

Edgartown Planning Board Meeting Minutes

Tuesday, January 31, 2017 at 5:30 PM

First Floor Selectmen's Meeting Room – Town Hall

Members in Attendance: Chairman Alan Wilson, Robert Cavallo, Michael McCourt, Fred Mascolo, and Alternate James Cisek

Staff in Attendance: Georgiana Greenough, Assistant: Lucy Morrison, Clerk

Chairman Alan Wilson called the meeting to order at 5:30 PM.

5:30 PM: Public Hearing: Witchwood Association, 48 Witchwood Lane (36-303.10) SP: Surface Water District. Add four floats to an existing licensed timber pier.

In Attendance: Richard Barbini

The site visit to the property this morning was cancelled.

Mr. Barbini approached Board. He stated that the application is to add four floats (two sets of two floats hitched together) to an existing pier to ease the process of getting in and out of the boats.

Mr. Barbini explained that the floats would not add any new slips to the pier, and would not protrude any further out into the harbor; the floats are strictly for convenience.

There was no one present in the audience to speak on behalf of the application, and no letters were received.

The public hearing was closed at 5:33 PM.

Mr. Mascolo moved to approve the application with standard conditions, and no additional lighting on the pier. Mr. Cavallo seconded, and the motion passed unanimously, 5-0.

5:40 PM: Public Hearing: Conway, 75 Edgartown Bay Rd (46-53) SP: Surface Water District. Construct a 30' ell, relocate a float and add two tie-off piles to an existing licensed timber pier.

In Attendance: Richard Barbini

The site visit to the property this morning was cancelled.

Mr. Barbini distributed the site plan. The pier will protrude further out into Katama Bay than the existing pier, but there is no faired pier line in this area of the harbor. Mr. Barbini stated that the Marine Advisory Committee and the Conservation Commission have approved the application. The Conservation Commission conditioned the application to not include any additional lighting.

There was no one in the audience to speak on behalf of the application, and no letters were received.

The public hearing was closed at 5:42 PM.

Mr. Mascolo moved to approve with standard pier conditions, and no additional lighting. Mr. Cavallo seconded, and the motion passed unanimously, 5-0.

5:50 PM: Public Hearing: Chapin, et al., 21 Boldwater Rd (38-3.22) SP: Katama District. Renovate an existing 2-bedroom guesthouse larger than 900 square feet (total 1,427 s.f.) on 8 acre parcel

In Attendance: Joanne Gosser, SynergyMV, Inc.

Ms. Gosser approached the Board. On the site visit, the Board members noticed that there were too many garage bays on the property. Mr. Wilson asked Ms. Gosser about the approval for the fourth garage bay. Ms. Gosser said that she did not know when the fourth garage was added, or even that it was not allowed. She purchased the property with the four garage bays.

The application to renovate an existing, one-story guesthouse was presented. Ms. Gosser stated that she would like to remove the roof to add a second floor with a third bedroom and a second bathroom. She stated that she would not expand deck, and that the addition would not expand the footprint of the structure.

Mr. Cavallo asked about the size of the parcel. Ms. Gosser replied that the parcel was 8.2 acres.

Mr. Wilson suggested that the Board condition the application for no further subdivision. Mr. Mascolo stated that the Boldwater Association documents already prevent any further subdivision. Mr. Mascolo also commented that the Board has granted over-sized guesthouses in the Boldwater subdivision in the past.

Ms. Gosser stated that the Boldwater Association has an architectural review board. She held a preliminary meeting with them to show the plans, and there were no objections. She still needs to go back for a formal presentation and final approval.

Ms. Greenough asked if the Conservation Commission placed any conditions on their approval. Ms. Gosser stated that she has not filed an application with the Conservation Commission yet. Mr. Wilson stated that any approval shall be conditional upon approval from the Edgartown Conservation Commission.

Mr. Cavallo asked if any portion of the existing building would be demolished. Ms. Gosser said no, that only the roof would be removed. The roof height would be raised 3½ feet to 25 feet. The second floor would add 527 square feet to the building.

There was no one in the audience present to speak on behalf of the application, and no letters were received.

Mr. Wilson closed the public hearing at 5:53 PM.

Mr. Mascolo stated that he believed that there were already three other properties in the Boldwater subdivision with oversized guesthouses. He stated that eight acres would be the smallest lot with a large guesthouse, but it is located within a subdivision that has allowed others.

Mr. Mascolo moved to approve the expansion of the guesthouse as presented, pending Conservation Commission approval. Mr. McCourt seconded, and the motion passed unanimously, 5-0.

6:00 PM: Public Hearing: Southern Pasture Realty Trust, 70 Pohogonot Rd (42-1.105) SP: Coastal & Ponds Districts. Construct and maintain a 20' x 80' in-ground swimming pool, associated fencing, pool house, patio, etc.

In Attendance: Pam Swan, Ted Rosbeck

Mr. Reid Silva was not present at the time of the hearing. The Board asked the applicants if they would like to proceed. Mr. Rosbeck stated that Mr. Silva was on his way. Ms. Swan approached the Board. She stated that the property is a 25 acre parcel with 13 acres in a coastal management zone, and an 8.3 acre building envelope. She stated that the application has been approved by the Natural Heritage Endangered Species Program and the Edgartown Conservation Commission.

She added that by deed, there is a 100 foot setback from the property lines. The proposed pool was setback 145 feet from the property line, as requested by the Conservation Commission.

Ms. Swan stated that the lot is heavily wooded, and that the applicants do not intend to clear more of the property than necessary to build the pool and associated equipment. She provided a map to show the area of disturbance.

Mr. Rosbeck stated that the pool equipment would be enclosed and sound-proofed. He stated he was confident that the pool and the equipment would not be seen or heard from the water. He also stated that the pool would be treated with a salt system. He mentioned that there was no solar offset proposed at this point. The Board asked about drainage. Ms. Swan stated that a dry well would be installed as upland as possible. Mr. Rosbeck stated that there would be minimal lighting up to code, and that all of the lights would be downward shielded. The Board reviewed the list of standard pool conditions with the applicants.

Mr. McCourt asked if NHESP had any extra restrictions on lighting due to the rare moths in the area. Ms. Swan stated that she did not believe so, and that the NHESP was only concerned about the habitat.

Ms. Greenough asked if the applicants could provide a pool checklist. Mr. Rosbeck stated that a checklist was completed, and that it was in Mr. Silva's possession. Mr. Rosbeck called Mr. Silva again.

Ms. Greenough asked about the depth of the pool. Ms. Swan replied that the proposed pool would be 8 feet deep. She stated that the elevation at the proposed location was 21 feet. Mr. Rosbeck added that it was 9 feet to the bottom of the shelf and 11 feet to groundwater.

Ms. Greenough requested that the applicants send a copy of the completed pool checklist.

There was no one present in the audience to speak on behalf of the application, and no letters were received.

Mr. Wilson closed the public hearing at 6:06 PM.

Mr. Mascolo stated that the property is large, and that the proposed pool would not have an impact on the neighborhood or surrounding areas.

Mr. Mascolo moved to approve the pool as presented with standard conditions, including shielded lights, and sound-proofed pool equipment for reasons stated above. Mr. Cavallo seconded, and the motion passed unanimously, 5-0.

6:10 PM: Discussion – Jan Buhrman. Request to change a zoning bylaw in the B-III & B-IV District for her catering business to be a retail coffee shop.

In Attendance: Jan Buhrman, Richard Osnoss, John Falino, Julia Celeste, Doug Smith

Richard Osnoss approached the Board. He apologized for not being aware of the site visit. He introduced his wife, Jan Buhrman, and their commercial landlord and next door neighbor, John Falino. Mr. Osnoss stated that the catering business moved to the Airport Business Park about 16 years ago. He stated that before that, Mrs. Buhrman worked as a librarian at the Oak Bluffs School and catered in the summer. When they opened the catering business, they installed the kitchen equipment and left space to add a mezzanine level, where they hoped to sell retail products from the store in the future. Mr. Osnoss explained that they soon discovered that there were political issues with the Airport Commission at the time, and they were denied a hearing to open retail space. Since the change with the Airport Commission, Mr. Osnoss and Mrs. Buhrman have re-applied and were welcomed. The Airport Commission approved the retail space on a trial basis, to determine if there would be negative effects on the neighboring businesses or traffic. After that approval, a 20 foot by 20 foot section of the space, that was formerly used by Barnes Trucking Company was walled in, and the retail portion of the business opened. Shortly thereafter, the applicants were informed by the Edgartown Building Inspector that the retail use of the space was not permitted in the B-III District, and the operation was shut down.

The group was present before the Planning Board to begin a discussion about amending the bylaw 10.A.1.K to remove the “no retail space on premises” clause for commercial and commissary kitchens. Mr. Osnoss stated that there was a simultaneous application with the Zoning Board of Appeals for a variance to allow the retail space in the meantime before the bylaw amendment. He explained that they were also before the Board to ask for letter of support to the ZBA. He stated that there was strong support from the neighboring businesses in the park.

The Board explained that an amendment to a zoning bylaw requires a 2/3 majority vote at Annual Town Meeting, and it could take years before any change is enacted. The applicants understood.

Mr. Mascolo asked about the gas station in the business park, and how they were permitted to sell food products. The applicants explained that the bylaw states that a gas station is a permitted use under section G of the same bylaw, "gas stations including a convenience store."

Mr. Osnoss stated that he assumed the provision in the bylaw was added to prevent mall syndrome, so that restaurant business would not be diverted from the downtown areas.

John Falino read the zoning bylaw. Section K specifically prohibits commercial or commissary kitchens from having retail space.

Mr. Mascolo stated that other businesses in the park are allowed to have a section of their space for retail. There are plumbers and electricians whose customers can buy things out of the showrooms. The applicants stated that retail space is available to service businesses only, and referenced Article O of the bylaw: "Sale of goods manufactured or assembled on the premises, as long as the retail sales area is no more than 10% of the floor area of the manufacturing area and in no event shall exceed 500 square feet."

Mr. Mascolo stated that the whole business park was selling to the public, and asked how this policy is policed. Ms. Greenough explained that the retail portions of other businesses were permitted under the bylaw, and that only kitchens were exempt from having retail space.

Clarence Barnes stated that he was present in the audience to support the applicants. He stated that he donated part of the space from his trucking company so that the applicants could expand. He stated that the Airport Commission has a new administration, and has been much more motivated to get things done. He stated he saw no reason why the catering business should not be allowed to offer take-out food. He also added that the applicants immediately stopped serving when told to by Mr. Jason.

Ted Rosbeck stated that he operated a business in the park, and was also an alternate on the ZBA. He stated that he would need to research to confirm, but thought that the original bylaw specifically excluded retail kitchens to prevent restaurants from opening in the business park.

Mr. Mascolo agreed that the business park is not an appropriate location for restaurants. Mr. Osnoss and Mrs. Buhrman stated that they are not trying to open up a restaurant.

Mr. Mascolo added that the bylaw specifically blocked catering, and needed clarification. He asked if there was anything to prevent the catering company from writing a sales slip or a catering contract for a coffee, sandwich and a salad. Mr. Osnoss stated that technically, the group could do that, but it was not an ideal situation, and that Mr. Jason would probably not approve of that concept.

Mr. Mascolo stated that it was odd that all other businesses could use 10% of their space for retail purposes, except for catering companies. He stated that the issues need to be discussed further.

John Falino stated that there are similar bylaws in every town. He stated that service businesses ought to be allowed to sell their products by right. He stated that things have changed since bylaw was written.

Ms. Greenough asked if the retail space was less than 10% of the overall space. Mr. Osnoss stated that it was, and that other than the exemption of retail space for commercial kitchens, the store conformed to the bylaw.

Mr. Cisek asked if the applicants have letter of support from the Airport Commission. Mr. Osnoss stated that the letter would be ready for the ZBA hearing.

Ms. Greenough stated that a Town Meeting vote would be needed to change the bylaw. The deadline for warrant articles for the 2017 ATM has already passed, and the applicants would have to wait for 2018 to officially change the wording. The applicants understood.

Doug Smith, owner of Lucky Hanks, stated that he did not think that a take-out coffee and sandwich place, or the other retail operations in the Airport Business Park, would take away from downtown restaurants.

Mr. Osnoss apologized again, and stated that the applicants honestly did not know about the bylaw that excluded catering companies from having retail space.

Mr. McCourt stated that he was concerned about a potential parking issue. He stated that he did not know how many parking spaces were at the location, but that there would need to be a certain number of spaces per square foot of commercial space.

The Board asked if there would be any seating for customers provided. Mr. Osnoss stated that there would be only one picnic table outside, and that the business was strictly take-out.

Ms. Greenough stated that the situation would need to be monitored by Airport Business Park officials. She stated that the use could potentially be permitted so long as there were no issues for neighbors, traffic or parking.

Mrs. Buhrman stated that she was surprised that so many people from airport and surrounding businesses were ordering lunch and enjoying the walk over. She stated it added to the vitality of the area.

Ms. Greenough will draft the letter to the ZBA. The ZBA hearing has been scheduled for February 6th.

6:31 PM: Public Hearing Continuation: Wave Lengths, 223 Upper Main St (20A-95)

In Attendance: Phil Miller, Colin Young, Jayne Leaf, Martha Smith, Charles Smith, Richard Prieto, Geoffrey Rose, Brian Watson, Jennifer Vogel, Clarence Barnes (MVC), Seth Hurlow, Raymond Long, Annie Hale Long, Jessica Falter, Marlon Dwyer, Beth Serusa, Timothy Delaney, Thomas Dowd, Mavis Hutchinson, Roger Maxfield, Doug Smith, Robin Harper, Tom Morrison

Mr. Wilson explained that the Board has permanently lost a Planning Board member, and that all four members would need to vote yes for the application for it to be approved, or the applicants could request to continue the hearing to a later date. He stated that the next meeting will be held in March. Mr. Wilson stated that if one member voted no, the applicants would not be able to re-apply for two years, or would have to file a repetitive petition with the Zoning Board of Appeals and show that significant, material changes were made to the application. Mr. Wilson asked if the applicants would like to proceed. Mr. Miller stated that he did not know; he stated that he did not want to proceed and be denied. He attempted to take a straw vote, and the Board refused.

Mr. Cavallo asked if any changes had been made since the hearing in October. Mr. Miller stated that changes had been made to the project since the last hearing with the Board.

Mr. Miller stated that it was his understanding that the issues were compiled into a list of 13 items. He stated that the applicants have been through many public hearings with the Planning Board, and then were sent to the Land Use Planning Committee and then onto the full Martha's Vineyard Commission. Mr. Miller stated that the MVC voted unanimously to refer the application back to the Planning Board to continue to address the 13 issues that were given in October.

He stated that an empty building does not benefit anyone, and that has caused a situation of financial hardship for the owner. He stated that he believed the applicants have complied with all of the Board's requests thus far.

Mr. Cavallo stated that he had questions about the basement. He noticed a concrete bulkhead on the plans that would lead to the basement. He asked when it was added and who added it. Mr. Miller was unsure, and stated that the bulkhead was on the plans when he arrived on the project. He added that this was not discussed at the MVC hearings.

Mr. Cavallo stated that he did not want to discuss what happened at the MVC hearings. He stated he was concerned that the basement would be used for rental space, and asked if the applicants would be willing to get rid of the bulkhead. Mr. Young stated that the basement would just be used for storage space, and would not be rented.

Mr. Miller stated that in October, the Board had consolidated their concerns into 13 issues, which were sent to the LUPC and the MVC. He stated that, in fairness, he was trying to understand the direction of the meeting.

Mr. Cavallo stated that the Board had no choice but to send the application to the MVC, because it was a mandatory DRI referral. The application was sent to the MVC with a list of the Planning Board's concerns at the time, but the Board was never limited to that list.

Mr. Miller stated that he would have brought more materials if he had known there were going to be more issues.

Mr. Cavallo stated that he was not going to get past the fact that the building that was built was not the building that was approved.

Mr. Miller stated that the applicants left the MVC with a unanimous vote and community support. He stated that he was not going to argue with the Board, and that he was here to negotiate a place to restart the construction. He stated that the interior of the building is damaged, and it is becoming a situation of severe financial hardship for the owner. He stated he was looking for entry points to go forward. He stated that the Board has been to the site several times, and that there have been many meetings and discussions. He stated he felt that all of the Board's concerns had already been addressed.

Mr. Wilson asked again if the applicants would officially like to proceed with a four member board. Mr. Miller was still undecided.

The Board discussed whether or not the new member would be able to vote on this issue. Ms. Greenough said no, because the new member would not have been present for all of the past hearings.

Mr. McCourt asked if the applicants would be willing to make more changes to the building.

Mr. Miller stated that he was present for an open discussion, but that he could not speak solely for the project. He stated that he would need to time to discuss any potential changes with the applicants. He stated that in general, his clients were amenable to make changes in order to go forward.

Mr. Wilson stated that the most common comments were the about setbacks from Upper Main Street. Mr. Miller stated that the location of the building would be difficult to change at this point. He stated that the setback was approved, and presented on an approved engineered plan. He stated he was not sure where the applicants were out of compliance on that issue.

Clarence Barnes, a Commissioner on the MVC, stated that the MVC Executive Director, Adam Turner, could not attend the meeting, and had asked him to come in his place. Mr. Barnes stated that the applicants have been through so many meetings, and have made significant changes to the items on the list. He stated he was not sure why the application was even referred to the MVC.

Mr. Cavallo stated that the Planning Board was obligated to refer the application to the MVC because the size of the building triggered a DRI checklist item. Mr. Cavallo explained that Town Counsel intervened in August, and that the lawyers, not the Planning Board, determined that too many changes were made to the application, that it needed to be withdrawn, and a new application needed to be filed to permit the building as is.

Mr. Cavallo asked Mr. Young when the basement became more than storage space. He stated that the original permit deemed the basement to be non-passive. He asked if a non-passive basement could still be used for tenants. Mr. Young stated that in the original application, the basement was to be used as storage space for the business tenant that rented space on the first floor.

Mr. Cavallo stated that the bulkhead was not on the original set of plans. He asked who added it and when. He stated that the applicants knew full well that any changes needed to come back to the Planning Board. Mr. Young stated that he did not know when the bulkhead was added, that the modular company added it, and that it was added as an egress. Mr. Cavallo thought it was suspicious that the modular company decided to add a brick bulkhead.

Mr. Miller stated that a poured concrete foundation was on the original plan. Mr. Cavallo stated that it was not. Mr. Miller stated that he came late onto the project, and that the project has a long history. He stated that the Go Modular plan was stamped by the state, and thought it was approved. Mr. Cavallo said that the state review process has nothing to do with the Planning Board. Mr. Miller stated that when he came on board as a general contractor, the bulkhead was on the plans he received.

Ms. Leaf stated (with attitude) from the audience that she was willing to remove the bulkhead.

Mr. Miller stated that by right, the owner of the business on the first floor should have access to the basement. He was also concerned about egress issues, and that there could be a code violation if the basement did not have a bulkhead. Mr. Miller stated that the basement was never considered for rental space, and would only be for storage. He added that the only person who could use the basement would be the owner on the main floor.

Mr. Cavallo stated that the applicants would need to return to the Board for an application to use the basement for anything other than storage, and that the use of the basement would be restricted to the tenant/owner of a space on the first floor. Ms. Leaf stated from the audience that there were no plans to use the basement.

Mr. Miller stated that mistakes have been made, that he understood the Board's concerns, but that an easily accessible stairway was a safety issue. He said he would need to work with the Fire Chief to determine if it would be possible to remove the bulkhead. He stated that the applicants have improved the front façade on the building, and asked the Board to consider safety issues.

The Board decided to condition the permit with a no rentals in the basement clause.

Mr. Young stated that it was his understanding that the applicants had addressed all but one issue. Mr. Cavallo clarified that the Planning Board was not limited to the list of issues from October.

Mr. Cavallo stated that none of the applicants have answered the questions about how the plans got completely messed up. He asked again how the plans that were given to the Planning Board and sent to the MVC became what has been built.

Mr. Young stated that the modular plans had a different third floor than the original plans done by Chuck Sullivan. He stated that it was his mistake not to bring them back to the Planning Board.

Mr. Cavallo stated again that the plan before the Board was not the building that was approved.

Mr. Cavallo asked who cut the tree to build the third floor. The applicants stated that most of the tree work was done by NSTAR. Mr. Cavallo stated that at least one of the branches was removed by the modular company. Mr. Miller stated that the applicants have agreed to discuss changes, but did not see what could be done about the tree at this point.

Mr. Cavallo stated that the Board is being asked to deal with a building that was not approved. He stated that the majority of the responses to the Board's requests have been that they are not feasible, or that the applicants are unwilling to make the changes.

Mr. Miller clarified, and said that previous responses were that many of the Board's requests would be expensive to change.

Mr. Cavallo asked if the applicants could fill in the face wall on the east side, and close in the balcony on the third floor.

Mr. Wilson asked again if the applicants would like to proceed with a four member board. Mr. Miller was still unsure. Mr. Wilson decided that after being asked several times, the applicants were proceeding based on the length of the hearing thus far.

Mr. Cisek commented on the changes to the dormer in the front of the building. He stated that the new plans looked much better than the ones he'd seen over the summer. He stated that before, the front façade looked out of place and inappropriate.

Mr. Miller stated that there have been major changes to improve the appearance including the windows, window boxes, screening equipment, landscaping, and lighting.

Mr. Cisek suggested that the applicants talk to Stuart Fuller about trimming the tree more.

The Board opened the hearing to comments from the audience.

Roy Wiley, a West Tisbury resident and licensed builder, stated that he also attended the MVC hearing. He stated that the applicants went through a grueling questioning process at that meeting. He stated that plans can be complicated, and it can be easy to miss something. He stated that the applicants have admitted to their mistakes, and that he supported them going forward. He asked the Board what else was left to change. The Board stated that the applicants need a building permit before construction can continue.

Stacy Wallace was present in the audience to support the application. She stated that there was a chain of errors and miscommunications throughout the application process. She stated that Ms. Leaf is a hard worker who is an active and supportive member of the community. She stated that it was the responsibility of the community to be supportive of her as possible.

Mr. Wilson suggested that the public comments be limited to the building, instead of the character of the applicants.

Brian Watson stated that he is a friend of Ms. Leaf's. He stated that she modified the original plans from strictly commercial use to a mixed residential and commercial building to have an impact on the housing crisis. He stated that she is getting ready to lose everything on this project.

Doug Smith, owner of a restaurant across the street, stated that he would like to see the building finished.

Ray Long, a custom home builder, stated that the application process has gone on long enough, and that he would like to see the project finished.

Tom Morrison stated that the Board and the applicants need to work together. He stated that there have been a lot of mistakes made throughout the process, but that the Board should appreciate the applicant's efforts and give them the chance to finish their project.

Robin Harper stated that she would like the construction to continue on the building.

Mavis Hutchison stated that she did not think it was beneficial to have an empty building on Upper Main Street.

Mr. Barnes stated that he has never seen a comedy of errors like this. He stated that the Board should not be concerned about setting a precedent, because it was such a strange situation. He stated that it was in the best interest of the Town to finish the project. He clarified that he had no vested interest in the project, and was present in the audience due to his affiliation with the MVC.

Ms. Greenough read a letter of support from Antonio (owner of The Grill).

Mr. Wilson closed the public hearing at 7:13 PM.

Mr. Cavallo stated that he had a horrible taste in his mouth about this. After six years, the building that was built was not what was agreed upon. He stated that he was very disappointed.

Mr. McCourt stated that at this point in the application, the objective should be to make things fair. He stated that in general, if there's a permitting process, everyone should go through it and abide by it. In this case, it didn't happen. He stated that there is an unfinished building on Upper Main Street that everyone is looking at, that is becoming more damaged the longer it sits. He stated that a lot of work went into it, regardless of right or wrong. Mr. McCourt stated that the best thing to do at this point in time is to complete the project in a way that's acceptable to its surroundings.

Mr. Cavallo asked Mr. McCourt how that could be done. Mr. McCourt stated that the Board can continue to address issues and questions related to the project.

Mr. Cisek pointed out that the applicants have agreed to mitigate. Mr. Young stated that the applicants have agreed to all of the Planning Board's demands, and noted the infill of the front dormer and the removal of the bulkhead.

Mr. Cisek also asked the Board to consider the public opinion. He stated that there was no opposition from the audience, and that no negative letters were received.

Mr. McCourt asked if the Board and the applicants could meet later to work out details.

Mr. Miller stated that a stop work order was issued in June 2016. The order needs to be lifted before anything else can happen with the project. He asked if the Board would grant permission to go back to the Building Inspector to obtain a building permit. He stated that the project was permitted through the state level, and that he had not been aware that the plans did not conform to the Planning Board application.

Mr. McCourt asked if the Board could use the next month to go over new changes.

Mr. Cavallo stated that he was happy with the conditions and changes that were occurring.

Mr. Cisek made a motion to grant permission to have the stop work order lifted, with the conditions that the applicants fill in the dormer on the south side, so that the building would be built as rendered; that a conversation be held with the Fire Chief to discuss the removal of the basement bulkhead; and all other previously decided conditions, including a more formal landscaping plan. Mr. McCourt seconded, and the motion passed unanimously, 4-0.

Ms. Greenough explained that there are two separate decisions, one for the building, and another to exceed the height restriction for the B-II Business District.

The Board discussed the elevator shaft. Mr. Cisek stated that asking the applicants to remove it would be detrimental to the project. He stated that the regulations for elevators changed over the course of the application process, and that the applicants were forced to conform. He asked if there would be access to the widows walk. Mr. Young stated no, that the widows walk was strictly decorative. Mr. Cisek moved to approve the special permit to exceed the height restriction for reasons stated above. Mr. McCourt seconded, and the motion passed unanimously, 4-0.

The applicants will attend the next meeting on March 7th to work out more details.

6:30 PM: Public Hearing: Silberstein & Newman, 3 Beach Plum Meadows (45-55.1) Modification to a private restrictive covenant affecting a definitive plan (Beach Plum Meadows). Determine if a 150' setback can be reduced to 25'.

In Attendance: Tom Rapone

Mr. Rapone approached the Board. He stated that the purpose of the application was to reduce the 150 foot setback to 25 feet for one lot in the Beach Plum Meadows subdivision.

The 150 foot setback was included as part of the decision, but no one could find the original source. There are three lots on the subdivision plan, and the 150 foot setback only applies to two of those lots.

The standard setback in the R-60 District is 25 feet.

It was determined that the owner of Lot A, the lot that did not have the heavy setback imposed, owned the rest of the subdivision. It was possible that the restrictions were instated for his benefit. The owner has since moved and Mr. Rapone argued that the setback restrictions seem arbitrary.

Mr. Rapone stated that the lot in question is the last remaining undeveloped lot in the subdivision, and that the setbacks significantly limit the location of a potential building.

Mr. Cavallo asked if these conditions applied when the owners bought the lot. Mr. Rapone stated that the restrictions were in place at the time of purchase.

It was mentioned that the Island Roads District has a height restriction of 26 feet.

Mr. McCourt asked if this change would affect other lots. Mr. Rapone stated no, that the setback change would only be for one lot.

There were no comments from the audience, and no letters were received.

Mr. Cavallo moved to approve the application as presented, so that the new setbacks for the lot are 25 feet. Mr. Mascolo seconded, and the motion passed unanimously, 5-0.

6:50 PM: Public Hearing: MV Community Services (Winnetu) 31 Dunes Rd (52-26.1) SP: Katama DCPC and private restrictive covenant. Hold the Possible Dreams Auction on July 30, 2017 at the Winnetu from 3 PM to 9:30 PM.

In Attendance: John Kennedy, Juliette Fay

Mr. Kennedy approached the Board to explain the application. He stated that 2017 would be the fifth year that the auction has been held at the Winnetu, and that the auctions have gone very well.

He stated that there was one change to the application from prior years. The applicants request a 30 person increase in the attendees that will participate in the dinner portion of the event. He explained that the restaurant will be closed to the public for the event. He stated that the Building Inspector and Board of Health Agent have approved the request.

Mr. Mascolo asked why only 30 more guests, and suggested a higher number. Mr. Kennedy stated that the Dunes restaurant only has so much space.

Mr. McCourt asked if the attendees will be out on the deck, since there was recently a separate permit for the Winnetu to allow dinner service on the deck. Mr. Kennedy stated that the dinner will be mixed inside and out. He stated that some guests will be seated, while others will not be, but that there will likely be people on the deck.

Mr. Kennedy stated that the auction would end at 7:00 PM, dinner would be served at 7:30 PM, and the event would be over by 9:30 PM.

Mr. Mascolo stated that the auction is a wonderful thing, and that the Board was happy the event is held in Edgartown.

Mr. Mascolo moved to approve as presented. Mr. McCourt seconded, and the motion passed unanimously, 5-0.

OTHER: Cameron, from the MV Times, approached the Board to ask a clarifying question about the Wave Lengths application. Ms. Greenough explained that Mr. Mascolo recused himself from the hearings to avoid a conflict of interest. She stated that he owns a real estate company, and his company represented the applicant in the purchase.

Mr. Cavallo moved to adjourn. Mr. Mascolo seconded, and the motion passed unanimously, 5-0.

Meeting adjourned at 7:48 PM.

Respectfully Submitted,

Lucy Morrison

Alan O. Wilson, Chairman

Robert Cavallo

Fred Mascolo

Michael McCourt

James Cisek, Alternate
Edgartown Planning Board
Date signed: _____