

Edgartown Planning Board Meeting Minutes

Tuesday, October 18, 2016 at 5:30 PM

Members in Attendance: Chairman Alan Wilson, Robert Cavallo, Michael McCourt, Robert Sparks

Members Absent: Fred Mascolo

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

Chairman Wilson called the meeting to order at 5:30 PM. Mr. Wilson also allowed Sean Murphy to present the Wrigley application first, before the scheduled public hearing for the zoning bylaw amendments.

Continuation of a Public Hearing: MV Ocean LLC (Wrigley), 24 Ocean View Dr (29-149) SP: Construct, license and maintain a second 87' x 4' timber pier with one 60' x 7' "T" and two 32' x 4'; lateral access stairs and four tie spiles.

In Attendance: Sean Murphy, Ellen Kaplan

Mr. Murphy stated that since the Board only has four members present, that the applicants would like to request a continuance to November 1st.

Mr. Cavallo moved to grant continuance to November 1st. Mr. McCourt seconded, and the motion passed unanimously, 4-0.

5:32 PM: Public Hearing: Zoning Bylaw Amendments – Housing Terms and Definitions

In Attendance: Christine Flynn, MVC; Art Smadbeck, Board of Selectmen; James Joyce

Ms. Greenough read the public notice and the definitions for Area Median Income, Affordable Housing, Community Housing and Fair Housing Guidelines.

Mr. Smadbeck stated that he had some concerns and questions regarding the affordable housing definitions. He suggested that Town Counsel be asked to review the terms, because there could be unforeseen issues any time that anything is added or taken away from the zoning bylaws. He added that these definitions might cause a problem for Edgartown. Mr. Smadbeck stated that the Selectmen are in the process of implementing a program to provide housing for the Edgartown workforce, that has been well received, that does not meet the criteria of the definitions. He stated that the Selectmen have worked hard to develop the criteria for this program, and that they are happy with those criteria.

Mr. Smadbeck stated that Area Median Income is a known definition that does not need to be added to the bylaws, and that he did not understand why the bylaws needed to define items that are well known. He also stated that defining affordable housing could bind the town in a way that is not beneficial. The proposed definitions are hard fast, and affordable housing is a fluid topic that needs to be flexible. He stated that adding these definitions would be confusing, and that language in the definitions could possibly preclude Edgartown from continuing programs like the 6th Street lots.

Mr. Smadbeck stated that the mentioned fair housing guidelines are based on state and federal laws. He stated that everyone in Massachusetts, and the country, is bound by those laws. He stated that there are courses available to anyone who wants to learn about those laws, and that real estate agents are required to take those courses.

Mr. Smadbeck stated that he did not think adding these terms to the bylaws was a good idea.

Christine Flynn, the Economic Development and Affordable Housing Planner from the MVC, stated that the definitions are the same as they were when she presented them to the Planning Board several months ago, and she reminded the Board that they were supportive of the definitions at the time. She stated that the effort started by working with the Town Housing Committees to clarify the zoning bylaws. She stated that having concise, uniform definitions helps to provide clarity, not only for permit granting authorities, but also for voters. She stated that the definitions will provide a better understanding of where the towns are headed, and they summarize what is allowed under state and federal guidelines.

She added that in 2004, legislature was passed that allowed Dukes and Nantucket Counties to deed restrict properties up to 150% AMI. She stated that this created a new class of affordable housing, from 81-150% AMI, that is not permitted anywhere else in the state, and has been defined as Community Housing.

Ms. Flynn mentioned that the Edgartown Affordable Housing Committee voted unanimously to support the definitions.

Mr. Cavallo asked about the ongoing effort in other towns. Ms. Flynn stated that the Planning Boards in other towns are in various stages of the process. Edgartown is the first town to hold a public hearing.

Mr. Wilson commented that he did not think it would be harmful to define things like Area Median Income. He stated that many people have not taken the real estate exam, and do not have the interest in taking one of those courses. He stated that there are a lot of different ideas around affordable housing, and that these definitions would help to focus the effort.

Mr. Smadbeck stated that when things are simplified, there can be unintended consequences. He stated that these definitions are not necessary, and could cause problems for the Town in the future. He stated that the program being run now would not fit under these definitions, and that Edgartown has never looked to the other towns for guidance or modeling of the zoning bylaws. He encouraged the Board not to aspire to that. Mr. Smadbeck stated that he understood the sentiment behind the definitions, but that the point could be made without changing the bylaws.

Mr. Smadbeck stated that there are laws in place that protect against housing discrimination, and that he was concerned having narrow definitions that restrict the Town. He stated that there is nothing in the Fair Housing Act that states that housing needs to be permanently restricted, but that it is stated in the definition.

Ms. Flynn explained that the federal government does not restrict housing units for any set timeline. Massachusetts has a minimum restriction of 30 years, but encourages permanent restrictions. She stated that when she presented this information to the towns, the general consensus was in favor of permanent restrictions for the preservation of affordable housing.

Mr. Smadbeck stated that the 6th Street program will have expiring deed restrictions, and will not be permanent. He stated that he felt the Town should be granted latitude to create those kinds of programs.

Mr. Wilson commented that the 6th Street program sounded like the youth lot concept, which he felt did not work well. Mr. Smadbeck stated that the idea for 6th Street stemmed from the old youth lot concept, and stated that he thought the old program worked great. Mr. Wilson commented that there were some people who made a large profit off of their home when they sold it, and that he was uncomfortable with that.

Mr. Smadbeck stated that there should be some properties that are permanently restricted, but not all of them. He stated that there is a gap in the affordable housing market, and that there are people who make too much money to qualify, but do not have enough to be able to compete on the open market. He stated that the lack of availability of land has caused a rise in land values, which has made it almost impossible for teachers, police officers and nurses to afford a home. He stated that if the Town has the opportunity to create a few homesites for local residents, it should be able to do so. Mr. Smadbeck stated that his son, a teacher, cannot afford to buy a house. Mr. Wilson stated that the Board is familiar with the housing problem.

James Joyce stated that he supports the 6th Street program. He stated that he was present at the meeting because he was concerned about tax payers land and money. He estimated that a ½ acre lot at fair market value would be somewhere around \$300,000 to \$325,000. He did not understand how \$75,000 was chosen as the price point of the lots. Mr. Smadbeck stated that 6th Street has been an experimental program as a response to the acute need for local families, and the Selectmen wanted the lots to be attainable for their income.

Mr. Cavallo stated that Town Counsel should review the definitions and provide guidance. Christine Flynn agreed. She stated that she was not in a position to advise the town in any way; she also added that the definitions may have an impact on the 6th Street program, or those similar.

Mr. Cavallo moved to continue the hearing to December 6th, and forward the definitions to Town Counsel for review. Mr. McCourt seconded, and the motion passed unanimously, 4-0.

6:00 PM: Public Hearing: Halbert (formerly Woodger) 35 B&C North Neck Rd (18-28.2) SP. Coastal District. Restore existing main dwelling; expand and rebuild existing guesthouse under 900 square feet and convert existing garage apartment to a detached bedroom.

In Attendance: Peter Breese, architect; Ann Floyd, abutter

Ms. Greenough read the public notice. A site visit was conducted the morning of the hearing.

Mr. Breese approached the Board. He presented the original site plan for the renovation of the main house and two existing outbuildings, and a plan that was slightly revised. The revision arose after it was discovered that the garage and attached bedroom that were going to be renovated were found to be in too poor of a condition, and will be completely rebuilt instead. The new structure will be similar, will serve the same function and have a similar layout, but the footprint was shifted to the east. The main house and two-bedroom guesthouse will have the same square footage and footprint.

Mr. Breese presented renderings of the garage, storage bay, open area and the 400 square foot detached bedroom. The garage and detached bedroom are not located in the shore zone.

The 756 square foot guesthouse would be renovated, but will have the same footprint, and is located in the shore zone. The main house is also located in the shore zone.

Ann Floyd approached the Board to view the plans. She stated that she liked the designs and left the meeting.

Mr. Cavallo mentioned the impressive rock façade that he saw on the site visit. Mr. Breese stated that the rock wall will be preserved.

Mr. Breese stated that the intent was to preserve as much of the existing structures as possible, and to keep the exteriors of the new structures looking the same as what exists. There were a few minor modifications, including the addition of dormers on the main house.

Mr. Breese stated that a hole will be cut in the floor of the main house to add a crawlspace, but that the house will not be lifted to create a basement.

Mr. Breese mentioned that the lot is 3.2 acres, and used to be a part of the golf course.

Mr. Cavallo asked about the cliff erosion. Mr. Breese stated that there is an application before the Conservation Commission regarding the installation of a stone sea wall in front of the property, and for both neighboring properties.

Mr. Wilson mentioned that there were only four Board members present, and that a unanimous vote would be needed for approval. He asked if Mr. Breese would like to proceed. Mr. Breese agreed to go forward.

Mr. Sparks asked if the applicants would be adding height to any of the structures. Mr. Breese replied no, that the structures were pre-existing non-conforming, and that nothing would be built higher than what already exists.

There was no one in the audience present to speak either before or against the project.

Mr. Sparks moved to accept the application as presented because the structures meet the setbacks and the height requirements. Mr. Cavallo seconded, and the motion passed unanimously, 4-0.

6:10 PM: Continuation of a Public Hearing: Wave Lengths, 223 Upper Main St (20A-95) SP to construct a mixed use building in the B-II Business District.

In Attendance: Phil Miller, Colin Young, Susan Catling

Ms. Greenough stated that the public hearing for the original application for a mixed use building was closed at the last meeting. The Board moved on to the next application, and will refer both applications to the MVC at the same time.

6:15 PM: Public Hearing: Wave Lengths, 223 Upper Main St (20A-95) SP to exceed the height limitation in B-II due to the protrusion of an elevator shaft through the roof.

In Attendance: Phil Miller, Colin Young, Susan Catling

Ms. Greenough read the public notice. Mr. Miller approached the Board. He stated that the purpose for the elevator was to have complete access to the building. He stated that handicapped accessibility is very important to the applicants, that the structure has three stories, and the upper two floors are residential. The elevator would make the building totally accessible.

Mr. Miller presented a cross-sectional drawing to show the architectural dimensioning. He also presented letters from the elevator company Keystone, and the modular company that has been involved in the construction of the building.

Mr. Miller stated that the elevator shaft will be located at the top of the structure, and will be 1'10¾" above the ridge. He presented schematics to show the size of the carriage. Mr. Miller stated that the height of the building was reduced in various ways to minimize the impact of the overall height of the elevator shaft. He stated that much of the dimensioning was driven by elevator code, which is different than the building code. He stated that in a mixed use building, any elevator that conveys to more than one unit must be a commercial grade elevator. A commercial elevator has a significantly larger footprint because the code says that a gurney needs to fit, and be able to turn around. He also stated that the larger elevator created some issues with the window schedule, which have since been resolved.

Mr. Miller stated that detailed information has been provided in the packet. He stated that the information speaks to how careful the applicants have been with the dimensioning, while still following the beam requirements that create the height of the structure. He stated that a fully dimensional plan for the overall heights of the building was provided.

Ms. Greenough commented that the information was adequate to send to the MVC.

Mr. Cavallo moved refer both applications to the MVC. Mr. Sparks seconded, and the motion passed unanimously, 4-0.

Mr. Sparks asked if there would be another stairway up to the 3rd floor. Mr. Miller replied yes, that two egresses are required.

Mr. Cavallo stated that, at some point, the Board would ask when the elevator was added and why. Mr. Miller stated that the elevator was shown on the modified floor plan that was given to the Board in 2014. Mr. Young added that the elevator was always planned, but was not included on Chuck Sullivan's elevation plans, and was only shown in plan view. He stated that the applicants were unaware of the height issue until the modular plans were received.

Mr. Young recounted the steps taken to reduce the height of the building and the impact of the elevator shaft. He stated that the applicants held many meetings to try to reduce the height, and that they made the basement deeper, and sunk the 1st floor joists into the basement. He stated that each floor was reduced from 8' to 7'6". Mr. Young also stated that in 2013, a new code for elevators was instated, which added that the gurney needed to be able to turn around easily.

Mr. Sparks confirmed that the elevator was there from the beginning. Mr. Young agreed.

Mr. Young stated that with the small size of the lot, the basement cannot be accessed by ramp. If built to code, the ramp would need to be about 130 feet long, which is not practical for the site. He stated again that handicapped access was very important to the project.

The application has been referred to the MVC. The Board will hold another public hearing after the application has been received back with their comments and amendments.

6:25 PM: Discussion – Randy Scott re: Lot 407 & the North Bridge Subdivision & Betty Scott Wells

In Attendance: Randy Scott, Betty Wells Scott, Ralph Scott, Ira Certner

The Scotts approached the Board. Ms. Greenough explained that the matter has been forwarded to Town Counsel, and is no longer considered a Planning Board issue. She stated that since there has been litigation involved, the lawyers need to review before the Planning Board can discuss it.

Mr. Scott asked for more clarification. Ms. Greenough explained that she referred his email to Town Counsel, and that Mr. Rappaport confirmed that it was regarding a legal matter. She stated that the office of Reynolds, Rappaport, Kaplan & Hackney will be in touch with the Scotts once they have reviewed all of the documents.

Connie Berry, a reporter from the MV Times, requested more information on the Wave Lengths application. Ms. Greenough encouraged her to attend the public hearings held at the MVC. The clerk will send her all of the minutes regarding the previous Wave Lengths applications.

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

The meeting was adjourned at 6:35 PM.

Respectfully Submitted,

Lucy Morrison

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| <i>Alan O. Wilson, Chairman</i> |
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| <i>Robert Cavallo</i> |
| _____ |
| <i>absent</i> |
| <i>Fred Mascolo</i> |
| _____ |
| <i>Michael McCourt</i> |
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| <i>Robert Sparks</i> |
| Edgartown Planning Board |
| Date signed: _____ |