

# Meeting Minutes

## Edgartown Planning Board - Tuesday, August 18, 2020

The Edgartown Planning Board scheduled a meeting for Tuesday, August 18, 2020, 5:30 PM.

Prior to the call to order, Mr. Finn noted the following:

*The meeting is being audio and video recorded, and attendees participating by video conference, in accordance with Chapter 53 of the Acts of 2020.*

*All supporting materials have been provided to the members of this body and are available on a publicly accessible internet website. Any member of the public is able to access the site, using the instructions included in the Meeting Agenda.*

*The public is encouraged to follow along using the posted agenda.*

*Deviations from the agenda, if any, will be noted.*

### **CALL TO ORDER / ROLL CALL**

Mr. McCourt called the meeting to order at 5:33 PM, and called the roll:

MASCOLO: Absent

MORRISON: Present

MORGAN: Present

SEARLE: Present

CISEK: Present

MCCOURT: Present

A quorum was declared.

### **SITE VISITS**

The board conducted a site visit to 40 Peases Point Way at about 9:00 AM. No deliberation was conducted.

### **SCHEDULED BUSINESS**

#### **5:30 PM - PUBLIC HEARING - SP(Pier): 18 Caleb Pond LLC, 18 Caleb Pond Road (30-38)**

##### **Application to construct, license and maintain a pier, float and three spiles in Edgartown Harbor.**

In accordance with MGL Chapter 40A, Section 10, the Edgartown Planning Board will hold a public hearing on Tuesday, August 18, 2020 at 5:30 PM, at the request of Kara Shemeth, SBH, Inc., on behalf of 18 Caleb Pond LLC(Owner) to construct, license and maintain a pier, float and three spiles in Edgartown Harbor.

This application is made in accordance with Section 6.4 of the Edgartown Zoning Bylaw. The property is located at 18 Caleb Pond Road, Assr. Pcl. 30-38. Copies of the application are available in the Planning Office for public review.

*Present for the Applicant: Kara Shemeth, [kshemeth@sbhinc.net](mailto:kshemeth@sbhinc.net)*

Mr. McCourt opened the public hearing at 5:34 PM.

##### **Presentation and Findings**

- The application is for a new pier, to be constructed on the eastern side of the harbor.
- There are no existing piers at the location.
- There is an existing stairway at the site, which will be rebuilt.
- Any disturbed vegetation along the bank will be replaced / replanted.
- The pier extends approximately 117 feet, just short of the Faired Pier Line.
- The ten lights on the pier, as originally proposed, have been reduced to five, at the request of the Conservation Commission.
- The power pedestal will provide power and water for use by boats and at the dock, but will not have

illumination.

- All other requirements are met.
- The elevation at the beginning of the pier is about 1.6+ feet.
- The application has received an endorsement from the Harbormaster, and approvals from the Marine Advisory Committee and the Conservation Commission.
- The pier is not anticipated to interfere with any other docks or moorings.
- The existing old piling will likely be removed.
- The existing old piling is located about five feet north and ten feet west of the north side of the proposed float.
- A vegetation restoration plan will be submitted to the conservation commission.
- A revised plan, showing electricity and water on the dock will be submitted. Water source will be from the house at 18 Caleb Pond Road. The light on the utility pedestal will be disabled.
- No written correspondence has been received.
- No public comment was offered.

There being no further presentation, Mr. McCourt closed the public hearing at 5:43 PM.

It was MOVED by Searle, SECONDED by Morrison

*To approve the application with conditions as follows:*

1. *All construction of the pier must comply with plan as submitted with the application (plan details)*
2. *All marine related activities shall comply with the Edgartown Harbor Plan Pier Permitting Guidelines.*
3. *No dredging is permitted without prior approval of the Conservation Commission.*
4. *Pier is for private, recreational use. No commercial activities are permitted.*
5. *Appropriate lateral access stairs shall be provided.*
6. *Lighting on any stairs shall be limited to the minimum required by regulation or code and shall be downward lit.*
7. *No white caps shall be placed on the piles.*
8. *Rafting of boats off the pier or floats is not permitted.*
9. *The applicant, owner, and contractor are responsible for compliance with all conditions of this special permit.*
10. *The project engineer and contractors are to be provided with a copy of this permit and plans prior to commencement of construction.*
11. *The Planning Board, its agents and employees have the right of entry upon the property to inspect for compliance with this Special Permit.*
12. *All removable floats must be removed prior to November 1 through April 1.*
13. *If a pier or floats are damaged by natural causes or otherwise, they must be repaired or removed within 6 months.*
14. *A ring buoy and line shall be placed at the harbor/bay end of the pier.*
15. *No lighting is permitted except in accordance with the plan, and where required by code or regulation.*

MORRISON: Yes

SEARLE: Yes

ROLL CALL VOTE:

MORGAN: Yes

CISEK: Yes

MCCOURT: Yes

(5:44 PM)

**5:45 PM: PUBLIC HEARING (cont'd from July 21, June 12, June 2, April 28, March 24, 2020): Definitive SUBDIVISION – TOWN OF EDGARTOWN / BOYS AND GIRLS CLUB (20C-163, 20C-134.1)**

**Applicant proposes to create multiple lots for the purpose of (a) transfer to the Town of Edgartown for improving the current Recreation Area, (b) transfer to the Town of Edgartown for future expansion of the New West Side Cemetery, (c) development of new fields and facilities for the Boys and Girls Club. Plan will create an extension to M. Daniels Way, an existing way used as a public road.**

Applicant: Mr. Reid Silva, Mr. Norman Rankow.

Public Hearing Continued at 5:46 PM.

**Presentation / Findings**

- The MV Commission has approved the application, and a decision had been transmitted to the Registry of Deeds for recording.
- A copy of the recorded MVC Decision will be added to the file.
- The proposal has not changed from the original proposal as submitted.
- The MV Commission will require that any development on any of the four parcels created by the subdivision will require DRI Application and Approval, regardless of DRI checklist applicability.
- The MV Commission deferred Affordable Housing requirements and the imposition of a Housing contribution, if any, until the lots are created, developed, and reviewed as DRI Applications.
- All provisions enumerated in Boys and Girls Club Subdivision Memorandum of Understanding are included as conditions to the MV Commission's decision.
- The Purchase and Sale of the lot is on hold until next year.
- The road can likely be constructed without a formal referral to the MV Commission. It is uncertain if the utilities can be installed without a referral.

There being no further presentation or comment, Mr. McCourt closed the public hearing at 5:55 PM.

**Deliberation**

Ms. Morrison: No issues.

Mr. Searle: No issues.

Mr. Morgan: No issues. Good luck with the project.

Mr. Cisek: Great idea.

Mr. McCourt: Great project, will be good for kids. Congratulations to the board members of the B&G Club for their hard work.

It was **MOVED** by Searle **SECONDED** by Morgan

*To approve the subdivision plan as approved, with conditions as stated, incorporating the decision of the MV Commission with this approval.*

MORRISON: Yes

SEARLE: Yes

ROLL CALL VOTE:

MORGAN: Yes

CISEK: Yes

MCCOURT: Yes

(5:57 PM)

**5:59 PM – DE MINIMIS – Extend Permit for an outdoor tent – The Town Bar and Grill, 227 Upper Main Street (20A-92)**

**Applicant has permission for a dining tent on patio through August 31. Applicant requests permission to extend outdoor dining through September 30.**

Present: Mr. Alex Tamargo, [atamargo@goodnuhospitality.com](mailto:atamargo@goodnuhospitality.com)

Mr. Tamargo presented the request. Mr. Searle asked whether September 30 would be sufficient, and suggested that the request be extended through Columbus Day weekend.

Mr. Morgan noted that the restaurant seems to have been conducting a top-notch operation, in spite of the restrictions placed upon it by the Coronavirus pandemic.

After brief deliberation, it was MOVED by Morrison SECONDED by Searle

*That the request was de minimis, and approved an extension to October 13, 2020.*

ROLL CALL VOTE:

MORRISON: Yes

MORGAN: Yes

SEARLE: Yes

CISEK: Yes

MCCOURT: Yes

(6:05 PM)

**6:00 PM: PUBLIC HEARING – SP(Pool) (FROM Jul 21, Jul 7, May 5, Apr 7): DAVID SCHAEFER, 40 PEASES POINT WAY N (20D-71.12)**

**Applicant proposes the construction of an in-ground swimming pool, solid wood fencing, a sound-proof pool equipment shed and an outdoor shower enclosure and associated utilities and landscaping, located in the inland zone of the Coastal District.**

The Public Hearing was continued at 5:50 PM

Mr. Finn noted that Mr. Sourati had requested a continuance.

It was MOVED by Morrison, SECONDED by Searle

*To continue the public hearing to September 15, 2020, at 5:50 PM.*

ROLL CALL VOTE:

MORRISON: Yes

MORGAN: Yes

SEARLE: Yes

CISEK: Yes

MCCOURT: Yes

(6:06 PM)

**OTHER DISCUSSION:**

The Board briefly discussed the All Island Planning Board, scheduled for September 2, 2020, at a time to be announced. Lucy Morrison and Fred Mascolo are expecting to attend.

Mr. Finn noted that the MVC DRI Checklist Subcommittee would be meeting on August 19, 2020, at 2:30 PM. Mr. Finn briefly reiterated some of the high points of the MV Commission’s public hearing related to the proposed DRI Checklist changes. Ms. Morrison noted that the public record would be open through Thursday, August 20, 5:00 PM.

There was some discussion related to current DRI applications currently before the MV Commission, and the difficulties of proceeding with DRI reviews during the Covid-19 Pandemic.

**OTHER BUSINESS NOT REASONABLY ANTICIPATED 48 HOURS IN ADVANCE (6:13 PM)**

The Planning Board reviewed a request for a Change of Address submitted by Edmund Cottle III, for Assessors Parcel 11B-1.21, with a current address of 18 Pilgrim Road. Mr. Cottle requests a change of

address to 10<sup>th</sup> Street North.

After brief discussion, it was MOVED by Morgan, SECONDED by Searle

*To approve the change of address as requested.*

MORRISON: YES

SEARLE: YES

ROLL CALL VOTE:

MORGAN: YES

CISEK: YES

MCCOURT: YES

(6:20 PM)

### **Other Business**

Mr. Finn noted that he would be working with Alan DeBettencourt and Bill Chapman to develop options for improvement of Mill Hill Road, to improve sightlines, pedestrian safety and ease of vehicle transportation along the road.

### **6:25 PM: FORM A Endorsement – 13-25.2 – Sheriffs Meadow Foundation**

The board considered an ANR Division of land into two parcels in the Coastal District.

*Present for the Applicant: Reid Silva, VLSE*

Mr. Silva presented the plan, which proposes to divide the subject lot for the purpose of transferring one parcel (about 1 acre) to an abutter.

Mr. Finn noted that a division of land in the Coastal District requires a referral to the MV Commission under Section 2.6 of the DRI Checklist #13. Mr. Finn read from Chapter 831 from the Acts of 1977 as Amended, Section 13, “DRI Referral”.

Mr. Chris Alley (SBH, Inc.) noted that the transfer of land was part of a larger arrangement that would result in an increase of permanently conserved land by Sheriff’s Meadow Foundation by a factor of four. Mr. Silva reviewed the details of the arrangement.

After considerable discussion as to the ‘regional impact’ of this particular proposal, the Planning Board determined that, given the overall intent of the specific division of land, that while the proposal met the letter of the DRI Checklist, it would not result in the creation of a new lot, nor did the proposal rise to the level of a regional impact, and was not therefore referred to the MV Commission.

It was MOVED by Morgan, SECONDED by Morrison

*To endorse the ANR as a Division of Land Not Requiring Subdivision Approval.*

MORRISON: Yes

SEARLE: Yes

ROLL CALL VOTE:

MORGAN: Yes

CISEK: Yes

MCCOURT: Yes

(6:42 PM)

### **6:35 PM: Bylaw Amendment Request – First Reading**

*Present: Attorney Sean Murphy, and others.*

First reading of request, refer to town counsel, schedule public hearing if Counsel so recommends.

Mr. Finn noted that any change of zoning bylaw required a public hearing, and recommended that one could be scheduled on October 6, 2020.

Mr. Murphy presented proposed changes to the Zoning Bylaw which would enable approval of a special permit for the placement of an assisted living center along with employee housing on the Norton property on Edgartown-Vineyard Haven Road (Map 11B, Lot 243), as proposed by MV Hospital and Green House Homes (See “Green House & Workforce Housing Project” plan / exhibit, in project file).

Mr. Finn reviewed the legal process by which changes to the zoning bylaw are made. Mr. Finn suggested that the proposed zoning bylaw changes need to be reviewed independent of the proposed project; to approve the zoning bylaw changes in order to allow the project to move forward might be contested as ‘spot zoning’.

Mr. Murphy noted that the zoning bylaw change as proposed would not allow any use or structure by right.

Mr. Finn also recommended that, given the extent of the zoning bylaw changes, and certain changes that appear to be redundant or unnecessary, that the proposal be referred to Town’s Counsel for review and advisement.

Ms. Morrison: Agree – send it to counsel. Ms. Morrison agreed to be on the committee to review.

Mr. Morgan: I’m on a fact-finding mission, both with the zoning bylaw change, and the development itself. It’s an important asset, but we want to make sure that the proposal makes sense to all parties concerned. Mr. Morgan agree to be on the subcommittee with Ms. Morrison.

Mr. Murphy reiterated that any change in the Zoning Bylaw needed to be independent of the benefits or detriments of the proposed project.

Mr. Finn confirmed that the proposed changes would apply to all zones in Town.

Mr. Cisek – No comments, but agree to send it to Counsel.

Mr. Searle: Also endorsed sending the matter to Counsel. Also volunteered to be on the subcommittee.

Ms. Denise Schepici, Martha’s Vineyard Hospital, spoke briefly about the benefits of the proposed project.

After some discussion it was MOVED by Morgan, SECONDED by Searle

*To form a committee consisting of Scott Morgan, Lucy Morrison and Glen Searle to review the zoning bylaw change as proposed, to consult with staff and to refer their findings to Town Counsel, making a final report to the Planning Board as early as possible.*

ROLL CALL VOTE:

MORRISON: YES

MORGAN: YES

SEARLE: YES

CISEK: YES

MCCOURT: YES

(7:03 PM)

### **OTHER BUSINESS**

None at this time.

### **ADMINISTRATIVE**

Mr. Finn noted that minutes from previous meetings would be forwarded to members for review.

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

No further business.

### **ADJOURN**

It was MOVED by Morgan, SECONDED by Morrison

*To Adjourn*

MR. MCCOURT DECLARED THE MOTION  
ADOPTED BY UNANIMOUS CONSENT.

(7:04 PM)

Respectfully Submitted,  
Douglas Finn, Planning Board Assistant