces;*

*A revised site plan, showing building location relative to lot boundaries, and subsurface stormwater structures adequate to management of stormwater from the roof shall be submitted to the Planning Board prior to issuance of a building permit*

*A revised set of exterior elevations showing compliance with the limits on gross floor area of the structure shall be submitted to the Planning Board prior to issuance of a building permit;*

*The guest house shall not be rented separately from the main house on the property.*

VOTED: 4, 0, 0 (7:31 PM)

Mr. Morgan rejoined the meeting at 7:32 PM.

**7:00 PM – CLARIFICATION OF SPECIAL PERMIT APPROVAL – 89 Turkeyland Cove Road (44-5.2) Robbie Robinson**

**Applicant wishes to clarify approval of demolition and rebuild included approval of a flat roof higher than 18’ above mean natural grade.**

Mr. Robbie Robinson requested clarification of a special permit issued on November 15, 2022, at the request of George Sourati, Principal Engineering Group, on behalf of Michael Bass, Trustee for the Turkeyland Cove Road Nominee Trust for a special permit to demolish a single family residence and guest house, and construct a new single family residence, guest house and boat house with associated utilities in the inland zone of the Coastal District and in Zone II of the Edgartown Ponds District.

The property is located at 89 Turkeyland Cove Road, Assessors Parcel, 44-5.2

Present for the applicant: Mr. Patrick Ahearn, Mr. Robbie Robinson.

Ms. Morrison noted that the applicant had informally requested a review of the special permit approval, and ‘de minimis’ determination and approval of a flat roof over 18’ in height above mean natural grade. It was noted that the proposal was the subject of a previous special permit application approved by the Planning Board.

The revised plans, and other exhibits were reviewed, showing the area of the structure with a flat roof. Ms. Reade Milne noted that the zoning bylaw requires explicit approval of flat roofs over 18’ in height above Mean Natural Grade, and that the special permit neither mentioned nor expressly approved of the same.

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

*That the change does not constitute a de minimis change and is required to be reviewed as a modification to the special permit; further, that a public hearing be scheduled at the earliest convenience.*

VOTED: 4, 1 (MORRISON), 0. (7:45 PM)

**ADJOURN**

There being no further business, it was MOVED by Morgan, SECONDED by Searle

*To Adjourn*

VOTED: 5, 0, 0 (7:15 PM)

Respectfully submitted,

Douglas C. Finn  
Clerk Pro Temp