

# Edgartown Planning Board Minutes

Tuesday, September 3, 2019

A regular meeting of the Edgartown Planning Board was scheduled for Tuesday, September 3, 2019, at 5:30 PM at the Edgartown Town Hall, 70 Main Street, Edgartown, Massachusetts.

*PRESENT: Fred Mascolo (Chair), Lucy Morrison, Scott Morgan, Glen Searle, James Cisek (Alternate)*

*ABSENT: Michael McCourt*

The meeting was called to order at 5:44 PM, and a quorum was declared.

## **SITE VISITS**

9:20 AM – 10 Dairy Way

No deliberation was conducted as part of any site visit.

## **SCHEDULED BUSINESS**

### **5:30 PM: SP (COASTAL DISTRICT) – 10 DAIRY WAY (12-15) – EDWARD & MARY TRAYES**

In accordance with MGL Chapter 40A, Section 10, the Edgartown Planning Board will hold a public hearing in the Town Hall, Main Street, on Tuesday, September 3, 2019 at 5:30 PM, on the request of Edward & Mary Traves, on behalf of Mary H. Traves Inter Vivos Deed of Trust (Owner), for a special permit to construct an addition to a non-conforming structure on a non-conforming lot in the coastal district. Addition will consist of: a single bedroom (12' x 20') with step-free access to bathroom; extension of deck to meet new exterior edge; Shed roof extension to existing structure; no new plumbing.

This application is made in accordance with Section 5.1.C.2 of the Edgartown Zoning Bylaw. The property is located at 10 Dairy Way, Assrs. Pcl. 12-15. Copies of the application are available in the Planning Office for public review.

The chair opened the public hearing at 5:45 PM. Present: *Edward and Mary Traves (Owners / Applicants)*

### **Presentation**

Mr. and Mrs. Traves described the project: The proposal is for an addition, 12' x 20', with a commensurate deck extension on the south side of the existing structure. The addition will consist of a single floor, deck on piers, with a single-pitch roof attached to the existing structure. No plumbing will be added. A slider door will allow direct access outside to the exterior deck, which will be extended along the east wall of the addition.

Mr. Traves stated that he constructed the house in 1970; he said that the existing house is 24' x 24', and the addition will be in keeping with the style of the current structure.

Mrs. Traves: An upstairs loft has served as a sleeping area, but we are looking to live on one level, due to current health issues.

Mr. Finn reported that three of the four adjacent lots are also non-conforming (between .95 and 1.1 acres; Zoning Minimum is 1.5 acres), and have been previously developed by the construction of buildings or structures that exceed the size of the subject property with the proposed addition.

Mr. Finn reported that no letters had been received.

It was MOVED by Morrison SECONDED by Searle

*To close the public hearing.*

The public hearing was closed at 5:48 PM.

Deliberation

The board generally agreed with the proposal as presented.

Ms. Morrison

It was MOVED by Morison SECONDED by Searle

*To approve the application as presented, as other lots in the neighborhood have been previously developed by the construction of similar buildings or structures, and that the proposal would not be more objectionable to the neighborhood. Approval is conditioned as follows:*

- This approval includes a side-setback variance, allowing the addition to encroach into the setback area.*
- 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.*

VOTED: 5, 0, 0.

**5:40 PM: 79 TURKEYLAND COVE RD (44-7) – WYCLIFF AND CORINNE BASLER GROUSBECK**

Doug Hoehn, Schofield Barbini and Hoehn, Inc., presented a plan believed not to require approval under the subdivision rules and regulations.

The plan is a renewal of a plan previously endorsed by the Board in 1998. Mr. Hoehn stated that no lines were changed or new lines created. The request is in order to reflect the current structures on the plan, in accordance with Land Court requirements.

Ms. Morrison suggested that the plan should by right be referred to the Martha’s Vineyard Commission as a DRI with concurrence. Mr. Hoehn stated that he disagreed, and that the previous plan could be recorded.

Ms. Morrison said that the regulations have changed since 1998, and the plan should by right be referred.

Mr. Mascolo asked Mr. Adam Turner (MV Commission) for an opinion.

Mr. Turner stated that the original plan was ratified at the time, under those regulations at the time.

Mr. Morgan: If we don't refer it, what will be the MV Commission's response?

Mr. Turner encouraged the board to act in the best interests of Edgartown.

Mr. Mascolo: This is re-approval of a plan that was approved at the time, under the rules in place at the time.

It was MOVED by Morgan SECONDED by Searle

*To endorse the plan as not requiring subdivision approval, it showing a division of land that leaves all lots with adequate frontage, area and access to a public way.*

VOTED: 4, 0, 1 (MORRISON).

#### **5:50 PM: PUBLIC COMMENT - MR. IVAN BRADBURY**

Mr. Ivan Bradbury presented a letter citing his concerns about Summer Construction in Downtown Edgartown.<sup>1</sup>

Additional letters from Ms. Sarah Jane Hughes<sup>2</sup>, Mr. Tom MacCowatt<sup>3</sup>, Ms. Donna Hand-Celuzza<sup>4</sup>, Ms. Cate Applegate<sup>5</sup>, and Mr. John Tankard<sup>6</sup> are included by reference, and attached to these minutes.

#### Presentation / Discussion

Mr. Bradbury thanked the board for the time to present his concerns.

Mr. Bradbury: The proposal I am making is for the Historic district; given the setbacks and small lot sizes, construction is very disruptive. The issue is simple: courtesy and politeness, to the neighbors and the community. Edgartown is a summer community; to be doing heavy construction in the summertime is inappropriate. To do heavy construction from 7 AM to 8 PM is disruptive. The arguments for curtailing summer construction are powerful: The countervailing argument isn't really there; some ask what the effect will be on local trades; those concerns are minor, and can be mitigated. The total amount of building in the district versus the building in the all of Edgartown is somewhat small. It will affect certain trades—those involved in foundation work, siding, framing, etc. But it will not affect internal work (electrical / plumbing) or landscaping. This is a summer community – built around those few months in the summer. Everyone is used to massive seasonal variations in workload. Many summer places have restrictions on construction in the summer. It would be appropriate for the downtown Edgartown.

In summary; summer construction in the historic district is anti-social, and should not be permitted. I have brought it to the attention of this board, as I wasn't sure what to do about my concerns. Mr. Michael Donaroma suggested that I approach the board.

Mr. Mascolo asked about the rules in place now; Mr. Finn described the rules as they exist.

Mr. Mascolo (to Bradbury): Do you feel that the folks doing the work are following those rules?

Mr. Bradbury: Generally, they are, but you have people paying a lot of money to spend their time here, and it's being interrupted by construction.

There was some discussion about conditions applied as part of approval for a special permit, versus the town's noise bylaw.

Mr. Mascolo: I think that the Planning Board might be the wrong agent to pursue this matter; you might want to take it up with the Selectmen.

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<sup>1</sup> Letter from Mr. Ivan Bradbury, dated August 28, 2019, attached as Addenda #1.

<sup>2</sup> Letter from Ms. Sarah Jane Hughes, dated August 30, 2019, attached as Addenda #2

<sup>3</sup> Letter from Mr. Thomas MacCowatt, dated September 3, 2019, attached as Addenda #3

<sup>4</sup> Letter from Ms. Donna Hand-Celuzza, dated Tuesday, September 3, 2019, attached as Addenda #4

<sup>5</sup> Letter from Ms. Cate Applegate, dated September 3, 2019, attached as Addenda #5

<sup>6</sup> Letter from Mr. John Tankard, dated September 1, 2019, attached as Addenda #6

Mr. Bradbury: That's what we're looking for here – that the Planning Board send a bylaw proposal to the Board of Selectmen for inclusion on a warrant.

Ms. Katherine Putnam spoke about the concern for construction in the summer, and the fact that the density has increased to a point where summertime construction becomes intrusive.

Mr. Morgan: With due respect to the applicant: this isn't just a summer community, it a year-round community. I appreciate the concerns; I can see the need for some modification to the existing rules, but these guys have to work.

Mr. Mascolo: I understand what you're trying to do, but there are a number of companies that are on time restrictions, and need to build when the timing is right. I understand the concerns – the year-round residents are mostly workers.

Mr. Morgan: The idea is good; but we need to come up with a moderated conclusion – an outright ban will be fought – fiercely – at Town Meeting.

Mr. Bradbury: We're not talking about a full ban on construction – painting, electrical, interior work, etc. It's just the heavy outdoor work that we're talking about.

Mr. Morgan: Perhaps we can come up with a set of rules that folks can agree with.

Mr. Mascolo: We don't disagree with the intention – and perhaps shortening the summer work daily 'window'; but an outright ban won't be approved.

Mr. Anthony Giordano, South Summer Street: The two words I use to describe this summer: brutal and relentless. I'm not a complainer – I'm in the industry. I understand the importance of completing the project on time and on budget, but timing a project in order to meet deadlines is not unheard of. I would be willing to support limited hours for summer construction. However, to continue as we have been is just too difficult.

Mr. Cisek: Years ago, folks would build smaller houses. Now the houses are so elaborate, they take one to two years to complete. Halfway through the project, you can't turn off the project mid-job.

Ms. Putnam: There's also the density issue to consider – we've got an area with five-foot setbacks.

Ms. Jane Bradbury: We did speak with our builder and our painter about this. He said that his guys work 14 hours per day all through the winter. In the summer, they know there will be less work – less construction in the summer. They welcome the break in the summer. This isn't a brand new thing – the off-season building cycle is known to them. Neither the builder nor the painter that we spoke of would be against the issue. We have rental units, and have lost tenants due to the construction impact. This may be a long-term impact – if the town is known for construction noise, it will reduce rentals.

Mr. Mascolo: The concern is that people who are expressing these concerns are not registered voters, and won't be able to speak in favor of any change to the zoning bylaw.

Mr. Turner: We recognize that there can be limits to construction that balances the needs of the contractors, and the home-owners. Any measure has to be a reasonable approach to the concerns; perhaps get opinions from builders as to how they feel.

Mr. Bradbury: it is possible to petition for a special town meeting in the summer.

Mr. Mascolo: We've tried that and we have a very hard time making a quorum; and unless you are a permanent resident, registered to vote, you can't vote at Town Meeting.

Mr. Bradbury: This is like taxation without representation.

Mr. Mascolo: I think the next step is to try to talk with the Board of Selectmen about the matter, and see if they can move forward.

Ms. Morrison: Perhaps an amendment to the existing noise bylaw might be the best path.

Mr. Morgan: Another possibility: form a group on your own to lobby local real-estate agents;

Mr. Giordano: One of the local realtors is the general contractor in charge of some of these local projects.

Mr. Mascolo: We've identified a problem. We need to figure out the next step. There has to be some way to form a group that has enough say to amend the town bylaw regarding noise.

There was some discussion related to various ways to find a solution, whether it be a town bylaw, or a zoning bylaw.

Mr. Alwyn Taylor: For the last five years, I've had housing construction projects on one side of me or the other. This is a problem. There have been nine houses built within 150 yards of me – you can imagine the noise that results from all of that. I've had to live right next door to this for five years, and haven't been able to do anything about it. The construction noise, the parking – these are problems we've had to tolerate. Parking is at a premium in the summer, and construction workers are taking up parking spaces.

Mr. Mascolo discussed the history of trying to preserve and/or create parking in the village.

Mr. Morgan talked about various contract provisions (penalties for late finishing, deadlines, etc.)

Mr. Taylor: There is a regulation somewhere – where you can't build during a certain period of time; can't that simply be expanded to include all construction in this area?

Ms. Morrison discussed the circumstances related to special permits, and how special permits can be conditioned.

There was some discussion related to the best avenue as to how the matter could be further pursued.

Mr. Mascolo suggested that the group petition the Selectmen for a change to the existing noise bylaw, reducing the window for heavy construction in the summer.

The individuals present thanked the board for their time.

## **ADMINISTRATIVE**

### **REVIEW OF MINUTES**

The board reviewed minutes from May 21, June 11, June 18, July 9, August 6, and August 20.

It was MOVED by Morgan, SECONDED by Searle

*To approve the minutes of May 21, 2019 as presented and amended.*

VOTED: 5, 0, 0.

It was MOVED by Cisek, SECONDED by Searle

*To approve the minutes of June 11, 2019 as presented and amended.*

VOTED: 3, 0, 2(MORRISON / MORGAN).

It was MOVED by Morgan, SECONDED by Searle

*To approve the minutes of June 18, 2019 as presented and amended.*

VOTED: 5, 0, 0.

It was MOVED by Morgan, SECONDED by Searle

*To approve the minutes of July 9, 2019 as presented and amended.*

VOTED: 5, 0, 0.

It was MOVED by Morgan, SECONDED by Searle

*To approve the minutes of August 6, 2019 as presented and amended.*

VOTED: 5, 0, 0.

The minutes of August 20, 2019 as presented for review.

### **REVIEW AND SIGN PAYROLL**

Payroll for September 3, 2019 was reviewed and approved.

**ADMINISTRATOR'S REPORT**

Mr. Finn briefly reviewed advice received from Town's Counsel in regard to the repetitive petition process, where the Planning Board is the Special Permit Granting Authority.

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

No other business was conducted.

**SCHEDULE OF UPCOMING MEETINGS**

Mr. Finn presented a draft agenda for September 17, 2019, for board review.

Meetings were tentatively scheduled for October 1 and October 15, November 5 and 19, December 3 and 17.

**ADJOURN**

There being no further business, it was MOVED by Morgan, SECONDED by Morrison  
*To Adjourn.*

VOTED: 4, 0, 0.

The meeting was declared adjourned at 7:20 PM.

Respectfully submitted,

Douglas Finn,  
Administrative Assistant

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

October 29, 2019  
(Date of vote)

[Signature]  
Mascolo

[Signature]  
McCourt

Lucy L. Morrison  
Morrison

[Signature]  
Morgan

Alan S. Searle  
Searle

\_\_\_\_\_  
Cisek (alternate)

## **ADDENDUM**

- Addenda #1: Letter from Mr. Ivan Bradbury, dated August 28, 2019
- Addenda #2: Letter from Ms. Sarah Jane Hughes, dated August 30, 2019
- Addenda #3: Letter from Mr. Thomas MacCowatt, dated September 3, 2019
- Addenda #4: Letter from Ms. Donna Hand-Celuzza, dated Tuesday, September 3, 2019
- Addenda #5: Letter from Ms. Cate Applegate, dated September 3, 2019
- Addenda #6: Letter from John R. Tankard III, dated September 1, 2019

**From:** Jane Bradbury <jbradbury@me.com>  
**Subject:** Summer construction noise  
**Date:** 27 August 2019 at 09:40:27 GMT-4  
**To:** planningboard@edgartown-ma.us

Dear Doug,

Following our conversation, I am writing to you to outline my concerns about building works undertaken during the summer months in the Edgartown Historical District. These concerns are shared by many summer residents who have had their summer spoiled by the disruption of construction noise.

As you know, construction noise is currently allowed thirteen hours a day, six days a week. The seven o'clock start precludes a peaceful breakfast; the all day working means residents cannot use their yard or patio; the eight o'clock finish intrudes into dinner. The five-foot set-back in the Historic District means that adjacent buildings works are extremely intrusive. I know at least one family whose grandchildren were repeatedly woken early with the result that their parents felt they had no choice but to cut their holiday short.

Many summer residents are seasonal renters paying very high rents, and the landlords are now paying taxes on short-term rentals. Summer residents who own property here are in most cases not local voters but pay very high levels of tax. Many of those property owners feel that their interests are not fully taken into consideration; taxation without representation always being a combustible issue. The level of in-town construction noise this season has brought things to a head for many summer residents, both owners and renters.

I propose that there should be a blanket exclusion of construction noise between June 15 and September 15, bringing all construction in line with the constraint currently only available when Special Permits are issued. Adapting such a motion need not significantly inconvenience builders or developers if they planned their in-town schedules accordingly.

Such a motion would send a clear message to summer residents that their peaceful summers are important to the Edgartown community.

Best regards,

Ivan Bradbury  
85 South Water St.  
Edgartown  
508 627 4373 home  
508 274 4373 cell



**Sarah Jane Hughes**  
**65 South Summer Street**  
**Edgartown, MA**

August 30, 2019

Planning Board

Town of Edgartown, MA

Via: Doug Finn, [dfinn@edgartown-ma.us](mailto:dfinn@edgartown-ma.us)

To the members of the Planning Board and Mr. Finn:

I write to support Ivan Bradbury's request for some limitations on new construction hours – as opposed to emergency repairs – in the Historic District during the summer months. I regret that I cannot attend your meeting in person to express my support for Ivan's initiative.

This summer, our home was in the noise corridors of three construction projects. Two of these were on lots formerly owned by the Vineyard Museum on School Street, and the third was an antique home in the block of South Water Street bounded by the home of Stephen Berger and his family and the home of Tessa Dahl that had belonged to her mother, Ms. Neal.

Although we were not first-line abutters of any of these projects, the noise was often piercingly loud and interfered with our ability to enjoy being outside during construction hours. I personally minded most construction in the late afternoon and early evening. Our neighbors who are immediate abutters – the MacCowatts, the Giordanos, the Celuzzas, and the Applegates and the Bergers -- were more directly affected.

With the exception of emergency repairs, which everyone understands cannot happen predictably, I urge you to consider limiting the work-day hours allowed to a start time at 8 am (which many used to observe) and to an end time of 5 pm during the summer season. Such limitations would allow neighbors to use their properties and would alleviate some congestion on the narrow streets of the Historic District so that residents and visitors can get around and park. They also might benefit other island service providers including landscape companies whose businesses need access during the height of the summer months. I am certain it would allow residents and visitors to do other business with businesses downtown in the summer.

I have no interest in asking for limitations that would drive away the skilled workers on whom we all rely. I believe that shorter workdays would be safer for the workers as well as allowing us to have some quiet enjoyment of property on which we pay taxes but use only for short periods in any year.

Thank you,

Sarah Jane Hughes

Hughes.sarahjane@gmail.com

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## Construction hours

1 message

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**Thomas MacCowatt** <tmaccowatt@gmail.com>  
To: dfinn@edgartown-ma.us

Tue, Sep 3, 2019 at 3:55 PM

Dear Planning Board,

I understand there will be a discussion of construction hours at your meeting this evening.

For the past twenty years, my extended family has spent the summer months in our home at [58 South Summer Street](#), behind the Cooke House/former museum property, in relative peace. However, this summer, we have had to listen to the constant construction noise of the two new houses at 55 and 59 School Street, for thirteen hours a day, six days a week. We were awakened daily at 7AM by the noise, and not able to open our windows in the back of our house or sit in our backyard without having to listen to the constant pounding. The construction did not stop until after dinner at 8PM.

Edgartown is primarily a summer community, and developers, contractors and homeowners should be more respectful of the peace and quiet we hope to enjoy each summer, particularly given the lot density downtown. While I recognize the need for construction workers to make a comfortable living, limiting summer hours to a normal eight hour work day should not create a hardship. In addition, the winter months are not as harsh as they used to be and therefore construction can happen year-round.

My family and I ask that the town address the noise issue by curtailing summer construction hours from Memorial Day weekend to Labor Day to normal business hours of 9AM to 5PM and to add Saturday as a no-construction day along with Sundays and holidays. Homes like the ones behind us were never going to be finished for occupancy this summer, so having to work a few extra weeks in the off-season so that neighbors can enjoy a relatively peaceful summer would seem to be a reasonable trade-off.

Thank you for your consideration of our concerns.

Sincerely,

Tom MacCowatt

[58 South Summer Street](#)

[Edgartown](#)

**TOWN OF  
EDGARTOWN**

**WEBMAIL**

Douglas Finn <dfinn@edgartown-ma.us>

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## Limiting summer building hours

1 message

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**donna Hand-Celuzza** <dmhceluzza@gmail.com>

Tue, Sep 3, 2019 at 3:50 PM

To: dfinn@edgartown-ma.us

Dear Mr. Finn,

I would like to voice my support in limiting the building hours for construction projects during the summer in Edgartown. My current property at 64 South Summer street is located behind the new building project presently on-going on the old Museum site on the corner of Cooke and School St. Due to the constant noise of construction from early morning until 7:00 pm, My family and I have not been able to sit outside on our patio in our backyard all summer. My back-facing door and windows have remained closed all summer due to the constant construction noise.

I realize that the construction workers need to make a living and I certainly do not want to deprive anyone of a hard earned salary. But I am opposed to the unnecessary long hours Monday through Saturday that is presently acceptable. Summer is a short season for those of us who want to enjoy the peace and quiet of the outdoors in our backyards. Therefore, I am in favor of limiting work hours on construction projects to a reasonable 8-5 work schedule.

Thank you,

Donna Hand Celuzza  
64 South Summer St  
Edgartown

Sent from my iPad

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**Building noise**

1 message

**Cate Applegate** <cateapplegate@gmail.com>

Tue, Sep 3, 2019 at 10:50 AM

To: dfinn@edgartown-ma.us, planningboard@edgartown-ma.us

Cc: ag@elmstreetpartners.com

&gt; Dear Planning Board,

&gt;

&gt; I live at 61 S. Summer Street, which is directly behind the construction taking place at 76 S. Water St. The noise has been relentless this summer. It is so disruptive that our family has not been able to enjoy being outside in our yard nor able to have dinner outside on our patio.

&gt;

&gt; We hope you will consider shorting the hours during the week and eliminating or shorting the weekend hours so at least part of the day is quiet and peaceful.

&gt;

&gt; Thank you for your time in addressing this serious problem.

&gt;

&gt; Sincerely,

&gt; Cate Applegate

&gt; Sent from my iPhone

**TOWN OF  
EDGARTOWN**

**WEBMAIL**

Douglas Finn <dfinn@edgartown-ma.us>

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## Construction in Historic District during the summer months

1 message

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**John Tankard** <architects@tankard.net>

Sun, Sep 1, 2019 at 10:20 AM

To: Douglas Finn <dfinn@edgartown-ma.us>, planningboard@edgartown-ma.us

Cc: architects@tankard.net

Dear Mr. Finn and the Planning Board members,

As the owners of 16 School Street on the corner of School Street and Pent Lane, my wife and I are acutely aware of the inconvenience caused to residents during the busiest time on the year. All summer long there has been construction and landscape installation at [16 Pent Lane](#), as well as the two new houses being built on School Street at the former MV Museum property.

The streets of the historic district are very tight and always crowded with the normal summer traffic and do not need the additional burden of construction and landscape installation projects, or the related noise. We strongly urge the creation of a moratorium on these construction projects from Memorial Day through Labor Day. Residents who occupy houses in the Historic District don't want work done on their houses during that period. A moratorium would still leave nine months for construction work to take place, which, with planning should be a reasonable time for the work to be done.

We are unable to attend the hearing on Tuesday, so please keep us informed of the discussions and progress to make everyone's summer months more enjoyable.

Regards, John and Judith Tankard

*John R Tankard III - Architect*

[321 Dartmouth Street #1](#)

[Boston, MA 02116](#)

617-530-1380 [architects@tankard.net](mailto:architects@tankard.net)

<http://johntankardarchitect.net>

