

Edgartown Planning Board Minutes

Tuesday, April 16, 2019

A regular meeting of the Edgartown Planning Board was scheduled for Tuesday, April 16, 2019, at 5:30 PM at the Edgartown Town Hall, 70 Main Street, Edgartown, Massachusetts.

SITE VISITS

The following site visits were scheduled

- 9:15 AM BRETL – 6 ARMSTRONG LANE (30-20)
- 9:35 AM STOP & SHOP – 225 UPPER MAIN STREET (20A-57.1)

No deliberation or discussion was conducted as part of the site visits.

Prior to the start of the meeting, Mr. McCourt acknowledged the passing of Mr. Fred B. “Ted” Morgan. Mr. Morgan was Edgartown’s elder statesman, a WWII combat veteran, and an Edgartown Selectmen for 30 years. Mr. McCourt spoke fondly of Mr. Morgan, and expressed sincere condolences on behalf of the board to Mr. Morgan’s family.

The Board observed a moment of silence in memory of Mr. Fred B. “Ted” Morgan.

CALL TO ORDER

The meeting was called to order at 5:33 PM.

Call of Roll:

Present: Michael McCourt, Scott Morgan, Lucy Morrison, James Cisek (Planning Board Alternate).

Absent: Fred Mascolo

Also Present:

Douglas Finn, Planning Board Assistant

Reorganization

There being no elected chair, Mr. Michael McCourt, the senior Planning Board member present - called the meeting to order. A quorum was declared.

Mr. Glen Searle was welcomed to the board. Mr. Finn presented Mr. Searle with a planning board ‘binder’, and provided a brief overview of the reference materials provided.

There was some discussion as to the board’s tradition of selection of a chairman.

It was MOVED by Morrison, SECONDED by Morgan

To table reorganization to the next regular meeting on May 7.

VOTED: 5, 0, 0.

It was MOVED by Morgan, SECONDED by Morrison

To authorize Michael McCourt to continue to act as Chair Pro Temp, and further to authorize Michael McCourt to certify accounts payable invoices on behalf of the Planning Board.

VOTED: 5, 0, 0.

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

SCHEDULED BUSINESS

5:30 PM PUBLIC HEARING: MODIFICATION TO SPECIAL PERMIT: STOP AND SHOP – 225 UPPER MAIN STREET (20A-57.1)

Request for a modification of Special Permit to allow outdoor displays of seasonal merchandise. Applicant: Mary McEvoy, Manager, Stop and Shop.

On Tuesday, April 16, 2019 at 5:30 PM, in accordance with MGL Chapter 40A §9, the Edgartown Planning Board held a public hearing in the Town Hall, Main Street, on the request of Mary McEvoy, Manager, on behalf of Stop and Shop, the Owner, for a special permit modification to construct a temporary outdoor display to sell garden and outdoor products.

This application is made in accordance with Section 3.2.B.1 of the Edgartown Zoning Bylaw. The property is located at 224 Upper Main Street, Assr. Pcl. 20A-57.1.

Copies of the application were made available in the Planning Office for public review.

The notice was read, and the public hearing was opened at 5:39 PM.

Presentation

Ms. McEvoy was present to speak to the application which she described as substantively similar to past years' requests: use of the sidewalk area immediately in front of the store to setup displays of outdoor and garden products.

There was some discussion as to the types of merchandise to be displayed, and the amount of area to remain open and available to pedestrians on the sidewalk.

Public Comment

There was no verbal or written comment received from members of the public.

The chair closed the public hearing at 5:41 PM.

Deliberation and Vote

Mr. Cisek stated that, since the proposal was consistent with past years' proposals, it should be approved with conditions similar to those in previous years. Mr. Morgan, Ms. Morrison and Mr. Searle concurred.

It was MOVED by Morgan SECONED by Searle

To approve the application with the following conditions:

General

- o Outside lighting shall be fully operational at all times, comply with the building code, and downward lit.*
- o Benches shall be provided indoors and outdoors for the elderly, and people waiting for car services.*
- o All outside electrical outlets shall be maintained in compliance with regulations.*
- o Outside faucets shall be properly maintained, and shall utilize a secure faucet suitable for a public area.*

Shopping Carts

- o Cart corrals shall be maintained to the right & left side of the parking lot "walkthrough" areas.*
- o All carts shall be neatly organized in and returned to the cart corrals or the single-line storage areas on the sidewalk throughout the day.*
- o Cart corrals shall not be blocked and shall be properly maintained.*
- o Carts shall be properly cleaned in accordance with Board of Health instruction.*
- o Carts stored on the sidewalk in front of the store shall be stored in a single row.*

Bicycle Racks:

- o Bike racks shall be secured and maintained on opposite ends of the parking lot.*
- o Signage shall be maintained at the bicycle rack facing the front door of the store, reserving the space for bicycles only.*

Parking lots

- o Surfaces shall be regularly checked for condition, and property maintained.*
- o Missing bricks shall be replaced.*
- o Potholes shall be properly repaired immediately.*
- o The lot shall be properly plowed, sanded and salted as necessary.*
- o The parking lot shall be swept of all sand and salt at the end of winter.*
- o All ADA parking spaces shall have appropriate signage and ground markings.*
- o All cement parking lot bumpers shall be secured or reset on a daily basis.*
- o Drainage systems in the parking lot shall be regularly cleaned and maintained.*

Landscaping:

- o Landscaping shall be maintained; dying plants shall be replaced; branches shall be kept trimmed.*

Sidewalks:

- o All sidewalks shall be cleaned daily and properly maintained on a regular basis.*
- o Stop and Shop shall maintain the brick walkway between the two parking areas near the front door wide enough to accommodate wheel chairs, shopping carts and strollers in two directions, keeping it free of shopping carts and bicycles.*

Outdoor Displays:

- o Outdoor displays of merchandise are permitted from April 1, 2019 through December 31, 2019.*
- o Display area is to be 26' long on the sidewalk along the front of the store.*
- o A minimum of 60" of sidewalk width shall remain clear at all times.*
- o Display racks on front sidewalk shall be placed so as to extend no more than 30" from front wall.*
- o Sale items are limited to the following:*
 - Produce and vegetables*
 - Outdoor Plants and Flowers (cut or live)*
 - Firewood and related items (e.g., bundles of fire wood, fire starters)*
 - Autumn seasonal produce and other organic décor items (e.g., pumpkins, gourds, cornstalks)*
 - Holiday organic décor items (e.g., wreaths, greens, trees)*
- o Any additional items to be placed outside require additional Planning Board approval.*
- o All display items shall be placed on the racks. No plants or display items may be placed on the sidewalk.*
- o Empty display racks must be promptly refilled, or removed.*

VOTED: 5, 0, 0

5:45 PM PUBLIC HEARING: SPECIAL PERMIT

(Continued from March 19, April 2, 2019) 32 Ocean View Avenue Realty Trust (29-137)

Construct a garage / pool cabana on a non-conforming lot in the inland zone of the coastal district.

Present on behalf of the applicant: Nelson Giannakopoulos, Chuck Sullivan Associates Architects.

Prior to opening the public hearing, Mr. McCourt stated that, given Mr. Mascolo's absence, if the public hearing is re-opened and comment is received, there would only be four members of the

current Planning Board eligible to vote on the application, and the applicant might reasonably request to withdraw the application, and refile at a later time.

There was some discussion amongst board members about the impact of opening the public hearing, or simply continuing the matter, and what that would mean for the applicant, and addressing abutters' concerns about the project.

After extensive discussion, Chairman McCourt stated that the best path for the board to take would be to continue the public hearing, receive testimony from the neighbors who had travelled a distance to be present, and allow the applicant to decide whether to continue the process, or to withdraw. The chair continued the public hearing at 5:53 PM.

Presentation

Mr. Bo Reily, speaking on behalf of his family, presented some of the history of their interactions with the applicant, and their knowledge of the project as originally proposed. Mr. Reily stated that original information that they were presented by the applicant did not match the final proposal as approved, or as was being built.

Mr. Reily stated that the site has undergone extensive changes, including extensive tree removal, changes to the grade of the site, and installation of retaining walls very close to the board.

Mr. Reily urged the board to reject this submission, and preserve the site to the greatest extent possible.

Mr. William Reily V, an abutter to the applicant, spoke in opposition to the proposal. Mr. Reily V described his family's efforts to preserve existing trees, plant new trees, and keep the viewshed of the harbor. Mr. Reily V asked that the application be rejected.

Ms. Caroline Reily spoke to clarify points made at previous meetings. Ms. Reily stated that what had been described previously as miscommunication was, in her opinion misinformation.

Ms. Reily stated that the WPA application referred to the site plan, and elevations, but did not refer to the extensive re-grading of the lot that seems to have been done. Ms. Reily stated that the work completed so far exceeds what was allowed by the Conservation Commission in relation to the application.

Ms. Reily expressed her opinion that the town had been misled by the applicant.

Ms. Reily stated that her family had attempted to work in good faith with the applicant.

Mr. Searle: Since the last meeting, have you talked to the Sullivans? Response (Caroline Reily): We have tried to send emails but have not received any response.

Mr. Morgan: I'm very familiar with the property, and recall clearly my question about tree removal. We said yes to the new house, and the pool, with the expectation that we would receive an application for the pool house. This seems to not have been true.

If the applicant was told by the conservation commission that there should be minimal tree removal, then we need to get clarification on the matter about this.

Mr. Cisek: we need to review the Conservation Commission conditions, as well as the conditions placed by the Planning Board. The Conservation Commission's conditions are critical for us to review.

Ms. Morrison: Do we have a landscaping plan in the file? Response from staff: the Planning Board only has a plan showing lines and grades that was received with the current application. There was

some discussion about the date that the plan was received.

Mr. McCourt: At the last meeting, we definitely discussed the two parties getting together to work things out. Given the amount of earth being moved, and the amount of work to be done, there is likely to be disturbance on the site. Without agreement with the neighbors, it's difficult for the board to reach consensus.

Mr. Nelson Giannakopoulos, Chuck Sullivan Associates, asked to clarify a few points:

Mr. Giannakopoulos stated that the applicant had, through their attorney, and the architect's office, attempted to contact the abutters to discuss the application, but had received no response. The applicant then asked to withdraw the application without prejudice.

Mr. Morgan: the withdrawal of the application will not undo the current site work, nor will it replace the trees that has already been done. That can't be undone. For me, this is the frustrating part of the process.

It was MOVED by Morgan SECONED by Morrison

To allow the applicant to withdraw the application without prejudice.

VOTED: 4, 0, 1

The public hearing was closed at 6:15 PM. The applicant was withdrawn, and the matter closed.

6:00 PM PUBLIC HEARING: SPECIAL PERMIT

John P and Jennifer K Bretl, 6 Armstrong Lane (30-20). Construct a 12' x 16' non-habitable storage shed for the purpose of storing bikes, kayaks, boating gear, yard equipment, tools, etc., in the inland zone of the coastal district.

On Tuesday, April 16, 2019 at 6:00 PM, the Edgartown Planning Board conducted a public hearing in the Town Hall, Main Street, on the request of John P and Jennifer K Bretl for a special permit to construct a 12' x 16' non-habitable storage shed in the inland zone of the coastal district, and to request relief from setback regulations; shed will be used for storing bikes, kayaks, boating gear, yard equipment, tools, etc.

This application was made in accordance with Section 10 of Chapter 40A of the General Laws and Sections 10.1.G.6, 5.1.C.2 and 2.4.D of the Edgartown Zoning Bylaw.

The property is located at 6 Armstrong Lane, Assr. Pcl. 30-20.

Copies of the application were made available in the Planning Office for public review.

Present: John P. and Jennifer Bretl (Applicant).

The notice was read, and the public hearing was opened at 6:16 PM.

Presentation

Mr. John Bretl provided a bit of history related to their experience on the island. Mr. Bretl described the need for storage on the site, and described their proposal for a 12' x 16' shed. The lot was described as a narrow 'shoe-box' lot, with very little 'conforming' building area. Two concerns drove the placement location: The grade, and the existing vegetation which would hide the shed.

The closest abutter is the Potters, who have endorsed the proposal.

Mr. Searle: will there be electric or water in the shed? Mr. Bretl: We may have electricity for lights, but no water.

Ms. Morrison: it looks like one tree would be removed? Response: Yes, one tree would likely be taken out; a second tree would be trimmed, but would otherwise remain.

Ms. Morrison: A concrete pad was noted on the property – what is that? Response from Mr. Bretl: That's likely a cap for the existing leaching pit, part of the wastewater system on the lot.

Mr. Finn: Would there be any major excavation? Response: only the minimum necessary to place blocks necessary for a level support for the shed.

Mr. Cisek: The proposal seems minimal, and the abutters seem to approve.

Mr. Morgan: I appreciate the presentation, and believe it clearly makes the case for approval of the application.

Mr. McCourt closed the public hearing at 6:23 PM.

Ms. Morrison: Is the board the correct body for granting a variance? does this have to go to the ZBA? Mr. Finn: As the Planning Board is the Permit Granting Authority for the Coastal District, the Planning Board has the authority to grant a variance related to proposed uses or structures in the District.

Discussion / Deliberation

It was MOVED by Morrison SECONED by Morgan

To grant relief from zoning bylaw, section 2.4.D, allowing for the construction of a utility shed in the setback area, as the applicant has demonstrated that relief may be granted without adverse consequences to the abutters, without derogating the intent of the zoning bylaw. This variance is granted subject to standard conditions for construction projects, as follows:

- This special permit is not in effect until the applicant has filed a certified copy of the decision or certificate with the registry of deeds. A copy of same shall be provided to the Planning Board and Building Inspector.*
- The construction shall conform to the application considered by the Planning Board, including all plans and documents submitted in support of same, and approved by the Planning Board.*
- This special permit shall run with the land.*
- Outdoor lighting shall be limited to that required by the building code and shall be down-lit only and fully shielded when viewed from the top and sides. Mercury vapor lighting and “bug zappers” are prohibited.*
- Prior to issuance of a building permit, the above specified plans will be compared to the construction documents submitted to the Building Inspector for verification and correspondence. If the Building Inspector determines that there are significant differences, the applicant shall be required to apply for a Modification to this Special Permit.*
- Construction activities must commence no later than one year after the Special Permit is issued.*
- No construction activity will take place earlier than 7:30 AM or later than 5:30 PM, or on Sunday, or from June 15 through September 15.*

VOTED: 4, 0, 1

ADMINISTRATIVE

REVIEW OF MINUTES

The board reviewed the minutes from March 19, 2019.

It was MOVED by Morrison SECONED by Morgan

To approve the minutes from March 19, 2019 as presented.

VOTED: 5, 0, 0

The minutes from April 2, 2019 were distributed.

REVIEW AND SIGN PAYROLL

Period ending April 16, 2019

REVIEW AND SIGN DECISIONS

The following decisions were reviewed, approved and signed:

- MV 223 Upper Main Street LLC (20A-95) – SP for build-out of basement area.
- Winnetu Oceanside Resort (52-26.1) – SP for MV Food and Wine Festival

OTHER ADMINISTRATIVE BUSINESS:

Mr. Finn provided the board with a one-page ‘job description’ of a Planning Board member, and encouraged the board to pursue and put emphasis on those aspects of the job that relate to long-range planning.

Mr. Finn also reminded board members that communications to the Planning Board not related to an active application are received and archived in the office, and encouraged members to check in regularly and review correspondence as received.

SCHEDULE OF UPCOMING MEETINGS

May 7, May 21, June 4, June 18

OTHER BUSINESS NOT ANTICIPATED IN ADVANCE

SCHEDULE OF UPCOMING MEETINGS

Meetings were tentatively scheduled for May 7, May 21, June 4 and June 18

ADJOURN

There being no further business, it was MOVED by Morgan, SECONDED by Morrison

To Adjourn.

VOTED: 5, 0, 0.

The meeting was declared adjourned at 6:38 PM.

Respectfully submitted,

Douglas Finn,
Administrative Assistant

APPROVED by vote of Planning Board
at a regular meeting, held on

5/16/19
(Date of vote)

[Signature]
Mascolo (absent)

[Signature]
McCourt

[Signature]
Morrison

[Signature]
Morgan

[Signature]
Searle

[Signature]
Cisek (alternate)

