

Edgartown Planning Board Meeting  
March 24, 2015 at 5:30 PM  
Minutes

*Members in Attendance: Chairman Fred Mascolo, Robert Cavallo, Michael McCourt, Robert Sparks, and Alan Wilson*

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

Chairman Fred Mascolo called the meeting to order at 5:30 PM.

**5:30 PM: Winnetu, 31 Dunes Rd (52-26.1) SP: Modify special permit to include event tents, offer beverage service at weekly clambakes, and offer food and beverage service on the upstairs deck next to the restaurant.**

*In Attendance: Mark Snider, Cathy Ciley, Scully, Sharon Guadagno, Robert Colacray, Ellen Kaplan, Sandra Steel,*

The application was originally approved on July 16, 2002. The property is located on 7.1 acres in the R-60 District, and is also located within the bounds of the Katama District of Critical Planning Concern.

Mr. Mark Snider approached the Board. The Winnetu Resort has been in operation for 12 years under a special permit granted by the Planning Board. The application is presently before the Board to modify certain conditions in order to fine tune certain operational issues. The restrictions to be modified are strictly operational, and do not affect the use or density of the resort. There will be no increase to the water or septic use.

Mr. Snider mentioned that he circulated the list of proposed changes to the neighbors prior to filing the application with the Board on February 20, 2015.

The requested modifications would be to allow alcoholic beverages to be served at the pool area, the clambakes and the upstairs deck; to allow non-amplified entertainment at the clambakes and pool area; to allow guests of the Winnetu and Mattakesett resorts to invite local friends or family to attend the clambakes; to allow tents to be raised in the event of inclement weather at the clambakes during the peak season, from the end of June to Labor Day; to allow for food and beverage service to the restaurant deck; and to extend food and beverage service for 30 minutes to end at 9:00 PM instead of 8:30 PM.

Guests are currently permitted to eat and drink on the restaurant deck, but must serve themselves. After 6:00 PM, a lighter menu than what is served inside will be offered on the deck. Signage will also be placed on the deck to advise patrons to be respectful of neighbors and sensitive to noise levels. The allowance of guests to invite locals to the clambakes would not increase the maximum number of attendees, which would remain at 105, as allowed by the current permit. Tents are presently only

allowed outside of the peak season under the current permit. When a tent is present there shall be no artificial illumination other than inside the tent, except for safety lighting, if necessary.

Mr. Snider stated that he would encourage the Planning Board to review the proposed modifications in the fall of 2015 to determine if the neighbors have been negatively impacted by the changes.

Ms. Greenough read a letter from the health agent, Matt Poole, submitted on March 23<sup>rd</sup>, which stated that the proposed uses of the wastewater flow fall within the septic system maximum allowable flow. A letter from the Board of Selectmen dated March 24<sup>th</sup> was also read, which stated that the liquor license held by the Restaurant at the Dunes has been amended to allow the service of alcohol to the pool area and the upper deck of the restaurant, pending Planning Board approval.

Mr. Mascolo opened the hearing to members of the audience in favor of the proposed changes.

*Cathy Ciley*, a current employee of the Winnetu, stated that the resort has had positive interactions with its neighbors. She also stated that compared to the amenities of other resorts, the requests are modest and reasonable.

Mr. Cavallo asked how many people were employed by the Winnetu. Mr. Sider replied that the resort employs 150 persons in the summer season, and 20 in the off season.

Robert Colacray commended the service at the Winnetu, and noted the Edgartown Harbor launch, which taxis restaurant patrons via water vessel from downtown Edgartown through the harbor to the town landing in Katama. Mr. Colacray mentioned that the view from the upper deck is beautiful, and doesn't foresee any issues with the extension of service to that area, and to the extension of the hours.

*Mr. Scully* stated that it was his third year as a general manager at the Winnetu. He stated that the Winnetu always makes an effort to be a good neighbor. The restrictions set in place from the original special permit have been followed to the letter. He stated that many guests have expressed confusion as to why they cannot get certain services that they can get elsewhere. Mr. Scully stated that these proposed changes won't have an impact on the neighbors, but will enhance the guest experience greatly.

Sharon Guadagno spoke in favor of the project as one of the closest abutters in proximity to the resort. She mentioned that the Winnetu has caused some issues with neighbors in the past. However, thanks to good management, the issues have been handled quickly and efficiently. The outside deck has the potential to become too noisy, but Mr. Snider has agreed to make sure the service stops at 9:00 PM, regardless of when patrons are sat. She stated that it was comforting to know that some type of signage will be placed outside to remind patrons that they are in a residential community. Ms. Guadagno stated that she was reassured by the fact that the restrictions will be modified temporarily, and that she will have a chance to address any issues at the end of the season. She stated that the modifications appear reasonable, and should be approved by the Planning Board on a trial basis.

Mr. Mascolo asked if there was anyone in the audience opposed to the project.

Ellen Kaplan stepped forward as a representative of the Navy Way Road Association. Navy Way is located in front of Winnetu, closer to the water and South Beach parking. The front deck of the Winnetu faces the properties where the neighbors reside. She argued that the reason the Winnetu has been a good neighbor, and why there haven't been more complaints, is because of the conditions on the resort set in place by the special permit. She reminded the Board that the original conditions were negotiated by Mr. Snider and the then residents of Navy Way; some of whom still live there. The conditions address the concerns of the neighbors, and were negotiated as an agreement between the neighbors and the resort. Some of the conditions were in effect for 10 years and have expired; the conditions set to expire in 15 years are still in effect. The main categories of the restrictions include: hours and times of operation, outside activities, noise and amplification, tents, and outdoor alcohol service, all of which are affected by the proposed modifications. The changes will create noise, and promote other activity that will disturb the neighborhood. Ms. Kaplan stated that the Winnetu is a large commercial enterprise in a residential neighborhood, not downtown in the business district. She reiterated that the only reason there have been so few complaints is directly because of the work the Planning Board did with Mr. Snider and the neighbors in 2002. The conditions and restrictions have worked. The proposed changes would increase the hours of service; increase the ability to amplify noise; increase the speakers and the non-amplified music, while directly suggesting that Vineyard Sound play outside at the clambakes until 9 PM; and increase the alcohol service outside on deck, and at the clambakes. Ms. Kaplan mentioned that there is a formula for determining the capacity of the events so that the total number of seats stays below 145 for the restaurant and 105 for the clambakes. Her understanding of the representation was that one clambake seat equaled 2.33 restaurant seats. She stated that there has not yet been an issue with the current formula, and asked how the restaurant deck would weigh into the equation.

Ms. Kaplan referred to condition 5.a with regards to wedding ceremonies and receptions. Currently, all weddings are held indoors only. She stated that an outdoor wedding with amplified music will greatly cause additional noise.

Mr. Snider clarified that there will be no outdoor weddings or outdoor amplification.

Mr. Mascolo asked Ms. Kaplan to explain where in the modifications it is stated that amplified music will be allowed outside. Ms. Kaplan referred to condition 5.a. which reads "food and amplification."

Ms. Kaplan also noted that the definition of a "clambake" as defined in section 6.i as any outdoor event with food service. She reiterated that under this definition, any outdoor activity is considered a clambake.

Mr. Snider stated that the resort is allowed to hold a clambake once a week, and that currently, attendance is limited to guests of the Winnetu and Mattakesett.

Ms. Kaplan stated that the Navy Way residents urge the Board to not allow any changes to be made to the conditions pertaining to weddings or outdoor amplification. She stated that the Winnetu is a good neighbor directly because of these conditions. She stated that by extending the hours of the clambakes, the Board is also extending the hours of any and all outdoor events, as defined in section 6.i.

Ms. Kaplan also stated that the neighbors were concerned about the service of alcohol at the pool, reasoning that alcohol promotes noise and unruly behavior. Certain neighbors were under the impression that the Winnetu, being a family resort, has no reason to extend the alcohol service to the pool.

Mr. Snider presented an aerial map of the area, with dots to locate the neighbors that have sent comment. The yellow dots were in favor, the pink dots showed opposition. It was noted that most of the neighbors closest to the resort are in favor of modifications, and that the opposition came from neighbors further away. Mr. Mascolo inquired as to which neighbor in particular was concerned about the noise caused from the pool area. After the neighbor was located, Mr. Mascolo questioned the validity of the concern, because the home is located approximately 350 yards away from the pool, and approximately 277 yards from the front entrance. Mr. Mascolo found it hard to believe that ground level noise could be disruptive after travelling three and a half football fields.

Mr. Mascolo asked about the capacity of the pool area. Mr. Snider replied that there could be up to 40 people in the pool area.

Ms. Kaplan stated that none of the residents object to the one day exemptions to the conditions for the Impossible Dreams auction each summer. She claimed that the auction is extraordinarily noisy and disruptive for the residents. The modifications presently before the Board would allow for more alcohol, more music and more people every day.

Mr. Mascolo asked for clarification that alcohol cannot currently be brought into pool area. Mr. Snider stated that this was correct. Mr. Mascolo commented that he has never heard of a resort where alcohol is not served at the pool.

Ms. Kaplan reiterated that the Winnetu is a large commercial establishment in a residential area, and that there needs to be added provisions in place to prevent the hotel from disrupting the neighbors.

Mr. Mascolo made a comparison of the Winnetu to the Harborview hotel. Ms. Kaplan objected, stating that the Harborview is located in a business district. Mr. Mascolo disagreed, and made note of the many residential homes surrounding the Harborview.

Mr. Wilson asked for clarification that every one of the residents of Navy Way was expressing objection to the proposed changes. Ms. Kaplan explained that she is representing the Navy Way Residents Association, and that the chairman asked her to attend the meeting and express objection on their behalf.

Mr. Wilson asked if glassware would be used to serve alcohol near the pool. Mr. Snider replied if approved, alcohol would be served in plastic containers in the pool area.

Mr. Wilson noted that many other resorts have bars at the pool.

Ms. Kaplan stated that the Winnetu is not the Kelley House or the Harborview.

The Board stated that there have been no complaints filed against the applicants in the past 12 years. Ms. Kaplan clarified that there have been plenty of complaints; but they were not filed with the Board, they were handled internally by the Winnetu management.

In 2007 there was a complaint made regarding septic and sewage issues. The Department of Environmental Protection intervened, and the situation has since been resolved. The Board of Health also helped to calibrate the system, and there has no longer been an issue. Mr. Barbini stated that the septic system has been in good working order for the past eight years.

Ms. Kaplan stated again that things run smoothly because of the conditions set in place. She noted that by extending the service of food and beverages to 9:00 PM, patrons will be eating, drinking, talking and disturbing the neighbors much later into the night. She noted that the expansion of tents and music into areas where they are not currently allowed pose as major concerns as well.

Mr. Mascolo asked if Ms. Kaplan had any objection to the resort guests bringing guests to clambakes. Ms. Kaplan stated that that was not an issue.

Mr. Mascolo reiterated that if the modifications are allowed, everything will be reviewed in the fall after the season, and that the neighbors will have a chance to air their grievances. Mr. Mascolo reviewed the layouts of the neighborhood, noting that the abutters closest to the resort don't seem to have any issues with the proposed changes. However, those that are 350 yards away are complaining.

Ms. Kaplan stated that many people that have spoken in favor of the project are employed by the Winnetu; and that the opinion of the neighbors should be given priority. She stated that if the Board extends the times, extends the use of tents, extends the use of alcohol, and increases the amplified noise, there will be serious problems. She urged the Board to oppose the changes and keep the conditions that have worked for the past 12 years.

Mr. Snider clarified that all wedding receptions are held inside, and will continue to be. The proposed changes would not allow for an outdoor wedding reception. Mr. Snider stated that nothing is held outside except for the clambakes. He also stated that if it were to rain, it would be much easier to have a tent available.

Ms. Kaplan stated that there are no objections to the resort having a tent for an outdoor event when it's raining; the issue lies in the language of the amendment, which states that the purpose of the tent is for "the protection of guests," which is vague and could imply many scenarios, including mosquitos. Ms. Kaplan urged the Board to change the wording to make it clear that the tents will only be used if the weather requires.

Mr. Wilson stated that if the modifications are approved, a further condition will be applied stating that there will be no outdoor amplified noise.

Ms. Sandra Steel, an attorney from Boston, approached the Board. She reminded the Board of the long and arduous conversations that drafted the original set of conditions. The two pages of restrictions were carefully put forth, and these modifications would shift that balance. Ms. Steel distinguished between

the Winnetu and other resorts. She also reviewed how the hotel used to be a naval base, and then it was converted into a small hotel. The conversion from a small hotel to a large commercial resort surprised many of the seasonal Katama residents. She stated that there have been a myriad of neighbor complaints. She argued that there was a reason that the conditions were applied in the first place, and there is reason to keep them instated. Ms. Steel cited Lee Broday, who can hear patrons dining on the deck of the restaurant from her home. Ms. Steel stated that since service is not currently granted to the deck, there is a process patrons must go through in order to receive food and beverages. Ms. Steel stated that this process discourages people from dining outside and disrupting the neighborhood.

Mr. Mascolo asked if it would be safer for the guests to be served food and beverages, as opposed to them serving themselves. Ms. Steel urged the Board to not be so concerned about the guests, and prioritize more concern with the surrounding residents. She stated that it doesn't matter if the guests are unhappy with the restrictions, the priority should be placed on the surrounding neighborhood.

Ms. Steel stated that the Winnetu does not have a great record with the neighbors, and said that there have been many instances that the Board has not heard about. The neighbors have serious concerns and problems with the service of alcohol, the amplification of sound, and the tents. She stated that the Winnetu has perpetrated the agreement with the Board many times, but the complaints were handled internally, without the intervention of the Board. Mr. Mascolo disagreed with the use of the word "perpetrate," stating that it makes the Winnetu sound criminal.

Ms. Greenough read the letters in support of the project from those present in the audience. Robert Colacray wrote on March 24<sup>th</sup> to state that the requests are reasonable, and that the management and staff have always been vigilant and respectful of the neighbors. Sharon and Angelo Guadagno wrote on March 23<sup>rd</sup> to acknowledge that the Winnetu has been a good neighbor in the past, and has quickly responded to any issues with noise or traffic. The Guadagnos stated that the requests are reasonable and, appreciated that there will be a review in the fall to allow for any potential issues to be addressed by the Board.

Ms. Greenough read the letters in support of the project from those who were not present in the audience. Melissa Mueller wrote on March 19<sup>th</sup> to state the requests are reasonable, and that she was pleased that there will be a trial period to ensure that they are not problematic for the neighbors. Steve and Carol Olson wrote on March 20<sup>th</sup> to state that the proposed changes seem reasonable and balanced, and that they have never experienced any noise issues. Doug Ellis wrote on March 20<sup>th</sup> to strongly support the request, stating that the Winnetu is a positive member of the Katama community. Deborah Hall wrote to Mr. Snider on February 10<sup>th</sup> to state that the plans seem appropriate and that the Winnetu has lived up to all previous agreements and obligations. Arnold Greenberg wrote on March 16<sup>th</sup> to state that the changes will enhance the appeal of the Winnetu without disturbing or inconveniencing the neighbors. Sara Caledonia wrote in favor of the changes on March 3<sup>rd</sup>, stating that the changes would allow guests to enjoy the grounds more, and that she has never worried about the noise levels.

Mr. Mascolo requested further clarification of who Ms. Kaplan was representing. It was counted as at least eight households along Navy Way. She has been in contact with the chairman, who has been in

contact with all of the other residents. Mr. Snider estimated that there are equal numbers of neighbors in favor and opposed to the application based on his interactions with them.

A letter of opposition received from Raymond Drop dated March 18<sup>th</sup> was read. Mr. Drop objected to the process of the application, stating that the hearing should be held in June or July, when the majority of the surrounding homeowners are able to attend. He examined the history of his correspondence and dealings with the Winnetu. Mr. Drop was mainly concerned about noise, the environment, and risks to the wells and drinking water.

Mr. Barbini stated that to the best of his knowledge, the septic has been fixed and functioning properly for eight years. He stated that he hasn't heard any complaints since 2007; and that Matt Poole, the Health Agent, hasn't heard any complaints either.

A letter to the Board of Selectmen from Margo Cox and Robert Gagel dated March 16<sup>th</sup>, was presented. The Board allowed it to be read, even though it was addressed to the Selectmen. The letter expressed concerns regarding noise levels and other disruptive activities, as well as a recount of the issues with the septic systems in 2007.

Mr. Snider thanked everyone who attended the hearing. He stated that he agreed with the attorneys, that the conditions were originally made as an agreement between the resort and the neighbors in 2002. However, things have changed over the past 12 years. Mr. Snider recognized that several of the close neighbors have adjusted the requests before the Board because that's a part of the process to make things happen. People won't engage and have nothing to do with the reality. He stated that the proposed changes do not include amplified music or outdoor weddings. He stated that the guests on the deck are already out there until late at night, they just want to be served food and drinks, inside of needing to go inside to order food. Neighbors won't engage, must talk through attorneys. Did want to talk. Clients don't live here. Ms. Greenough stated that the abutters were mailed notices of this hearing on February 20<sup>th</sup>.

Mr. Mascolo closed the public hearing at 6:46 PM.

Mr. Wilson reviewed the proposed amendments, and requested that if they are approved, the Board clarify the decision to include no outdoor amplified noise.

Mr. Sparks stated that the Planning Board has been charged to consider the health and safety of Edgartown. He stated that Edgartown is a resort community that depends on the income generated through tourism. The Board must find a healthy balance of town, neighbors and business. He stated that these amendments have hammered out some additional limitations after the conditions. Over the course of time he's served on the Board he has heard lots of complaints, but none about the Winnetu. Any issues have been resolved quickly, and he believes that the Winnetu will stay a good neighbor and good employer. He assured the public that Mr. Snider didn't plan this hearing to be in the winter so no one could attend. He stated that the Winnetu operates well, and cares about the surrounding community. Mr. Sparks speculated that there were no foreseeable issues by expanding the food and alcohol service for 30 minutes. He had no problems with the hours, tents, or service by the pool. He

agreed with Mr. Mascolo that the Winnetu may be the only resort that does not already serve alcohol by the pool. Mr. Sparks stated he had no issues with any modifications, but would like to review the application in the fall.

Mr. Cavallo stated that he had no problems with the application, especially since the Board will revisit the subject and any potential issues that have arisen in the fall.

Mr. McCourt stated that the Winnetu is a first class operation. When a complaint is voiced, the management team is on top of it. He noted that Mr. Snider knows all of the neighbors by name and face, and will solve a problem if one arises. Mr. McCourt provided the example that the neighbors complained about traffic caused from deliveries; so Mr. Snider consolidated the deliveries and reduced the number of trips made by the large trucks. Mr. McCourt commended the staff and management for running a first class operation.

Mr. Mascolo stated that the Winnetu is an asset to Edgartown, and that the original conditions were overly restrictive. He stated that the resort is commendable for doing such a good job. He also stated that calling the resort a "perpetrator" is insulting. There was a hotel in that location long before there were any houses. Mr. Mascolo stated that he disagrees with the majority of the complaints and has no issues with the requests. The modification requests will create a level playing field, and give the Winnetu the same amenities as other resorts around Edgartown and the island.

Mr. Wilson moved to approve the modifications to the special permit as presented, with no outdoor amplification of any kind. This decision is to be reviewed in October 2015. Mr. Cavallo seconded. The motion passed unanimously, 5-0.

**6:59 PM: Stop & Shop, 225 Upper Main St (20A-57.1) SP: Outdoor garden display**

*In Attendance: Mary McEvoy- Stop & Shop Manager*

The Board was familiar with the application, as it is filed every spring. On the site visit, the Board noted that several potholes needed to be filled, a section of curb needed to be replaced, and that a sign discouraging patrons from parking in the bike rack was necessary.

Mr. Mascolo noted that the pothole and the curb should be high priorities. He also suggested a small, removable pole to be placed in front of the bike rack for the summer season. Ms. McEvoy stated that the idea has been toyed with, but poses as a hazard to other cars. Mr. McCourt stated that this application is a formality to go through this, gives leverage, get everything cleaned up and straighten up. Ms. McEvoy stated that the Board does not need to wait for Stop & Shop to come in for an application; that if the members of the Board notice something awry on a visit to the grocery store, they are welcome to point it out then and there.

There was no one present in the audience to speak for or against the project, and no letters were received.



Mr. Cavallo moved to grant the special permit for the display and sale of garden products. Mr. Wilson seconded, and the motion passed unanimously, 5-0.

**7:02 PM: Ann Floyd, Dyke Rd (32-1.2) Form A, and Modification to Cluster Development**

*In Attendance: Richard Barbini*

Mr. Barbini approached the Board. The applicants are trying to modify the existing cluster subdivision approval to take two lots from the front of the property to be divided into four smaller lots. The application is presently before the Board to be referred to the MVC as a DRI.

Mr. Sparks moved to refer the application to the Martha's Vineyard Commission. Mr. McCourt seconded, and the motion passed unanimously, 5-0.

**7:05 PM: North Water St. Properties, 99 North Water St (20D-280) SP: Surface Water District. Add one 6' x 16' float and one pile to an existing licensed private pier.**

*In Attendance: Richard Barbini*

The application was postponed from March 10<sup>th</sup> at 6:00 PM.

Mr. Barbini approached the Board to explain the application. The float will be 32 feet from an abutting pier, which is less 18 feet less than the 50 foot requirement, according to the faired pier guidelines. However, a float is not a pier, and therefore that requirement may not apply; and the abutting property is owned by the same person. The Conservation Commission and the Marine Advisory Committee have recognized that this is an unusual situation, and have approved the application, with the condition that if one of the lots is ever sold, the float and pile must be removed before the sale. Ms. Greenough suggested reconfiguring the float so the shorter side faces the adjacent pier. Mr. Barbini stated that even if the float were rotated, it would still be less than 50 feet to the neighboring pier. But, since both properties are deeded separately to the same person, it shouldn't pose as an immediate issue. Mr. Mascolo stated that it is important that this restriction be recorded on the deeds to both properties, so that it would appear on a title search. This will ensure the restriction runs with the land and will not get lost over time. Mr. Mascolo emphasized that the Board is only in favor of the application because both lots are owned by the same person.

Mr. Sparks moved to approve application as presented, and that if either lot passes to a different entity, the pile and float are to be removed. Mr. Cavallo seconded, Mr. McCourt was opposed. The motion passed, 4-1.

**7:12 PM: McPherson, 10 Tilton Way (20C-177) Repetitive Petition**

*In Attendance: Patrick Ahearn, Donna McPherson*

Mr. Ahearn approached the Board to explain the application. The property has changed hands since the previous application in 2014, and is now deeded to Donna McPherson through the divorce settlement. Ms. McPherson and Mr. Ahearn have been collaborating to provide a plan that is very different from what was presented to the Board last year. Mr. Ahearn originally thought that if the owner of the property changed, a repetitive petition was no longer necessary; however, under repetitive format, the decision runs with the property, not the applicant nor the architect.

Ms. McPherson stated that the circumstances are different, that she plans to live on the premises, and has designed the home to be her personal dwelling space.

Mr. Ahearn presented the changes. The original application was submitted to the Zoning Board of Appeals in September of 2013. The plans displayed a 400 square foot carriage house directly on the street and a 2,800 square foot primary dwelling with a large back deck.

The application presently before the Board is to determine if whether or not the plan is different enough to go back to the Zoning Board of Appeals. Mr. Ahearn decided to switch the location of the house and the carriage house to conform to the neighborhood, as no other house nearby has a garage directly on the street. The garage has been minimized to house a small car and lawn furniture in the offseason. There will be cobblestone strips along the side the side of the house to allow a car to drive in the back to park.

The square footage of the structures was a big issue with the previous plan. The Board asked if there were substantial changes to the square footage. Mr. Ahearn responded that the garage was originally 24' x 28', and is now 24' x 24', for a total reduction of 96 square feet. The footprint of the main structure was originally 67' x 28', which has been reduced to 59'11" x 25'5", for a total reduction of 310 square feet.

Mr. Wilson inquired as to the height of the structures. Mr. Ahearn responded that the main house will have a height varying from 22' to 25'6". The original plan had a height of 27'10".

The Board examined the lot coverage percentages. The previous application to the Zoning Board had a lot coverage of 47%, the plan submitted to the Board last year had a lot coverage of 35%, and the current plan shows a lot coverage of 31.5%.

Mr. Ahearn commented that the architecture of the previous plan was not carefully developed, and stated that he is experienced with working on substandard lots. He designed the house in a Greek revival style, which has been successful with smaller cottage style homes, and purposely reduced scale and mass. The previous design made the structure seem more significant than necessary. Mr. Ahearn differentiated the architecture, and broke the scale down into dimensions, which demonstrates a significantly different architectural solution that is smaller in scale and volume.

Mr. Mascolo asked if anyone was present in the audience that would like to speak in favor of the project.

Paul Cunningham, an abutter to the property, stated that he has reviewed the plans, and is enthusiastic about the house. He stated that he thinks it will be a good addition to the neighborhood.

Mr. Mascolo then invited comment of those in the audience that are opposed to the project.

Eric Peters, representing Art and Eunice Buckland, approached the Board. He stated that the original application was denied by the Zoning Board of Appeals. The application was resubmitted as a repetitive petition to the Planning Board one year ago. A 4-1 vote or better was required, showing specific and material changes to the plan that was denied. The Board voted 3-2, and the application did not move forward. He presented several attachments to the Board. He emphasized that a new architect and/or owner does not change the standard for review; as is the same with the applicant living on the premises. Mr. Peters stated that the plans are not that different from the previous plans; and that many dimensions are larger than what was presented last year. The proposal is for a three-bedroom dwelling, with a garage and an apartment bedroom above. The current proposal shows specific plans for the cellar, which were not clear in the first two applications. The cellar includes a room that could be a bedroom, and a full bathroom. Mr. Peters noted that the basement space is not counted in the living space referenced in the letter from Mr. Ahearn.

Mr. Mascolo stated that basement space is not considered living space, and is not included in the assessment of a house or building.

Mr. Peters also stated that changing the location of the garage from the front of the property to the back of the property is not significant. He also noted that the plans for the garage state a height of 22'6", while Mr. Ahearn's letter to the abutters states 21'. He also questioned Mr. Ahearn's lot coverage percentage calculations, as he found the lot coverage percentage of the new structure to be 42%.

Mr. Peters stated that it would be fallacious for the Board to vote that specific and material changes have been made when several aspects of the proposal are bigger than the plans submitted last year. Mr. Mascolo asked how much smaller the project needs to be for approval. Mr. Peters stated that there is no magic percentage, so it is difficult to make those findings legally. However, compared to other non-conforming lots in the neighborhood, it is apparent that this plan is still too large. Mr. Peters presented a comparison to six other homes on non-conforming in the area showing an average ratio of living area to lot size as 21%. The original proposal had a lot coverage percentage of 47%; the plan denied by the Planning Board last year had a lot coverage percentage of 35%, and this current plan has a lot coverage percentage of 39%. Mr. Peters also emphasized that only a few of these smaller lots have a garage, and none of the garages have an apartment above. Mr. Peters also referred to the surveyors plan to show that the garage is only about six feet from the Buckland's property. Mr. Peters argued that the current application does not prove specific and material changes from the original application.

Mr. Ahearn stated that Edgartown zoning does not have any requirements for lot coverage, and that the lot coverage percentages used by Mr. Peters do not pertain to zoning. He also stated that what was

presented as a second scheme last year has no bearing to this application. Mr. Ahearn is currently before the Board presenting an attempt to develop a plan that was substantially different.

Mr. Ahearn stated that he is an American Institute of Architects Fellow, of which there are less than 3,000 in the United States. He has 42 years of experience as an architect, and also noted that he has designed over 135 houses in Edgartown in the past 25 years. He understands the differences in architecture, and as a licensed professional, can tell the difference between his plan and someone else's. He stated that the house prepared for this plan to date is significantly different than what was presented last year. The changes to the size and location of the primary dwelling are significant, the changes to the size and location of the garage are significant, and the mass and scale of the entire project has been reduced. This reduction is seen not just in footprint and dimension, but also architecture. Mr. Ahearn designed this home specifically with the intention to be sensitive to the area; and believes that he has illustrated and demonstrated that it is significantly different from original application.

Mr. Peters mentioned that there may be some trouble maneuvering a car to the back of the property to enter the garage. The surveyors plan shows a window well that could easily obstruct a vehicle. Mr. Ahearn noted that the window well is flush with the ground, and a car will be able to drive over it. Mr. Peters mentioned that while Edgartown does not use lot coverage to regulate zoning, the Zoning Board of Appeals has examined it to determine how this proposal will affect the neighborhood. Mr. Peters stated that the current proposal will have an objectionable and detrimental effect on the surrounding area.

A letter of opposition from William Fruhan dated March 23<sup>rd</sup> was read. Mr. Fruhan stated that the changes made to the proposal are not significant enough to grant approval; and used the lot coverage percentages as evidence as such. He also believed that the application fails to meet the standards regarding the alteration or expansion of a non-conforming structure on a non-conforming lot. He also noted that the plans show an outdoor fireplace or barbeque at the back of the house, and a bathroom on the ground floor of the garage. Mr. Fruhan stated these additions to the plan make it seem unlikely that the garage will ever actually be used as a garage, but instead as a family room or extra bedroom.

Mr. Wilson exited the meeting at 7:45 PM. Mr. Mascolo asked if the applicants would like to proceed without a full Board. He reiterated that a unanimous favorable vote would be required to go forward. Mr. Ahearn understood, and asked to proceed.

A letter of opposition from Fran Ford written on March 24<sup>th</sup> was read. Ms. Ford stated that the current plans do not differ much from the two prior plans that were previously rejected for over-use. She also noted an apparent encroachment onto the properties located at 4 and 6 Tilton Way, which has not yet been addressed.

Mr. Ahearn stated that the purpose of the hearing today is to determine if the proposed plan has changed significantly and substantially from the original application. He stated that he consciously designed the house to meet those criteria.

The Board asked to have the difference in square footage explained again. The total square footage of the main house was originally 2,800 square feet; with 1,400 square feet on both the first and second floor. Mr. Ahearn's plan shows the main structure as being 2,538 square feet; with 1,420 square feet on the first floor and 1,118 square feet on the second floor, for a total reduction of 262 square feet. The height of the structure has also decreased from 27'10" to a range from 22' to 25'6".

Mr. Ahearn explained that the house is fully compliant within the setbacks.

Mr. Mascolo closed the public hearing at 7:50 PM.

Mr. Mascolo stated that Mr. Ahearn is a reputable architect with many years of experience designing homes in Edgartown. He stated that Mr. Ahearn would not be wasting time before the Board if he did not believe his plan was significantly different from the previous plan. Mr. Mascolo stated that Mr. Ahearn knows the field and knows what he is doing.

Mr. Cavallo stated that the plan is substantially different from what was previously submitted, and noted the differences in square footage, height, and mass and scale. He stated that for the purpose of the Planning Board, the plan is different enough to be resubmitted to the Zoning Board of Appeals.

Mr. Sparks stated that he remembered the old plan and the complaints. He speculated that the Zoning Board will not approve the current revised plan, but stated that the purpose of this hearing is to find the opinion of the Planning Board as to whether or not specific and material changes have been made. Mr. Sparks stated that he does think that specific and material changes have been made to the size, scale and mass of the project, and is in favor of the application; but still emphasized that the plan will probably be denied by the Zoning Board.

Mr. McCourt stated that he agreed with Mr. Sparks. The design of the structure is architecturally more appealing, and fits in better with the neighborhood. However, the square footage of the structures could still be an issue. Mr. McCourt predicted that the next step with the Zoning Board will be problematic. He recognized the changes made to the plan, but did not think they would be sufficient enough for approval from the Zoning Board. He recommended the applicants continue the hearing to take time to regroup with the neighbors and see if there is any room for compromise.

Mr. Ahearn argued that 6,500 square feet is an average lot size, it is not that small, especially for the downtown area. He also argued that the proposed house is not too big. Mr. Ahearn stated that the original application was denied because of the square footage, and that the plan submitted for the repetitive petition did not downsize enough. He stated that under the rules and regulations, the application needs the approval of the Planning Board to move forward, and that the plan can then be tweaked with the neighbors before the Zoning Board hearing.

Ms. Greenough clarified that the plan taken to the Zoning Board must first be seen by the Planning Board; and if this plan is approved, there can be no changes made before the Zoning Board hearing.

Mr. Sparks urged the applicants to continue the hearing to allow for more modifications to be made to the plans before being sent to the Zoning Board. Mr. Ahearn disagreed and asked for the Board to proceed.

Mr. Sparks moved to refer the application back to the Zoning Board of Appeals due to specific material changes made to the plan. Mr. McCourt seconded, and the motion passed unanimously, 4-0.

**7:09 PM: Barris, 35 Dunham Rd (29B-32) SP: Change boat house roof line from salt box to gable. Change location of windows and doors.**

*In Attendance: Jeff Lucier*

Mr. Lucier approached the Board to explain the application. There is an existing boathouse in disrepair on the property. The applicants would like to repurpose the shed to house new boating equipment. Mr. Cavallo asked if the structure would be demolished. Mr. Lucier replied that the same structure would be intact, but resided and re-shingled using traditional cedar boards and the addition of a small double hung window on the side. Mr. Sparks asked if the roof would be the same height as the existing boathouse. Mr. Lucier replied that the height would remain the same.

Mr. Sparks moved to approve as presented. Mr. McCourt seconded, and the motion passed unanimously, 4-0.

Ms. Greenough reminded the Board members of the all-island Planning Board meeting on March 25<sup>th</sup> at 6:00 PM at the Tisbury Town Hall Annex. Ms. Greenough and Ms. Morrison will not be in attendance, as they will be attending the Affordable Housing public forum on the Meshacket project.

Mr. Sparks moved to adjourn. Mr. Cavallo seconded, and the motion passed unanimously, 4-0. The meeting was adjourned at 8:08 PM.

Respectfully Submitted,

Lucy Morrison

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*Fred Mascolo, Chairman*

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*Robert Cavallo*

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*Michael McCourt*

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*Robert Sparks*

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*Alan O. Wilson*

Edgartown Planning Board