



Meeting Minutes - Edgartown
Conservation Commission
September 13, 2023 (4 pm)

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

Commissioners Absent:

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

Public in attendance: Adam Kahn (Park City Wind), Alan Strahler (Town of Edgartown), Alec Berman, Brooke Kushwaha, Charlotte Hall, Chloe & Phoebe Dahl, Chris Scott, Darci Schofield (TTOR), Dawn Colantonio, Douglas Hoehn (SBH), Edward B Self, Eric Schlager, Glenn Larsen, Hans van Lingen (Avangrid), Helen Parker, Hilary Granis, James Cisek, Jan Romanowsky, Jane Bradbury, Jay Kaufman, John Brittain, Jordan Hoehn, Lucy Dahl, Patrick Johnson (Avangrid), Patrick Ahearn, Peter Fletcher, Rachel Self, Reade Milne (EDG Building Inspector), Reid Silva (VLSE), Richard Andre (Vineyard Power), Roger Schaefer, Russ Hopping (TTOR), Sarah Jane Hughes, Susan Catling, Timothy Moriarty (Brush Flanders & Moriarty), Tom & Becky Ross, Tracy Jones, Victor Colantonio

Park City Wind

Applicant: Park City Wind LLC - New England Wind 1 Connector

Location: the waters of Edgartown

Project: Installation of two offshore export cables beneath the ocean floor within Edgartown's offshore waters.

This hearing is being held pursuant a Remand Order from the Dukes County Superior Court, dated August 2, 2023, in case number 2374CV00016

Adam Kahn and Hans Van Lingen and Patrick Johnson and Richard Andre represented Park City Wind.

Commissioner Comment:

Commissioners asked the applicant to elaborate on their opposition to the Commissioners denial of the application; Adam Kahn explained that they felt the denial was inconsistent with the evidence placed before the Commission and the issues raised were outside the scope of the WPA.

Commissioners asked if the incidental take authorization has been renewed and has the number of Right Whale takes changed if it's been renewed. Hans Van

Lingen explained that the IHJ only relates to active work and none has taken place yet. He believes the new IHJ will be worded similarly to the expired one and he doesn't anticipate any changes to it. He noted that there have been no takes to date and explained the reporting process if there were to be a take.

The potential future cables and how they interact with Park City Wind's was discussed.

Public Comment: None

Action: A motion was made to continue for additional information.

The motion was seconded.

The second was withdrawn. Without a second, the motion failed.

Action: A motion was made, and seconded, to accept the recommendation of Town Counsel and to proceed with rescinding the denial of the 2/13/23.

The motion passed unanimously by roll call vote of members present (Commissioner Carlson's connection dropped)

Local NOI

Applicant: AKACMV LLC

Location: 13 Boldwater Road (AP 38-3.18)

Project: Seeking permission to relocate an existing parking area, to construct and maintain an in-ground swimming pool, pool house and associated landscaping.

Proposed removal of an existing deck and construction of a porch addition within the 200' local wetland buffer zone and Ponds District.

Documents shared: aerial of property, site plan (K Rieman)

Reid Silva reviewed the project which is a pool that was previously approved but never built. He confirmed that it was approved by the HOA in 2019 and that there were no major changes to the plan since then. Reid noted that some scrub oak, some pines, and brush would need to be taken out but no major trees.

Commissioner comment: The applicant was asked about their adherence to the ponds district lawn size regulations and Reid noted that the lawn size had not been an issue and the lawn size would actually be decreasing a bit with this project.

Commissioners asked for a revised letter from th HOA and site visit.

Action: A motion was made, and seconded, to continue to 9/27/23 to allow for a site visit.

Passed unanimously of members present

SE20-1700

Applicant: Anthony & Shipley Salewsky

Location: 8 Beach St (AP 29B-78.1)

Project: seeking permission to repair & maintain an existing pier, install two 8'x20' floats and 4 tie spiles, widen the "L" from 6'-8' and install downlit lights on the pier and install water & electric to the pier.

Documents shared: aerial of site, SBH site plan dated 8/21/23

Doug explained that this application is to add two floats (8'x20'), 4 spiles and an additional 2' on the "L". Marine advisory has vetted the project and approved the plan. Portions of the pier are past the faired pier line but it is pre-existing and the 2 floats are within the faired pier line.

Commissioner comment: Commissioners discussed the need for lighting to be downlit and no white caps on the spiles. The caretaker confirmed that the lights are all downlit.

Public comment: None

Action: A motion was made, and seconded, to approve the application with standard pier conditions:

1. Prior to construction or installation, all other required state licenses and federal permits must be obtained.
2. The Commission must be notified in advance (48 hours minimum) of any and all construction or repair work being done. Only routine maintenance and repairs are permitted – any substantial rebuilding will require a separate Order of Conditions.
3. No white caps are permitted on any spiles.
4. Pier is for private, recreational use only. No commercial activities are permitted.
5. No rafting of boats is permitted.
6. Lighting and utilities are approved, all lights must be downlights and any electric pedestal must have any top light removed.
7. Spiles may not be treated with CCA (Copper Chromium Arsenic) or any other leaching wood preservative.
8. Spiles may be driven and must NOT be jetted.
9. Tenders are not allowed to be stored on the beach or on vegetation.
10. The floats are to be removed for the duration of the commercial scalloping season and are to be stored off-site.
11. Once the renovations to the "L" are complete, only routine maintenance and repairs are permitted to the entire pier and spiles. Any substantial rebuilding will require additional permissions from the Conservation Commission.
12. Conditions 2-11 are ongoing and do not expire with this Order or the issuance of a Certificate of Compliance

Passed unanimously via roll call vote of members present with one abstention (Gibbs).

SE20-1701

Applicant: Goldeneye, LLC

Location: 81 South Water St (AP 29B-14)

Representatives: Doug Hoehn (SBH). Patrick Ahearn & Peter Fletcher

Project: seeking permission for additions and renovations to an existing dwelling, construction of an exercise spa, landscaping and related site activities.

Documents shared: SBH site plan dated 8/26/23, Ahearn Plans 9/11/23

Doug Hoehn explained the site and the pertinent resource areas. He explained how the slope of the law was used to determine if the property was a coastal bank based on the DEP description and determined it was not. He explained that Doug Cooper (Cooper Environmental) had done an assessment of the hydric soils on site and located those. The Velocity Zone (VE) is shown as well. The entire property is within the 200' jurisdictional area of the Edgartown Conservation Commission. Patrick Ahearn took over and explained that the grades and the retaining wall on the water side will remain the same. He noted that the impact on the view corridor will be reduced by approximately 2' which will leave 36' of view corridor. He noted that they are proposing a 12'x24' spa with an automatic cover. He noted that this modest addition will replace a 2001 addition and that the pool would not be visible from the street, beach or water. He noted that they want to do a new basement and that the pool equipment will be housed in the basement and Doug noted that he would add a drywell to the plan.

Commissioner comment: The Agent asked about mitigation for the constant mowing in the area that is technically swamp but is being maintained as lawn. She also noted that there was recently a tent and floor in the resource area and that the application had not contained foundation plans or mention of a full basement. The applicant was asked if the Tribe was aware of this project, Mr. Ahearn stated that the Tribe "is aware of the project and we are aware of their interest" and that they would be on site when construction was taking place. The Agent asked if the applicant has considered giving a view easement to the town, Mr. Ahearn noted that there had been some discussion but nothing is on the table at this point. Commissioners asked the difference between a "pool" & a "spa" as the HDC has expressly denied a pool. Mr. Ahearn stated that based on the size and depth this falls under a spa per the state building code.

Public comment:

Sarah Jane Hughes: Asked if the public would have time to review the additional materials that have been requested and would the public be able to comment on them. The Chair noted that they would on both accounts.

Jane Bradbury: Asked about the security fence as the pool could be dangerous and noted that their basement next door frequently floods and a full basement here would likely flood as well. She noted that the storm surge increases every year. She also noted that at several HDC meeting Mr. Ahearn has noted that the view channel is "a buildable lot" and abutters would like to know if it will remain open or built upon.

Doug Hoehn confirmed that the pool is 6.5' deep and Mr. Ahearn felt that the automatic cover would negate the need for a 4' fence based on his interpretation

of the state building code and that they planned for a 48" privet hedge with a guard in the hedge as a secondary line of security.

John Brittan: Abutter, noted that this is a pool, not a spa and that this is an avoidance of needing the 4' perimeter fence. He also noted that this is clearly in the public view from Collins Beach and the water. He felt that the verification of something being in the public view should be made by public officials, not the applicant. Mr. Brittan asked if the fence within the hedge will have to come back for HDC approval as it is a fence. He also noted that this is a residential neighborhood and this is being built as a short term rental and will alter the feeling of the neighborhood.

Mr. Ahearn noted that they had withdrawn the pool from the HDC application as it is not visible from the public way (note: HDC specifically denied a pool in their approval of the project).

Lucy Dahl: Expressed her concerns about the lifting of the house and noted that her house (across South Water St) floods in the winter.

Action: A motion was made, and seconded, to continue to 10/11/23 for a site visit and for the reception of the additional materials that have been requested.

Passed unanimously via roll call vote

Continued Public Hearings

Notice of Intent **SE20-1677 CONTINUED TO 10/25 per applicant's request**

Applicant: **Herring Creek Farm Landowners Association, Inc.**

Notice of Intent **SE20-1697 CONTINUED TO 9/27 for architectural plans**

Applicant: **Christopher Soverns**

Continued from 8/9/23 Eligible commissioners: Peter, Jeff, Bob, Christina

Action: A motion was made, and seconded, to continue HCF (SE20-1677) to 10/25/23 and Soverns (SE20-1697) to 9/27/23.

Passed unanimously via roll call vote of members present

Discussion Items: TTOR – deficiencies in implementing the conditions of SE20-1672

The Agent noted that upon a site visit by Town Staff it was noted that there was a lack of signage and symbolically fenced OSV corridors, both of which were conditions of their Order.

Darci Schofield noted that the oceanside OSV trails were all fenced and portions of other areas were fenced in the manner that TTOR has historically denoted the OSV corridors and how they understood the requirements of the Order. She noted that when the concerns were raised and they received clarity on the expectations they immediately ordered more posts and are continuing to install the fencing.

Staff is currently prepping for the incoming hurricane so the symbolic fencing has slowed due to storm prep.

Darci noted that they had misinterpreted the signage requirements and are working to remedy this and have ordered new wayfinding signage.

The Chair noted that failure to comply with an existing order does not bode well for future compliance.

Rachel Self asked if citations would be issued for the ongoing non-compliance. She inquired about the status of the porta potties and symbolic fencing. She shared a picture of the symbolic fencing and expressed disappointment with their installation, noting that this was the only ingress and egress to homes and questioned how this preserves the historic views and vistas. The Agent noted while she understood how these stakes look, it is what needs to be done pre the Barrier Beach management guidelines and is necessary to allow OSV travel.

Administration:

Action: A motion was made, and seconded, to approve the minutes of 8/23/23 as presented.

Passed via roll call vote

Action: A motion was made, and seconded, to approve the Sabatini conditions as presented.

Passed via roll call vote

There was discussion of the removal of stakes from the beach and Rachel Self asked if the Commission could require TTOR to take action, the Agent noted that it was up to the Beach Manager and while they should take them out, the Commission could likely not order it done.

Action: A motion was made, and seconded, to adjourn at approximately 5:52 PM

Passed unanimously