

Case No. 17-24

Date Appeal Filed: 18 April 2024

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 pertaining to the appeal by Victor Colantonio, Trustee of the Dawn Roberta Colantonio Revocable Trust, under M.G.L. ch 40A, sections 8 & 15. The appeal concerns the Building/Zoning Inspector's denial of an enforcement request relating to the Trustees of Reservations activities on Cape Poge. The Colantonio trust owns property at 55 Lighthouse Road and Road to the Gut (Assr. Pcl. Map 3, Lots 11 & 2.2).

1. On 18 April 2024 the application, a true copy of which is marked "A," was presented to the Town Clerk.
2. An advertisement, a true copy of which is marked "B," was published in the *Vineyard Gazette* on the 17th and 24th of May 2024.
3. 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 and abutters to abutters 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, 5 June 2024 at 4:45 p.m. the hearing was opened and held via Zoom. The following board members were in attendance: Martin Tomassian – Chair, Carol Grant, Nancy Whipple, Tom Pierce, and Robin Bray – alternate.

Chairman Tomassian opened the hearing and said that the issue before the board is whether to affirm, reverse, or modify the decision of the Zoning Inspector as stated in her letter dated 19 March 2024.

After explaining the format of the meeting, Mr. Tomassian asked Mr. Colantonio for an extension in case the hearing required a number of additional meetings. After some technical difficulties joining the meeting, Mr. Colantonio agreed to an extension of 165 days and began his presentation [See file: Presentation Zoning Board of Appeals Hearing, 5 June 2024].

Mr. Colantonio said he is asking the board to intervene in the Building Inspector's denial of an enforcement action in the R-120 Residential District and the Cape Poge DCPC. He said he is asking the inspector to make a determination whether or not the Trustees of Reservations (the "Trustees") are in compliance with the Edgartown Zoning Bylaw and the Cape Poge DCPC.

Mr. Colantonio said that the Building Inspector reasons for not taking enforcement action were threefold: (1) the Planning Board is in the process of assessing the Trustees' permit status; (2) the 1990 special permit from the Planning Board is missing; and (3) without the 1990 permit the Building Inspector cannot determine if there has been an increase in the intensity of use.

Mr. Colantonio said that he believes the inspector has a duty to enforce the bylaws, which should not be suspended while the Planning Board deliberates. Mr. Colantonio said that even though the 1990 special permit cannot be located, it is clear that the permit did not authorize thousands of 4-wheel drive vehicles per year to cross the Dike Bridge, as the bridge was out of commission until 1994. In addition, the permit did not allow tour trucks, canoe rentals, or the collection of money from every pedestrian who wished to access the beach. In addition, the 1990 permit did not grant permission to use property not owned by the Trustees, such as land owned by the town, the U.S. government, and private landowners.

Mr. Colantonio quoted from an April 2022 letter sent to him by the Trustees, where they say that it is not their job to regulate trespassers on private property. Mr. Colantonio said that what the Trustees are doing is allowing several hundred OSVs to access the beach, all day every day, with no regard for where they go and what they do. Mr. Colantonio said that Trustees do not have a valid special permit for their activities and, in his determination, there is no question that there has been an increase in the intensity of use since 1990. Mr. Colantonio said that there needs to be a new special permit process to cover the Trustees' current activities.

Mr. Colantonio noted that he has been a taxpayer for 25 years, and is a member of the Chappaquiddick Island Association, a Derby fisherman, and a member of the MV Surfcasters. He said his only wish in bringing this appeal is 'to prevent chaos by enforcing compliance to the norms of ordinances and regulations' of the town of Edgartown. He asked that the board allow the Zoning Inspector to make a determination whether or not the Trustees' activities are in compliance with existing bylaws and regulations.

Zoning/Building Inspector Reade Milne said that she and others have tried to locate the 1990 special permit, which is not at the Registry of Deeds, the Town Clerk's office, or in the Planning Board archives. She said she has no baseline against which to determine whether or not there has been an intensification or change in use. Until the Planning Board reviews the situation, Ms. Milne said she had 'nothing to go on.'

Ms. Milne said, in a letter to the Board dated 5 June 2024, that she would need the following information in order to make a determination: the location and number of trails, roads, structures and activities that were in existence in 1990; the approximate volume of traffic traveling on those roads and trails on a daily and monthly basis. In addition, she would also require the current location of roads, trails, structures and activities and the current volume of use.

Chairman Tomassian reminded the board that the Planning Board is the permit granting authority in this case. Mr. Tomassian noted that the case of *McDermott vs. the Board of Appeals of Melrose* is often cited when permits have not been recorded. Mr. Tomassian said that the big difference in this case is that no permit can be produced. In *McDermott* they had the permit in hand, it just was never recorded. Mr. Tomassian asked the Trustees to produce the permit. Both Darci Schofield, Island Director of the Trustees, and Dylan Sanders, their counsel, said they were unable to locate the permit.

Mr. Colantonio said that it is unlikely that the Planning Board in 1990 would have given the Trustees more than they asked for. He said that for the benefit of all involved, the special permit process needs to begin again.

Attorney Sanders said that they are in an on-going process with the Planning Board.

Chairman Tomassian then asked for those who wished to speak in favor of Mr. Colantonio's appeal.

Bo Reily, a neighbor of Mr. Colantonio's, said he fully supports Colantonio's appeal and his request for zoning enforcement under the bylaw and the Cape Poge DCPC. He noted that OSV activity has increased exponentially since 1990. He said that over the years he has seen a shift in the Trustees' activities from preservation of natural resources to increased commercial and recreational activity at the cost of the natural environment. He said it is time for the Planning Board to take a fresh review of TTOR's operations on Cape Poge.

Rachel Self, another neighbor of Mr. Colantonio, spoke in favor of the enforcement request. She said that the recent order of conditions issued by the Conservation Commission set the speed limit, but the Trustees are still driving without a license. Ms. Self said that like Mr. Colantonio and others, she would just like to see the Trustees conform to existing regulations. Ms. Self said that she has examined the Planning Board archives and reviewed all public records regarding the genesis of Chappaquiddick Beach Management by the Trustees.

Ms. Self said that back in 1990 the Trustees seemed to be a very different organization. The plan they put before the Planning Board was backed up by years of research, data, and community surveys. There were visitor studies, OSV studies, and shorebird protection studies. It was clear in its goal to balance environmental protection and public recreation. The plan had the support of the entire community because at the time the Trustees worked with the community, and promised that all fees collected on the property would stay on the property. Questions were answered clearly and honestly in a public forum.

In recent years, Ms. Self said, the Trustees have shown themselves unable and unwilling to do what they promised back in 1990. There is no clarity and no trust. She said that the Trustee's unsuccessful management of Katama Farm was the 'canary in the coal mine.' The Trustees inability to provide needed oversight and management has brought the situation to a crossroads. She said that there is not just one elephant in the room, but a herd.

Ms. Self said that, in her opinion, a new special permit is needed under both the bylaw and the Cape Poge DCPC. There is no question that there has been a change in the intensity of use since 1990.

Ms. Self noted that the Trustees' counsel has taken the position that no special permit is needed for its activities on Cape Poge. Why are the Trustees not held to the same standard as every other applicant in the town, she asked? According to Planning Board minutes in 1990, the TTOR were to meet with the Planning Board on an annual basis to review. As far as anyone can tell, no reviews have taken place.

Ms. Self said that between 2015 and 2023 the Trustees sold 31,209 stickers, 31,287 if rental vehicles are included. Stickers are priced between \$200 and \$500. Using the lowest price, The Trustees would have brought in well over 6 million dollars since 2014 in OSV permits alone. The Trustees do not pay taxes to the town, nor do they have permits from the town to sell anything in the R-120 Residential District.

Ms. Self said that the Trustees' activities are also overburdening the Dyke Bridge bulkhead – infrastructure that they now claim they do not own and refuse to contribute any of the millions of dollars they have made towards much needed repair.

Ms. Self said that no one wants to close off vehicle access; she is just requesting that the town enforce existing regulations.

Michael Shallet said that he was appointed to the Planning Board in November and, contrary to Attorney Sanders statement, is unaware of any ongoing discussions between the Planning Board and the Trustees.

Tom Ross, a Cape Poge resident, said that he would like to see everyone held to the same standard. Jay Osler, another Cape Poge resident, agreed and said he wanted to reiterate his support for the appeal and for Ms. Self. He said he would like to see the situation resolved. He said it is clear to him that the use has intensified since 1990. He said that the Trustees are not in good standing and haven't been for some time.

[Ed Self had technical difficulties and was unable to address the board].

Mr. Tomassian suggested that the meeting be continued until 12 June at 4:00 p.m., at which time the final proponents will speak and then the opponents. Mr. Colantonio will be given a chance to rebut. Mr. Tomassian asked that Mr. Colantonio provide his title insurance policy and maps delineating public and private property. Mr. Tomassian also requested that the Building Inspector submit a list of what information she would need in order to make a zoning determination.

The board reconvened on Wednesday, 12 June 2024 at 4:00 p.m. The following board members attended: Martin Tomassian - Chair, Carol Grant, Robin Bray, Nancy Whipple, and Thomas Pierce. Victor Colantonio, the appellant, was also present.

Chairman Tomassian opened the meeting and the notice was read. Ms. Grant asked if she could make a comment. Ms. Grant said that she was insulted and offended by Peter Sliwowski's letter of June 12th, which insinuates that 'private landowners have weaponized regulatory bodies like the ZBA to further their agenda of establishing a private sanctuary.' Ms. Grant said that no one has attempted any such thing: there is no conspiracy. Ms. Grant said that she has been a member of the board for many years and has never witnessed any attempts to coerce the board in one direction or the other. She said that she and her fellow members are bound by a code of ethics that they observe scrupulously.

Mr. Tomassian asked for final comments from proponents of the appeal, before moving on to opponents.

Mr. Colantonio said he is not asking for the beach to be closed to vehicle access, he is just asking that the applicable sections of the bylaw and the Cape Poge DCPC be enforced. Mr. Colantonio said that as the Planning Board permit granting authority he would like to see that process 'get rolling.' He said that the Trustees have decided on their own to move the traffic from the beach and run it through the inland sections of private property in an attempt to get to the Gut. He is asking that the Trustees to stop rerouting traffic across his property. He said that the lack of management and oversight on the part of the Trustees has been a nightmare for him and his neighbors. The intention of the 1990 Cape Poge Management Plan was never to allow unfettered vehicle access 365 days a year 24 hours a day across private property. He said that the situation has become ugly and resulted in the loss of many friendships. Mr. Colantonio said that the Trustees don't own the causeway and don't have permits to cross the Jetties. Since the retirement of Chris Kennedy, the Trustees have completely failed in their attempts to manage the beach. He said the Cape Poge access is a 'colossal mess' with hundreds of cars using a 7-foot path.

Edward Self, introduced himself as a life-long summer resident since 1940s, who currently resides on Cape Poge six months of the year. He said that there is so much misinformation surrounding the issue of beach access that many have resorted to negativity. He said that the Cape Poge landowners are in favor of encouraging beachgoers to enjoy what remains of the shoreline. He said that the beach has been eroding for some time, and there is less ability for the beach to accommodate what it did in the past. He said that the Trustees are not being held to the same standard as others and have not been in compliance with the DCPC for many years. He said he finds it disturbing that the Trustees seem to believe that they do not need a special permit.

Mr. Self said that the Trustees are running a commercial operation in a residential zone, not an educational one. They have made over six-million dollars from the sale of stickers, kayak rentals, and t-shirts in the last eight years. He said that there is no question that there has been an intensification of use.

Mr. Self said that most of the land on Cape Poge is private land and is not owned by the Trustees. All of Cape Poge's interior trails are privately owned and any use of these trails by the Trustees and others has been due to the permission of the landowners.

Mr. Self said that the situation has been complicated by misrepresentation by MVBAG and the CEO of the Trustees. The Trustees are the largest land conservation organization in the state and they have a reputation as successful and experienced land managers. Mr. Self said that he believes that the Trustees have lost their way and are now a very different organization from what it was when Winthrop and Abbot were in charge. He says they no longer embrace a 'culture of excellence' as witnessed by the management failures at Katama Farm, the Grey Barn, and Norton Point.

Mr. Self said he finds the Trustees are excellent at obfuscation and mumbo jumbo when asked specific questions regarding their management intentions. In conclusion, Mr. Self said that he is asking the town to hold the Trustees to the same standard as everyone else.

Bill Brine, long time Chappy resident, said that he supports public, noncommercial use of the beaches. He said that without a special permit the Trustees should not be charging for stickers or anything else. Commercial activities are prohibited in the R-120 zone without a valid special permit. He noted that most of the Trustees properties throughout the state are free. Mr. Brine said he would like the beaches of Chappy to be free as well.

A number of letters supporting Mr. Colantonio's appeal were circulated among the members and available to the public on line prior to the meeting. These include a letter from George Mellendick, Chappy summer resident, who asked that the Trustees be compelled to apply for the necessary permits and that the town fully monitor their activities going forward.

A letter from Richard Brown, one of the owners of assessor's parcel 17-1, wrote that he objects to the Trustees representing that they own and manage his property and that he does not grant permission for them to alter the property in any way.

Patricia Floyd, Ann Floyd, and Mark Killian - all Chappy residents - request that the ZBA require the Trustees to cease selling stickers, holding special events, moving trails, cutting down trees, or overburdening the barrier beach until a valid special permit is in hand. They wrote that they no longer drive on the beach because of the damage caused by OSVs.

William Gazaille, lifelong Islander and current Cape Poge resident, said that the Trustees with their 'unpermitted exploitation of Chappaquiddick,' have ruined the community. He said that Cape Poge residents don't even have telephone service as the Trustees damaged the telephone lines. Trustee employees have been caught trespassing on private property and have stolen items from homeowners. They create risks by regularly clogging the only access to and from landowners' residences. He said the Trustees have turned the access situation into an 'us vs. them mentality.' Due to erosion and climate change, the Trustees have found themselves landlocked. They have no right to direct traffic through private property. They have not entered into any agreement with landowners. They have spread misinformation and lied in hearings. He said that the landowners are just asking the Trustees to follow the same rules as everyone else. He said that 'just because people want to keep doing the wrong thing doesn't make it right.'

Chairman Tomassian then asked for any opponents who wished to speak. Jonathan Herman, introduced himself as part of the leadership of MVBAG (Martha's Vineyard Beach Access Group). MVBAG is a three-year old, non-profit, grassroots organization with 21,000 Facebook members. He said it is a thoughtful group that attempts to balance active wildlife conservation and responsible beach access. 80% of Chappy beaches are accessible only by OSV. He said that the Chappy beaches are a tremendous resource and attract many islanders and visitors and contribute to the economic vitality of the island.

He questions the need for a new special permit: the Trustees have a history of managing OSV vehicles on Chappy, the trails have been used for generations. Why, suddenly, is a special permit required? He objected to the 'sudden changing of rules to benefit a small group of landowners' who would like a private, gated and coded community. He said that requiring new permits for a supposed intensification of use would set a bad precedent and apply to all sorts of areas across the island, including the SSA.

Mr. Herman said that he has participated in numerous hearings, court mandated mediations, public and private meetings and no compromise can be reached because the landowners refuse to negotiate. He urged the board to deny the cease and desist and not to allow a small minority of landowners to deny access to the public.

Ben Gahagen, Recreational Fisheries Supervisor for the Department of Marine Fisheries (owner of Leland Beach) said that the application seems to call for the ceasing of all access north of Dike Bridge. Mr. Tomassian said that the matter before the board is whether or not to support the decision of the Building Inspector. Mr. Gahagen said that he was not notified as abutter, even though the Leland property is within 150 feet of the Dike Bridge. Mr. Tomassian said he must have been notified by someone as he is present. Mr. Gahagen said he was notified by a member of the public, not by the town. [Notification of abutters was sent to abutters and abutters to abutters within 300-feet of properties owned by Mr. Colantonio.] Mr. Gahagen concluded by saying that the DMF supports public access to beaches throughout coastal Massachusetts.

Peter Sliwkowski asked that a letter from Holly Mercier be read into the record. In her letter, Ms. Mercier introduced herself as someone born and raised on the island. In 2002, she was diagnosed with MS, which gradually robbed her of the ability to walk. Two years ago, some friends devised a way to get Ms. Mercier out to the Chappy beaches so that she could continue to take part in her passion for fishing. She said that being able once again to partake in her beloved pastime has been miraculous. She said she is worried that OSV access will be curtailed on Chappy, leaving her and others unable to access the areas of the island they most love.

Chris Kennedy, former head of operations on the island for the Trustees for 32 years and author of the 1990 Beach Management Plan, introduced himself. He said that he has a long history of managing beaches, wildlife, and visitors. He acknowledged that humans can be hard on beaches. Even so, he believes that beaches are resilient and can absorb the impacts of humans, as well as storms, and bounce back. He said that 'change is the backbone of barrier beaches.' Mr. Kennedy asked the board not to allow the appellants request to require a special permit for OSVs to access the beach, an activity that has been going on for well over a century.

Mr. Kennedy recalled discussion with the former Building Inspector, Lenny Jason, back in the 90s. He said that Mr. Jason was no fan of the Trustees, and when asked what would need a special permit from the Planning Board under the new DCPC regulations, he responded: 'If it needs a building permit, it needs a Special Permit.' Preexisting trails, roads, and paths did not need a special permit, only new trails. Mr. Kennedy said that he believes usage has actually decreased since 1990, when he would regularly issue 2000 permits annually. He said that the Trustees issue about 1500 these days.

Mr. Kennedy suggested that the remedy to this situation is for the town to host and facilitate meetings between the Cape Poge residents, TTOR, and MVBAG. He urged the board to deny the appellant's request for a cease and desist.

John Piekos, one of the executive directors of the MV Striped Bass & Bluefish Derby, said that OSV access to Chappy beaches is vital for the success of the Derby. He urged the ZBA to deny the appellant's request for a cease and desist order.

Mr. Piekos said he has attended many meetings over the last two years with the Cape Poge landowners, the Trustees, and the fishing community. He said he believes that the landowners are aiming to eliminate public OSV access and allow access only for themselves and their guests. Mr. Piekos said that eliminating public access to these beaches would have far reaching negative consequences to the Derby, Derby scholarships, summer vacationers, and the island community at large.

Patrick Paquette, past president of the MV Beach Buggy Association and past president of the Mass Striped Bass Association and a recreational fishing advocate, said he would like to speak in support of the Building Inspector's decision not to take action. He said he believed that this was the wrong forum for such a discussion or debate. He said that the Conservation Commission was the correct venue. The ZBA and the Building Inspector are not the proper regulatory bodies to decide these issues. He mentioned that there have been several unpermitted activities by Mr. Colantonio and others out on Cape Poge that are known to actually cause erosion in the dune area. He argued that the Trustees are not running a commercial operation. He said that sticker sales are used to manage the beaches and other resource areas.

Dylan Sanders, attorney for the Trustees, said that the Building Inspector was correct in deferring to the Planning Board and believes that the ZBA should do the same. He said that there are no grounds for the board or the Building Inspector to close trails and beaches that have been open to the public since at least 1959.

Mr. Sanders asserted that the Trustees are in full compliance with the town's zoning bylaws and the Cape Poge DCPC regulations. Mr. Sanders said that Mr. Colantonio seems to be stating (1) that the Trustees require – and do not have – a special permit to allow the public to continue using OSV north of the Dike Bridge and (2) that the Trustees are engaged in commercial activity by charging for OSV permits in the R-120 Residential District. Mr. Sanders said that neither claim has merit. [See Attorney Sander's letter to the board dated 12 June 2024].

Attorney Sanders then addressed the issue of the missing 1990 special permit, which neither the town nor the Trustees can locate and which was not recorded in the Registry of Deeds or available in the office of the Town Clerk. Mr. Sanders said that it is well established that 'such special permits are effective so long as the permits were used and acted upon.' Mr. Sanders noted that the Planning Board's minutes indicate that one of the conditions for approval was an annual review by the Planning Board. Mr. Sanders said he is not aware that any such reviews ever took place and believes it would be helpful for the Trustees to meet with the Planning Board on an annual basis.

Mr. Sanders then addressed what sort of activities and uses would require a special permit from the Planning Board. Mr. Sanders stated that only those uses that meet the definition of 'development' under the MVC Act of 1977 and section 5.4 D of the DCPC require special permits. The Trustees do not believe that preexisting OSV use of historic trails require any special permits.

Mr. Sanders said that it is not clear to the Trustees what purpose would be served by Planning Board oversight of OSV use, which is already under the purview of the Conservation Commission and the DEP.

Mr. Sanders said that the Trustees' sales of OSV permits is not a commercial operation. The Trustees are a nonprofit charitable organization and are able to charge fees that are used to offset the cost of managing the Cape Poge Wildlife Refuge.

Attorney Sanders concluded by stating that the ZBA should defer to the Planning Board, 'which already has a pending proceeding reviewing these issues.'

The following letters were circulated among the members and available to the public on the town's website: Peter Sliwowski in a letter dated 12 June 2024 asked that the ZBA deny the appeal and that the ZBA, the Planning Board, and the MVC 'refrain from allowing a select few to manipulate your committees for their own agendas.' He said these matters were already in the hands of DEP and the Land Court. Also circulated was a letter from MVBAG dated 11 June 2024 that outlines arguments made earlier by MVBAG members Sliwowski, Herman, and Piekos.

Chairman Tomassian asked Mr. Colantonio if he would like to rebut any of the statements made by the opponents.

Mr. Colantonio said he would like to see the town of Edgartown meet with the Trustees, the landowners, and the fishing community and come up with a fair solution to these management issues. He reiterated that it is not his intent to close the beaches or stop OSV access. However, he can no longer abide finding OSVs in his yard on a regular basis. When questioned, the OSV drivers say they paid a fee and show him their permit or 'ticket.' Mr. Colantonio said that charging a fee to access public land smacks of a commercial enterprise. Mr. Colantonio said that in their promotional materials, the Trustees falsely represent that they own the entire refuge from Wasque to the Gut. They do not.

Mr. Tomassian said that, in his opinion, one of the major issues seems to be the missing special permit. It appears that in 1990 the Trustees applied to the Planning Board for a comprehensive management plan for Cape Poge Wildlife Refuge and other properties on Chappaquidick. From Planning Board minutes, it is clear that the permit was approved by the Planning Board and included the condition that there be annual reviews. However, it also seems very likely that the actual physical permit was never issued.

Mr. Tomassian said that the board's job is to decide whether or not to support the decision of the Building Inspector. Mr. Tomassian said that in his opinion the Building Inspector's hands were tied at the beginning. As no special permit seems to exist, how could the Building Inspector determine (a) if the Trustees were in compliance with the terms of the special permit or (b) if there has been an intensification of use. The Building Inspector has said that she would need to know the location and number of trails, roads, structures and activities that were permitted at the time, as well as the approximate volume of traffic traveling on the roads on. She said she would also need the current location of roads, trails, structures and activities and the current volume of use to make a determination.

For these reasons, Mr. Tomassian said he believes the board should support the Building Inspector's position and, at the same time, require the Trustees to return to the Planning Board and actually get a special permit. Mr. Tomassian said he does not believe that Mr. Colantonio's intent of the appeal is to close the beaches. Mr. Tomassian floated the idea of requiring the Trustees to cease all operations on Chappaquidick until they apply for a special permit. He suggested that the Conservation Commission could step in and manage

the beaches. He thought this might spur the Trustees to actually engage with the Planning Board rather than just have vague discussions. He reminded the board that a Planning Board member stated at the last hearing that he was unaware of any discussions between the Trustees and the Planning Board.

Mr. Pierce asked what would happen to access to the beach. Mr. Tomassian said that it would not be affected.

Mr. Pierce says that he understands that the Planning Board has been short staffed since Doug Finn departed.

Ms. Milne said that she believed that there was an initial meeting with the Planning Board back in January of 2024. She said she also believes that there were discussions with town counsel and that the Planning Board was drafting a list of specific questions they wanted the Trustees to answer.

Robin Bray said that the bottom line is that the bylaw states that there are a number of activities that require a special permit from the Planning Board under the DCPC. The Trustees simply needs to lay out what their activities are and have them reviewed by the Planning Board. The DCPC clearly states that trails and roads require a special permit. The Trustees regularly change or alter the locations of roads and trails. Ms. Bray said that Mr. Sanders was incorrect in saying that only impervious roads and trails require special permits. Ms. Bray suggested that the board could impose a time limit for the Trustees to file with the Planning Board.

Carol Grant had questions about the alleged commercial activities. Mr. Tomassian said that would be determined by the Planning Board as part of the application process.

Mr. Tomassian made a motion (1) to support the Building Inspector's determination that – because of the missing special permit, there was not enough information for her to ascertain whether or not the Trustees were in compliance or if there had been a change in the intensity of use; (2) to require the Trustees to file a complete special permit application with the Planning Board no later than 13 July 2024; and (3) that failure to do so would mean that the Trustees must cease all activities at Cape Poge.

Mr. Tomassian reiterated that they are not closing down the beaches.

Mr. Pierce seconded the motion. Ms. Bray, Ms. Whipple, and Ms. Grant also voted to approve the motion.

Motion unanimously approved 5-0.

Lisa Morrison, Assistant