

Edgartown Planning Board
Tuesday, November 10, 2015
Selectmen's Meeting Room – Town Hall

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

Staff: Georgiana Greenough, Assistant and Lucy Morrison, Clerk

MV Commission - Suggestions to improve Edgartown's zoning bylaw. (Adam Turner)

Adam Turner, the new Executive Director at the Martha's Vineyard Commission said he reviewed Edgartown's current zoning bylaw. He suggested there were a number of standard definitions that should be added. He also noted that in some cases there were definitions located within the individual zoning article, and suggested all definitions be located in one place, Section II - Definitions.

He mentioned the application procedure is light for the B-II Upper Main St Business District. He suggests it be more specific in requirements for an application than what is currently included.

Other comments by Mr. Turner include:

- Dormitory housing in B-IV probably should be removed from the zoning bylaw as the Airport Commission believes it is unsafe and is not in favor of it.
- Accessory apartments are often used for grandparents. He said it is usually a unit that is part of the house. The word "accessory" is the control.
- Conditionally permitted uses should be included in each district e.g. traffic regulations.
- Non conforming vested rights should be contained in its own article. There is paperwork available from the state from which a draft bylaw could be created.
- Mentioned the lack of non-conforming signs.
- Agreed the zoning bylaw document looked like it had been amended many times and believes everything should be more consistent. Some articles are inclusionary. Others are exclusionary. The zoning bylaw needs to be standardized.
- Change of use is a legitimate DRI referral. He will come up with more details.
- Believes in using more photos and graphics to demonstrate specific details and also include metrics as well.

Mr. Turner agreed to meet with Georgiana Greenough and the Board to review the proposed zoning amendments before sending them to public hearing.

Lucy Morrison joined the meeting at 6:05 PM.

MV Commission – Update on status of the Proposed Revisions to the DRI Checklist (Adam Turner & Christina Brown)

Fred Mascolo said most of the DRI checklist items do not have regional impact, and have very little impact on other towns. At the rate we are going, we are going to have to send everything. He was not aware the checklist was so far reaching.

Georgiana said The Planning Board would like to submit the Edgartown Upper Main St. Business Plan to the Martha's Vineyard Commission for approval per checklist item 3.2.a.). She said it had been reviewed by the Commission, but not action was taken. Mr. Turner said he would look into the process for doing it.

Mr. McCourt stated that he did not like how a project can be referred to the MVC for a specific reason, but then have every facet of the project examined. Mr. Turner rephrased this complaint as the MVC decision has a broader scope than expected. The Board agreed. Mr. Sparks expanded on this, stating that if a project triggers a referral as a development of regional impact for a specific reason, the Commission should only be concerned with that specific trigger.

Mr. McCourt stated that he was of the opinion that the opinion of the Edgartown Planning Board is more valuable to the Town than the Commission's.

Mr. Sparks used the example of the Hollywood Video becoming the Edgartown Meat & Fish Market. He stated that he did not understand how that project had any regional impact, and thought the Edgartown Boards could handle it without the interference from the MVC.

Christina Brown stated that the group of people, organized to review the checklist, are aware that the regulations on commercial districts are too strict, and are making efforts to revise them accordingly. She added that Edgartown is used as the model for other towns, because of the B-II Upper Main Street Business Plan. The zoning provisions described in that Plan are much more detailed than used in other districts. She stated that the Commissioners encourage Oak Bluffs and Tisbury to create something as detailed as the Upper Main St Master Plan for their own business districts. She encouraged the Board to consider having the document approved by the MVC, so that fewer projects will be referred to the Commission, and more projects will be handled by the Edgartown Boards, as outlined in bill S122.

Mr. Sparks stated that Edgartown has its own opinion on projects, but that the Board is very appreciative of Mr. Turner's attendance at the Edgartown meetings.

Mr. Turner stated that he would like to finish with the data collection for the DRI checklist review by Thanksgiving, and then anticipated that the report will be finished after another month. He will be analyzing the MVC decisions and referrals for the past 10 years to understand the various processes and metrics. He stated that a concurrence review process is supposed to be a threshold decision, not a DRI decision. He also stated that under the current system, some projects trigger a DRI review, but it is clear after examination that the project does not have any regional impact, such as the case with Beach St. He stated that all of the Board's comments and efforts to review the checklist and participate in its revision will be included in the report. Mr. Turner stated that he would be happy to return to the Board to make a presentation after the report is done. The Board members appreciated his dedication to the project.

6:14 PM: Public Hearing: Down Harbor Association, 248 Upper Main St (35-1) 22 Down Harbor Rd SP-Surface Water District: Demolish 160' boardwalk and construct 160' raised walkway

In Attendance: Tracy Smith, Schofield Barbini & Hoehn, Inc.

Tracy Smith approached the Board to explain the application. There is currently a 160 foot boardwalk through the salt marsh on the property.

The proposed application would replace the boardwalk with a 160 foot walkway raised four feet off the ground with holes to allow light to pass through. Mr. Mascolo commented that the proposed walkway sounds similar to the bridge on the bike path by Sweetened water farm, which lets enough light through to allow plants to grow underneath. The new walkway will be slightly wider than the boardwalk, with a total width of four feet. No pressure treated wood will be used in the construction.

Christina Brown clarified that the Conservation Commission approved the walkway as a repair for a pre-existing boardwalk. She stated that, in general, boardwalks do not get approved, since they have negative effects on the ecology.

The Board had no further questions. There was no one present in the audience on behalf of this hearing. One letter in favor of the project was received. Mr. McCourt closed the public hearing at 6:18 PM.

Mr. Sparks moved to approve the plan to replace existing boardwalk with elevated walkway as presented, because the new construction is more ecologically advantageous and is an improvement to the current boardwalk. Mr. Cavallo seconded, and the motion was unanimously approved, 5-0.

6:20 PM: Public Hearing: Alex Alexander, 248 Upper Main St (20A-78.1) SP: B-II. Construct a 700 square foot addition to the existing 1,800 square foot basement and 1,000 square foot addition to the existing first floor of a Pilates studio.

In Attendance: Alex and Laura Alexander

Mr. Alexander approached the Board to explain the application. Mr. Sparks asked if the addition would have the same purpose as the rest of the building. Mr. Alexander responded that it would.

Georgiana Greenough stated that the application triggers a review by the MVC, but only as a concurrence review, not a DRI application.

Mr. Cavallo asked that if the MVC review was necessary, since there is no change in use. Ms. Greenough stated that a change of use is not a trigger in this case, and read the DRI checklist item applicable to this project: *3.1d) New construction of additions or auxiliary buildings totaling 1,000 square feet or more of floor area, such square footage resulting in a total square footage of 2,000 feet or more – with MVC concurrence.*

Mr. Mascolo stated that the MVC concurrence review is not because of a change in use, but due to an addition of size.

Christina Brown stated that the checklist item exists for expanded commercial floor space, because of the possible addition of more cars, parking, and traffic problems associated with the change in size. Mr. Sparks argued that cars, parking, and traffic are local impact, not regional impact. Mr. Cavallo stated that there is no reason for this project to be referred to the Commission.

Mr. Mascolo inquired about a timeframe for the review process. Christina Brown stated that a concurrence review typically takes four to six weeks. Mrs. Alexander commented that she would like for construction to be completed before next season, and would like the foundation to be done before the ground freezes.

Mr. Mascolo stated that the Board should request changes to be made to the checklist so that projects like this do not need a concurrence review.

Mr. Turner reminded the Board that concurrences are supposed to be quick, threshold decisions. He also stated that the DRI checklist review provides an opportunity for the Board to design a process that gets projects like this done quickly.

Mr. McCourt inquired about the setbacks. The property is located in a district that mandates ten foot setbacks. The existing building is six feet from the property line, but the addition will conform to the setbacks. The Board appreciated that the plan did not increase the pre-existing non-conformity. The height of the addition will be lower than the main building.

The Board reviewed the parking requirement. Mrs. Alexander mentioned that lots of people come on bikes or on foot. Mr. Sparks commented that there is ample amount of space available to be used for parking.

The Board inquired as to whether or not an elevator would be necessary. Mr. Mascolo stated that the ADA controls all of the handicapped access under a federal statute, and that the decision will be made by the Building Inspector.

Mr. Cavallo suggested that the Board vote to approve the project, then send to the Commission for a concurrence review. Under this proposed process, the application would not need to return to the Planning Board after the MVC review. Mr. Wilson stated that he did not think the decision could be conditioned that way.

Mr. Cavallo then suggested that the Board vote on whether or not to refer the application to the MVC. Mr. Mascolo commented that the Board does not have a choice, and that the application must be referred. Mr. Cavallo did not want to refer the application to the MVC, and suggested that the Planning Board simply approve it without the referral. The rest of the Board disagreed. Mr. Mascolo stated that the legal ramifications of not referring the application will be more time consuming for the applicant than the MVC concurrence review process.

Mr. Wilson asked if there was any way to expedite the MVC decision. Mr. Turner stated that he would do his best to make sure that the project be reviewed at the next LUPC meeting, November 23.

Mr. Mascolo agreed with Mr. Cavallo that the project does not have any regional impact, but was satisfied with the assurance that the review process will be expedited.

Mr. Mascolo moved to approve the project as presented, and refer the application to the MVC with a letter asking for the concurrence review process to be expedited. Mr. Mascolo reiterated that he does not think the project has any regional impact. Mr. Wilson seconded. Mr. Sparks, Mr. McCourt, Mr. Wilson and Mr. Mascolo voted aye. Mr. Cavallo voted nay. The motion passed, 4-1.

6:51 PM: Request for di minimis amendment to a recent decision dated September 15, 2015 for JAM Family Trust (Norman Rankow) 140 Cooke St.

Ms. Greenough explained that Mr. Rankow was not present at the hearing and did not want to obtain written approval from the neighbors in the rear of the property for a fence that exceeded the zoning regulation by two feet. Mr. Rankow's daughter who attended the meeting on behalf of the family agreed to the request. The condition for written approval was stated in the findings of the original decision. Ms. Greenough stated that the Board may either vote to remove that language, and then sign the modified decision, or not. Mr. McCourt commented that none of the neighbors had expressed disapproval at any of the hearings.

Mr. Sparks moved to sign the modified decision. The modification made to the decision shall supersede the decision made on September 15, 2015 and no appeal period is required. Mr. Cavallo seconded, and the motion passed unanimously, 5-0.

Mr. Turner mentioned that on Saturday, November 21st, there will be an intro to the zoning act at the MVC. There will be experts from off-island to present and discuss the existing zoning act and the proposed bill S122.

Mr. Sparks commented that the Board really appreciates Mr. Turner's presence at the meetings.

Mr. Sparks moved to adjourn. Mr. Wilson seconded, and the motion passed unanimously, 5-0. The meeting was adjourned at 7:04 PM.

Respectfully Submitted,

Lucy Morrison and 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: _____