

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

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

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

Chairman Fred Mascolo called the meeting to order at 5:30 PM. Mr. Mascolo asked the audience to mute their cell phones and leave the room if they need to take a call. He also reminded members of the audience to announce their name before they speak, so that it can be properly recorded in the minutes.

**5:30 PM Form A – Owen Norton, LLC (27-15.1 & 29-249) West Tisbury Rd. Request for lot line adjustment**

*In Attendance: Richard Barbini*

Mr. Barbini approached the Board and explained the resolution to the issue with the remaining lot that was discovered at the last meeting on June 17<sup>th</sup>. A note was added to the site plans acknowledging that the fourth lot created by this subdivision currently has no access. The applicants will return to the Board at a later date with plans to provide or create proper access. The subdivision, as proposed, will create three buildable lots and one unbuildable. The Board can create an unbuildable lot, so long as it is noted on the site plans that the two pieces of land to be conveyed are not buildable. Mr. Wilson moved to endorse the Form A lot line adjustment. Mr. McCourt seconded and the motion was unanimously passed, 5-0. The board signed the plans.

**5:38 PM Public Hearing: Tower Hill MV, LLC (Barris) 35 Dunham Rd (29B-32) SP: Shore Zone and Coastal District. Demolish an existing 14’ x 38’ swimming pool and construct a new pool of the same size, along with associated site improvements, on a pre-existing non-conforming lot.**

*In Attendance: Ted Rosbeck*

Ted Rosbeck of Island Pools approached the Board. A site visit to the property was conducted that morning. The pool is no longer there; the demolition was issued by the Building Inspector. The property is being terraced, so the house is being lowered, and the patio will be on a level of its own. The grade of the location of the proposed pool is being lowered by about one to one and a half feet. There is no spa, the pool will have an auto-cover, and will be equipped with a salt filtration system. The pool equipment was previously approved and conditioned to be within a soundproofed enclosure. Mr. Rosbeck explained that new pool equipment will be arriving, and the structure will be re-soundproofed once it has been added. Mr. Mascolo emphasized the importance of the soundproofing since the proximity of houses is very dense in that neighborhood. Mr. Wilson inquired about safety equipment. Mr. Rosbeck stated that all pools are equipped with safety poles, but could add a life ring. Mr. McCourt asked if the new pool would be the same size as the one that was formerly on the property. Mr. Rosbeck replied that it would have the same depth, but be slightly narrower than the old pool. There were no letters from other boards or the public, and no one in the audience spoke. Mr. Mascolo closed the public hearing. Mr. Sparks asked for clarification on “associated site improvements.” Mr. Rosbeck explained that it includes decking, and other minor improvements. Mr. Cavallo moved to approve the swimming pool with normal pool conditions, including the second Wilson Amendment (requiring pool safety equipment like a safety pole or a life ring) and soundproofing for the equipment. Mr. Wilson seconded and the motion was unanimously passed, 5-0.

**5:46 Leonard, The Boulevard (12B-130) Construct a 10' x 14' shed in Inland Zone of Coastal District on a pre-existing non-conforming lot.**

*In Attendance: Richard Barbini*

Mr. Barbini explained that the proposed shed would have no heating, no insulation, and met the setbacks for the lot. Mr. Wilson asked if the road was moved, because the Board took measurements at the site visit conducted that morning, and it did not appear to meet the setbacks, in which case this would not be eligible for a de minimus decision. Mr. Sparks stated that this shed had the potential to seriously disrupt the view from the neighboring property. Mr. Barbini stressed that the proposed configuration of the shed is the only way it can be configured on the property without requiring a variance; and that the Board had none of the specific legal reasons need to grant a variance. Mr. Barbini mentioned that it was possible that the Board misjudged the property line, since trees and fences do not necessarily delineate properly. Mr. Sparks moved to continue the discussion for two weeks, to give the Board the opportunity to conduct another site visit after the property lines have been staked by Mr. Barbini. Mr. Cavallo seconded, and the motion was unanimously approved, 5-0. The Board will conduct another site visit and continue the discussion at the next meeting on July 15<sup>th</sup>.

**5:56 PM Continuation of Public Hearing: Athearn/MorningGlory Farm, 120 Meshacket Rd (28-224.1)**

*In Attendance: Jim Athearn*

Mr. Wilson stated that he had visited the farm recently, and observed the current traffic patterns, which confirmed his beliefs that this plan is good and necessary. Mr. Cavallo moved to accept the application for special permit to increase the use of the special vehicular way (Quenomica Rd) as an alternative egress from the farm stand parking lot. Mr. Sparks seconded, and the motion was unanimously passed.

**6:00 PM: Continuation of Public Hearing – Haven Rd Realty Trust/Edgartown Lofts (Hajjar) 236-238 Edg-VH Rd (21-10.15 & 21-10.16) SP: B-II. Construct seven (7) 2-BR apartments and one (1) one-BR apartment over Building C & D in PO Square and redesign the parking lot.**

*In Attendance: Sean Murphy, Charles Orlando, Charles Hajjar*

The Board voted to listen to reverse the normal public hearing procedure, and hear the opinion of the audience members before reading the letters from the public. The Board invited the public to speak.

Doug Ruskin, an affordable housing advocate, spoke in favor of the project. Mr. Ruskin is involved with private affordable housing organizations across the island. These apartments are not an affordable housing project; the estimated rental range is targeted just above the maximum income bracket allowable by those programs. Mr. Ruskin believes this project is a good idea, catering to a valuable pocket in the market. The project conforms with smart growth, and is on the bus line and near shopping. There are a bunch of reasons why this project works for the community. He stated that he did not believe that it was appropriate to saddle the developer with the traffic problems of the area. The traffic is a town problem, not Mr. Hajjar's; but he speculated that the additional spaces provided to the parking lot should help the problem. Mr. Ruskin emphasized that there is a huge need for housing on the island; however, this project is a private development. There are currently no legal restrictions on the property to bind the applicant into the intended price range. He urged the Board do whatever is necessary to legally bind the applicant to keep this project financially available to the workforce. Even with the best intentions in mind, things change, and it would be ideal to keep these apartments affordable to the intended market. If there is no way to do that, he warned that the rents on these apartments have the potential to skyrocket.

Jay Swartz was concerned about the parking lot. Since the planter blocking Mariner's Way to the square was removed, a highway through to Dark Woods Rd was inadvertently created. It is extremely dangerous coming out on either side, because there are trucks parked on both sides of the road blocking

visibility, and people don't stop. The Planning Board researched her inquiries about the removal of the planters from the last meeting. There was no written record of those proceedings in any files. Mrs. Swartz suggested a compromise of making a one way in on Mariner's Way, and a one way out on Dark Woods. The front entrance and exit would remain the same.

Mr. Murphy wants to make sure that the traffic doesn't get driven further back into the neighborhood and that depending on how the Mariner's Way entrance gets blocked off, it could make the situation worse. Mr. Murphy stated that he has spoken with the management and owners of Granite and Edgartown Meat & Fish, and they are certainly willing to work together to figure out how to resolve these issues. They are more than willing to make it one way, but it needs to be discussed further to determine if that will truly resolve the problems. Mr. McCourt agreed that further discussions on the issue will be necessary; and Mr. Murphy said that the Planning Board will need to approve any final decisions.

Rosemary Haggazian owns an office down the street. She described an instance where she parked in the last available space in the lot at 9:50 AM after having to circle around the lot twice. When she finished her errands, there were no spaces available. Many of her employees visit the post office at least once daily, and parking can be extraordinarily difficult. The traffic from the triangle is often so congested that it's backed up past her office. She believes that the addition of these apartments will be creating a traffic problem that may not have an answer. She also stated that people do not want to send letters to the Board, because they feel it will be viewed as an inconvenience. Mr. Sparks stated that opinion letters do not cause the Board any trouble. Mr. Murphy replied that there are 72 parking spaces currently and 87 in the reconfigured lot. Mr. McCourt sparked a discussion on traffic caused from delivery trucks, which has been a significant contributor to the problem. Mr. Murphy replied that the reconfigured lot has specific, designated areas for delivery trucks, so that a large vehicle will not be able to park in an area that is not a loading zone, as what is happening now. The delivery trucks will need to be in a designated loading zone.

Peter Look Sr. asked about how the delivery trucks will be enforced to use the loading zones. The businesses at the triangle are not currently enforcing their delivery trucks, and a large loading zone is used for trash dumpsters. Mr. Murphy replied that it is in the best interests of the merchants to enforce the parking. The reconfigured lot has clearer designated spaces for delivery trucks, so it will be unacceptable for them not to be used.

Courtney Brady asked about how many handicapped spaces would be provided in the reconfigured parking lot. Mr. Sourati explained that there is one in front of each building, and there is another one in front of the post office that does not measure up to state requirements, but is still marked as a handicapped space.

Christine Potter mentioned that it might be helpful if the employees of businesses in the square park in the Town Lot across the street to free up spaces. Mr. Mascolo replied that the Board cannot control the post office employees, since federal employees cannot be told where to park. Mr. Murphy replied that the buildings have existing leases, and when the leases are renewed, this condition could be applied. However, this issue was also brought up at the last meeting, and since the tenants are paying rent, it was felt that the employees should be able to park wherever they want.

Harriet Hoar distributed a site plan of Dark Woods Road to the board and displayed one on an easel for the audience. The distance from the far edge of Dark Woods Road to the side of the building is 46 feet. The paved surface is less than 22 feet, so most of the 46 foot layout is grass or shrubs. She highlighted

the distance from the road to the building. If dwellers use that small amount of green space for anything, it is probable that the Dark Woods Association would put up a fence in order to protect their liabilities. Her primary concern is fire, because sometimes fire sprinklers don't work. And if that area were fenced, the fire chief would have a hard time getting a ladder there. Chief Shemeth, expressed this same concern at the last meeting. She explained that it is not a great situation, and could be dangerous. Mr. Sourati explained that there is a 10 foot zoning setback for that area, there is currently more space in that area now. He stated that a fire truck would have an easier time maneuvering in this area than downtown. Mr. Shemeth explained that this is because downtown was built before building codes, and that the codes were changed to allow for fire truck accessibility. He also explained that it is possible to remove a section of fence if necessary, but it takes time. Mr. Sparks was confused about the theoretical questions about the fence, since there may not necessarily ever be one in that space. The assistant clarified that the applicants are aware that they are encroaching on the setbacks. The exterior stairs are five feet from the property line. Mr. Murphy also assured Mrs. Hoar that nothing will be stored outside, no bicycles or barbecues, or storage bins, and this will be enforced by the on-site manager. Mr. Murphy also mentioned that under current legislation, an easement cannot be blocked.

Cathy Ham asked if Mr. Murphy has researched the easement with Dark Woods Rd. She mentioned that this project has the potential to overload the easement, which would change its use. If the primary use remains commercial, then the agreement stays the same. She has not read it carefully, and has no intention of using it, but if a fence were built, it could be a possible infringement on the agreement.

Christina Morre asked for clarification on the special permit. The Board replied that one is required to allow residential spaces in the B-II business district.

Rosemary Hagazian encouraged Mr. Murphy to research what could be done if the Dark Woods Association were to put up a fence.

Courtney Brady asked about people using the small amount of green space outside the buildings, Dark Woods Rd, and the parking lot in the evening. Mr. Sparks replied that there are apartments up the street at 244 Vineyard Haven Rd and there have never been any problems about kids playing in the street, and nothing is left outside. Mr. Murphy also explained that neither tenants nor their children will be allowed to play on Dark Woods' property.

Rosemary Hagazian asked about the enforcement of the use of the green space, and the parking and the handicapped spaces. Mr. Murphy replied that it is a private apartment complex, and it will be regulated by the on-site manager. Mr. Hajjar said that all of his properties have a full time resident managers making sure there are no issues.

Mark Ciccone stated that he is in agreement with Mr. Ruskin's opinion, but believes that this project is a no win situation. Mr. Ciccone is the closest residential abutter to the project, with only several feet separating his property from Building C, and has the most to lose in terms of sightlines. He stated that people avoid post office square because it's crowded and difficult to find parking, and he does not think that the parking lot reconfiguration will help the traffic problem. He stated that the scale of the project is scary, and it will have a major impact on his property. The proposal involves massive construction and a major increase in height of the rear wall. He inquired about how long the construction will take, and what the final product will look like. Mr. Ciccone hasn't seen a similarly sized construction project so close to a residential abutter, and believes that this is a highly uncommon situation. The project is heavily dependent on foliage for screening. Mr. Ciccone thinks the project is a risky in the long-term. If the building is sold, there could be huge problems with the future use of the apartments. He believes

that other things can be done to lessen the impact, and urged the Board to consider reducing the scale of the project further before making a decision. He is interested in trying to find middle ground with the applicants, but is also very concerned about the consequences this proposal will have on his home.

Mr. Sparks pointed out that when the Board conducted site visits, the applicants made note of the effects of the project on Mr. Ciccone's property. Mr. Sparks also mentioned that since then, the plan has changed significantly; and emphasized that two units, a stairway and several windows were removed from the plans for that building. Mr. Ciccone compared the situation to being an inmate on death row transferred to life in prison.

Adele Dryer noted to the Board that the audience was overwhelmingly full of people adamantly opposed to this project. She asked about how the project would benefit the community. She also stated that she was concerned about the combining of residential spaces with commercial property; the districts have very different sets of rules and bylaws for good reason.

Mr. Ruskin replied that there is a huge demand for housing that costs less than \$3,000 a month. There are families leaving the island regularly because they cannot find a place to live. The Housing Needs Assessment showed that 80% of the housing needs are in the form of rentals. He also stated that the post office square is a good location for this type of project. The primary benefit to the community is that it helps keep island families on the island. He also repeated his concerns about keeping the project affordable in perpetuity, because creating a market rate project is not helpful to the majority of those island families.

Brian Byrne, an Edgartown resident, is involved in real estate, and just moved back to the island eight months ago. When he moved back, he weighed the options between buying and renting property. He noted to the audience that the housing situations on the island can be disgusting; and that Edgartown is in great need of housing. He also noted that there seems to be a general movement to downsize, and that not everyone wants to live in the woods. He also mentioned smart growth, how the MVC speaks about it, and how this project is good planning for the future. He reminded the public of similar situations where this type of conflict has been resolved: the houses on 27 North Summer St, and several houses on Cooke St. He stated that if the Stop & Shop traffic issues were resolved, there was more parking downtown, and state road was modified, there would likely not be any more traffic problems at the triangle. He sympathized with the residents of Dark Woods, because it is such a lovely neighborhood, but reiterated that Edgartown greatly needs the additional apartments.

Cathy Ham specified that the largest issue about this project for her is the traffic at the triangle. She stated that the intersection is Edgartown's equivalent to Vineyard Haven's five corners, and going through that area is painful. And while she is in favor of additional housing, she thinks the apartments are going to have a serious impact on an already horrendous traffic problem.

Herb Foster asked whether the handicapped parking would be sufficient. He emphasized that the Edgartown population is aging, and it may be necessary to have more handicapped spaces available. Mr. Sourati reiterated that currently there are only three handicapped spots, and the reconfigured lot will be providing four (and one not meeting all of the state regulations). Mr. Foster also asked for clarification on the location of bike racks. Mr. Sourati pointed them out on the plan: there will be four, one in front of each building.

Barbara Kennedy mentioned that renting these apartments to families is nonsensical because there recreational space provided. Upon that basis, she believes that the project is a bad idea, which will only

add to the parking problem, and should be denied. Mr. Sparks replied that to deny a project simply because it does not provide recreational space for children is not acceptable, and that people have a right to live in these apartments.

Beth Stone clarified for the general audience that the public is not against affordable housing. She stated that the project has been deemed unfavorable because of the traffic problems in the area, not because of the housing situations it would create. The Board reminded her that this project is not affordable housing.

Bob Stone added that this is one of Edgartown's worst places for traffic, and doesn't anticipate the reconfigured lot doing anything to help the situation.

Mr. Ruskin reiterated that the population of the island has doubled in the past 30 years about, and people need somewhere to live. He said not everyone can have an acre of land. Traffic is traffic.

Joan DeNair asked about how this project would be targeted to the needs of island residents. The project may not be "affordable," but asked about other ways to control how the property is rented. Mr. Mascolo replied that the target market is just above affordable housing standards, for those who do not qualify for rental assistance or other subsidies. The MVC has labeled this group "workforce housing."

Mr. Murphy also replied that this project was never intended to be categorized as affordable; and since the project was downsized from ten units to eight, a donation to affordable housing was no longer necessary. The agreement with the MVC is that: all of the leases are for 12 months, the units cannot be sublet, and occupancy is limited at two adults and any children. There is no outdoor space and no deck, so it is anticipated that these apartments will be rented on the lower end of market rate; and there are no tricks to flip the property or raise the prices if approved.

Adele Dryer asked how this project would be solving the housing problem of the future, and would an actual family be interested in renting one of the apartments. Mr. Mascolo stated that the island is constantly losing people who can't find housing. The clerk, also the Affordable Housing assistant, stated that Morgan Woods has a significantly long waiting list, and that housing is desperately needed. The applicants speculated that the apartments will not be on the market for a long period of time before rented. Mrs. Dryer stated that this project does not seem to be a solution to the big problem.

Ewell Hopkins of the Oak Bluffs Planning Board stated that this project is an example of the planning that is needed for the island. He believes that the concerns that Edgartown residents have are important, but also brought attention to the fact that the Housing Needs Assessment called for 50 units per year to be built to target specific demographics. This kind of addition to the housing market happens one development at a time. The Land Bank and the Conservation Commissions need to be conservative with land. This project is an adaptive reuse of existing structures, and would change the nature of how those structures are used. The property borders residential property, which always causes an issue. The Oak Bluffs Planning Board is dealing with a similar situation with the bowling alley. The process empowers the public. The Board represents the will of the community, and the concerns of the public will be factored into the decisions.

Christine Potter mentioned that her brother had a fire hose in a cabinet, and thought that it might be a good idea as opposed to the fire sprinklers. Chief Shemeth replied that sprinklers are better and more reliable option.

Mr. Mascolo closed comments from the audience, and asked for a 5-minute break. He decided that the public hearing will continue at 7:30 PM.

The assistant began to read the letters received from the public. There were five letters in favor of the project from: Michael Hunter, Sharky's, Tim Sweet, Michael P. Brisson, and John Ready. Three letters were read in opposition to the project from: Christina Miller, Jim and Karen Dwyer, and Patricia Dean, before the public hearing was continued to July 15<sup>th</sup> at 5:45 PM.

Mr. Mascolo thanked the audience for attending. The Board discussed possible deed restrictions, and limiting the rents of the apartments. The Board emphasized that the property has no yard, no storage, and no garage. The Board agreed that the rents will be on the lower end of the market. Mr. Mascolo speculated the monthly cost will be about \$1,800; Mr. Sparks speculated \$2,200. The Board agreed that, if deemed necessary, a special meeting will be held to discuss these issues.

### **Other Business**

Mr. Mascolo conducted the annual evaluation of the assistant.

The Board discussed drafting a letter to Santangelo regarding a violation of curb cut regulations, with copies sent to the Board of Selectmen and the Highway Department. Mr. Sparks moved to authorize Mr. Mascolo to sign the letter for the Board. Mr. Cavallo seconded, and the motion was approved unanimously.

The Board accepted the letter sent from the MVC that stated the Athearn's proposal to relocate the farm stand's exit should be worked out between the Planning Board and the applicant.

The Board reviewed a letter from Bill Wilcox regarding access to a property owned by Nil Leaf. There has been un-approved tree cutting on Mr. Wilcox's property that should have required permission. The intentions are unclear, but it would appear that Mr. Leaf is attempting to use Mr. Wilcox's driveway to access his property. The Board will look into this issue further.

The Board discussed the issues developing with the Bad Martha Brewery on Upper Main Street. Jonathan Blum, the owner of the establishment, was planning to have a raw bar, live music, and merchandise; none of which was discussed or agreed upon at the public hearing held on January 7, 2014. In general, the Board feels that anything not specified in the final decision is not allowed. Since there were no conditions allowing food, music, or merchandise, these provisions could be considered a violation of the special permit. The Board recalled how conservative the presentation was. The Board of Selectmen may also need to be involved with regards to a potential liquor license violation.

Mr. Sparks moved to adjourn. Mr. Cavallo seconded, and the meeting was adjourned at 8:02 PM.

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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:

Respectfully Submitted,  
Lucy Morrison, Planning Board Clerk