

Edgartown Planning Board Meeting Minutes
Tuesday, December 1st, 2015 at 5:30 PM
Town Hall – 1st Floor Selectmen's Meeting Room

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

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

Chairman Michael McCourt called the meeting to order at 5:30 PM. The Administrative Review for T-Mobile was moved to the top of the agenda, due to the applicant needing to catch a boat.

5:30 PM: Administrative Review: T-Mobile, 59 North St (29A-96) Swap out three of the six existing antennas with upgraded technology

In Attendance: David Ford, Centerline Communications

David Ford approached the Board to explain the application on behalf of T-Mobile. He stated that every existing T-Mobile site will be expanding their LTE capabilities in an effort to resolve capacity issues. Three of the six mounts will be removed, and then replaced with a slightly larger mount. There will be no changes made to the generator. Mr. Ford presented pictures to the Board, and it was noted that the new mounts are approximately one foot larger than the current ones.

Mr. Mascolo inquired about the benefits of the expansion. Mr. Ford stated that there are no exact figures, but that the improvements made will expand data capabilities. Ms. Greenough asked if voice capabilities will be upgraded in the future. Mr. Ford stated that an additional site would be needed to upgrade voice capabilities.

Ms. Greenough stated that the application is before the Board for an Administrative Review due to Section 6409 of the 2012 Tax Act, instead of a full public hearing process.

Mr. Mascolo moved to approve the additions to the tower with standard wireless facility conditions. Mr. Sparks seconded, and the motion passed unanimously, 5-0. Ms. Greenough clarified that the original special permit conditions still apply.

5:36 PM: Public Hearing: Merrill, 8 Dubud Lane (21-58.112) To see if the Board will approve a change of address and access from 8 Dubud Lane to 31 Shady Oak Lane.

In Attendance: Jason Merrill, Clay Merrill, Cathy Jackson Merrill, Christine Cook

Mr. McCourt stated that the Planning Board is only concerned with the change of address.

Jason Merrill approached the Board to explain the application. He explained that the frontage of his portion of the property does not have any frontage on Dubud Lane, and the entirety of the frontage is on Shady Oak Lane. He stated that it will be clearer for emergency vehicles to have the address officially changed.

Mr. Sparks inquired as to whose name was on the deed for the property. Mr. Merrill stated that Jason is now the deed holder for the property.

Mr. McCourt asked if there was anyone present in the audience in favor to the project. The family members in the audience were in support of the change.

A letter from Kim Kane, a resident of Shady Oak Lane, was submitted to the Board on November 23rd. She requested that Jason join the Shady Oak Lane road association and pay dues. She explained that Shady Oak Lane is a dirt road that requires maintenance. The road was recently graded and leveled, and she suggested that Jason pay for any repairs needed after the house move.

Jason clarified that he is already using the road, and has been for 35 years, so there would be no increase in use. The access to Shady Oak Lane has always been easier from the property.

Ms. Greenough mentioned that Pennywise Path is an ancient way.

Mr. Merrill explained that when that lot was acquired, the legal access was from Pennywise Path based on the lot configuration. Regardless the Merrills then began using Shady Oak Lane since it was more easily accessible. Beth Erikson, the then head of the Pennywise Path road association, exempted the family from paying dues, because they never used it. Mr. Clay Merrill maintained Shady Oak Lane for 20 years free of charge, until other people moved and a road association was needed. He eventually backed out of road association after some discrepancies and disputes.

Christina Cook, the current head of the Shady Oak Lane road association was present in the audience. She explained that Cathy's father, Mr. Jackson, started it in 2003. He spearheaded the informal road association, and did all of the paperwork. She stated that if the account balance had more than \$3,200.00 after April 1st, no dues would be collected that year. She stated that she would be happy to show the ledger to anyone who requested to see it. The dues are currently \$300 a year.

Mr. McCourt stated that the job of the Planning Board is to determine whether or not the address change is appropriate, and nothing more. He stated that this is an opportunity to unite a community, and hoped that these issues could be resolved in a neighborly fashion.

Jason Merrill stated that he would be happy to join the Shady Oak Lane road association.

Mr. Mascolo stated that enforcing whether or not Jason joins the road association is not the responsibility of the Planning Board.

Mr. Wilson stated that in a new subdivision, a road association is required. Since this is an existing subdivision, he stated that he hoped everyone would get along.

Ms. Greenough stated that during construction, roads get torn up due to the large trucks, and that even macadam roads are often in need of repair after a major construction project.

Mr. Merrill stated that the house move has been scheduled for February, so that the dirt road will be frozen, and that no incidents are anticipated; but if the road is damaged, he will take responsibility and repair it.

Mr. Sparks stated that the property has frontage on Shady Oak Lane, as was seen on the site visit. He stated that the Fire Department, Police Department, ambulances and other emergency vehicles should have no trouble finding the property, and that the official change of address makes sense.

Mr. Cavallo stated that he had no issues with the change of address, so long as the road was brought back to its original condition after the house construction was completed.

A letter dated November 30th from Christina Cook was read on behalf of the Shady Oak Lane Road Association. Ms. Cook emphasized that Jason Merrill would need to join the association and pay the necessary dues each year. There are currently five homes along the road that are not a part of the association and do not pay their fair share of the road maintenance. She requested that any access to Dubud Lane be blocked, so as to prevent double access. The letter requested a written plan for the modular house construction, and a written agreement that the Merrills will pay for any road repair as necessary after the house move. The letter requested that Tim Creato perform the follow up work.

Mr. Sparks noted the discrepancy in who will repair the road, and requested clarification.

Mr. Mascolo insisted that Mr. Merrill will fix the road. Mr. McCourt stated that the determination of who is responsible for road repairs is outside of the Planning Board's purview.

Mr. Wilson moved to approve the change of address from 8 Dubud Lane to 31 Shady Oak Lane, pending that the road be returned to its original condition after the house move. Mr. Mascolo seconded and the motion passed unanimously, 5-0. Any issues will be brought to the Building Inspector.

6:02 PM: Public Hearing: MV Community Services/Winnetu: Modification to SP to hold the Possible Dreams Auction at the Winnetu on July 31, 2016.

In Attendance: John Kennedy, Pres. MCCA, Mark Snider, owner Winnetu, George Davis, Chairman

The Board had suggested that the applicants come in for an administrative review, since the event and the conditions are the same every year. Ms. Greenough stated that the public hearing process was still in place, because Mr. Sparks requested it last year, and felt that it was important that the abutters be notified. The applicants agreed.

John Kennedy, Vice-President of the Board of Directors for MVCS was in attendance to present the application for the 2016 Possible Dreams Auction. The last three auctions have been very successful, and have had a minimal impact on the neighbors. The events have raised hundreds of thousands of dollars for island families.

The conditions for the event are the same as they have been for the past three years. The Board and the applicants are familiar and comfortable with the restrictions. There have been no complications in the past, and all of the restrictions have been abided by without complaint.

Mr. Mascolo asked what could be done to make the auction better. Mr. Snider stated that guaranteed sunshine would be helpful.

There was no one present in the audience to speak either for or against the event.

An email from Deborah Hall, an abutter, was read, stating that she was in favor of holding the auction at the Winnetu.

Mr. Cavallo stated that he thought it was important to meet every year. That way, if any problems arise, the Planning Board can help correct the issues before they become unmanageable.

The applicants and the Board have only heard supportive comments.

Mr. Wilson stated that the Winnetu is a nice location, and commended the applicants on a good job.

Mr. Cavallo moved to approve the temporary modification to the special permit for July 31, 2016 with the list of conditions in place. Mr. Mascolo seconded, and the motion passed unanimously, 5-0.

Other Business:

Ms. Greenough presented the budget for Fiscal Year 2017. She stated that the Planning Board has not been using their total budget, and therefore, she did not increase it by the usual 2.5% this year. She requested that one Board member be in attendance to present the budget.

The Police have requested that the Planning Board address the two parking spaces in between the Edgartown Fish Market and 140 Cooke St. These spaces are technically on the bike path, and should not be allowed. Stuart Fuller, the Highway Superintendent, has stated that he will move forward in marking that area as a no parking zone. Mr. McCourt did not understand why the Planning Board needed to be involved. Ms. Greenough explained that the Planning Board's purview is the layout of roads and ways. Mr. Fuller to sign and mark the area, and then the police can enforce the area. Ms. Greenough requested that the Board give consent for her to send a letter to Stuart Fuller.

Mr. Mascolo commented that the fish market will lose a parking space. Ms. Greenough stated that the area is not a legal parking space. It is in the middle of the bike path that crosses Cooke St.

Ms. Greenough explained that the Police Department made the complaint, and asked if the Planning Board could do something.

Mr. Cavallo suggested that the Police Department should request that the Board of Selectmen contact Mr. Fuller and ask him to define the bike path.

Mr. Cavallo stated that the recommendations for Simpson's Lane were completely ignored, and that he was hesitant to get involved with a project of similar caliber. He stated that the Highway Department

does not consult with the Planning Board, and did not understand why this is being brought up differently.

Ms. Greenough stated that according to the zoning enabling act, the Planning Board is in charge of planning and maintaining roads. The Board argued that parking on a bike path is not planning.

Mr. Cavallo moved that the Planning Board write a formal request to the Police Department for an explanation of exactly what they would like the Board to do about the situation. Mr. Sparks seconded, and the motion was unanimously approved, 5-0.

6:25 PM: Public Hearing Continuation: Beach St Properties, LLC, 2 Beach St (29B-84) SP: Coastal District. Proposal to demolish a non-conforming 100 year old house and construct redesigned house on existing footprint on a non-conforming lot.

In Attendance: Bill Senst & Louise Brooks, applicant's architects, Geoghan Coogan, applicant's attorney, Kim Naylor, abutter, George Davis, attorney for Naylor's, Bricque Garber, Administrator for HDC, Adam Turner, MCV Executive Director

Geoghan Coogan approached the Board to present the application. The Board is familiar with the project. The existing non-conforming structure is located on a pre-existing non-conforming lot. The application was referred to MVC due to the DRI checklist item 8.2. The MVC voted to return the project to the town without a hearing.

Mr. Coogan stated that the proposed building will be more in keeping with the neighboring houses than what currently exists. The architects were present to review the details of the plans, which were the same as they were in August.

The applicants propose to demolish the entire structure, and then rebuilt on the same footprint, as mandated by the Building Inspector. The rear corner of the house and the garage will be removed, since they are located on town property. The proposed structure will be built on the same foundation, except for the portions of the house and garage, which have affected the design of the house. Due to the flood zone, the structure will need to be raised by 10 inches, but the overall height will be kept the same as the current existing structure. The total square footage of the proposed structure is 2,064 square feet.

Mr. Sparks noted that when he looked at the foundation on the site visit, he noticed that the porch extends beyond the foundation. Mr. Coogan stated that the porch overhangs the existing foundation, but is still considered part of the footprint. The proposed structure will have a shorter porch. The new garage will not be large enough to hold a vehicle, and will only be used for storage. The height will be 26 feet, and built over the existing foundation.

Ms. Brooks (architect) explained the design of the proposed structure. The corner that is currently located on town property will have a new foundation line, since square lines are more attractive than diagonals. The architecture is "Edgartownian" in spirit, with a gabled front, brick chimney, double hung windows, white trim and French doors. Some of the wood and timbers from the old ice house, and old glass windows will be salvaged before demolition, and then incorporated into the new structure in a

decorative way. These provisions were not conditioned by the MVC, but were valued by the applicants for their historic nature.

The Board asked if there were any other issues with the non-conformity of the lot. Mr. Coogan stated that the Building Inspector's only concern was that the structure be built on the existing footprint, and that the portion of the building located on town property be removed. There are no setback requirements in this case because the lot is so non-conforming.

Mr. Sparks asked if the applicants are recreating the existing house. Mr. Coogan stated that the designs are similar, but not a recreation.

The Board reviewed the elevations. There will be no basement.

Mr. Sparks reviewed the plans, and stated that he felt that the existing home was more attractive than the proposed design. He mentioned that the Planning Board does not have the jurisdiction to approve or deny architectural plans, but that he felt the style and charm of the existing structure were much more in keeping with Edgartown architecture.

Mr. Coogan stated that the features of the proposed structure are similar to the neighbors. Ms. Greenough commented that the other houses are new, and much larger.

Bricque Garber was present as the administrator for the Historic District Commission. She read a letter written by the HDC Chairman, James Cisek. She stated that the demolition of this house would be the loss of the last historic Beach St houses, and that the HDC would like to see the distinctive architectural elements preserved.

A letter from Kim Naylor, the abutting neighbor, written on December 1st was read. She expressed concerns about the expanded mass of the building, especially the upper level, which would significantly reduce the sunshine to the neighboring yard. She also had concerns about the restrictions placed on the renovations of their home in 2010, when they were not allowed to demolish the entire structure, required to dig the foundation by hand, and could not use their newly constructed second floor deck for any functional purposes. Ms. Naylor was concerned about the violation or over-use of the six foot easement during construction. The final concern expressed in the letter was regarding an old elm tree that sits on the Naylor property, which may have roots on the foundation of 2 Beach St. She hoped that the Planning Board would be fair in their consideration of the application, and the related restrictions placed on the recent renovations throughout the neighborhood.

Ms. Garber mentioned that the house is not currently in the historic district, but that there is a warrant article for the next Annual Town Meeting to expand the historic district, which would incorporate this lot, if passed. She stated that it is likely that the district will be expanded before the demolition and renovations are finished. She also mentioned that the current historic district ends two houses away from this property.

Mr. Davis stated that the issue is the mass of the building, and the cubic space on the second floor. He displayed a photograph taken on September 14th at 2 PM of the shadow cast by the house onto the

Naylor's yard. He noted that the peak shown on the picture will no longer be a peak, but instead will be the entire length of the house.

The Board requested comments from the Historic District Commission. Ms. Garber stated that the HDC would like the opportunity to offer an opinion of the demolition and the scale of the new structure. She stated that the current design is not in keeping with the historic nature of the community.

The Board discussed the elm tree. Mr. Coogan stated that the tree will be protected, and that the roots will not be affected by the renovations.

The easement is six feet wide, running from the road to the garage, on the Naylor's side of the property line. Mr. Coogan stated that most of the construction will come from the Dunham Road, and that side of the building.

Mr. Coogan presented the shading plan, which showed the impact of the shading of new building on the Naylor property. There was a difference in opinion of what the impact will be. Mr. Coogan stated that the addition is 30 square feet, and that the proposal is not a 5,000 square foot house.

Mr. Mascolo asked how the addition was only 30 square feet if the current house is 1,926 square feet and the proposed house will be 2,064 square feet. The difference was due to the loss of square footage in the garage.

Mr. Davis stated that the additional square footage will be added to the second floor in a way that will have a direct effect on the Naylor's property. He also clarified that the cubic footage is what causes the impact. The floor space is not the issue, but the fact that there will be an 80% increase of the cubic footage on the second floor is significant.

Ms. Naylor stated that she understands that the reason this project is before the Planning Board is because it concerns a pre-existing non-conforming structure on a pre-existing non-conforming lot. She also understands that the property owners are exercising their right to use their property. However, the proposed changes will have an impact on the neighborhood, because the lot is significantly undersized. The proposed structure on a normal lot would not have this impact. The neighbor concerns rise to a different level, due to all of these factors. She stated that the proposed structure is much more bulky, and even though the roof line may not be higher, it has a strong effect on the neighborhood.

Mr. Coogan stated that if anything is added to a small lot, it looks bigger. He stated that this house is in a neighborhood of 5,000 to 6,000 square foot homes. He stated that every other home in the neighborhood has been increased in size, and that this is the only one left. Increasing the size will bring the structure into the conformity with the rest of the neighborhood, since everything is bigger. Currently, the house sticks out because it's smaller.

Ms. Greenough asked where a car would be parked, since there will no longer be a garage. Mr. Coogan stated that there will be a space in between the shed and the main house; the parking space is not on the plan yet, but the applicants know where it will go.

Ms. Garber stated that the HDC saw the plans for the first time tonight. She explained that the main concern of the HDC was the loss of the current architectural features. She reiterated that this is the last historic beach house on Beach St. With the proposed structure, all of the features that make the home historically distinctive will be lost. She stated that if the HDC were to be involved, the demolition would most likely not be approved, and the interesting features, like the tower, would be preserved. She stated that the HDC was also concerned with the added mass of the second floor. In general, the HDC understands flood zone requirements and the desire to expand living space, but works with applicants so that the primary façade is preserved and remains the focal point for the house.

Adam Turner stated that the MVC held a concurrence hearing and decided to not exercise jurisdiction because there was no record of historical nature. The decision may have been different if the Commission had known that this house is the last remaining beach cottage. He noted that the MVC would only have jurisdiction over the demolition, not mass or scale of the addition.

The Board asked where the restrictions on the Naylor property originated from. Ms. Greenough stated that the conditions placed on the special permit were argued in front of the Board and insisted upon by the neighbors, the Whipples and the Sutphins. Ms. Greenough noted that every lot on Beach St is non-conforming except for one or two.

Ms. Greenough explained the history of the Naylor applications, and read the conditions placed on the special permit.

The Planning Board encouraged the applicants to reach an agreement with the neighbors.

Mr. Coogan stated that the Naylor applications should not have an impact on this decision. The impact will not be the same.

Mr. Davis stated that he understands why the applicants want to renovate, but there are problems with the design. The footprint has been maxed out, and he suggested that the design be scaled down.

Mr. McCourt asked if there had been any discussion between the groups. It was apparent that conversations regarding the design had been minimal.

Mr. Coogan stated that the roofline as proposed allows for real bedrooms upstairs. By pinching that space, the features that the applicants have worked on and enjoy will be taken away.

Mr. McCourt encouraged the two parties to talk and come to an understanding.

Ms. Greenough suggested that the parking spaces be added to the plans, if they are being redone.

Mr. Coogan requested feedback on the proposed design. Board members gave some unfavorable comments regarding the mass and scale.

Mr. Cavallo stated that this is an opportunity for two sides to speak and resolve the impasse.

Mr. Sparks mentioned the six to nine month process for the Colvin garage. He stated that the Beach St house is a unique property with a unique structure. He stated that he hoped that the applicants and the neighbors could find a happy medium by tweaking the application.

Mr. Davis stated that he thought it would be possible.

Mr. Cavallo moved to continue the hearing to January 5, 2016. Mr. Mascolo seconded, and the motion passed unanimously, 5-0.

7:33 PM: Proposed Zoning Bylaws

In Attendance: Adam Turner

Ms. Greenough stated that the Board will not be able to put anything on the warrant article for Town Meeting, since the due date will not be extended, even though the articles are not financial.

The Board discussed the application of Alex Alexander. It took 23 days to go through the MVC processes. Thanksgiving had a delaying effect on the scheduling.

Mr. Turner stated that the Commission did not have a lot of data for the Alexander application. He stated that the questions, comments and knowledge from the Planning Board were better than the MVC could have done. He stated that it was the right decision to trust the local boards. He also said that he will focus on expediting the process for projects in similar positions.

The Board reviewed the new definitions, and the possibility of a site plan review process.

Mr. Cavallo moved to adjourn. Mr. Sparks seconded, and the motion passed unanimously, 5-0. The meeting was adjourned at 7:43 PM.

Respectfully Submitted,

Lucy Morrison

<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: _____