

Edgartown Planning Board Meeting Minutes
June 21, 2016 at 5:30 PM
Town Hall – 1st Floor Selectmen’s Room

Members in Attendance: Chairman Alan Wilson, Robert Cavallo, Fred Mascolo, and Michael McCourt
Staff in Attendance: Georgiana Greenough, Assistant; Lucy Morrison, Clerk

Chairman Alan Wilson opened the meeting at 5:30 PM.

5:30 PM: Public Hearing: Wave Lengths, 223 Upper Main St (29A-95) SP: B-II Business District. Add two offices and a room for an extension to the beauty salon, and a full bathroom to the basement.

In Attendance: Colin Young, Phil Miller, Jim and Deborah Carter, Margaret Kelley, Greg Willett, and Norman Rankow

The hearing was postponed to August 16th at 5:30 PM.

Discussion of Wave Lengths design for elevator roof cover; and placement of windows on west side of the building.

The Board used the opportunity to hold a discussion of the design of the building with the applicants and the public.

The Board asked Mr. Young to explain the changes made to the appearance of the building, specifically the side with no windows. Mr. Young stated that many changes were made to the project over the years, and that certain things, like the elevator shaft, were never updated on the elevations. Mr. Young stated that the elevator needed to be moved to the center of the building in order to accommodate commercially sized entrances. He stated that the windows that were originally supposed to be in that location (five in the center, three small across the top) would no longer be functional, and would be carved in with a curtain behind them. Mr. Young stated that the modular company decided to leave the windows off the plan since they would not be functional. The applicants displayed the plans to the Board. The Carters were also shown a copy, as well as the direct abutter, Kelly.

Mr. Cavallo stated that the building was approved with windows, and then built without windows, which is a problem. He stated that the applicants changed the schematic of the building without approval.

Mr. Wilson clarified that the modular company thought the windows were non-functional and decided to not install them. Mr. Young agreed, and stated that the windows have been ordered and will be installed properly according to the plans.

Mr. Wilson asked about the width of the windows.

Mr. Young stated that there would be three casement across the top with larger ones below.

Mr. Cavallo asked if shutters would be installed. Mr. Young stated no, that traditional trim would be installed around the windows. The Board noted that the trim was not shown on the pictures.

Mr. Wilson commented that he would like the design to look as much like The Inn next door as possible so that the design can remain consistent with the area. He commented that the current design is very industrial, and not looked upon favorably. He asked if the applicants would be willing to add shutters. Mr. Young stated that the applicants did not want to, and noted that shutters would not fit on some of the windows. He stated that the trim has already been purchased.

Mr. Wilson stated that the Board has never seen a landscaping plan. Mr. Young stated that he has one, and displayed it before the Board.

Mr. Carter commented that he would like to see larger windows, instead of the casement windows that are shown on the plans.

Norman Rankow asked if the plans were done by Chuck Sullivan. Mr. Young stated no, but that the modular plans were based on Mr. Sullivan's plans. The Board reviewed the original plans by Mr. Sullivan. Mr. Rankow noted that the original plans done by the architect showed double hung windows, while the modular plans showed casement windows. Mr. Young stated that they were supposed to be the exact same windows.

Ms. Greenough commented that the builder said earlier on the site visit that he was going to extend the length of the windows. Mr. Rankow stated that the windows are a different style, and that the width of the windows is the issue, not the length. Mr. Rankow commented that casement windows are traditionally narrow, and that the modular plans definitely do not show double hung windows.

Mr. Young stated that the windows have been ordered, and if they are not the correct size, they will be returned.

Mr. Rankow commented that the applicants should have followed Mr. Sullivan's plans, and noted the many differences between the two plans.

Mr. Carter asked how the plans changed from those done by Mr. Sullivan to the modular company. Mr. Cavallo stated that that is the purpose of the meeting, and that the Board does not understand either.

Mr. Young stated that the windows on the modular plan should be the same size as those on Mr. Sullivan's plan. He stated that the elevator shaft was modified, and was not updated on the other plans when they were changed. He stated that he was sure the Board was given plans when the 2nd floor offices were turned into residential apartments in 2013.

Ms. Greenough stated that the Board did not see the modular plan before construction began. Mr. Young commented that they were basically the same plans.

Mr. Wilson noted that the porches are on the opposite side.

Mr. McCourt stated that every time the plan changed, the applicants should have come back to the Board with the modifications. The Planning Board never received any type of modified plans, or a modified

application. Mr. Young stated that Mr. Sullivan and Mr. Hoehn represented the project. He emphasized that significant changes had been made since 2011, and stated that the project did not receive final approval until 2014. Ms. Greenough clarified that the plans were approved in 2011, and the yearly extensions were due to the applicants being unable to begin construction due to financial constraints. She stated that the extensions to the special permit had nothing to do with any modifications made to the plans. She stated that the applicants should have told the Board that the plans had changed.

Ms. Greenough requested an opinion from Chuck Sullivan.

Mr. Young stated that there was not enough money to keep him employed, and he was released from the project.

Mr. Cavallo asked where the plans were. Mr. Young stated that Ms. Leaf or Mr. Sullivan may have them. Mr. Cavallo also requested the construction plans from the Building Inspector's office.

Ms. Greenough stated that the Board cannot make a decision on how on to bring the applicants into compliance with what the Board thought was originally approved. She suggested that Mr. Sullivan be brought in before the Board, at Wave Lengths expense. She stated that the Board also needs the construction plans from the modular company. Ms. Greenough asked if the modular company could provide any renderings of the structure, or if the floor plans and elevations were their only submissions. Mr. Young stated he provided all of the materials available from the modular company.

Mr. Carter asked if plans are stamped and recorded after they are approved by the Planning Board. Ms. Greenough stated that the decision that refers to the plans in detail is stamped and recorded in the Registry of Deeds, but that the actual plans do not get stamped or signed by the Planning Board, other than the received and approved dates.

Mr. Young stated that many changes were made to the plans after 2011, and that there were other elevations.

Mr. McCourt stated that from a practical standpoint, all changes need to come before the Board. He stated that the applicants changed the plan without bringing it in for approval.

Mr. Young stated that he did not know why the Planning Board did not have the plans. He insisted that the changes were brought before the Board. Mr. Young stated that the applicants relied on the expertise of the architect and engineer, and paid them to do this properly, and did not understand why it was not done.

Ms. Greenough asked about the modular company elevations and plans, and the set of plans that the Building Inspector has.

It was mentioned that Mr. Jason has also said that the plans do not match.

Mr. Rankow summarized the problems with the application: the architect was released from the project, and no longer has any responsibility. Mr. Rankow stated that the responsibility is always on the applicant. He stated that changes were made, and the applicants needed to come back for approval. He commented that the plan before the Board now is nowhere near what was filed. He stated that the modular company does

not have the same architecture that Mr. Sullivan would do. Mr. Rankow stated that the applicants need someone who can manage the project.

No plans were given to the Board after the applicants went to the MVC.

Mr. Wilson stated that the project violates the setbacks. Mr. Cavallo asked to see the plans that were signed by the Planning Board. Mr. Young stated that he told builder that the handicapped access could not in front of the building, and needed to go around the side.

Mr. Young stated that the special permit decision does not have any plans attached to it. Ms. Greenough explained that the decision references the plans in a written out and descriptive way.

Mr. Young stated that the floor plans changed many times, and claimed that the Planning Board was aware that elevator had moved. Mr. Cavallo stated that he would like to see the plans that detailed the change of location for the elevator.

Mr. Carter commented on the site conditions. He stated that the dumpster has been full for a month, and that nobody empties the dumpster consistently. He stated that the patrons of the Inn eat breakfast while looking at a parking lot full of debris.

Mr. Wilson asked Mr. Young to deal with the dumpster right away. Mr. Young stated that the site will be cleaned within two days.

Mr. Cavallo asked if construction could take place during the summer. He stated that generally, no one is allowed to work after June 20th in the B-II Business District. Ms. Greenough stated that the construction moratorium is not a bylaw, but usually exists as a condition on a special permit.

Mr. Rankow reviewed the noise ordinance restrictions, and it was determined that the applicants will be able to continue work through the summer, with restricted hours.

Mr. Carter asked that a moratorium or limitation on hours of construction be considered, since the noise greatly impacts a guest's experience at the hotel. He asked that if construction is allowed to continue, the hours be limited to 9 AM to 5 PM. He stated that he would like the applicants to abide by the original restrictions set in 2011.

Ms. Kelley commented that the construction is especially noisy.

Mr. Wilson asked if Mr. Young could agree to abide by the construction restrictions.

Mr. Young stated he had no control over the times that construction would take place.

Ms. Greenough suggested that the Board place a cease and desist on the project for two weeks while the situation is sorted out. The cease and desist would stop all construction, except for any cleaning that needs to happen to satisfy the concerns of the Board and the neighbors.

Mr. Cavallo and Mr. McCourt stated that they were in favor of a cease and desist. Mr. Cavallo commented that the neighbors are not happy with the look of the building, and that changes were made without

approval. Mr. McCourt stated that many things need to be straightened out, and suggested that building be stopped until the plans are received and reviewed.

Mr. Cavallo stated that he wanted to review the original plans by Mr. Sullivan.

Mr. McCourt emphasized that the Board needs to see that the site cleaned up quickly. He stated that there is a business next door, and that peak season is quickly approaching. He also stated that if the construction is allowed to continue, it is important that work only be performed between 9 AM and 5 PM.

The Board decided not to follow through with a cease and desist at this time, so long as the applicants follow the guidelines set out at this meeting. Mr. Young stated again that the dumpster will be emptied by June 23rd.

Ms. Greenough stated that she will alert the Board when all of the plans have been located to schedule another meeting.

Mr. Young stated again that the plans from modular company are based on Mr. Sullivan's plans. He stated that he should be able to get copies of both for the next meeting.

Ms. Greenough stated that the setbacks are in compliance. The B-II Business District is only district that measures setbacks from side of asphalt of the road, instead of the property line. The structure must be between 20 and 40 feet from that. The Wave Lengths building is 23 feet from the edge of the street asphalt.

6:11 PM: Discussion- Norman Rankow: Clarification of SP condition on special permit granted in 2007 for Vietor pier.

In Attendance: Norman Rankow

Mr. Mascolo entered the meeting.

Mr. Rankow stated that he requested this discussion item as an affirmation of understanding of a condition on an existing special permit. He stated that he served on the Planning Board for 10 years, and was familiar with how conditions are placed on an application, and mentioned that they were usually part of a negotiation process. Mr. Rankow explained the situation: the permit was granted to his neighbor, which allowed for four lots to access the harbor. The dock is allowed nine boats. The property has since been sold, but the decision runs with the land. Mr. Rankow stated that he does not want to install a dock on his property, but stated that it was important that the neighbor realizes that the condition exists and is enforceable. Mr. Rankow requested a letter from the Board that affirms that the condition applies.

Mr. Wilson asked if Mr. Rankow participated in any of the dock maintenance. He replied no, and stated that he has been asked to not go on it. Mr. Rankow stated that he may return to the Board to see if the condition could be rescinded; Mr. Rankow added that another neighbor would also be in favor of rescinding the condition.

Mr. Rankow stated that he has two licensed pilings and a Chapter 91 bulkhead. He has not had any issues. He stated that he would like to add pilings to the right side. The Marine Advisory Committee has stated that it would be easier for Mr. Rankow to tie a boat up if he had more pilings.

Mr. McCourt stated that he believed the conditions were put forth for a reason, and would be hesitant about rescinding any.

Mr. Rankow stated that the owner of the property disavows the condition. His attorney has reviewed the decision, and has stated that the condition does not apply. Mr. Rankow stated that he would like affirmation that the conditions need to be followed.

Ms. Greenough read the decision and noted that condition #13 and #17 mention that the pier is to be shared among the four lots. She stated that this double confirms the intent behind the conditions.

Mr. Wilson requested that Ms. Greenough write a letter on behalf of the Board and attach the original decision.

6:25 PM: Discussion- Square Rigger Restaurant: B-II Business District. Serve alcohol to customers of Take-Out window per ABCC regulations

In Attendance: Dana Rezendes, Jenny Dowd, Tony Rezendes and Doreen Rezendes

Ms. Greenough presented the photographs she took on the site visit.

The applicants explained the history of the restaurant and the take-out window. The applicants are proposing an extension of the definition of premises of their liquor license in order to be able to serve alcohol outside. By law, the area needs to be fenced in. The applicants have an idea of what the state wants, and have drawn up a plan to show where the fencing would be. The fence would help control the alcohol so that it does not leave the premises.

Ms. Greenough stated that there have never been any complaints about the Square Rigger and that there has never been a violation.

Ms. Resendes stated that two parking spaces will be closed off if the application is approved.

Mr. Mascolo suggested that a secure fence be installed all the way around, and that it only have one entrance with a gate. He stated that it would restrict underage people from entering.

Ms. Greenough commented that a higher fence may be necessary, since people may be able to hand drinks over it. The Building Inspector will know how high the fence needs to be, as well as the ABCC. Ms. Greenough suggested that the applicants review other outdoor applications to the ABCC.

Ms. Resendes stated that the fence would be removable.

The Board asked if drinks would be handed out the take-out window, or if they would be served through the restaurant. The applicants stated that servers will bring drinks to the outdoor tables, and commented that there is always an employee sitting at the take-out window to monitor the activities of the outdoor patrons.

Mr. Wilson stated that everyone on the Board was comfortable with the application, and would be recommending approval according to the ABCC rules. Ms. Greenough will draft a letter to the file with a copy to the ABCC.

The applicants thanked the Board and left the meeting.

Minor Modification: 60 Slough LLC, 60 Slough Cove Rd (44-26): Relocate barn 14' away from farm property to preserve trees.

Ms. Greenough stated that no one available to present the application. She explained it as a minor modification to an existing special permit. The applicants have requested to move the proposed barn 14 feet further away from the setbacks in order to save a line of trees. The plans were displayed to the Board.

Mr. Cavallo moved to approve the modification because it saves trees. Mr. Mascolo seconded, and the motion passed unanimously, 4-0.

Other Business:

Mr. Cavallo moved to reappoint Michael Donaroma to be the Planning Board representative to the Land Bank. Mr. Mascolo seconded, and the motion passed unanimously, 4-0.

Ms. Greenough stated that a number of letters have been received from Mr. Hajjar & his architect to Gene Erez (the contractor). The letters detail the complaints from the architect hired by the owner to the contractor about the work. Mr. Cavallo stated that the letters appear to be setting up for a lawsuit. The Board determined that the letters do not need a response.

Ms. Greenough stated that Mr. Santangelo (105 Main St) will be in front of the Selectmen next Monday requesting that they be allowed to remove the shade tree from the middle of the driveway. The Historic District Commission has requested a letter detailing the violations, and history of problems with the purposeful demolition of the shade tree and the excessive (46' wide) curb cut.

Mr. Cavallo moved to adjourn. Mr. Mascolo seconded, and the motion passed unanimously, 4-0.

The meeting was adjourned at 6:58 PM.

Respectfully Submitted,

Lucy Morrison

Alan O. Wilson, Chairman

Robert Cavallo

Fred Mascolo

Michael McCourt

Robert Sparks

Edgartown Planning Board

Date signed: _____