

Edgartown Planning Board  
Minutes  
Tuesday, April 7, 2015 at 5:30 PM

*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 (entered 5:50 PM)*

**5:30 PM: Form A: Brisson/Shapiro, 19 Road to the Plains/27 Plain Field Way (28-31.92 & 28-31.91) Lot line adjustment with variance from ZBA (Ken Abbott, agent)**

Members of the board conducted a site visit at 9:15 AM. A previous plan that showed condominiums (2) on this parcel was processed in the 70's. Originally there was a house and a guest house. Subsequently, even though the two structures shared a septic, the dwellings were sold separately. The current owners would like to legally divide the land into two separate non-conforming lots with their own septic. The only way one can do that is to get permission from the Zoning Board of Appeals, who granted them a variance to create two separate non-conforming lots with a structure on each lot. Once the ZBA allowed them to create these non-conforming lots, the Planning Board was allowed to divide the property into two non-conforming lots.

Mr. Sparks moved to endorse the Form A (ANR) plan. Mr. Cavallo seconded the motion and it was unanimously passed.

**5:45 PM: Public Hearing: Ready Vineyard Trust LLC a/k/a/ Edgartown Meat & Fish Market, 240 Upper Main St (21-10.2) Amendment to Special Permit to allow outdoor seating for the public. (Sean Murphy, agent and Sean Ready, co-owner)**

Mr. Murphy said he was here because a member of the public complained that the applicant did not have a permit for outdoor seating even though they were not serving anything outside. This is not similar to the Grille Restaurant, as the Grille does serve both beverages and food outdoor on their patio. Mr. Murphy received a letter from the building inspector that the outdoor seating was not permitted in the original decision. Mr. Murphy said it was better to amend the special permit to include outdoor seating than to be in violation of the special permit, although he did not agree with the concept that his client was in violation of the special permit.

Ms. Greenough read two letters from abutting individuals. Mr. Convery said he was in favor of the project as it was friendly and it does not adversely affect the neighborhood. The Swartz family did not agree and was not in favor of the outdoor seating. In a number of statements in the letter, the Swartzes misrepresented what was allowed and not allowed at the Edgartown Meat and Fish Market. They also mentioned that the seating would exacerbate the parking issue at Post Office Square.

Mr. Murphy commented that whether or not the application is approved, nothing will be done about the parking problems.

Mr. McCourt and Mr. Cavallo stated that they did not have any problems with the application.

Mr. Wilson commented that the outdoor seating will give the market a European café feel.

Mr. Sparks asked Mr. Murphy if the market was restricted to preparing food on site. Mr. Murphy replied that the establishment is permitted as a market and a deli, and the special permit allows for food to be prepared on-site as well as brought in.

Mr. Wilson moved to amend the special permit to allow for the outdoor consumption of food, so long as there is no service to the outdoor tables. The market will police the tables to ensure proper use, and a trash barrel will be made available. Mr. Cavallo seconded, and the motion passed unanimously, 5-0.

**6:00 PM: Public Hearing: MRK Mullen Realty LLC, 19 Mullen Way (29A-97) Subdivision Definitive Plan.**

*In Attendance: Michael Kidder, Skip Tomassian, Michele Cassavant, Ina Andre*

Mr. Tomassian approached the Board, but was interrupted by a quick interlude from Mr. Kidder. Mr. Kidder spoke to the opponents of the development, and stated that change is the only constant, that something will be done with the property at some point. He stated that he feels strongly that this plan is the best thing for the property and the neighborhood. He is not a developer, and he is not trying to make a huge profit. Mr. Kidder stated that a 40B would create far more traffic than the nine home subdivision as proposed.

Mr. Tomassian then explained the new plan. The open space lot was divided in two and added to the adjacent house lots; it will remain a protected area, save for the Land Bank trail. National Heritage has designated a no-cut, no-build zone around the entire property. There shall be no private road signs on Jordan Way, even though it is a private road; it shall remain open to public use. Mr. Mascolo confirmed that emergency and utility vehicles will be able to use the cul-de-sac to turn around. Mr. Wilson asked if the town will take possession of the road. Mr. Tomassian replied not right away, that after the lots are sold, a road association will be formed, and it will then be decided whether or not the town will take over the roadway. Mr. Tomassian added that there shall be no further subdivision of the lots, no guesthouses, and no tennis courts permitted. Each house will have four bedrooms and be approximately 2,800 to 3,200 square feet with two car garages. The Board of Health has approved each lot to be treated with an enhanced septic system. The project has not yet been before the Board of Health for variances, but applications will be filed if the Planning Board approves the project.

Ms. Greenough clarified that the access road into the subdivision has been semi-officially named Jordan Way.

Mr. Tomassian presented photographs of cars on other narrow roads around Edgartown in comparison to Mullen Way. The roads chosen and their usages were: Pennywise Path (39 homes), Norton Orchard Rd (16 homes), Fisher Rd (6 homes), Maggie's Lane (3 homes), Norton Rd (4 homes), South St (5 homes), and North St (19 homes). There are 17 homes on Mullen Way; four of them are occupied year-round, and the rest are rentals. Mr. Tomassian explained that the point of this presentation was to show the width of Mullen Way as compared to other narrow roads that have multiple houses on them. Mr. Tomassian mentioned that there is presently a daycare center operating on Mullen Way that entertains eight children, which will be moving elsewhere in town soon. Between the drop-offs and the pick-ups for the daycare, there are approximately 32 trips up and down Mullen Way throughout the day. The nine houses in this subdivision would create about the same amount of traffic. Mr. Tomassian recalled the testimony of Steve Warriner, who spoke at the meeting on January 13<sup>th</sup> about the ten-home affordable housing development on Pine St, and how it has had no effect on traffic. Mr. Tomassian added that there have been nine emergency calls made to houses along Mullen Way, and none have them been about a fire. In 14 years, there has only been one car accident on Mullen Way; the car accidentally slid into the Peases Point Way intersection, and it had nothing to do with the narrow right of way. Mr. Tomassian referred to the testimony of Melissa Vincent, who also spoke at the meeting on January 13<sup>th</sup>, about road safety, and how drivers need to use common sense and be careful.

Mr. Tomassian stated that the snow plan was offered in the clerk's issue staff report, and clearly states that none of the snow plowed from the subdivision will end up on Mullen Way. He also presented letters from the municipal boards including the Water Department, the Fire Department, the Police Department, the Board of Health, and the Land Bank. Mr. Tomassian stated that the biggest improvement to the area will be the water quality with the upgrade to an eight-inch water main.

Danny Rogers explained that the applicants will pick up the water main on North St, go through Jordan Way, and terminate the main at Mullen Way. This makes the new eight-inch main available for when the town upgrades the Mullen Way water main. There will be a fire hydrant located in the cul-de-sac, as well as on Mullen Way at the entrance to Jordan Way. Mr. Rogers stated that Mullen Way will have access to the fire protection, and no longer depend on a hydrant across the street, but not to the water quality until the town upgrades the water main. He added that plastic pipes will be used to prevent corrosion issues, and the inspector is in the process of signing off on the design. Mr. Tomassian stated that the applicant does not know when the town will install the eight-inch main down Mullen Way, and that the Water Department should be consulted for a time estimate.

Mr. Wilson added that with the upgrade to the water system going from a two-inch main to an eight-inch main, would be an increase of 16 times the total water volume.

Mr. McCourt clarified that any time a fire hose is run across a road, the road needs to be shut the road down. A car cannot drive over it.

Mr. Sparks asked for clarification on the Goulart day care center, which was moving to another location.

There were no recent letters submitted from the public. Ms. Greenough read the letter received from the MVC regarding the project.

Mr. Tomassian added that the applicants are willing to impose a building moratorium on cement trucks and excavators for the months of July and August, so as not to impact the neighborhood during the summer months.

Mr. Wilson asked what provisions will be taken to prevent the homeowners from blocking public vehicles from using the cul-de-sac to turn around. Mr. Tomassian stated that the restriction will be deeded to the property, and included as a provision of the road association.

Mr. McCourt stated that the current plan is better than what was approved.

Mr. Cavallo agreed that the current plan is better than the original. He urged the Board to condition the application properly.

Mr. Sparks reviewed the list of proposed conditions: that the road through the subdivision is to remain open to the public and to utility and emergency vehicles; that there will be no further subdivision, no guesthouses, and no tennis courts; the approved snow plan will be enforced; an easement for a Land Bank trail shall be executed; easements for a new eight-inch water main shall be executed; 8" water mains shall be installed, as well as two fire hydrants; and no structure or building shall be built in the no-cut, no-build zones.

The applicants offered the following other conditions: the properties will be residential use only; there will be no vinyl siding; the garage doors will look like carriage doors; there shall be no rubbish, debris or dead trees allowed to accumulate; trash and garbage will be kept in enclosed covered containers; all lighting will be downward facing; and there shall be no signs restricting public access to the subdivision.

The Board reserved the right to work with Mr. Tomassian and Mr. Kidder on the covenant restrictions and the special permit conditions.

The Chairman moved to close the public hearing and go to deliberations.

Mr. Sparks moved to approve the project with the understanding that they will be reviewing the decision and aforementioned conditions with the applicant. Mr. Cavallo seconded, and the motion passed unanimously, 5-0.

**New Business/Old Business:**

Simpson's Lane: The Board discussed the reconfiguration of Simpsons Lane and the Chappy ferry line. A meeting will be scheduled on May 5<sup>th</sup> to focus solely on this issue. The Board discussed switching the side of the road the line waits on, depending on which side of Simpsons Lane has more driveways. The idea of having the large trucks and commercial vehicles wait on Dock St was also discussed. Mr. Wilson recommended adding another slip. Mr. Mascolo requested to have a large blown up map of the Simpsons Lane area present, and invite the MVC traffic planner, Priscilla LeClerc, to the meeting on May 5<sup>th</sup>.

Private Shooting Ranges: Ms. Greenough also mentioned that the warrant article relating to the shooting ranges will be withdrawn, and referred to the Planning Board. The Board of Selectmen decided that the shooting range issue shall be a land use bylaw solved through zoning bylaws, instead of through a town code. Mr. McCourt mentioned that any new regulation needs to be carefully worded so as not to unintentionally restrict the rod and gun club. Mr. Mascolo stated that he was uncomfortable having the building inspector enforce the shooting range bylaw, and would be more comfortable with the police handling any violations.

Mullen Way Water Line: Mr. Mascolo requested that Mr. Chapman of the Water Department attend a meeting in the near future to answer questions about the Mullen Way water main project. He believed that the Town should prioritize the upgrade of the water main on Mullen Way to the eight inch pipe, since the project has been approved and will soon be underway. He noted that Mr. Chapman lives off island and should be scheduled early in the meeting so he can still make the boat. Mr. McCourt agreed that the Board should put pressure on the Town to connect to the Mullen Way main. The Board also reviewed (MVC) Paul Foley's letter dated April 7, 2015 regarding referral of the Mullen Way project. Mr. Sparks and Mr. Mascolo expressed strong disdain for the actions and procedures of the Commission. Mr. Wilson stated that the Commission should be a helpful entity, not an obstacle. He noted that plans being submitted are specifically and deliberately designed so that they won't be referred to the Commission.

Wilson as CPC appointee: Ms. Greenough mentioned that Mr. Wilson's term on the CPC will be expiring on April 30<sup>th</sup>. Mr. Sparks moved to have Mr. Wilson represent the Planning Board for three more years on the Community Preservation Committee. Mr. Cavallo seconded, and the motion passed unanimously, 5-0.

Respectfully Submitted,

Georgiana Greenough, Assistant  
Lucy Morrison, Clerk

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