

Edgartown Planning Board
Tuesday, June 9, 2015 at 5:30 PM
Minutes

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

Staff in attendance: Georgiana Greenough, Assistant

Chairman McCourt opened the meeting, 5:31 PM.

Ann Floyd et al. 1 Dyke Rd (3.1.2) Application to modify a Subdivision Definitive Plan and a special permit for a Cluster Development and, if approved, endorse modified Form A plans.

The Chairman asked the assistant to open the hearing by reading the public hearing notice. Ann Floyd, owner of the property, was asked to make a presentation for her request. She did not have a presentation prepared nor any exhibits.

Mr. Cavallo asked how many acres in the existing lots and how many acres in the proposed lots. Ms. Floyd continued by saying she did not have that information with her saying she thought the board had already reviewed the materials. She said she had just conveyed four buildable lots and open space to the Land Bank and wanted to use the land sold to the Land Bank as a basis of open space to be used in the ratio of open space to buildable lots contained in the Cluster Development regulations.

Ms. Greenough read a letter prepared by Paul Foley, the DRI Coordinator at the Martha's Vineyard Commission. The Board had referred this latest application to the MVC, however, Ms. Floyd had already taken it to the Commission for review. Mr. Foley's letter stated the MVC approved the modification to create four lots out of two of the existing five building lots that remain resulting in a total of seven buildable lots. The applicant also requested that DRI 483 conditions 1F and 1C be removed. The resulting vote was 1F was modified from 300' to 100' from the wetlands on denitrification for septic systems; and the Commission did not allow modification to 1C which required an "intensive archeological survey" for areas within the building envelope or areas to be disturbed. Mr. Foley further requested of the Planning Board to confirm whether or not their approval is allowed by local zoning per Chapter 831 Section 14C, and to interpret the language in the Sheriff's Meadow's amended Conservation Restriction.

It was noted that the remaining land after the conveyance to the Martha's Vineyard Land Bank, was approved as it exists, even though it does not meet the Cluster Development's criteria.

Mr. Sparks said it appeared that Ms. Floyd wants to create two additional non-conforming "buildable" lots within a Cluster Development which has restrictions on the ratio of open space to buildable parcels.

Ms. Floyd referred to the lease agreement between the Land Bank and the Sherriff's Meadow Foundation saying she was allowed to use the open space that was conveyed to the Land Bank. Again it was noted that the lease agreement does not relate to the zoning bylaws.

Mr. Mascolo addressed Ms. Floyd by saying she was not a qualified surveyor or engineer and was not capable of explaining all the legal and zoning innuendos of her proposal. He said it was not because he did not trust her, but the board needs a proper explanation.

Ms. Floyd was asked to return to the Board with her surveyor/engineer. She asked if her attorney could also attend to explain the lease between the Land Bank and the Sheriff's Meadow Foundation. The board agreed she could bring anyone to the public hearing.

The Chairman closed the public hearing.

Mr. Cavallo made a motion to continue the Ann Floyd, et al. hearing to the next available agenda. Ms. Greenough said the next agenda was full on June 16, but the July 7 agenda was available. Mr. Mascolo seconded the motion, adding July 7 as the continuation date, and it was passed unanimously.

Simpson's Lane & the Chappaquiddick Ferry Line. Recommendations to the Selectmen.

Chairman McCourt opened the continuation of the public hearing. He asked Ms. Greenough to read a report on the recommendations, to be presented at next Monday's Selectmen's Meeting (June 15, 2015 at 4:10 PM.) The Chairman asked the board if there were any modifications or changes they would like to make before finalizing the report. There were none.

Mr. Sparks made a motion to approve the recommendations report to the Selectmen. Mr. Wilson seconded and it was unanimously approved.

Shooting Ranges

The Chairman asked Ms. Greenough to open the public hearing by reading the public notice. The Chairman said this is an open informational hearing.

Mr. Sparks added there is no proposed by-law. It is an informational hearing asking the public to provide input to the board on the subject of private shooting ranges.

Mr. Wilson said the board only has authority over zoning, and the zoning inspector is the enforcement officer. There are many Massachusetts gun law ordinances which are enforced by the Police. He noted that no noise court cases have been won against firing ranges, but a few cases have been won using the right of quietness and solitude.

Mr. Mascolo said the reason we are here is because Mr. Monterossa does not want to put up with all of Mr. Olsson's excessive number of renters. Mr. Monterossa constructed his shooting range and that is why we are here. It is because of spite. We do not want to get in the middle of this type of problem.

The Chairman then asked Police Sgt. DeRoche to offer any comments he might have. He handed out two pages of the Law Enforcement Guide to Firearms Law regarding C.269 S 12E "Discharge of Firearm Within 500 Feet of Dwelling" & 12E Notes. He emphasized that the state regulations allow private individuals to construct a private range on his own property.

Ms. Greenough was asked to read some of the 45+ letters received by the Planning Board. The emails read aloud to the public:

Kevin Donovan, 9th St. Edgartown. Rod & Gun Club nuisance to have shooting at 7 AM through the entire day on Sunday. Should be limited to weekdays and limited on Saturdays.

Joe & Mike Solet, 232 Chappaquiddick Rd. Supports limitations on gun ranges to preserve peace, and safety of residents. Recommend that real time and decibel level limitations be imposed, along with on site presence of a trained supervisor during all shooting.

Joan & Siamak Adibi, Chappaquiddick. Regarding man made noise, grateful for firing range as controlled and infrequent antidote to the raucous noise of nearby swimming pools and loud speakers. If to be regulated, consider safety, no firing ranges in a certain radius, hours of operation and purposes. Currently three ranges on Chappaquiddick: Welch skeet range on Pimpneymouse Farm; Edgartown Police range on Jerry Jeffers property and the firing range at Ron Monterossa's. Questions if there is a need for further regulation? Cautions the board on over-regulating when there does not seem to be a problem.

Pamela Lindgren & Ron Monterossa, Handy Ave., Chappaquiddick. Questions whether or not a bylaw regulating gun ranges is needed. The issue was referred to the Planning Board by the Selectmen, but this referral was not made because the Selectmen considered or discussed the issue. It came about because the 2014 Town Warrant contained Article 50 that proposed to regulate gun ranges. That article was

listed on the Town Warrant as “Submitted by the Selectmen”, but the Selectmen said they had never voted on or even considered any such Article and were not even aware the Article was on the Warrant. They agreed that, in any case, the proper process for placing any such article on the Warrant would be by means of a hearing before the Planning Board. That is why the Selectmen have referred this issue. To the contrary, the Selectmen admitted in an open meeting held before the last Town Meeting that they had not done so and were, at the request of the Police Department (among others) removing the article from the Warrant. There is no need for any bylaw regulating gun ranges because the existing ranges, some 100 years old and one 70 years old have never had any injuries. If they had the police have jurisdiction over reckless endangerment of anyone. No need for bylaws.

Michael J. Veloza, President of Barnstable County League of Sportsmen’s Clubs. Further restrictions or regulations will do nothing but further infringe upon the constitutional rights of law abiding sportsmen/women and legal firearm owners of Edgartown, Chappaquiddick and Martha’s Vineyard.

Jmeno17@aol.com, Whitinsville, MA. “You liberals are taking your ding-bat air-headedness to new altitudes. Have you ever heard of the Second Amendment? Of course – you do not understand. It’s called FREEDOM lady. Check your Constitution for heaven’s sakes! Remember the movie “The Russians Are Coming. The Russians Are Coming”? Update: “The Muslims Are Coming. The Muslims Are Coming!” Get yourself a gun, not a new by-law. Feel free to respond – if you can make a better case In the mean time take your head out of the ether (or whatever is confusing you) and try for more all inclusive, commonsense solutions to the real problems that pester our towns, the Commonwealth and the Nations. Then you will be accomplishing something more worthwhile than tramping on the Constitution with your summer wear Birkenstocks.

John Pachico, 94 Pilgrim Rd, Edgartown. I do not support the new town bylaw restricting private shooting ranges.

Veoliver1@yahoo.com. I am a member of the MV Rod & Gun Club and do not support the proposed by law. I am also a veteran and a believer in our 2nd Amendment rights. Do not consider this bylaw.

beltedcowz@aol.com. Wake up and smell the coffee. Restricting people’s rights won’t change a thing. Look to Baltimore and all the other blue states. More laws don’t change. Law abiding people don’t do the crimes, it’s the lawless criminals that perpetrate the crime and nothing will change that except enforcing the 22,000 gun laws already on the books. Go after them and leave the law abiding folks alone.

Members of the public offered the following comments:

Pam Lundgren said she took umbrage to Fred Mascolo's comments, saying the accusations were not were not accurate.

Jerry Jeffers said the complaints were not about his shooting range.

Sharon S. said neighbors need mediation between the Olssons and Monterosa. The Rod & Gun Club made an agreement with their members. Perhaps a formal mediation session would mitigate the problem.

Sgt. Joel DeRoche said the police officers continue to use the Jeffers property for live practice which is essential training.

Coty Pachico said he lives on Pilgrim Rd and he never hears gun noise from the Rod & Gun Club.

An unknown woman said she objects to the whole island using the Rod & Gun Club, and wishes they would put one in the middle of the island, like at the airport.

Sgt. Joel DeRoche said the Edgartown police are thinking of looking at the airport for space. He said he can't speak for other police departments. Sgt. DeRoche said in response to Mr. Mascolo's comments, the complaints were not about noise. It was Warrant Article 50. He added that they do not receive Rod & Gun Club complaints.

Jack Regan said that suppressors are unlawful. Sgt. DeRoche said it is a state law prohibiting suppressors.

Coty Pachico said the West Tisbury police have a hard time to find a place to shoot. They recently used property in Seven Gates, and had no complaints.

Chairman McCourt said we need to do the neighborly thing.

Mr. Sparks asked Ms. Lundgren if the situation could be worked out.

Ms. Lundgren said she and Mr. Monterossa are shooting enthusiasts. They go off-island to shoot, they use the Rod & Gun Club to shoot and other clubs, and have for many years.

Someone suggested that Mr. Olsson's property was for sale. It was noted Mr. Olsson's property was not for sale.

Peter Look said the way this issue came about is entirely wrong. The process was not done correctly. The newspaper had it correct.

The Chairman closed the public hearing and the board commented.

Mr. Sparks said this is a little problem and we should not take any action.

Mr. Cavallo said there is no reason to develop a zoning bylaw.

Mr. Wilson said gunshots are heard all over. It is allowed by the Constitution.

Mr. Mascolo agrees with Mr. Sparks.

Chairman McCourt said the complaints are fixable, and Peter Look made a good point.

Mr. Cavallo moved to adjourn. Mr. McCourt seconded, and the meeting was adjourned at 7:09 PM.

Respectfully submitted,
Georgiana Greenough

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