

Edgartown Planning Board Minutes

Tuesday, March 20, 2018

A regular meeting of the Edgartown Planning Board was scheduled for Tuesday, March 20, 2018 at 5:30 PM at the Edgartown Town Hall, 70 Main Street, Edgartown, Massachusetts.

CALL TO ORDER

The meeting was called to order at 5:34 PM.

Call of Roll:

Present: James Cisek (Chair), Fred Mascolo, Michael McCourt, Sam Sherman, Scott Morgan (Alternate), Lucy Morrison.

Also Present:

Georgiana Greenough, Planning Board Administrative Assistant.

Douglas Finn, Planning Board clerk

A quorum was declared.

SITE VISITS

The following site visits were scheduled:

- 9:30 AM 14 Sampson Av.
- 10:30 AM Majane Lane & Jeremiah Rd
- 11:15 AM 27 Mill Hill Rd
- 11:30 AM 257 Edg-VH Rd – Unit 3

No deliberation was conducted as part of the site visits.

Due to technical issues, the board agreed to take certain agenda items out of order. The minutes reflect the order in which business was conducted.

BOARD BUSINESS

5:35 PM Definitive Plan - Katama Acquisitions LLC, 410 West Tisbury Rd (27-249) Approved 1/5/18. Appeal period satisfied. Requires signatures on plans. (Agent, Doug Hoehn, SBH)

A definitive plan, previously approved on January 5, 2018, was presented for final signature. The board endorsed the plan.

5:38 PM Boston Equity RE LLC: Refer to the MVC per 2.6 ANR.

It was MOVED by Morrison SECONDED by Sherman

To refer the "Approval Not Required" Plan to the MV Commission, in accordance with section 2.6 of the DRI Checklist, creation of 3 or more lots using an ANR plan.

VOTED: 5, 0, 0.

5:40 PM Katamen Development LLC (Form O Release), 27 Mill Hill Rd (29-57.41) Requires letters from electricians, utilities and road contractor to release the parcels. (Agent: Frank Delli Carpini, an owner, Doug Hoehn)

Ms. Greenough described that letters from various parties, necessary for release of the parcels have been received.

Ms. Greenough stated that the road seems to be adequate for two lots; further refinement would be needed for further development, but that the board could vote to release now.

Sherman: Should we schedule another inspection? Response: Another inspection could be scheduled, in coordination with Stuart Fuller, Highway Superintendent.

Sherman: we could give them a provision to go ahead, without fully developing the road during construction, providing that at the end of construction the road could be brought 'up to snuff' in the end.

Mr. Doug Hoehn: That is the expectation, and that the homeowner's association would see to it.

Sherman: The road is not in the finished condition now, and normally, we don't get another chance. Hoehn: agreed.

Ms. Greenough: The road is adequate for a two-lot subdivision, if not up to full specifications.

Mr. Bob Sparks stated that the two homeowners agree the road is not completed, but propose to do so by the time the home construction is completed.

The question about a potential condition to be imposed, requiring completion of the road.

Mr. Sparks agreed that the release of the Form O could include a condition.

It was MOVED by Mascolo SECONDED by Morrison

To release the Form O, and include a condition requiring proper completion of the road by October 30, 2018.

VOTED: 5, 0, 0.

6:10 PM AT&T/Fynbo, 14 Sampson Av (34-197) Construction of Permanent PWSF

The Planning Board continued deliberation on the application of Anderson & Kreiger et al. on behalf of New Cingular Wireless PCS, LLC (AT&T) for a special permit to construct, operate, license and maintain a Personal Wireless Service Facility ("PWSF") at 14 Sampson Avenue, Edgartown, Massachusetts.

The proposed site is located on a non-conforming lot within the R-120 Zoning District, on assessors' parcel 34-197. The proposed PWSF includes without limitation a 115-foot monopole with antennas and associated radio communications equipment as a permanent

solution to address a significant gap in the wireless network coverage in the Chappaquiddick area of Edgartown.

Ms. Greenough outlined the process, reminding the board of the process to date.

Staff presented a document outlining research, recommendations and recommended conditions in regard to the proposal.

Ms. Greenough spoke briefly about the board's option for either a 'monopole' or 'monopine' option.

The MV Commission's conditions were reviewed.

McCourt: We should look at the recommended findings as a review.

Finding re/ cellular services being necessary for the public good:

Sherman: We have ample evidence that reliable cellular service represents an unmeasurable benefit when it comes to saving lives.

Mascolo: We've heard from the police chief, fire chief, and other agents, and they all agree on the importance of cellular service.

Condition: "Continuation of a Non-Conforming Use / Detriment to the neighborhood"

Morrison: The MVWiFi antenna is the pre-existing non-conforming use, but that doesn't translate to the temporary or permanent cell tower.

Sherman: If the WISP is considered to be pre-existing, non-conforming, then the lot being used for an antenna that is non-compliance, even if it isn't that specific tower.

Morrison: I don't think that anyone on Chappy has a problem with MV Wifi continuing operation on the site.

McCourt: I have no problem for the height. The height is necessary to solve our communication problems on Chappy, for the reasons that make it beneficial for approval, the tower height is necessary.

Morrison: Clarifying: I'm not opposed to a cell tower of this height, only one at this location.

Re: That the proposal will not be more detrimental to the existing use

Mr. Cisek: It will be less detrimental, as it will be replacing two towers with one, with no guy wires.

McCourt: Agreed.

Re: Edgartown Zoning Bylaw 11.6:

Re/ Visual impact:

Sherman: I don't agree with this finding; a taller tower is more detrimental to the neighborhood. Unfortunately, we have been told that a taller tower is necessary, practically and financially. The concealed monopole design would not be possible, due to spacing and equipment requirements.

McCourt: Agreed; it is greater in height, will definitely be visible, but under the circumstances, it's necessary to have the height for clear communication and operation.

Mascolo: Too many people at the beach to not have this tower, due to safety reasons. From Norton Point to Cape Pogue is packed with people in the summer.

Morrison: There is another location that is more+ suitable for this.

Mascolo: The problem is that this has been an ongoing issue for more than five years.

Morrison: That is not a reason to rush the application.

Sherman: We've been told that this is the best location, they feel, for the tower. We have not been told that they are unwilling to put the tower elsewhere. That would be an answer I would like to have. Additional costs would be involved; however, if we could get an answer as to the viability of the other sites, that would be very helpful.

Mascolo: in a perfect world, this would be at the fire department, so the Town could reap the financial benefit. However, this has gone on for five years.

McCourt: I agree with you. One Committee worked on this for two years, another for three; all we received was 'bad vibes' from carriers and residents. We tried to arrive at a solution that would resolve issues; we concluded that this site was the most agreeable site that has come up since the conversation started six or seven years ago; to see all this time wasted is frustrating. This is very important for safety, there is already a tower there, for the benefit of everyone that visits this is necessary. To go through this again would be crazy. This is the most agreeable location that I've seen over the past six or seven years.

Sherman: I would not suggest we go back to ground zero. However, I would suggest that we make the best decision possible. We need to make sure that we've exhausted all the possible options, vetted all three sites; a short period of time to insure that we've explored all options.

McCourt: Haven't we done this already? Haven't we gotten all information?

Sherman: I think we should know all the answers before we decide. If you we have those answers, I'm happy to have them.

Mascolo: I don't' think we should delay this, we've been through the information already.

Sherman: Six years of working on the project, versus six years, two months, is a minor change, and one that we can afford.

Mascolo: How long does it take to construct a tower? Eight to Ten weeks. I would hope that it is in place by summer. But we've gone over this for six years; if there is something that is sticking out like a sore thumb, fine. But I think we've seen it all.

Sherman: Neighbors are looking at this project one way, AT&T another. Planning Board has to look at the larger picture.

McCourt: We've been there, done that, gotten all the answers and feedback. To revisit this, we're going to drag this all out, again. While I respect our board, and the members, I think we've been through this as well.

McCourt: Do we have to reopen the public hearing? Response, no, if all you are looking for is clarification of existing information from the applicant.

Morrison; we couldn't approve the project on a different site. I think it would be hasty to approve this without vetting alternatives.

Mascolo: this isn't hasty, this process has continued for at least six years.

Morrison: I see a very attractive alternative site; higher elevation, in the woods, that would better benefit from the use of the 'monopine' concealment.

Mascolo: Why didn't this come up six years ago?

McCourt: We did look at alternative sites; there was significant push back on alternative sites.

Mascolo: We continued to come back to this site.

McCourt: Can we put this off until we get information from the applicants, answering our questions?

Mascolo: I don't want to wait – I think we have the information that we need now. And we need the tower.

Sherman: No one is questioning the need for the tower; however, I have a few more questions in order to secure that we can make the best decision needed.

There was discussion about the timeline for continued deliberation.

Deliberation was tabled until later in the meeting, so that other agenda items could be addressed.

6:10 PM Ogden, 8 Armstrong Lane (30-21) SP: To construct a funicular on a non-conforming lot from 25' above the shoreline to the boathouse and pier to accommodate the owner, a disabled individual. (Chris Alley & Tony Bene)

The board conducted a public hearing on the application of Tony Bene, Hutker Architects, to construct a 43 ft long funicular to facilitate the owner's access to the boat house and timber pier.

The property is located at 8 Armstrong Lane, Assessors' Parcel 30-21. The hearing is held in accordance with MGL Chapter 40A and the following section(s) of Edgartown zoning bylaw: 11.9.f., 13.4.b.4., 14.1.d.1

Ms. Greenough read the public notice. The chair opened the public hearing at 6:18 PM. No one was present to represent the applicant or agent.

There was no comment from the public.

Mr. Sherman suggested that they could act on the application, if all members were familiar enough with the details.

It was MOVED by Sherman, SECONDED by Morrison

To close the public hearing, and to approve the application as presented.

VOTED: 5, 0, 0.

**6:10 PM Premier Chef Services/Shane Tank, 257 Edg-VH Rd – Unit 3 (21-34.221) SP: (B-2)
Professional chef seeks a special permit to operate a commercial kitchen for catering services from May – October. (Shane Tank, owner)**

A public hearing was held to accept comment on an application by Shane Tank to operate a commercial kitchen at 257 Edgartown Vineyard Haven Road, Unit 3.

Ms. Greenough read the public notice. The chair opened the public hearing at 6:23 PM.

Present for the Applicant: Shane Tank.

Mr. Tank presented the application, and briefly described the proposal. No exterior renovation will occur, except to add ductwork, eliminating the windows facing the bank.

Hours of operation are expected to be 10 AM to 5 PM; late night returns of equipment would happen very briefly after engagements.

Loading and unloading would be in the parking lot near Santander, or near the main door on the South site.

The board confirmed that there would be no retail service, no dining service, and no ‘chef’s studio’.

Fire suppression and hood ventilation would be on the parking lot side.

McCourt: some issues with a convenience store some years ago caused some concerns previously with abutters;

Dr. McNulty, owner of the building, spoke to the project, and cited improvements to the facility that are anticipated to alleviate concerns.

Underground fuel tanks, fire suppression, and other improvements are under the auspices of the Building Inspector’s office, and the fire chief; all are anticipated to be approved.

Ms. Greenough stated that Matt Poole spoke highly of the applicant, and endorsed the application.

Mr. Sherman: My concern relates to the loading and unloading of materials in later hours; but if no larger trucks are anticipated to be used, then I’m happy.

Mr. Cisek asked for other comments from the public. None.

It was MOVED by Mascolo, SECONDED by McCourt

To close the public hearing, and to approve the application as presented.

VOTED: 5, 0, 0.

The public hearing was closed at 6:29 PM.

6:20 PM Bad Martha Farmer's Brewery Modification to SP. 270 Upper Main St. (20A-65.2) modification to a special permit originally issued January 30, 2015, to allow entertainment at the property until 8:00pm in the same manner as approved by the Board of Selectmen for the previous three seasons. (Agent: Sean Murphy)

A public hearing was held to consider an application for a modification of a special permit submitted by Sean Murphy on behalf of the applicant. Ms. Greenough read the public notice. The chair opened the public hearing at 6:30 PM.

Applicant's agent present for the public hearing: Mr. Sean Murphy.

Mr. Murphy spoke about the request:

First: to allow entertainment at the property until 8 PM.

Mr. Murphy stated that, with the licensing of the business, entertainment was not included as part of the special permit.

Second: there were conditions on the special permit of 2015, notice of events being given to the Planning Board.

Mr. Murphy relayed that the Board of Selectmen has granted a license for acoustic entertainment no later than 8 PM, in 2014, 2015, 2016, and 2017.

Outdoor amplified music is not permitted in Edgartown; the application is for minimally amplified music indoors only.

Mr. Murphy stated that there were concerns with previous 'special events'. The Planning Board allowed special events, conditioned on reviewing the events at the end of the year, and if there were problems, the board would hold a subsequent hearing. As it turns out: no special events were scheduled.

Greenough: There were some complaints about noise on or around August 8 and 9. Mr. Murphy replied, stating that, yes, a letter was sent to the Selectmen, but that no further complaints were received.

Murphy: Since August, 2015, there have been no further complaints about noise. The Selectmen finalize the entertainment permit.

McCourt: Entertainment would be allowed on any day? Murphy: One license would be for Monday through Saturday, and a second would be on Sunday.

McCourt: The original permit for the facility was pretty limited; a later request allowed light snacks; what seems to be happening is that the use seems to be a bit 'stretched'.

Murphy: The food issue was broadly addressed in 2015, with submission of menus, and approval of same by Board of Health.

McCourt: Another issue we have been concerned with is the potential for traffic problems – traffic backing up onto Edg – VH road;

Murphy: I haven't heard of issues related to parking, or accidents.

Greenough: We have heard concerns about the number of patrons served, and whether the limit of 34 persons is being adhered to.

Murphy: We're not sure where the number 34 comes from, except the Planning Board special permit.

Ms. Christine Miller, resident of Dark Woods, spoke about the amplification of music at the site, and that it seemed to travel, particularly at night. I think we need to be careful about the volume that is permitted at the site.

Sherman: Was the music outside? Being played outside? Answer: yes.

Mascolo: Were you hearing the Brazilian restaurant? Sharkys? Answer; I walked down to the site; it was coming from inside.

MJ Look: I can also confirm that the music was outside;

Cisek: what time is the music playing? Murphy: 6 – 8 PM.

Residents stated that the music has been heard between 4:30 PM and 8:30 PM.

Question: Who enforces the limits? Answer: A board member, or the zoning enforcement officer.

McCourt: I suggest we approve, but condition the approval such that if there are any complaints, we ask the applicant to return to the board.

Mascolo: Could there be trees placed on the back property line?

Murphy: If the board has continued concerns, they could request that the owners come to a future meeting, and suggested that the board might continue the public hearing to a later date, allowing the principals to attend and respond to residents' concerns.

Ms. Greenough suggested continuing the public hearing to the 17th of April.

It was MOVED by Sherman, SECONDED by Morrison

To continue the public hearing to April 17, 2018; time to be determined.

VOTED: 5, 0, 0.

6:10 PM AT&T/Fynbo, 14 Sampson Av (34-197) (continued)

The board took from the table deliberation of the application.

Ms. Greenough read necessary findings from Section 23 of the Zoning Bylaw:

Sherman: the reason for our delay of decision is to insure that there are no alternatives, and that this meets the other requirements of the bylaw.

The remaining recommended requirements of the bylaw were reviewed, and briefly explained by staff.

Sherman: Would AT&T consider an alternate location?

Response: AT&T's position is that this is the best location for a tower on Chappaquiddick. This application is for this location.

Sherman: Can questions be asked about the alternative locations? Only to request clarification of previously discussed information.

Morrison: The prime reason for the current location being promoted is the existing tower.

McCourt: The previous committees looked at a number of locations.

Ms. Greenough reviewed briefly the previous options for cellular service, including DAS (Distributed Antenna System) (which would require considerably more infrastructure, and would likely be more problematic).

Ms. Greenough stated that a number of town-owned parcels were considered, but that AT&T was not interested in building a tower previous to the present application.

It was noted that the Town had previously considered a number of town-owned locations, but the town's RFP for a "DAS" received no responses from developers.

Mascolo: You don't have to be a Harvard scientist to know that a larger antenna is going to be necessary to provide coverage; DAS wouldn't work; this is the longest running issue before us; the boards and committees have come to the same conclusion; safety wise, this makes sense. I'm perplexed as to all of the sudden now why we're talking about other sites.

Mascolo: This should be something that is a no-brainer for us.

Sherman: If you want to vote to take a vote (to call the question), we can.

Greenough: You don't need to make a finding on every single section of the bylaw to make a decision. We can talk about this; we can come up with a different way to approach this.

Mascolo: Doesn't safety outweigh all other concerns? Do we need to worry about the details? This is a safety thing; this has already saved lives; why are we sitting here reviewing numbers and locations. This thing should be put in and voted. Of course, the neighbors would hate it. My point: just in the safety factor, that should be enough for our members to say "that's enough, we're in."

Greenough: I think we can answer all questions, given some time to reconsider and regroup.

Mascolo: Maybe you can dumb this down for us? Do we need to go through the details like this?

Mascolo: When public safety is our primary concern, why is this not an easy decision for us to make?

Finn: The purpose of the document was to provide you with a roadmap to make a solid, defensible decision that could survive an appeal.

Greenough: That is not a factor you should consider in making your decision. We will provide you with answers for your next meeting on April 3.

Ms. Greenough recommended tabling further deliberation.

It was MOVED by Mascolo, SECONDED by McCourt

To table deliberation on the application until the regular meeting on April 3, 2018, with the agenda time to be determined.

VOTED: 5, 0, 0.

OTHER BUSINESS

Approval of Minutes

Minutes from March 6 were reviewed.

Payroll for the pay period ending March 20 was reviewed and signed.

Decisions

AT&T (Administrative Review) October Food & Wine Festival, Katama Airfield

Upcoming Meetings

The Planning Board tentatively scheduled meetings for April 3, April 17, May 1, and May 15.

ADJOURN

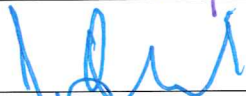
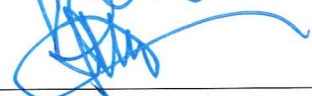



There being no further business, it was MOVED by Cisek, SECONDED by Mascolo
To Adjourn.

VOTED: 5, 0, 0.

The meeting was declared adjourned at 7:32 PM.

Respectfully Submitted,

Douglas Finn, Clerk

APPROVED by vote of Planning Board at a regular meeting, held on	
4/3/2018	(Date of vote)
	Cisek
	Mascolo
	McCourt
	Morrison
	Sherman

