

# Edgartown Planning Board - Meeting Minutes

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Tuesday, October 3, 2023, 5:30 PM

The Edgartown Planning Board scheduled a meeting for Tuesday, October 3, 2023, 5:30 PM.

*The meeting was audio and video recorded. Attendees participated by video conference, in accordance with Chapter 2 of the Acts of 2023. 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**

Meeting called to order at 5:31 PM.

*Present: Lucy Morrison (Chair); Glen Searle, James Cisek (alternate), Mike McCourt.*

*Absent: Scott Morgan*

*Others Present as noted.*

## **SCHEDULED BUSINESS**

### **5:30 PM - PUBLIC HEARING - Coastal District - Swimming Pool: AKACMV LLC, 13 Boldwater Road (38-3.18)**

In accordance with Section 5.1 of the Edgartown Zoning Bylaw, the Planning Board will hold a public hearing on Tuesday, October 3, 2023 at 5:30 PM, at the request of Reid Silva, Vineyard Land Surveying and Engineering, on behalf of AKACMV LLC, to construct an 18' x 45' in-ground swimming pool in the Coastal District.

The subject property is located at 13 Boldwater Road, Assr. Pcl. 38-3.18.

*Present for the Applicant: Reid Silva, VLS&E, Kristen Reimann.*

### **Presentation / Discussion**

Mr. Silva noted that the project had been approved in 2019 by the Planning Board and Conservation Commission. The project work had not commenced, however, and the special permit had expired.

The project has been resubmitted to both Conservation and Planning Board; the existing pool is reduced in size to 18' x 40', and the Conservation commission has requested that structures be pulled back from the buffer zone.

The proposed location for the swimming pool was noted.

The site plan was reviewed.

It was noted that the Planning Board has adopted a requirement for a draft hydrant connected to the drain of the pool; the applicant offered to construct same at a location suitable for same, and

acceptable to the fire chief.

The location of the mechanical equipment for the pool was noted as being about 250' from the nearest neighboring structure.

Mr. Silva noted that the pool equipment would be in a fenced-in area behind a six-foot fence, not a structure, per se.

Mr. Silva noted that the pool house was roughly 18' x 24'.

The previous conditions were reviewed, and the applicant agreed to abide by those conditions.'

No input from the public was received.

Public hearing closed at 5:42 PM.

### **Decision**

It was MOVED by Searle, SECONDED by McCourt

*To approve the application as presented, subject to standard conditions for swimming pools, including placement of a draft hydrant to serve the property as noted.*

VOTED:

MCCOURT: YES;

SEARLE: YES;

CISEK: YES;

MORRISON: YES.

VOTED: 4, 0, 0. (5:43 PM)

### **OTHER BUSINESS**

Ms. Morrison discussed scheduling of interviews with potential applicants.

After some discussion, it was noted that Tuesday, October 10, or Wednesday October 11 would be acceptable. Ms. Morrison noted that she would like to consult with applicants and would post notices for the meetings.

#### **Navigator Homes Project.**

Mr. McCourt asked for a site visit to the Navigator Homes site, in order to understand how the project is moving along, and check in with the developer.

Ms. Morrison asked Mr. Finn to reach out to Mark Nicoterra et als in order to arrange the site visit (potentially 9 or 9:15), and that a site visit will be scheduled at the convenience of the contractor and the board.

Mr Cisek would be interested in understanding how the applicant intends to reestablish a "vegetated buffer" along the road.

#### **Upper Main Street- Franklin Hotel**

There was some discussion relative to the Franklin Hotel, and whether the owners would be willing to discuss their plans for the streetscape in front of the property. Mr Finn will attempt to contact the current owners, and broach the subject.

### **5:50 PM - PUBLIC HEARING - Special Permit: Benevieve, LLC, 22 Herring Creek Rd (29-54.11)**

In accordance with Section 10.1.K of the Edgartown Zoning Bylaw, the Planning Board will hold a public hearing on Tuesday, October 3, 2023 at 5:50 PM, at the request of Rachell Silva, Millers

Professionals Co, on behalf of Benevieve, LLC, to make reparations for not abiding by section 10.1.k of the Edgartown Zoning Bylaw.

The subject property is located at 22 Herring Creek Rd, Assr. Pcl. 29-54.11.

*Present for the applicant: Rachell Silva , Chris Miller, Millers Pro Landscaping*

Ms. Silva agreed to proceed with four members.

### **Presentation / Discussion**

- Ms. Silva presented the site plan for the property.
- The house has been constructed, and a fence has been installed.
- Trees have been removed in order to facilitate construction.
- A satellite view from 2001 was reviewed.
- A “google map” from 2021 was reviewed.
- The site plan of the existing construction was removed.
- Applicant proposes to plant green giant arbor vitae along the side and rear lots lines.
- Mr. Searle expressed his dissatisfaction with the applicant, noting that the applicants past behavior.
- Ms. Morrison noted the restrictions in the zoning bylaw that would preclude issuance of a buildign permit within 12 months, or a property division within 24 months.
- It was noted that a second curb was approved by the highway superintendent.
- The owner has agreed to revegetate along the side and back of the lots in accordnace with the plan.
- Mr. Searle again voiced his displeasure with granting approval after the fact; Ms. Morrison noted that this would be the one ‘mulligan’.

### **Deliberation / Decision**

After no public comment, it was MOVED by Morrison

*To approve the plan.*

NO SECOND WAS RECEIVED.

It was MOVED by Searle, SECONDED by Cisek

*To deny the special permit.*

Ms. Morrison asked for clarification as to what the outcome would be if the board denied the proposal. Mr. Finn suggested that the property would then be in a state of violation, with no real means to make amends. Ms. Morrison asked Mr. Searle as to his intention in moving to deny the special permit. Mr. Searle suggested that he felt that the applicant should modify their plan to provide a better landscape design.

Mr. McCourt agreed with Mr. Searle’s intent. Mr. Cisek also agreed.

After procedural review,



### **Presentation / Discussion**

Mr. Finn noted that no comment had been received from town officers as to the adequacy of the road.

Mr. Cisek asked about proposed houses on the property. Ms. Morrison reminded the board that the types of development on the property were not subject to review at this time. Mr. Searle suggested that the division of land was acceptable to him, based on the road conditions and the surrounding lot.

It was MOVED by Searle, SECONDED by Cisek

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

VOTED: 4, 0,0 (6:31 PM)

### **6:30 PM - PUBLIC HEARING - Definitive Subdivision (Cont'd from 8/15, 9/19): David Pizzano and Walter Pizzano Jr, Trustee, Loon Cove Realty Trust, 9-11 Loon Cove Way (44-10.3131 and 44-10.3132)**

In accordance with Sects. 81K-81GG of Chap. 41 of the Gen. Laws and the Edgartown Subdivision Rules and Regulations as amended, the Planning Board will hold a public hearing on Tuesday, August 15, 2023 at 5:30 PM, at the request of Reid Silva, Vineyard Land Surveying and Engineering, on behalf of David Pizzano, and Walter Pizzano Jr. (Trustee of Loon Cove Realty Trust), to divide two separate parcels with a total area of about 10.2 acres, into three parcels, and to create a private road to serve all three lots.

The subject property is located at 9-11 Loon Cove Way, Assr. Pcls. 44-10.3131 and 44-10.3132.

*Present for the Applicant: Reid Silva, VLS&E*

Mr. Silva agreed on behalf of the applicant to continue with only four members.

### **Presentation / Discussion**

Mr. Silva reviewed the site plan, noting that the property was a 'land court' plan, which requires that divisions be conducted in a certain manner, which can make for a confusing presentation.

A slightly revised plan was presented.

Mr. Silva noted the slight adjustments to the road layout, which would widen the road by three feet to a minimum of 12 feet in width; adjustments would be made on the north side of the property, and would not encroach on south bounding neighbors.

Mr. Silva noted **the offer of a 30' no cut vegetative buffer and 50' no build buffer on the north side of the central lot to be created.**

There was discussion relative to the use of Loon Cove Road beyond the south-west boundary of the Pizzano property.

Mr. Searle noted that he had spoken with a neighbor (Ms. Francine Sohn), and that she had voiced no objection to the proposal.

Mr. Howard Seife expressed some concern about privacy along the road.

Mr. Joshua Sohn expressed concern about the potential for truck traffic on the road during construction, and the collection of debris / construction materials currently on the subject property.

Mr. Sohn also expressed concern about nitrogen loading on the property.

Mr. Silva noted that as the property was in the Katama district, **construction on the site would be**

**limited to four bedrooms per lot.**

Mr. Silva agreed to provide the ‘presentation plan’ to the board for its records.

Ms. Morrison suggested that some conditions could be imposed to address concerns, including that a road association should be formed, with a plan to prepare and maintain the road. If all three lots become members of the Turkey Land Cove Road Association, the requirement for a road association and maintenance agreement would be satisfied.

Ms. Francine Sohn noted no objection to the creation of a third lot. However, she did note that full cleanup of the lots should be a requirement for approval.

Mr. Howard Seife asked whether the applicant would increase the no-cut buffer on the lot. Mr. Silva noted that the offers made are what the applicant is willing to agree to.

Ms. Morrison asked board members if they would be willing to extend the no-cut buffer to 40 feet.

Mr. McCourt asked whether the applicants would extend to 40 feet. Mr. Silva suggested that if that was required, then it would be accepted.

Mr. Searle and Ms. Morrison suggested that the offers would be acceptable to them. It was noted that the ‘no-cut’ buffer would not be a ‘no-touch’ buffer, and the applicants would want to be free to add new plantings to increase screening and privacy.

Mr. Cisek asked about addressing the concerns of neighbors relative to site materials on the site.

Mr. Finn suggested that the applicant should be required to clean up the site as a condition for release of the lot. The board generally agreed.

Mr. Seife asked if the board would impose a wider no-cut buffer. There was some discussion. Mr. Silva suggested that he would be fine with what the board agreed was necessary, but asked for board consensus.

Ms. Morrison suggested **the 30’ no-cut buffer, with 50’ voluntary setback was satisfactory.** Searle agreed. Cisek agreed. McCourt agreed.

Ms. Morrison noted that the neighbors might negotiate something more restrictive, but that the proposal seemed satisfactory to the board.

Ms. Morrison noted that **a road maintenance covenant be drawn up for maintenance of the roads, to codify the rights of property owners to access the roads for transit, and for delivery of utilities, and to ensure that the road will be maintained in perpetuity, particularly if damaged by construction projects or other heavy traffic.**

There was some discussion relative to the Pizzanos taking all responsibility for the maintenance of the roads. Mr. Silva was asked if the Pizzanos would be willing to take on the whole responsibility for road maintenance to the owners of the three lots created in the subdivision, and would not require others to assist in maintenance responsibilities. Mr. Silva said – at a minimum, yes.

There being no further public comment, Ms. Morrison closed the hearing at 7:20 PM.

**Deliberation / Decision**

There was no further deliberation among members.

It was MOVED by Searle, SECONDED by McCourt

*To approve the project as presented, with standard conditions for subdivisions, and the*

*offers of the applicant as noted in the minutes.*

VOTED:

MCCOURT: YES;

SEARLE: YES;

CISEK: YES;

MORRISON: YES.

VOTED: 4, 0, 0. (7:21 PM)

**6:50 PM - PUBLIC HEARING - Coastal District Special Permit (cont'd from Sept 5, Sept 19): Rollin and Amy Schuster, 77 North Neck Road (31-1.1)**

In accordance with Section 5.1 of the Edgartown Zoning Bylaw, the Planning Board will continue a public hearing on Tuesday, October 3, 2023 at 6:50 PM, at the request of Reid Silva, Vineyard Land Surveying & Engineering, Inc., on behalf of Rollin and Amy Schuster, to construct a guest house within the inland zone of the coastal district; the existing detached garage will be reconstructed and converted to an 896 Sq. Ft. Guest House within the same general footprint.

The subject property is located at 77 North Neck Road, Assr. Pcl. 31-1.1.

*Present for the Applicant: Reid Silva, VLS&E.*

**Presentation / Discussion**

Mr. Finn noted that outstanding questions from previous meetings were relative to the small 'cabin' located at the southwest of the property, and whether it qualifies as a dwelling.

Mr. Silva noted that the original proposal was to convert the existing garage to a guest house; however, a neighbor has a deeded easement to an existing neighbor to use a portion of the subject land, and to improve an existing dilapidated cabin on the lot to serve as a guest house.

Mr. Silva noted that the issue had been 'kicked around' by the parties in question; the proposal has been changed so that the applicant now requests to simply convert the existing garage to a detached bedroom with an art studio attached.

Mr. Finn asked how the structure is currently used; Mr. Silva noted that it may be used as some sort of studio or workshop; however, the applicant is looking to expand the footprint, which requires a special permit under the coastal district regulations.

The revised floorplan for the garage rehabilitation was reviewed. Ms. Morrison noted that the space appears to exceed the requirements of a detached bedroom, as it comprises of two separate rooms, and likely exceeds 400 square feet.

There was extensive discussion relative to the use of the building, the intent of the owners, and the limitations on the property due to its location in the coastal district.

It was MOVED by Morrison, SECONDED by Searle

*To continue the public hearing to October 17, 2023, at 6:30 PM.*

VOTED:

MCCOURT: YES;

SEARLE: YES;

CISEK: YES;

MORRISON: YES.

VOTED: 4, 0, 0. (7:37 PM)

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

Mr. Charles Gilstad was updated as to the status of the ANR for Pennywise Path. A mylar and two paper copies will be left at the Planning Board office for signature.

Mr. Finn asked the board to clarify the questions for the Building Commissioner, as follows:

*What is the intent of the applicant?*

*Would a letter from the board to the Building Inspector (confirming their right to build a guest house within 5 years without a special permit, if they choose to rebuild their main house), satisfy their concerns?*

*Would such a letter satisfy the concerns of the building inspector?*

No other business was presented.

### **ADJOURN**

There being no further business, it was MOVED by Cisek, SECONDED by McCourt

*To Adjourn*

VOTED: 5, 0, 0 (7:42 PM)

Respectfully submitted,

Douglas C. Finn  
Clerk Pro Temp