

Edgartown Planning Board
Tuesday, March 18, 2014 – 5:30 PM
Town Hall – 1st Floor Selectmen’s Meeting Room
Minutes

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

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

Chairman Robert Sparks called the meeting to order at 5:30 PM.

5:30 PM: “Bayside”/Houlahan Subdivision- Form C signatures

In attendance: Doug Hoehn, engineer for the applicant

Mr. Hoehn presented the final plans to the Form C Subdivision application for “Bayside” (Houlahan) for the Planning Board signatures. The mylar and two paper copies were approved and signed by the Planning Board.

5:35 PM: McPherson, 10 Tilton Way LLC (20C-177) Repetitive Petition: Determination to consider the specific or material change on which the previous unfavorable action was based.

In Attendance: Howard Miller, Tyler McPherson, Peter Smith, applicants; Paul Cunningham, Martin Tomassian, abutters; Carol McManus, real estate agent; Eric Peters, attorney for opposition.

On October 2, 2013 the Edgartown ZBA denied special permits to the above referenced applicant to demolish an existing non-conforming structure and construct a new, larger single family dwelling and a new detached garage/bedroom on an existing non-conforming lot. The purpose of this public hearing is to determine if the plans for the new structure have been modified enough to be re-submitted before the ZBA.

The applicant, Howard Miller, approached the Board. He is representing the property owner, Tyler McPherson, and the architect, Peter Smith. Mr. Miller claimed that there have been numerous specific and material changes to the plans. He submitted the ZBA record of proceedings, and the Dyroff proposal that was previously approved by ZBA for the same property, to the Board. Mr. Miller also displayed large reproductions of the modified site plans. A large porch on the second floor of the front of the house was removed, the porch on the back of the house was removed, and a third porch on the front of the garage was removed. Mr. Miller stated that these changes could be dismissed as cosmetic, but they make an impact on the space. The garage was moved 10 feet back from the road. The house was moved 10 feet closer to the road to provide more space to the abutters behind the property. Two large glass doors on the front of the garage were replaced with a standard sized window. The abutters to the property complained that the house was too big. The architect reduced the height of the garage almost four feet. There was an approximately 500 square foot reduction of living space on the first floor of the dwelling, and approximately 300 square feet of living space was removed from the second floor. This equates to roughly 29% reduction of living space; and the ratio of lot size to living area (35%) is in conformity with the neighborhood; however, the applicant admitted to choosing larger houses for comparison.

Peter Smith, architect, approached the board. He added that the height of the house has been reduced from 27’10” to 26’6” with a new pitch of 8/12. The new house is conforming within the setbacks.

Tyler McPherson emphasized that the previous plan only had 25 feet of space between the structure and the rear property line; with the removal of the deck and the 10 foot adjustment of the house, there is now 40 feet of space.

There were no town boards present at the hearing. Paul Cunningham, owner of 87 Cooke St, spoke in favor of the project. He reviewed the modified plans and thought that the project would be a great addition to the neighborhood.

Attorney Eric Peters, representing Art and Eunice Buckland, abutters to the property's rear and side yards, spoke in strong objection to the proposal. Mr. Peters also appeared at the ZBA hearing last October. The property has a pre-existing non-conforming structure on a non-conforming lot. The original application was not in harmony with the setbacks, and the scale and mass was skewed. The revised plans may meet the zoning setbacks, but still do not conform to the neighborhood, nor the lot size to living space ratio of the immediate surrounding houses. Mr. Peters described how in September of 2012, the previous owners of the property, the Dyroffs, received a special permit from ZBA to rebuild the existing structure. Mr. McPherson purchased the property with that permit in place; it expired in October of 2013. The applicant could have followed through with that proposal, but instead decided to let it lapse. Mr. Peters reminded the Board that they cannot legally use the Dyroff plan for comparison to the current plans. Mr. Peters emphasized that the scale and mass of the project has not changed significantly. The plans still include three bedrooms and a detached garage. The enclosed part of the house has not changed much. The ratio of lot area to living space on other non-conforming lots in the neighborhood average 21%. The modified plans have a 35% lot area to living space ratio, while the original plans had a 47% ratio. It is also unclear about what the applicant is planning to do about a basement.

Martin Tomassian approached the board, representing both himself and Mr. Ford, who lives immediately adjacent to the property. Mr. Tomassian specified that when this project appeared before the ZBA, the main issue was scale and mass. He stated that there has been no material or significant adjustment to the buildings. The fact that the porches were removed does not change the scale and mass. He also expressed his disdain for garages placed directly on the street, as opposed to behind the house. He went to Mr. Miller's office and discussed his feelings of disapproval before the hearing. He also drove Mr. McPherson around Edgartown and pointed out the style and size of house that would be appropriate for this narrow lot. The modifications made to his original proposal clearly indicate that Mr. McPherson did not listen. He stated that the proposed house does not feel appropriate for the neighborhood.

Carol McManus approached the board. She has lived in Edgartown for 28 years, and owned a business on Main Street for 23 years. She sold Mr. McPherson the property, and compared to what is there now, she thinks that this project will add a lot to the street, stating that it is a lovely proposed house. She does not agree that it's inappropriate. She also emphasized that garages on the street should not be an issue, since they are so proliferous throughout downtown Edgartown.

Mr. McPherson showed the Board an overlay of the old and the new site plans while he explained the differences. Mr. Mascolo asked to see the Dyroff plans; Mr. Peters reminded him that those plans are not relevant to the decision. Mr. Mascolo reviewed them anyway.

The assistant read letters from the public. A letter from William Fruhan, of 136-140 Upper Main St, stated that the changes made to the project were not significant or based on the original objections from the abutters. A long letter from Eric Peters to the ZBA in October of 2013 on behalf of Arthur and Eunice Buckland objecting to the original plan was also read.

Mr. Miller made a final statement. The decision before the Planning Board reduces itself to being different enough from what was originally submitted; and looking at the statistics, there definitely is. As

an attorney, he would conclude that it is substantially different. The assistant read the law regarding repetitive petitions to the Board.

The public hearing was closed, and the Board deliberated. Mr. Mascolo asked if his colleagues needed clarification over the law from the town attorney, pertaining to what, exactly, the decision should be based on. Mr. Cavallo replied that the law is clear: the ZBA denied the proposal for four reasons. Have those four specific items changed substantially? Mr. Wilson believes that the revised plans do not comply with what the ZBA denied it on; there were changes, but they were not focused on the proper avenues. The revised plans are still not consistent with the neighborhood. Mr. Wilson also stated that he does not like garages directly on the road, but that it is not a decision made by the Planning Board. Mr. Cavallo stated that the plans have been modified enough to be sent back to the ZBA for approval. The scale and mass were decreased and the setbacks were reduced. Mr. McCourt pointed out that the main reason the project was denied by the ZBA was the coverage of the lot. The removal of the decks was more a cosmetic change than a decrease in area. He concluded that the ZBA will not approve the project as it stands. Mr. Mascolo sees the decrease in square footage of 900 square feet as a substantial and material change, and claimed that it completely changed the feel of the house. He retorted to Mr. McCourt that it is not in the Planning Board's purview to determine whether or not the project will be approved by the ZBA, but only if it has changed enough to be re-submitted.

Mr. Cavallo moved to re-submit the plans before the ZBA as the scale and mass were reduced significantly from the original plans, with the removal of the decks, and an approximately 25% reduction in size of the structure. Mr. Mascolo seconded. Mr. Sparks concurred. Mr. McCourt and Mr. Wilson voted no. The motion did not pass, 3-2.

6:52 PM: Tower Hill Properties LLC/Tiedki, 41 Dunham Rd (29B-70) SP: Addition of 495 s.f. (10% of existing structure) to a non-conforming structure on a non-conforming lot.

In Attendance: Gary Conover and Jeff Lucier (applicants), Doug Hoehn, engineer

Mr. Conover approached the Board and requested a renovation addition. The lot is pre-existing non-conforming, and the structure on the property is also pre-existing non-conforming. Zoning Bylaw 13.4.a.8 states that an addition of 10% or less of the total floor area is permitted in the shore zone on a conforming lot, but since this is non-conforming lot a special permit is required. The project was approved by the Conservation Commission in January. Construction of the addition began prior to approval by the Conservation Commission, but ceased as soon as it became apparent that a special permit from the Planning Board was necessary. The house was originally built in 1966, and has never been renovated. The property has never used the 10% clause before. The foundation for the single story addition is ready to be put in. The plans exceed the 25 foot setbacks. Mr. Conover displayed the site plans before the Board highlighting the changes.

There were no abutters that opposed this project; all were supportive. The addition is harmonious with the neighborhood. There were no letters from the public, and no one was present in the audience to speak on this project. Chairman Sparks closed the public hearing.

Mr. Mascolo commented that if this were a conforming lot, this project would not require a special permit. Mr. Mascolo moved to approve the 10% addition as presented because it's not invasive and it conforms to the bylaw. Mr. McCourt seconded, and the special permit was unanimously approved, 5-0.

Mr. Conover asked the Board if the decision could be expedited. The Board directed the assistant to draft the decision in the next few days and they all agreed they would be available for signatures.

7:03 PM. Leaf, 284 Upper Main St (20A-64) SP: Request to extend a special permit that expired October, 2013.

In Attendance: Nils Leaf and Colin Young

Mr. Leaf approached the Board to ask for an extension of an expired special permit granted on October 2, 2012. Mr. and Mrs. Leaf recently separated, and they were unsure about what to do with this property. The applicant thought the permit was valid for two years, instead of one, which is why it expired. The extension process usually involves reapplying to the Planning Board, but the previous permit can be extended for 12 months past the expiration date without a public hearing. Alan Wilson moved to extend the special permit to October 2, 2014. Mr. Mascolo seconded the motion and the extension was unanimously approved, 5-0.

The review of the Annual Town Meeting was postponed to the next meeting on April 1, 2014.

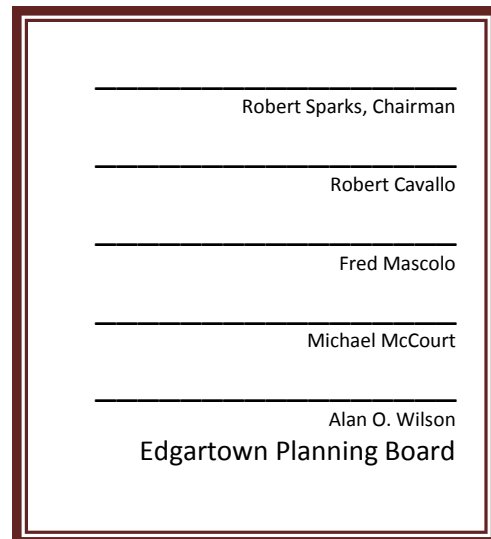
Mr. Mascolo will not be able to attend the meeting scheduled for April 15th.

Mr. Mascolo made a motion to adjourn, Mr. Cavallo seconded, and the motion was unanimously passed.

The meeting was adjourned at 7:09 PM.

Respectfully submitted,

Lucy Morrison, Clerk



Robert Sparks, Chairman

Robert Cavallo

Fred Mascolo

Michael McCourt

Alan O. Wilson

Edgartown Planning Board