

## Edgartown Planning Board

### Tuesday, April 21, 2015 at 5:30 PM

*Members in Attendance: Acting Chairman Robert Sparks, Robert Cavallo, Michael McCourt, Alan Wilson, and James Cisek, Alternate*

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

Mr. Sparks, acting as chairman, called the meeting to order at 5:33 PM.

Mr. Chapman, the Water Superintendent, was present as per the request of Mr. Mascolo to answer questions about the water main on Mullen Way. Mr. Chapman said that it was the intent of the Water Department to upgrade the water main to an eight-inch pipe, but the effort needs to be coordinated with the road repair done by the Highway Department. He compared the project to what is currently being done on Gaines Way, where the two-inch water main is being replaced with six-inch pipe, and then the road is being reconstructed. Mr. Chapman had the same thought for Mullen Way. The subdivision will tie into an eight-inch main on North St, which will terminate at the end of Jordan Way. The fire protection will be available immediately, and the subdivision will have adequate water supply. The Water Department will then finish the loop and bring the water to Peases Point Way. This will increase the capacity of the distribution system and be good for the community. Mr. Chapman estimated the timing of the project as being in the fall of 2015 or the spring of 2016. Mr. Chapman also stated that the replacement of the infrastructure should be coordinated with Mr. Kidder and the work done on the subdivision. Since Mullen Way is so narrow and the work is so extensive, it needs to be planned so as not to impede any construction. Mr. Kidder said that he is happy to coordinate with the Water and Highway Departments. The Board thanked Mr. Chapman for attending the meeting.

#### **5:42 PM: Public Hearing: Mill Hill Farm Subdivision, Mill Hill Farm Rd (29-50.1) Review no cut zone violation of a Definitive Plan issued September, 2005. (James Wilson, et. al)**

*In Attendance: Allen Wilson, Doug Sederholm, Robin Bray, David Nash, Scott Paige*

Ms. Greenough stated that the purpose of this hearing is to address the violation of a no-cut, no-build zone established as part of a subdivision in 2005. The covenants, Planning Board decision of 2005, and site plan all reference the no-cut zone. Mr. Allen Wilson was present to represent the subdivision. The 34-acre property was his grandfather's land. The subdivision was designed as a low density, environmentally sensitive development with a 26-acre parcel of mostly open space in the middle. The Wilson family worked with the town to protect land from further subdivision, and it will never be developed. There is a 30-40 foot no-cut, no-build zone around the 26-acre parcel. Mr. Allen Wilson claimed that a path was established in this zone around 1970 to serve as a boundary, and that the path is maintained every other year. Last summer, undenounced to the family, Justin Smith mowed the path. No trees were cut, and the path looked the same as it always has. Mr. Allen Wilson did not anticipate the mowing of an existing path to be an issue, and apologized to the neighbors for the misunderstanding.

Mr. Cavallo asked if the path was ever mentioned in any of the original documents. Mr. Allen Wilson replied that it was not, and it was an oversight not to mention it.

Mr. Sparks clarified that the path ranges in width from 10 to 12 feet, and was strictly grass. There were no brush or bushes cut down, and the path was not widened. Mr. Allen Wilson commented that there may have been some instances where some bushes were accidentally hit on the sides. He presented an aerial photograph taken in the early 1970s and other pictures from the present day.

Mr. Cavallo asked if the path is used. Mr. Allen Wilson replied that the path is occasionally frequented by the Wilsons or the residents of Edgartown Estates, but it is not a public path and most people don't know that it's there.

Ms. Greenough asked if the cutting will continue. Mr. Wilson replied that he will let the Board decide whether or not the path will be maintained. It was a mistake to cut it, but thought that not mowing it would be a waste of a good footpath. Mr. Wilson stated that he thought the no-cut zone applied to brush and trees, and didn't even think about the path.

Doug Sederholm pointed out that Mr. Allen Wilson admits to the violation, and that nothing on any of the plans shows a path. He stated that the intent of the no-cut zone was obviously made to serve as a natural vegetative buffer for Edgartown Estates, and was a condition of approval to allow the subdivision. Mr. Sederholm claimed that the path had not been cut in seven years, that there was an apology issued after the last cutting. Mr. Sederholm stated that a typical footpath is only one or two feet wide, and that 12 feet seems excessive. He added that a brush hog was used to mow the path, and that saplings and brush were cut down, and suggested the Board require the Wilsons to do something to rectify or mediate the damage.

David Nash approached the Board to say that the real concern is the violation of privacy. The vegetation was just beginning to become sufficient screening, and he was very disappointed to have lost the visual barrier. He claimed that the path was not walkable, and that there were shrubs over three feet tall.

Mr. Allen Wilson interjected that he respectfully disagreed that the path was not walkable, and that tall shrubs were cut.

Scott Paige stated that he first noticed the path in 2010, and that it was not walkable from his perspective. He stated that he has never seen anyone walk on it, except for when the Planning Board conducted a site visit. He noted that the path could go pretty far to the east, but it doesn't go anywhere.

Mr. Sederholm stated that the path is not a resource for the community. There are no trespassing signs posted, and abutters have been told not to use it. The path is on private property, and the Wilsons do not want it used.

Mr. Wilson stated that the no trespass signs were placed once the neighbors were throwing their lawn trimmings and brush trash into it. He stated again that there is no way the path was ever unwalkable.

Robin Bray stated that seedlings, trees and bushes were beginning to grow in the path, and that a person had to be careful not to step on the upcoming growth.

Scott Paige added that the path from his home to the path in question was so narrow; he originally thought it was a deer path.

Mr. Nash stated that he walked the path that day, and made note of the saplings and trees that were crushed. He said that the damage was obvious and more extensive than the mowing a small path.

Ms. Greenough read the letters submitted from the public. Mr. Scott Paige waived the reading of his letter sent on April 20<sup>th</sup>.

M. Christopher Ward wrote on April 21<sup>st</sup> to state that the argument that the path serves as a firebreak is void, as the path is not wide enough to stop a fire from spreading.

Barry Paillet wrote on April 14<sup>th</sup> asking the Board to take action to require Mill Hill Farms to abide by the conditions and restrictions set forth in the restrictive covenant, and requested a continuous row of evergreens be planted to reestablish the vegetation and provide a privacy barrier.

Dr. R. Bruce Ward sent a copy of the same letter on April 10<sup>th</sup>.

Perrin and Joe Galli wrote on April 19<sup>th</sup> to state that the cutting has greatly impacted their privacy, and that claiming the path as a firebreak is an invalid excuse for the cutting. The Gallis also requested the area be replanted.

James Martin wrote a letter that was received on April 21<sup>st</sup> to express concern over the brush clearing in the no-cut zone. Mr. Martin requested a fine be imposed and that the path be restored to its prior state through the planting of new trees and other vegetation.

Geoff Allan wrote on April 20<sup>th</sup> to support the efforts to require the Wilsons to renew and restore the vegetation to a viable state.

David Nash and Robin Bray wrote a letter that was received at the meeting that requested the Board to prevent future cutting, and require Mill Hill Farms to significantly replant the area to restore it to its condition prior to the clearing.

Mr. Sparks closed the public hearing at 6:20 PM.

Mr. Alan Wilson, Planning Board member, commented that he has walked the property before, and did not notice much of a change on the site visit. He stated that he did not see any evidence of saplings being cut down; he did notice, however, that some neighbors had put brush on the path. He did not think the path was 12 feet wide. Mr. Alan Wilson was of the opinion that Mr. Allen Wilson, association member, should not be allowed to mow in the no-cut zone, but did not feel the need to require him to plant anything, and that nature will take care of itself.

Mr. Cavallo stated that it was the responsibility of the Board to uphold the original agreement, and that there shall be no more cutting in the future. He also did not see the need to require any planting or other type of compensation.

Mr. McCourt stated that an agreement was made, and that the no-cut restriction includes mowing. He said that the zone created a privacy barrier, and that it was of enough concern to be imposed when the land was subdivided. Mr. McCourt stated that he would be in favor of some kind of planting to replace the cutting.

Mr. Sparks stated that the entire property was in the Wilson family, and that the intent to preserve as much open space as possible was obvious in the siting of the original subdivision. He said that the Board spent an hour walking the path and did not see a single stump or cut shrub. He also noted that Mr. Allen Wilson admits to the violation, and believes that it was a mistake, and was not a malicious act. Mr. Sparks did not see the need for a wall of white pines or other plantings.

Mr. Alan Wilson moved to abide by the no-cut, no-build restriction as approved in 2005, which includes no more mowing of the path. There shall be no penalty and no replanting. Mr. Cavallo seconded. Mr. Cisek abstained. The motion passed, 4-0 with 1 abstention.

**6:28 PM: Public Hearing: Brush, 40 Green Hollow Rd (29-132) SP: Surface Water District. Dredge and construct an 18' x 6' seasonal float and two tie-off piles.**

*In Attendance: Reid Silva*

Mr. Silva approached the Board to explain the plans. The applicant would like to add a seasonal float, and dredge (in areas highlighted yellow on plans) to provide enough depth for the boats. There is a section of the property that has sand above the water at low tide, depending on the season, which is why the dredging would be necessary. The Conservation Commission approved the application at the last meeting. The Marine Advisory Committee had discussed the application, but there was no decision made. The Conservation Commission did not want any dredging spoils on-site.

Mr. McCourt asked if the pier and floats met all of the required distances. There is less than 50 feet to an abutting property, so letters are required from the neighbors. There will also be an extensive permitting process from the State.

Mr. Cavallo asked who would be doing the dredging. Mr. Silva stated that it has yet to be determined, but that Steve Ewing will be in charge.

There were no letters received on the topic, and there was no one present in the audience to speak.

Mr. Sparks closed the public hearing at 6:35 PM.

The Board stated that the application was straightforward. Mr. Cavallo moved to approve the construction of float and piles with usual pier restrictions. Mr. McCourt seconded. The Planning Board does not sign off on any dredging. The motion passed unanimously, 5-0.

**6:36 Public Hearing: Colvin, 25 Manaca Hill Rd (30-11) SP: Coastal District. Construct 32' x 25' garage in the setbacks on a non-conforming lot.**

*In Attendance: George Davis*

There was some confusion as to whether or not to postpone the hearing. The applicants were not present, but the Plaines travelled from Washington D.C. to attend the hearing and express concerns.

Mr. Davis stated that the applicants were instructed to work with abutters to form an acceptable proposal that everyone could agree with. He stated that Dr. Colvin has been working with the Fortenbaughs, but has done nothing to form a compromise with the Plaines. Mr. Davis stated that the siting of the garage is the biggest issue, and he urged the Board not to postpone the hearing.

Ms. Greenough read the email sent on April 21<sup>st</sup> requesting that the hearing be continued to May 5<sup>th</sup>. Ms. Greenough noted that the meeting on May 5<sup>th</sup> was to be dedicated to the potential reconfiguration of Simpsons Lane.

Mr. Cavallo noted that if the hearing is not postponed, there is nothing to discuss, since no one is present to present the application.

Mr. McCourt stated that the applicants should reapply. He suggested that the Board deny the request to postpone, reject the current application, and have Mr. MacNelly and Dr. Colvin submit a new application.

Mr. Davis suggested that the Board deny the request to postpone and deny the application since no one is in attendance to present, which would not allow the applicants to reapply for two years. Mr. Davis stated that the applicants have not yet submitted a landscaping plan, and that there has been no communication between Dr. Colvin and the Plaines since the original application in December.

Mr. Cisek suggested imposing a deadline for a new application, and that failure to submit before that date would result in denial.

Mr. Cavallo stated that is not in the purview of the Board to mediate neighbors, but ultimately, a decision needs to be made.

Mr. Wilson moved to deny the request for continuance. The applicants will have one opportunity to work out an agreement with all of the abutters, and submit a final plan with detailed landscaping. Failure to do so will result in a denial and require two years before reapplication, or a repetitive petition through the Zoning Board of Appeals. Mr. Cavallo seconded, and the motion passed unanimously, 5-0.

The Board apologized to the Plaines that they had to travel so far for a hearing that did not happen.

A discussion of procedural matters ensued, and Mr. Sparks requested the opinion of Town Counsel.

The Board reviewed the conditions for the Mullen Way subdivision. The Board agreed with all of the conditions.

Mr. Wilson read a letter he wrote on April 19<sup>th</sup> regarding the Annual Town Meeting decision to pave Meetinghouse way. He stated that the petition did not go through the proper process, and that information was misrepresented on the floor. Mr. Wilson read the petition, which did not include any mention of costs; and the addresses of the 13 individuals who signed it, only two of which live near Meetinghouse Way. The Board was under the impression that a petition would need more than 13 signatures to become a warrant article. Mr. Wilson also clarified that the right of way is 30 feet, not 50 feet, as was stated by Mr. Fuller on the Town Meeting floor. Mr. Wilson argued that the Planning Board has jurisdiction over changes in traffic patterns, and that the article should have been referred to the Planning Board.

Mr. Sparks recommended holding public hearings to work on the design to mitigate speed and traffic.

Ms. Greenough will prepare a letter to the Board of Selectmen to offer the willingness of the Planning Board to hold public hearings on the paving of Meetinghouse Way, to take public input, to coordinate designs with the MVC, and make presentations to the Highway Department.

The Board discussed the regulations around shooting ranges. The state laws clearly allow for private shooting ranges. The goal of the new bylaw will be to protect shooters' rights, but also protect neighborhoods from the noise. The first meeting to discuss the shooting range bylaw will be scheduled for June.

Mr. Cavallo moved to adjourn. Mr. McCourt seconded, and the meeting was adjourned at 7:38 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  
Date signed: \_\_\_\_\_