

Edgartown Planning Board Minutes

Tuesday, April 2, 2019

A regular meeting of the Edgartown Planning Board was scheduled for Tuesday, April 2, 2019, at 5:30 PM at the Edgartown Town Hall, 70 Main Street, Edgartown, Massachusetts.

CALL TO ORDER

The meeting was called to order at 5:30 PM.

Call of Roll:

Present: Sam Sherman (chair), Fred Mascolo, Michael McCourt, Lucy Morrison, James Cisek (Planning Board Alternate).

Absent: Scott Morgan

Also Present:

Douglas Finn, Planning Board Assistant

A quorum was declared. The board reserved the right to address unscheduled agenda items out of order as needed, or for the convenience of the applicants.

SITE VISITS

No site visits were scheduled.

SCHEDULED BUSINESS

5:30 PM PUBLIC HEARING: SPECIAL PERMIT

Edgartown Board of Trade, 2019 MV Food & Wine Festival, Winnetu Resort (52-26.1)

On Tuesday, April 2, 2019 at 5:30 PM, the Edgartown Planning Board held a public hearing in the Town Hall, Main Street, on the request of Erin Ready, Edgartown Board of Trade, on behalf of Winnetu Oceanside Resort, Owner, for a special permit for the 2019 MV Food & Wine Festival, including one afternoon seminar and Saturday's Grand Tasting event, under a tent at the Winnetu Oceanside Resort. The event is proposed as a temporary use. The application was made in accordance with Section 10.1.H of the Edgartown Zoning Bylaw. The property is located at 31 Dunes Road, Assr. Pcl. 52-26.1. Copies of the application were made available in the Planning Office for public review.

Present: Julia Celeste on behalf of Erin Ready, Edgartown Board of Trade.

Ms. Celeste presented the proposal in detail: the event will be conducted the same as the previous year. No problems or complaints were received as a result of last year's event. The event will be held the 22nd through the 26th of October (the weekend after Columbus Day).

From the application:

1. **Parking for Grand Tasting:** The festival will provide complimentary van service from the heart of the village, in addition to the Winnetu's continuous shuttle service, which we believe the bulk of the guest attending will utilize. All attending guests and local hotels will receive advance notification of this option, be provided contact information for alternative transportation companies, and recommended to use these services. On-site parking at the Winnetu will be available for few guests and those in need of handicap accessible parking. Parking attendants will be stationed at the front of Dunes road to direct any overflow traffic to park along Katama Road, with golf carts on hand to shuttle those patrons directly to the tent. We anticipate all arrangements to drastically cut foot and auto traffic on Dunes Road.
2. **Amplification:** The event will have an amplified sound system to provide for microphones, as well as a basic sound package to allow for music to play. Sound timing will differ based on each event but will never take place before 11 am or after 6pm.
3. **Septic System:** The event will bring in portable toilets to be available for the guests during the Grand Tasting. We will again work closely with the Board of Health and the vendor to ensure all requirements are met. The bathrooms within the resort will also be available throughout the event.
4. **Tents:** After threatening high-winds in 2018, the proposed tent location was moved at the last minute from the lawn to the parking area in the rear of the hotel to provide better protection against inclement weather. All parties felt that this plan provided a preferable layout and for the time of year the most optimal protection from seasonal weather. It is our intention to set up tents in a similar design for 2019. The tents will be set up on Wednesday/Thursday and taken down on Monday.

McCourt: In the past, wasn't this at the Harborview? Ms. Celeste: Yes. The Harborview was closed for renovations last fall, which required us to move; this year, the Harborview will be involved, but the Board considered the inclusion of the Winnetu as a positive addition to the overall project.

McCourt: Parking for the event? Ms. Celeste: Parking was available on site for some of the vendors; the Winnetu allowed for parking on their front lawn. Regular shuttles would be available to bring folks from Downtown out to the Winnetu and back again, as that worked well last year.

Morrison: Restrictions on sound amplification? Ms. Celeste: We would be happy to adopt the same conditions, with the same restrictions on amplification, and the time limits for the overall event.

McCourt: Do you have a beneficiary for the event? Ms. Celeste: Yes, this year's event will benefit the MV Farmers Fund, and Island Grove School. Last year, about \$10,000 was disbursed in total.

It was MOVED by McCourt SECONED by Mascolo

To close the public hearing, and approve the application as presented, conditions as offered by the applicant, with the event to be under the tent in the parking lot.

VOTED: 5, 0, 0.

The public hearing was closed at 5:36 PM.

DISCUSSION: Ms. Reade Milne, Mr. Matt Poole – Pool Cabanas

Assistant Building Inspector Reade Milne, and Mr. Matt Poole, Board of Health agent, engaged the

board in a discussion about creating a definition for “Pool Cabana”, or “Pool House”.

Ms. Reade: The town has seen many applications for pool cabanas come before the town. There have also been complaints from neighbors to those proposing cabanas. Complaints seem to center around size, and use, particularly on smaller lots, or in the tighter neighborhoods.

Ms. Reade presented a series of plans that have been received by the board. (*Attached to these minutes as Addendum #1*)

Cisek: Is there a limit to sizes of pool houses? Reade: Not at this time.

Cisek: What if the pool house qualifies as a detached bedroom? Answer: It’s hard to make the distinction, with arguments for and against.

Mr. Poole described the scope and size of proposed pool houses; Mr. Poole stated that the proposals that he has reviewed vary from the very simple, to the very large and well appointed.

Mr. David Thompson (Wastewater): We have wastewater regulations that limit bedroom sizes. In cases of rooms in houses, there are often structural changes that can be made to disqualify rooms as bedrooms. A detached habitable building, by definition, would likely qualify as a detached bedroom, due to its ability to provide a reasonable expectation of privacy. The Town’s ability to respond to this, or to enforce deed-restrictions, is somewhat limited. We need some help in understanding how to treat these spaces. We need a definition, or a regulation, or something that allows a uniform response.

Mr. Sherman: As a design professional, I come up against this a lot. I always welcome regulations that define something, so we can tell our clients what to expect, and what the rules are. When it’s open to interpretation, it makes it difficult for all parties to find a way through the process, and determine what will be consistently enforced. As a planning board member, I feel it would be a good idea to pin this down as to what is reasonably defined as a pool cabana or a pool house, and the associated uses. There should be reasonable definitions, and reasonable constraints.

Mr. Thompson: that definition should include the type of amenities. Once the building reaches a certain level of capability, it should qualify as another type of structure.

Mr. Sherman spoke about the differences in types of facilities, and what might reasonably be expected to be included in a ‘pool house’.

Mr. Sherman proposed the formation of a subcommittee to review the topic, and develop a set of proposed zoning bylaw amendments for submittal to the Board for final review.

Mr. Poole: We’ve done more than 200 deed restrictions on swimming pool houses, restricting them from being overnight sleeping quarters; that’s a lot of promises made, but with minimal oversight. There should be a better way to regulate or oversee these.

Ms. Morrison: A committee to review this would be great. Is the intent to have a warrant article?

Mr. Poole: Yes, I think that would be the best option.

Mr. McCourt: Could this be completed by the fall? Mr. Poole, likely, yes.

Mr. Sherman suggested that, if there was a draft regulation pending, the Planning Board could begin to use that regulation as a guideline, knowing that something would be adopted in the near future.

Mr. Mascolo and Mr. McCourt volunteered to serve on that committee on behalf of the Planning Board. Mr. Finn stated that he would be willing to serve as coordinator for the meetings of the committee.

The board thanked Ms. Milne and Mr. Poole for their time.

5:45 PM PUBLIC HEARING: SUBDIVISION

(Cont'd from Mar 5, 2019, Nov 27, Sep 18, Jul 24, May 15, Apr 17, 2018) Meetinghouse Way LLC, 139 Meetinghouse Way (37-47)

(5:52 PM)

Mr. Finn advised that the application is still under review by the MV Commission, and that it would be for some time to come. As the Planning Board will have only four members able to vote on the application after the elections, Mr. Finn suggested that the applicant be requested to withdraw their application and re-apply once MV Commission decision has been issued, as it would be in the applicant's best interests to do so. The board's consensus was that the applicant should be present before the board took any vote on the matter.

It was MOVED by Mascolo SECONED by McCourt

To continue the public hearing to May 7, 2019, 5:30 PM.

VOTED: 5, 0, 0. (5:54 PM).

5:45 PM PUBLIC HEARING: SPECIAL PERMIT

MV Refuse Disposal & RR District, 250 West Tisbury Road (25-4) (Cont'd from Mar 5, 2019; NOV 27, SEPT 11, 2018);

(5:55 PM)

Mr. Finn advised that the application has a 'hold' status at the MV Commission, and that it is still working its way through Mass DEP, and would be for some time to come. The Planning Board will have only four members able to vote on the application after the elections. Mr. Finn suggested that the applicant might be requested to withdraw their application, and resubmit once final approval has been given by the DEP, and the MV Commission. In that way, the applicant would have a full board considering the resubmitted application. Again, the board's consensus was that the applicant should be present before the board took any vote on the matter.

It was MOVED by Mascolo SECONED by McCourt

To continue the public hearing to May 7, 2019, 5:45 PM.

VOTED: 5, 0, 0. (5:57 PM)

5:50 PM JAMES HAGERTY, TOWN ADMINISTRATOR -- Brief Report and Update

Mr. James Hagerty, Town Administrator, presented a brief summary of the Short Term Rental Tax, and a PowerPoint presentation (*attached to these minutes as Addendum #2*).

There was some discussion related to the payment structure, the responsible parties for collecting and forwarding payments.

There was some discussion related as to how the 'community impact fee' might apply to a 'professionally managed unit'.

Mr. Hagerty stated that 35 % of 'Additional Fee Option' is required to be spent on affordable housing.

An additional 2.75% option would benefit the Cape Cod and Islands Water Protection Fund.

Mr. Hagerty reported that, by local bylaw or ordinance, a town could choose to regulate operators, implement fines for non-compliance, establish days eligible for booking, etc. Tisbury is pursuing this; Edgartown has not done so as of yet.

There was some discussion as to whether rentals among family members would be required to pay the tax.

Mr. Hagerty provided resources for more information.

Mr. Mascolo: I think it (the new tax) stinks, but it is what it is.

Mr. Hagerty: I understand the concern, but it is a new source of revenue for the town.

Mr. Hagerty: In regard to the proposed Housing Bank, the concern is that the proposal will take not only half of the revenues from the new tax, but also half of the revenues from the town's share of the existing hotel tax. The details keep changing, the revenue stream keeps changing.

There is no money for affordable housing yet.

Mr. Thompson: regarding the Cape and Islands Water Fund: regarding the need for a "208 Plan" or equivalent... one option is the "Comprehensive Wastewater Management Plan", which can and should be adopted by multiple towns that share a common watershed, or have closely-related watershed areas. Such a plan would qualify as equivalent to a "208 Plan".

Mr. Thompson: As far as how this works: If the town enacts the 2.75% tax, the money goes into a region-wide pool of money that is available only to towns that have adopted the tax.

Mr. Mascolo: if we levy too many taxes, people will be less inclined to come.

Mr. Thompson: If we lose our clean water, or ability to process wastewater, people will be less inclined to come as well.

Mr. Thompson: There's a lot to be done, but the island is being proactive. Wastewater infrastructure is not going down in price.

There was some discussion on the history on the costs of infrastructure development.

Mr. Hagerty suggested that, instead of giving 2.75% to a slush fund to be used throughout the cape, the town could opt to increase the 4% local option to 6%, and keep those funds for municipal use; the town could setup a special purpose stabilization funds for specific projects. Keeping the money local makes the most sense for the town.

Mr. Hagerty was thanked for his time.

**6:00 PM PUBLIC HEARING: SPECIAL PERMIT - YEAR-ROUND BUFFET-STYLE RESTAURANT
Edno Miller and Paulo Rodriquez - 236 Vineyard Haven Rd, Unit 3 (21-10.6) (Cont'd from
Mar 19, Jan 29, Jan 8);**

The referral to the MV Commission was approved with minor conditions on 3/7/2019. A written copy of the Commission's process is forthcoming. Edno Miller and Paulo C. Rodriques, Owners. Applicants may request a further continuance.

Present for the applicant: Bob Sparks, realtor.

Prior to opening the public hearing, Finn noted that only four members present were eligible to vote.

Given the absence of Mr. Morgan, if the public hearing resumed, and continued past this evening, the board would not have enough votes to act on the application. Mr. Sherman allowed the applicant an opportunity to either withdraw, or proceed.

The applicant chose to proceed. The public hearing was reopened at 6:21 PM.

Mr. Bob Sparks: The Commission has reviewed the application, and has voted not to concur (take up the matter).

Mr. Sparks spoke about the Commission's deliberation, and described their findings in regard to parking, odor abatement, and etc. The owner of the property has agreed to paint the speed bumps, and to clearly mark the area designated for loading and unloading. There have been conversations with companies in relation to odor and sound abatement equipment that could be used. There have also been conversations in regard to

Mr. Glen Searle, 51 Chase Road: I'm concerned with the reliance of the applicant on the town's parking lot for its parking needs. It's already a busy lot; adding new traffic to the lot poses a concern.

Mr. Thompson: I sent a letter to the Planning Board in regard to this application for a full-service restaurant in a location previously occupied by an ice cream shop. On the basis of the operational needs, the ice-cream shop was given a wastewater permit. A full-service restaurant represents a different level of wastewater generation. The capacity isn't there (on the site). Not only that, development in the entire Upper Main Street area has reached the limit of capacity of the system in that area. There are no more pumps available, and no way to add another pump, even if they wanted to go that route. One option might be to install a new pump and tie it into the Dark Woods system, but my conversations with residents in that area show that they would not be in favor of it. I have spoken with the applicants here, and informed them of such. The space as developed was designated for retail and office space; within reason, capacity has been 'moved around', in order to allow for different use. The reality is, under the state regulations, a food service of this type needs one thousand (1,000) gallons per day capacity. There's less than 750 GPD available, and it can't be approved.

Mr. Searle: This isn't needed – another restaurant at this location.

Mr. Sparks: In the discussion about wastewater, a moment ago, we were told that there is excess capacity at the plant, but no capacity at this location. What's the difference?

Mr. Thompson: The area is served by a low-pressure system. There's a design capacity of that system, which does not relate to the capacity of the treatment facility. While there is more capacity at the treatment plant, the capacity of this section of the system in this area is at its limit.

There was some back-and-forth discussion related to the capacity of wastewater lines in the overall system.

Mr. Sparks: So, in the line that serves Edgartown Meat and Fish, there's no more capacity? Mr. Thompson: yes.

Mr. Sparks: There's no engineering that can be done to add capacity? Mr. Thompson: Only by rebuilding the entire line, including creating new connections to each client on the line.

Ms. Morrison: Would it be possible for general planning purposes, to get a map of some sort that shows us what capacity is throughout town? Mr. Thompson: I have those records, but they are extensive.

Mr. Sparks: (To Thompson): Would it make any difference if Mr. Hajar was not planning to build the three apartments above the restaurant? Mr. Thompson: It does not.

At this point, Mr. Sparks consulted with the applicant, and advised the board that they wanted to withdraw their application, and requested permission to do so without prejudice.

It was MOVED by Morrison, SECONDED by McCourt

To allow the applicant to withdraw without prejudice.

4, 0, 1 (MASCOLO).

The application was accepted as withdrawn. The public hearing was closed at 6:38 PM, and the matter concluded.

6:15 PM PUBLIC HEARING: SPECIAL PERMIT

32 Ocean View Avenue Realty Trust (29-137) (Continued from March 19, 2019) Construct a garage / pool cabana on a non-conforming lot in the inland zone of the coastal district.

Mr. Finn reported that the applicants have requested a continuance in order to resolve outstanding issues with the neighbors; Mr. Finn recommended continuance without deliberation to April 16, 2019, 5:45 PM.

It was MOVED by Morrison, SECONDED by McCourt

To continue the public hearing to April 16, 5:45 PM.

VOTED 5, 0, 0. (6:26 PM)

6:15 PM PUBLIC HEARING: SPECIAL PERMIT

(CONTINUED FROM Jan. 29, Mar. 19, 2019): SP - MV EDGAR INN, 225-227 UPPER MAIN STREET (20A-91, 92, 93)

Applicant requests permission to install a vestibule on an entry door, enclose a delivery location at the rear of the kitchen, and create an expanded parking field. Agent for Applicant: Geoghan Coogan; Applicant has requested to withdraw the proposal for a parking lot. Planning board continued the public hearing from March 19 in anticipation of more information from town agents.

The Planning Board continued the public hearing from March 19. The chair resumed the public hearing at 6:27 PM.

Mr. Lenny Jason stated that, due to the proposed location of the parking lot to be constructed, the Planning Board has no authority to regulate this matter. Mr. Jason also strongly recommended that all applicants submit their application through the building inspector's office, in order that the Building Commissioner can review the application, and determine the appropriate board or committee to conduct the review.

It was MOVED by Morrison SECONED by McCourt

To permit the applicant to withdraw their application without prejudice, and to close the public hearing.

VOTED: 5, 0, 0.

The public hearing was closed at 6:28 PM.

DE MINIMIS DETERMINATION

Joe Giacalone, 17 Katama Pt South (46-33); request to place pool equipment outside pool shed.

Mr. Finn presented the application on behalf of Mr. Giacalone who was unable to attend. The applicant requested to place pool equipment on a concrete pad behind the previously approved pool shed. The equipment would be located inside a fence, no less than four feet in height, and insulated with sound-abating material. Mr. Giacalone is making this request as he finds that he does not have the room to place the equipment inside the shed, as originally proposed.

Mr. Sherman: My feeling is that, as part of the original Special Permit public hearing, we heard from so many with neighbors as to their concerns with the project as a whole. Any changes to the plan without notification to the neighbors may seem like an underhanded move on our part. I believe that a modification to the original special permit, as well as a new public hearing is warranted, rather than a de minimis determination.

Mascolo / Cisek / McCourt concurred.

It was MOVED by McCourt, SECONDED by Cisek

To deny a determination of a de minimis change.

VOTED: 5, 0, 0.

TOWN MEETING: PREVIEW AND PLANNING

Mr. Finn presented a guide to the warrant articles as proposed, to be given to Town Meeting members upon check-in at Town Meeting, and asked for review and comment. Mr. Finn requested that a given planning board member be present and ready to speak to a given article. Mr. Mascolo agreed to be the spokesperson for the board.

ADMINISTRATIVE

Comments from Board Members:

Mr. Mascolo expressed his gratitude to Sam Sherman for his term on the board, and his service as chair. The members warmly concurred.

Mr. Sherman thanked the board for their work, and expressed his gratitude for the manner by which the board was able to deliberate and resolve the many issues that came before the board.

MINUTES

The minutes from February 12, 2019 were distributed.

It was MOVED by Mascolo SECONDED by Cisek

To approve the minutes from February 12, 2019, and March 5, 2019 as presented and amended.

VOTED: 5, 0, 0.

PAYROLL

Payroll for the period ending April 2, 2019 was reviewed and approved.

DECISIONS

It was MOVED by Mascolo SECONED by McCourt

To approve the Certificate of Approval for Facingwestventures LLC, 87 West Tisbury Road, as presented.

VOTED: 5, 0, 0.

It was MOVED by Mascolo SECONED by McCourt

To approve the Decision for 17 Chappaquiddick Road Realty Trust, 17 Chappaquiddick Road, as presented.

VOTED: 5, 0, 0.

OTHER BUSINESS NOT ANTICIPATED IN ADVANCE

Appointment to the Waterways Advisory Commission

It was MOVED by Mascolo SECONED by McCourt

To appoint Lucy Morrison as the Planning Board's representative to the Harbor Advisory Board.

VOTED: 5, 0, 0.

SCHEDULE OF UPCOMING MEETINGS

Meetings were tentatively scheduled for April 16 (Mascolo will be absent), May 7, May 21, June 4 and June 18

ADJOURN

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




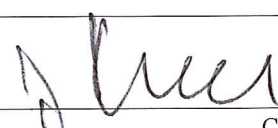

To Adjourn.

VOTED: 5, 0, 0.

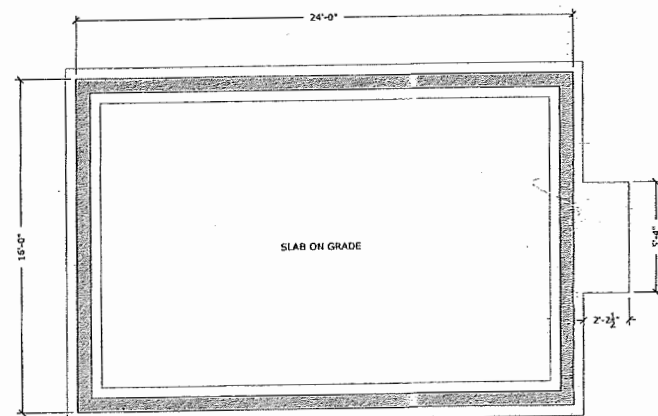
The meeting was declared adjourned at 6:55 PM.

Respectfully submitted,

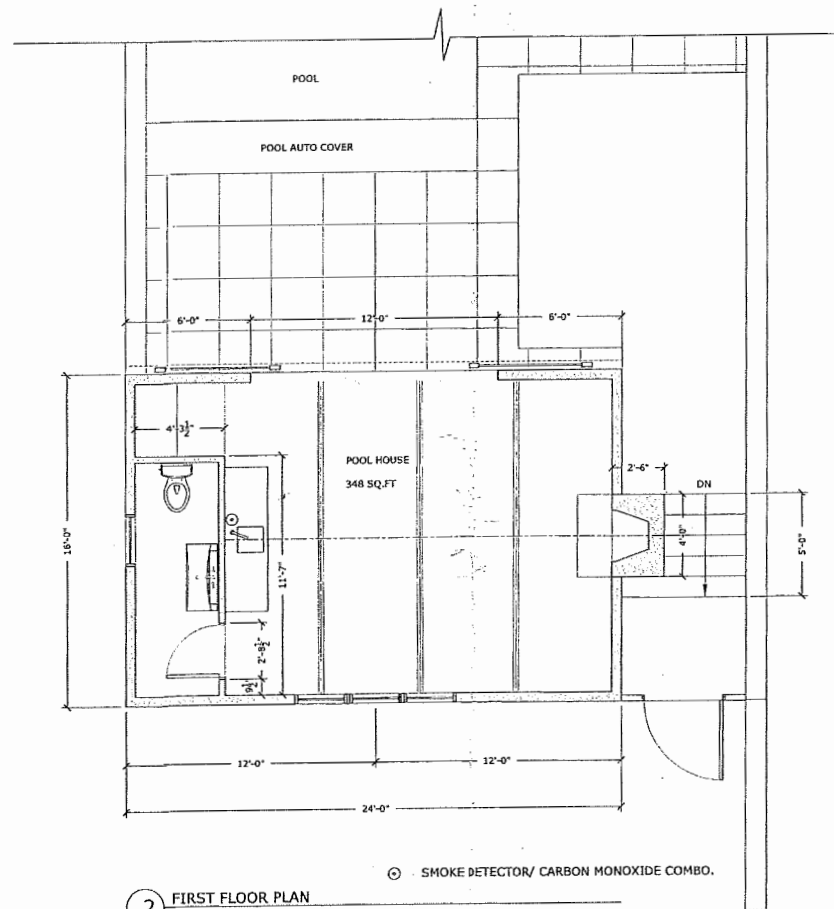
Douglas Finn,
Administrative Assistant

APPROVED by vote of Planning Board at a regular meeting, held on	
<u>May 21, 2019</u>	(Date of vote)
	Sherman (chair)
	Mascolo
	McCourt
<u>Lucy L. Morrison</u>	Morrison
	Morgan
	Cisek (alternate)

ADDENDUM #1

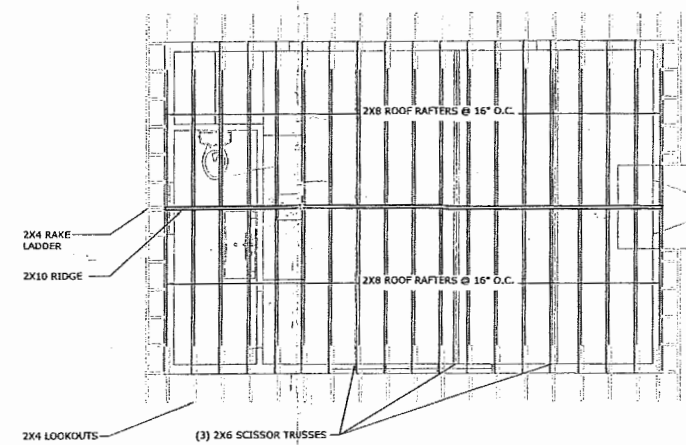


1 FOUNDATION PLAN
SCALE: 1/4"=1'-0"



2 FIRST FLOOR PLAN
SCALE: 1/4"=1'-0"

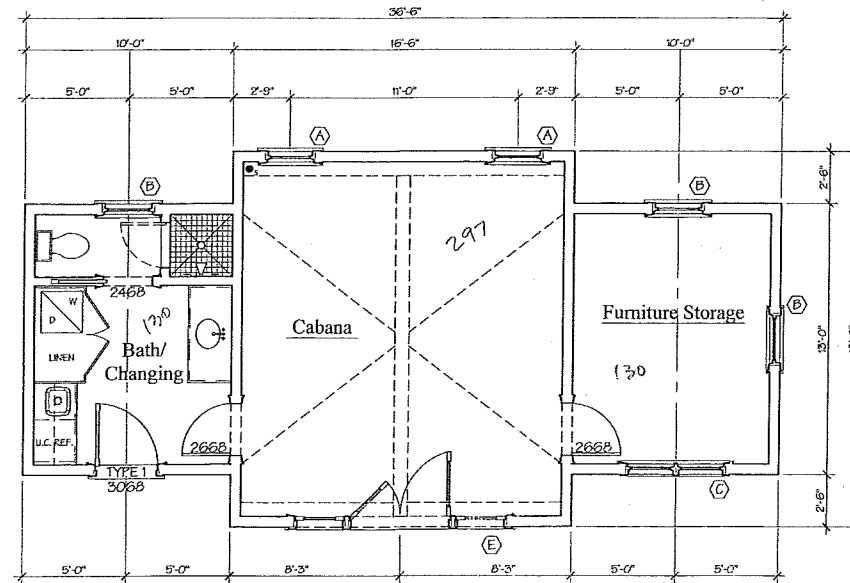
⊙ SMOKE DETECTOR/ CARBON MONOXIDE COMBO.



3 ROOF FRAMING PLAN
SCALE: 1/4"=1'-0"

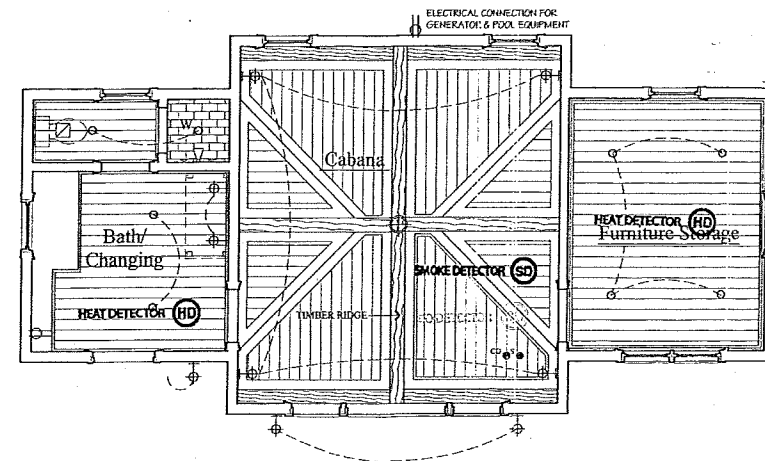
OK. MJP
1-13-19





1 FIRST FLOOR PLAN
1/4" = 1'-0"

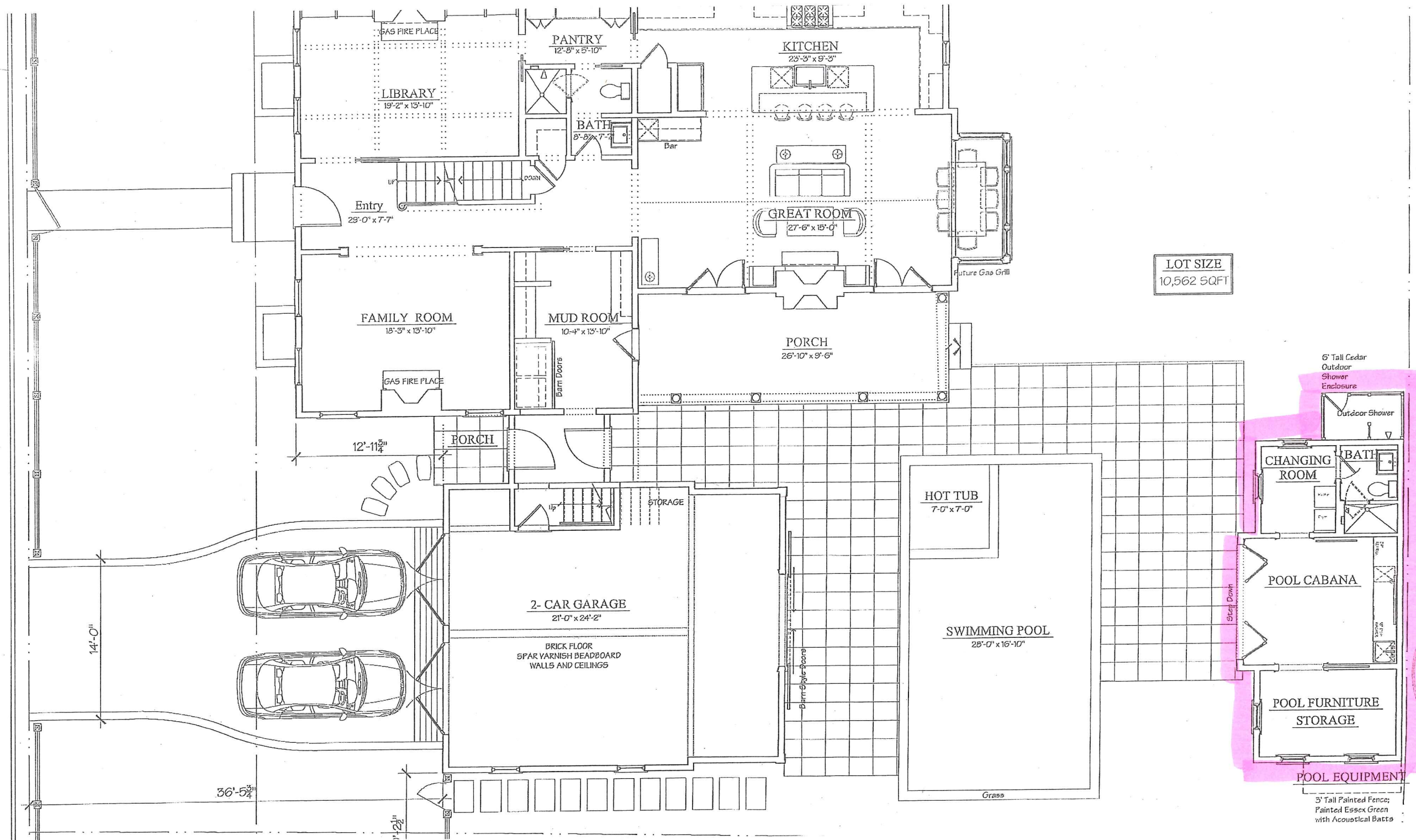
KEY			
	CABLE/NETWORK/PHONE		CLOCK SOCKET - REFER TO INTERIOR ELEVATIONS FOR WALL LOCATION.
	ELECTRICAL OUTLET		WALL SCONCE - TO BE SPECIFIED.
	HALO HI-VOLT LINE VOLTAGE RECESSED LIGHT W/ WHITE STEPPED BAFFLE.		CEILING PENDANT - TO BE SPECIFIED.
	RECESSED LIGHT WITH WATERPROOF ENCLOSURE.		TOILET EXHAUST FAN
	UNDER CABINET LOW VOLTAGE "HOCKEY PUCK" LIGHT.		SMOKE DETECTOR
			CARBON MONOXIDE DETECTOR



2 FIRST FLOOR REFLECTIVE CEILING PLAN
1/4" = 1'-0"

*OK. MSP
11.6.13*





LOT SIZE
10,562 SQFT

6' Tall Cedar
Outdoor
Shower
Enclosure

Outdoor Shower

CHANGING
ROOM

BATH

POOL CABANA

POOL FURNITURE
STORAGE

POOL EQUIPMENT

3' Tall Painted Fence;
Painted Essex Green
with Acoustical Batts

TOUR
RA
MAY 10, 2014

ADDENDUM #2

March 13, 2019



An Act Regulating and Insuring Short-term Rentals G.L. c. 64G

1

An Act Regulating and Insuring Short-term Rentals G.L. c. 64G



Previous Tax

➤ G.L. c. 64G, Room Occupancy Excise: “bed and breakfast establishment, hotel, lodging house or motel located within such city or town”

Previous Tax Structure

5.7% = Commonwealth of MA

4.0% = Town of Edgartown: \$980,515 in FY2019

(*Disbursed in Quarterly Payments from MA since 1987)

9.7% TOTAL

Source: MA DOR

2

An Act Regulating and Insuring Short-term Rentals G.L. c. 64G



Previous Tax

➤ G.L. c. 64G, Room Occupancy Excise: “bed and breakfast establishment, hotel, lodging house or motel located within such city or town”

	Massachusetts Room Occupancy Tax Rate	Local Room Occupancy	FY 2016	FY 2017	FY 2018
Edgartown	5.7%	4%	\$962,114	\$992,619	\$980,507
Aquinnah	5.7%	4%	\$9,554	\$9,535	\$10,658
Chilmark	5.7%	4%	\$56,740	\$53,067	\$53,716
Oak Bluffs	5.7%	6%	\$479,220	\$525,639	\$577,436
Tisbury	5.7%	6%	\$320,388	\$347,011	\$346,687
West Tisbury	0%	0%	0	0	0

Source: MA DOR

3

An Act Regulating and Insuring Short-term Rentals G.L. c. 64G



New Tax

➤ Amends G.L. c. 64G, Room Occupancy Excise by adding “short-term rentals”

Definition of “Short Term Rental”

- Occupied property (not a hotel, motel, lodging house or bed and breakfast) where at least 1 room or unit is rented out through use of advance reservations
- Includes apartment, house, cottage and condominium
- Does not include tenancies at will, month-to-month leases or timeshare property
- Rental that is not for more than 31 consecutive calendar days.

Source: MA DOR

4

An Act Regulating and Insuring Short-term Rentals G.L. c. 64G



Accepting New Tax

➤ Amends G.L. c. 64G, Room Occupancy Excise by adding “short-term rentals”

If city/town has already accepted 64G:3A, (Edgartown in 1987) local option excise will automatically apply to short-term rentals on July 1, 2019 that are subject to state excise (St. 2018, c. 337, s. 15.) – No additional local acceptance or other action by city/town is required

NEW Tax Structure

5.7% = Commonwealth of MA

4.0% = Town of Edgartown:

(Hotel Room Occupancy Revenue + Short Term Rental Revenue)

(\$980,515 + X)

9.7% TOTAL

Source: MA DOR

5

An Act Regulating and Insuring Short-term Rentals G.L. c. 64G



New Tax

➤ Amends G.L. c. 64G, Room Occupancy Excise by adding “short-term rentals”

	Massachusetts Room Occupancy + Short Term	Local Room Occupancy + Short Term	Total
	✓	✓	✓
Options	5.7%	0-6%	5.7-11.7%
Edgartown	5.7%	4%	9.7%
Aquinnah	5.7%	4%	9.7%
Chilmark	5.7%	4%	9.7%
Oak Bluffs	5.7%	6%	11.7%
Tisbury	5.7%	6%	11.7%
West Tisbury	5.7%	TBD*	5.7%

Source: MA DOR

6

An Act Regulating and Insuring Short-term Rentals G.L. c. 64G



Amending New Tax

➤ Amends G.L. c. 64G, Room Occupancy Excise by adding “short-term rentals”

➤ *If city/town has already accepted 64G:3A, (Edgartown in 1987) local option excise will **automatically** apply to short-term rentals on July 1, 2019 that are subject to state excise – No **additional local acceptance or other action by city/town is required***

➤ *If city/town has already accepted 64G:3A, (Edgartown in 1987) it may amend the excise rate or revoke its acceptance of 64G:3A; however, it may not do so more than once in a 12-month period – **Town Meeting Vote** (Edgartown, OB, VH, Chilmark, Aquinnah)*

➤ *If city/town has not yet accepted 64G:3A, may accept 64G:3A and establish local rate – **Town Meeting Vote** (West Tisbury)*

Source: MA DOR

7

An Act Regulating and Insuring Short-term Rentals G.L. c. 64G



Additional Fee Option

➤ G.L. c. 64G: Local Option Community Impact Fee: Applies to “professionally managed unit”

- *One of two or more short term rental units in same city/town not located within single or two- or three-family dwelling that includes operator's primary residence*
- *Only available if city/town has accepted local option excise under 64G:3A*
- *Up to 3% of rent for transfers of occupancies of certain short-term rentals*
- *Separate acceptance vote required – same manner of acceptance as for local excise*
- *Paid monthly by the operator directly to city/town - 64G:3D(c)*
- *35% of impact fee must be dedicated to affordable housing or local infrastructure*

Source: MA DOR

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An Act Regulating and Insuring Short-term Rentals G.L. c. 64G



Additional Tax Option

➤ G.L. c. 64G: Cape Cod and Islands Water Protection Fund

- *2.75% additional excise in cities/towns within Barnstable, Nantucket and Dukes County, if city/town is subject to:*
 - *Area wide wastewater management plan under s. 208 of federal Clean Water Act*
 - *Equivalent plan determined by Dept. of Environmental Protection (DEP)*
- *Excise is paid by operator to DOR for transfer to Cape Cod and Islands Water Protection Fund*
- *Island towns (Nantucket and Dukes County) are not currently members of the Fund; they will need to work with DEP to obtain its determination of a "suitable equivalent plan" to join the Fund*
- *Once DEP has approved plan, Board of Selectmen vote triggers joining fund*

Source: MA DOR

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An Act Regulating and Insuring Short-term Rentals G.L. c. 64G



➤ G.L. c. 64G: "Local By-law / Ordinance"

- *Adoption of by-law or ordinance to regulate "operators" registered with DOR. By-law or ordinance may:*
 - *Regulate location of operators and number of days operators may rent out in a year*
 - *Require licensing; but city/town may accept a certificate of registration with DOR*
 - *Establish penalties for violations and reasonable fee for administration*

Source: MA DOR

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An Act Regulating and Insuring Short-term Rentals G.L. c. 64G



Summary

	Massachusetts Room Occupancy + Short Term	Local Room Occupancy + Short Term	Community Impact Fee	Cape & Island Water Fund	Total
	✓	✓			✓
<i>Tax Options</i>	5.7%	0-6%	0-3%	2.75%	5.7-17.45%
Edgartown	5.7%	4%	0%	0%	9.7%
Aquinnah	5.7%	4%	0%	0%	9.7%
Chilmark	5.7%	4%	0%	0%	9.7%
Oak Bluffs	5.7%	6%	0%	0%	11.7%
Tisbury	5.7%	6%	0%	0%	11.7%
West Tisbury	5.7%	TBD*	0%	0%	5.7%

Can be implemented or modified through Town Meeting vote

BOS Vote after DEP Approval

*Will vote for 6% at West Tisbury Town Meeting

An Act Regulating and Insuring Short-term Rentals G.L. c. 64G



Additional Resources:

✓FAQs - DOR website - <https://www.mass.gov/infodetails/short-term-rentals-frequently-asked-questions>

✓Division of Local Services - Local Option Webpage - <https://www.mass.gov/service-details/local-optionsrelating-to-property-taxation-cpa-meals-and-roomoccupancy>

✓Cape Cod Commission website - <http://www.capecodcommission.org>
Regional Plans / Section 208 Plan

✓MA DOR Technical Release “Working Draft” - <https://www.mass.gov/technical-information-release/working-draft-tir-19-xx-changes-to-the-room-occupancy-excise-in-an>

An Act Regulating and Insuring Short-term Rentals G.L. c. 64G



Comments

PUBLIC MEETING SIGN-IN SHEET

MEETING DATE:

4/2/2019

Name (Please print legibly!)

Street Address

Agenda Item

Name (Please print legibly!)	Street Address	Agenda Item
Elen Searle	51 CHASSA RD Ely	
Margaret Russell	131 N Dater Street	
Sonia Celeste	205 SUMMER ST	
Maurice Hughes	31 Duves Pond, Bagatoun	
Diane Carr	128 Maui St, Etoum	
Melanie	28 LESLIE AVE	