

PUBLIC MEETING SIGN-IN SHEET

MEETING DATE: _____

Name (Please print legibly!)

Street Address

Agenda Item

Oliver Snider + Jerry Burke	Wimmetu - 31 Dunes road	Wimmetu De Minimis Determination
Bill MILAKOVE	18 BAYSIDE STH	Pool
Ben Hall JR.	21 Oliver	EZBL Δ's

Edgartown Planning Board Minutes

Tuesday, December 18, 2018

A regular meeting of the Edgartown Planning Board was scheduled for Tuesday, December 18, 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 5:30 PM.

Call of Roll:

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

Absent:

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

A site visit was scheduled for 18 Bayside South, 9:30 AM.

SCHEDULED BUSINESS

5:30 PM PUBLIC HEARING - DANIEL W. AND MARY B. STANTON – 18 BAYSIDE SOUTH (36-159.14)

On Tuesday, December 18, 2018 at 5:30 PM, the Edgartown Planning Board held a public hearing in the Town Hall, Main Street, on the request of Doug Hoehn, SBH, Inc., on behalf of Daniel W. Stanton and Mary B. Stanton, Owner, for a special permit, under Section 5.1 (rev. 2018) of the Edgartown Zoning Bylaw, to construct a swimming pool in inland zone of the Coastal District.

The property is located at 18 Bayside South, Assr. Pcl. 36-159.14.

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

The Public Hearing was called to order at 5:31 PM.

Present for the applicant: Doug Hoehn, SBH, Inc.

Presentation

Mr. Hoehn presented an assessors map and site plan. Mr. Hoehn described briefly the process of permitting, which included review and approval from Conservation Commission, as well as National Heritage.

Mr. Hoehn stated that a landscaping plan will be forwarded to the board. The pool will be salt-water treated; equipment will be housed in the cabana, on the interior side. The pool fence will be a combination of a five-foot wall on the east (down-hill) side, which will wrap around to the south side

of the patio; as the grade rises, a wire-mesh fence will continue at a 48" height above grade, providing the required access restriction.

Public Comment

There being no public comment, it was MOVED by Mascolo, SECONDED by McCourt

To close the public hearing.

VOTED: 5, 0, 0.

Deliberation

Mr. Sherman: Will there be a fence or rail on the East side of the patio? Isn't a railing or guard required for any patio or deck over 30" in height?

Mr. Hoehn: I'm not sure, but if it's required, it will be installed.

The development envelope was reviewed. The protected areas were reviewed.

There was some concern as to the height and construction of the fence, both on the south and the east sides. Mr. Hoehn said that he could provide detail to the Board.

There being no further discussion, it was MOVED by Mascolo, SECONDED by McCourt

To approve the application as presented, with standard pool conditions, as follows:

- 1. The pool, pool house, and fencing shall be constructed according to the plans presented at the hearing, unless conflicting with regulations. Any modifications to the plan shall require approval from the SPGA.*
- 2. Only the residents of the dwelling and their guests shall use the pool.*
- 3. No portion of the pool shall be located closer than the standard setbacks of boundary line of said lot.*
- 4. The pool must be securely fenced and maintained with a child-proof fence, gates and doors to a height of not less than four feet. A 'life ring', shall be provided with a secured safety line of a length to reach all areas of the pool.*
- 5. The location of the pool shall not interfere with the enjoyment of the view of the natural surroundings from a way used by the public, public land, or abutting land.*
- 6. All pool equipment shall be located inside a pool house or enclosed structure for noise abatement unless specifically waived by the SPGA.*
- 7. Pools supplied by well water shall be filled prior to June 15 or after September 15.*
- 8. Pool water shall be treated with a non-chlorinated treatment system only. Pools shall not be drained within 48 hours of any chemical treatment.*
- 9. Heated pools are permitted with the recommendation the heat source is*

solar, geothermal or other alternative energy source.

10. All water (treated or untreated) drained from the pool shall be trucked off-site to an appropriate approved location unless specifically waived by the SPGA.

11. Outdoor lighting is limited to that required by building code and shall be low wattage, fully shielded when viewed from the top and sides and directed downward. Mercury vapor lighting and bug zappers are prohibited.

12. The responses contained within the swimming pool special permit criteria checklist shall become a part of this decision.

13. Copies of this decision shall be provided to the construction crew prior to the construction of the project.

14. The project shall meet compliance with any Conservation Commission Order of Conditions.

15. The project shall meet compliance with any Massachusetts Department of Environmental Protection Wetlands Order of Conditions.

16: All fencing as proposed shall be reviewed by the Building Inspector for compliance with any applicable codes, prior to issuance of a building permit.

17: A copy of the Landscape Design plan shall be submitted to the Planning Board prior to issuance of a building permit.

VOTED: 5, 0, 0.

5:40 PM FORM O RELEASE – STEPHENS (47-107.14 AND 47.107.15) – ROB MCCARRON

The Board considered a Form O filing, submitted by Attorney Rob McCarron, requesting issuance of a Certificate of Completion and Release of Municipal Interest, in accordance with MGL Chapter 41 Section 81k-81gg, and the Rules and Regulations Governing the Subdivision of Land in Edgartown.

The request was made on behalf of Helen Hall Stephens et al, and related to a subdivision plan approved by the Edgartown Planning Board on March 16, 1999, and recorded with the Dukes County Registry of Deeds, E-706.

Attorney McCarron explained that, while the subdivision had been completed some years back, a formal release of the lots of the subdivision had never been issued by the Planning Board; Lots #4 and #5 are slated to be sold, and the lots need to be formally released in order to release the town's interest, and to conclude the process. Lot #2 had been sold, and a house built; utilities are underground and are complete.

Attorney McCarron confirmed that the subdivision roads were completed in accordance with the conditions of approval of the Subdivision Plan, utilities are complete, and all applicable regulations.

Photos of the constructed roadways were presented for review.

It was MOVED by Morrison, SECONDED by Mascolo

To release parcels 47-107.11, 47-107.12, 47-107.13, 47-107.14, 47-107.15, 47-107.41, 47-107.42, and 47-107.43, as shown on the 2017

Edgartown Assessors Maps, pursuant to Massachusetts General Laws, Chapter 41, Section 81U, and in consideration of completion of said construction and installation, to release its interest in the performance security referred to in the Form F Covenant recorded with the Dukes County Registry of Deeds, Book 776, Page 60.

VOTED: 5, 0, 0.

The Form O was signed by the board and notarized by Attorney McCarron.

5:45 PM REQUEST FOR DE MINIMIS DETERMINATION – MARK SNIDER – WINNETU (52-26.1)

The board took up an application from Mr. Mark Snider, requesting a determination of a de minimis change to the addition to the Winnetu Resort, previously approved through a Special Permit issued by the Planning Board in September, 2018.

Present: Mr. Oliver Snider, Mr. Jerry Burt.

Presentation

Original Site Plan and Elevations, and revisions to each, were presented for review. A narrative, prepared by the applicant, is as follows:

“The programming for the addition has been minimally reduced, resulting in a reduction of 310 SF from the first floor layout and the elimination of an outdoor deck and one office on the second level. The architectural design will remain consistent with the existing building style.”

Mr. Snider and Mr. Burt described the changes.

Discussion

The floorplans were reviewed. Mr. Burt described the sections of the space that would be removed, and which sections would remain.

There being no further discussion, it was MOVED by Mascolo, SECONDED by MORRISON

That the changes to the proposal are de minimis, and require no further action by the Planning Board.

VOTED: 5, 0, 0.

Mr. Finn will transmit notification to the Building Inspector.

5:55 PM ANR: TOWN OF EDGARTOWN - 11-80.1 AND 80.2 (DOUG HOEHN)

An ANR plan was presented by Mr. Doug Hoehn, SBH, Inc., on behalf of the Town of Edgartown, related to a reconfiguration of lot lines, and formal creation of a ‘conservation area’ lot of ~5 acres.

Present for the Applicant: Mr. Doug Hoehn, SBH, Inc.

Mr Hoehn presented the plan, a set of parcels behind Smith Hollow, owned by the Town of Edgartown. The town’s parcel is to be divided, in order to permanently preserve about five acres for conservations purposes, related to an order of ataking, dated August 3, 1999, and a Conservation Restriction between the Town and the MV Land Bank Commission, dated 25 October 2016, and enabling the town to use more of the conserved land at the Katama Airfield.

A copy of the Conservation Restriction was presented to the Board for review.

There being no further discussion, it was MOVED by McCourt SECONDED by Mascolo

To endorse the ANR plan as presented, as it shows reconfiguration of Town parcels, for the purposes of conservation and recreation; no buildable parcels are being created.

VOTED: 5, 0, 0.

OTHER BUSINESS:

MV COMMISSION UPDATE: ADAM TURNER

Mr. Adam Turner, Executive Director of the Martha's Vineyard Commission, presented the board with an update of ongoing activities and reviews, focusing on items of interest to the Town of Edgartown, including:

Meetinghouse Way LLC – subdivision review

The 35 unit subdivision plan is being reviewed on the 24th of January. Issues related to traffic, scale, affordable housing, and open space are being considered. The hope is that the Commission can review the project once, with comments and concerns from the board included in the Commission's deliberations. Traffic studies are ongoing, and results will be submitted to the board when they are prepared.

Mr. Turner detailed specific concerns for traffic.

Mr. Turner also encouraged members to attend, and offer commentary. Mr. Finn will forward comments and public comment to the MV Commission.

Cisek: Will the MV Commission be considering the affordable housing contributions? Turner: There is ongoing negotiation on that topic, and outside of the application the affordable housing policy is ongoing.

1 Mariner's Way – mixed use

Mr. Turner stated that there continues to be issues with the project. One outstanding issue is related to the air-conditioning condenser units. The applicant expected to install them along the back (South) face, but neighbors have expressed concerns related to the issue. There are concerns about potential noise and activity issues.

Mr. Morgan stated that the concerns are legitimate; however, certain communications conflicts served to exaggerate the issues somewhat.

Mr. Turner stated that his interest is in getting the current builder to 'do the right thing' and to adhere to the plans and conditions for approval.

There was some discussion related to methods of sound abatement.

There was also some discussion related to ongoing efforts to compromise and reach an accord.

Population Book

Mr. Turner described a publication prepared by the MV Commission providing statistical data on population, density, and a variety of other issues. Copies will be provided to the Planning Board when the publication is complete.

Mr. Turner spoke about an expressed need for data by several island boards and committees, as being necessary for knowledgeable decisions. Some of the data in the MV Commission's

publication dates back to the early 1900s, but largely represents a 20-year set of data, which Mr. Turner suggested should be sufficient to describe trends.

Island Engineer

The MV Commission received a grant for engineering services; the hope is to provide some relief to certain island roads that regularly flood. There was some discussion about areas in Town that could use review in this regard.

Clarion Hotel – Renovations and Changes

Mr. Turner described a proposal related to the use of the Shiretown restaurant, and the conversion to four hotel units (previously approved by the Planning Board). There was some discussion related to the proposal, and the Board's previous review of the project.

Other Comments:

Mr. Mascolo: Our economy is related to tourism. The conversion of inns and hotels to apartments and condos has hurt the island economy. More room for tourist services – as opposed to workforce housing – should be considered.

Mr. Turner: The conversation related to land use, construction, and how housing is being built, and where it is being place, should be ongoing, and continued.

The discussion should happen among policy-makers. Staff can support, and suggest, but the elected officials need to make the decisions.

Mr. Turner was thanked for his time.

REVISIONS TO ZONING BYLAW: SECOND READING

ANR –related changes

The Board reviewed proposed amendments to the Zoning Bylaw, as follows:

Part 1A: create or amend definitions for "Frontage" and "Lot", as follows:

"FRONTAGE: The boundary between a plot of land or a building and a way laid out and accepted as a public way or a way shown on a definitive subdivision plan. Frontage also refers to the full length of this boundary."

"LOT: A parcel of land in one ownership, with definite boundaries **and frontage**, occupied or suitable to be occupied by a certain use. See also Lot Area."

Part 1B: Require new Lots (after April 9, 2019) to have Frontage on a public way, by amending the Edgartown Zoning Bylaw, Section 10.1.A.3., "Frontage", as follows:

All lots created after ~~April 9, 1985~~ **April 9, 2019** will have a minimum frontage of 50 feet on a street **a way laid out and accepted as a public way or a way shown on a definitive subdivision plan.**

Part 2: Common Driveways (req. Special Permit)

The board reviewed a recommended change to the Zoning Bylaw to provide for review of common driveways, as follows:

Part 2A: amend the Edgartown Zoning Bylaw, Article 1, section 1.3.D "DEFINITIONS" as follows:

LOT: For the purposes of this bylaw, a single parcel, or group of contiguous parcels, under common ownership.

DRIVEWAY: For the purposes of this bylaw, a minor private way used by vehicles and pedestrians for common access from a public way to a single lot.

COMMON DRIVEWAY: For the purposes of this bylaw, a shared private way used by vehicles and pedestrians for common access to up to four separate residential lots.

Part 2B: add adding Section 10.1.J as follows:

10.1.J: COMMON DRIVEWAYS

The use of common driveways to provide access may be allowed through the issuance of a Special Permit. The Planning Board shall serve as the Special Permit Granting Authority (SPGA).

All lots associated with the use of a common driveway must provide parking that does not impede or restrict access along the common driveway, in accordance with the criteria established by this Bylaw.

The Town shall not be required to provide construction, reconstruction, maintenance, or snow plowing services, nor provide school bus pick-up, or regular police patrols along a common driveway. The Town shall have in all cases right of passage along the common driveway to respond to emergencies or calls for assistance.

Generally, common driveway design shall support the following goals:

- reduce the overall number of curb-cuts onto public ways, preserving the rural character of the Town;
- provide for appropriate sightlines;
- provide safe access to and from public ways;
- minimize adverse impact to wetlands, farmland, or other natural resources;
- allow reasonable, safe, and less environmentally damaging access to lots characterized by slopes or ledges; and
- retain existing vegetation and topography.

The SPGA may establish general conditions for approval of common driveways as it determines are necessary to serve the public interest, and which are in harmony with the purposes and intent of this Bylaw.

The SPGA may impose additional conditions on a case-by-case basis, based on site conditions, site orientation, and lot line configuration.

Discussion - Part 1 (ANR definitions and lot frontage requirements):

Mr. Ben Hall was recognized.

Mr. Hall agreed with the intention behind a common-driveway regulation, but disagreed with changing the definition of "lot" or "frontage", as it would create a large burden on homeowners looking to simply divide their land for inheritance purposes. The Planning Board currently has the ability to not endorse an ANR if the public way does not meet minimum standards.

Mr. Hall further objected to the changes as it represented “another layer of regulation that prevents the private individual from doing what they want with their land.”

Mr. Morgan appreciated the discussion of the changes, but did not like being “under the gun” related to approving a change prior to Town Meeting, and did not concur with the recommendations related to ANR applications.

Mr. Sherman agreed with Mr. Morgan: that some suggestions could go forward, but other contentious decisions should not be rushed.

Mr. Mascolo: Agreed - we shouldn't rush forward with this. Take our time.

The Planning Board generally did not concur with Part 1 of the proposed warrant articles.

Discussion - Part 2 (Common Driveways):

There was discussion about the proposal to institute regulations governing common driveways.

Morrison: I think we should forward this as a warrant article.

Morgan: Agreed.

Cisek: A good idea.

Mr. Sherman declared that the board concurred with the recommendation to forward Part 2 - “Common Driveways” proposal as a warrant article.

Solar Photovoltaic Installations

The board reviewed recommended addition to the Zoning Bylaw that would provide oversight for large-scale solar projects, and adopt Site Plan Review as the mechanism for review of solar projects, with the following stated goals:

- To designate the Planning Board as the SPRA
- To require an optional public hearing, at the sole determination of the SPRA
- To allow small- to medium-size roof-mounted solar by right in most zones.
- To require Site Plan Review in the R-5 and B-1 zones, and for larger installations.
- To establish conditions for approval.
- To allow for peer review at the applicant's cost, if deemed necessary.

Discussion

McCourt: I agree with the intention.

There was some discussion related to a previous solar installation and whether the regulations would allow the Planning Board to deny approval. Generally, the board recognized the ‘by right’ nature of solar, but agreed that some regulation as to the size, siting, and other reasonable conditions would be useful and beneficial to the town.

The Board concurred with the proposal and agreed to forward the warrant article.

Retail Marijuana Establishments

There was extensive discussion related to the proposed warrant article that would regulate Adult Use Marijuana Establishments.

Mascolo: I'm glad that the town put the 1-year moratorium. The result is language that is more well considered.

The topic of "Delivery" was raised; at this point, delivery is not licensed through the state, but towns may not enact an outright prohibition as of yet. It is expected that it will be addressed at the state level at some point in the future.

Changes were proposed as follows:

Section 10.4.A.4.b.i: "Except for the transportation of product or materials" should be in parantheses.

Strike 10.4.A.4.b.iii: strike "gross"; change the phrase to "retail floor area in excess of 2,500 sq. ft."

Strike 10.4.A.4.b.iv: The board concurred with removing the limitation as to adjacent residential uses.

There was some discussion related to the addition of the use in the B-III district. While the board recognized that there might be considerable complications for any establishing wishing to locate in the B-III district, the board agreed that the burden would be on the applicant to make their case and seek approval from the airport commission and concurred on adding the use by special permit to the B-III.

After further discussion, the board concurred, and approved the warrant article as amended, with the understanding that Town's Counsel would provide a comprehensive review of the language.

Basic cleanup of bylaw

Removal of Building Permit Limitation (expired in 1990)

The board concurred with the recommendation to strike the section from the Zoning Bylaw.

Revised / Amended "Island Roads" definition for "Chappaquiddick Road"

The board concurred with the recommendation to amend the definition as presented.

Coastal District, Permitted Uses

After much discussion as to the benefits and detractions of the proposal, the board generally concurred with the recommendation to make the change.

R5 District: "Ground Coverage"

Mr. Finn stated that a change to the Zoning Bylaw, proposing to regulate the amount of 'ground coverage' (generally, impervious surfaces), that would be permitted on any given parcel in the R5 district, may be introduced by the Historic District Commission, and may come before the Planning Board for a public hearing.

OTHER CRITICAL BUSINESS NOT REASONABLY ANTICIPATED 48 HOURS IN ADVANCE.

No other business was presented.

ITEMS FOR REVIEW / SIGNATURE

The decision for Stanton was presented for signature.

MINUTES

Minutes for the following meetings were distributed:

- December 4, 2018

It was MOVED by Morgan, SECONDED by McCourt

To approve the minutes for November 27, 2018, as presented.

VOTED: 3, 0, 1 (MORRISON).

STAFF REPORT

PAYROLL

Payroll for the period ending December 25, 2018, was reviewed and signed.

DECISIONS

No decisions were outstanding.

SCHEDULE OF UPCOMING MEETINGS

The following meetings were tentatively scheduled:

- January 8, January 22, 2019

ADJOURN

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

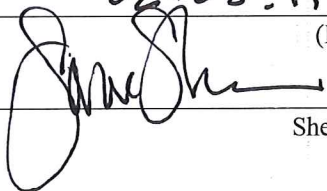

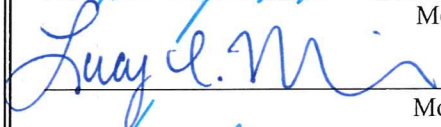
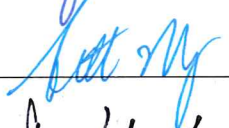
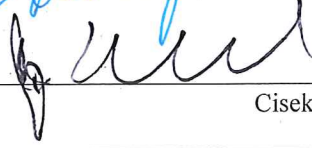
To Adjourn.

VOTED: 5, 0, 0.

The meeting was declared adjourned at 7:53 PM.

Respectfully submitted,

Douglas Finn,
Administrative Assistant

APPROVED by vote of Planning Board at a regular meeting, held on	
<u>02-05-19</u>	(Date of vote)
	Sherman (chair)
_____	Mascolo
	McCourt
	Morrison
	Morgan
	Cisek (alternate)