

Edgartown Planning Board Meeting  
August 12, 2014 5:30 PM Town Hall 1<sup>st</sup> Floor 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 5:30PM.

Mr. Murphy distributed a packet providing detailed responses to each of the discussion points presented by the Planning Board to the applicant at the last meeting, concerning: issues with the traffic, the parking lot, the apartments and tenants, and other general issues. All issues were discussed individually the applicant and the board.

Mr. Murphy updated the Board on a final change made to the parking lot. There will be a speed bump added to the Mariners Way entrance, with two stop signs to help reduce the number of people that go through the intersection without slowing down. There will also be do not enter signs placed on the Dark Woods Rd, so that Dark Woods may no longer be used as an entrance to the Square. The two entrances to the Square are from Main St and Mariners Way, and the exits are onto Main St, Mariners Way and Dark Woods Rd.

The neighboring businesses are in favor of the parking lot as proposed, noting the designated loading zones as specifically beneficial. Mr. Murphy stated that the Granite trucks cannot be told where to park to unload. The current practice is to back up to the building to load and unload all day. Mr. Murphy also noted that he has spoken with the neighboring businesses about the Mariner's Way entrance and exit, and there have been several disagreements, but the discussion has been started, and the issues are being worked through. He said this project was not dependent on the outcome of this discussion.

Mr. McCourt asked when construction of the project would start, if the project is approved. Mr. Murphy replied that the reconfiguration of the parking lot would be the first phase of the project, and would begin in October, after the rush of the summer season is over. Mr. Sourati answered that the trees currently in the lot would be relocated, and then the parking lot would be restriped, which would provide the additional 15 parking spaces before construction on the buildings begins. The parking lot will likely be fully completed before the summer of 2015 because the planting beds are complicated. Mr. Cavallo asked for clarification on the following statement: Mr. Hajjar only owns half of the lot, but is reconfiguring the entire thing and paying for all of it. Mr. Murphy stated it was a correct interpretation. Mr. Cavallo asked what would happen if the direction of the circling traffic was reversed. Mr. Sourati speculated that it would only create more confusion. The Dark Woods developers decided to include clauses pertaining to traffic access and utility placement in the easement, which plays a role in determining the direction of traffic through the Square.

Mr. Murphy addressed the Board's suggestion of modifying the plans to accommodate the stairs in the front of the building. The stairs require eight feet by 14 feet of space, which is not available in the front of the buildings without infringing on first floor retail space. Corner stairs are not an option for the project due to the need for an egress every 40 feet, and problems with the ventilation according to the stretch code. Having the stairs on the front of the building would drastically drop the size of the apartments, the two-bedrooms would become one-bedrooms and the one-bedroom would become a studio. The applicants mentioned that the stairways are enclosed, and open to the side of the building, not onto Dark Woods Rd. Mr. Murphy displayed the elevations Dark Woods elevations. There are sidewalks that follow alongside the building from the stairs to the parking lot. The sidewalks line up with the entrances to the stairs, so the distance from the property line is the same as the distance to the stair enclosure, five feet and seven feet. The existing landscaping will be more forward, closer to Dark Woods Rd, and additional landscaping will also be added.

Mr. Mascolo invited Bill Bishop, an experienced builder and former Planning Board member, to speak and provide input on the plans. Mr. Bishop was clear that he would not state an opinion either in favor of or opposed to the project, but would only give unbiased opinions of the aesthetics of the building as related to the architecture and construction. Mr. Bishop noted that there are various sized gabled dormers, and that the windows are set in the gables and it appears that a little bit of work is still needed on the gables. It was obvious that the applicant designed the apartments from the inside out. The reasoning behind the staircases in the back of the building is sound, however, it would be possible to have the stairs in front if the apartments were redesigned and some interior space was sacrificed. Mr. Bishop also mentioned that the back of Building C is a large wall with no breaks, and that there are several other options.

Mr. Orlando displayed the new plans next to the old plans to compare the differences. There is now a uniform pitch to all of the dormers and roofs. Mr. Mascolo noted how they looked cleaned up. The original five peaks went down to three. Mr. Orlando also pointed out that there are now platforms outside the each of the windows to assist egress. There may or may not be a railing across the platform, depending on building codes. Mr. Bishop stated that the new plans were an improvement on the originals, but that the project still lacks symmetry and that even with the changes shown, the back of Building C is still an expansive wall. Mr. Wilson suggested adding shutters to the windows on the back of Building C. Mr. Murphy replied that shutters could be used, but the original intention was to screen the back of the building with trees and shrubbery. Mr. Cavallo asked about the spacing and arrangement of the trees. A landscaping plan will be presented at a later date, but the trees are approximately eight feet from the back of Building C. Mr. McCourt recommended denser, taller plantings than planned, and stated that it is important for approval that the trees block the views from the windows.

Mr. Mascolo stated that he saw big changes in the plans from the last meeting. The dormers are softened and more uniform, and are an improvement on what is there currently. Mr. Cavallo stated that he was satisfied with the plans for the back of Building C. He also emphasized the importance of conditioning the shrubbery and trees.

The Board speculated about the degree to which the traffic at the triangle should be incorporated into the decision. Ms. Greenough replied that the traffic is a pre-existing condition, and should be dealt with by other means. Mr. Mascolo commended the applicants for their reconfiguration of the lot, and the creation of flow in a chaotic location. He thinks it will be beneficial to the town as a whole. When the lots were originally permitted, the Planning Board wanted to have a cut-through to allow for ease of travel through the various parking lots. Now that the cut-through is being abused, it cannot be blocked off without a discussion, which has begun and is in the beginning stages. Mr. Mascolo noted that there are currently no bike paths or sidewalks in the lot. The new plan provides a much safer pedestrian and biker environment, and is more attractive.

Mr. Murphy added that the proposed lot has 50% more green space than the current lot, and an additional 15 parking spaces. He also stated that only one car will be allowed per unit, as stated in the lease. Stickers will be used to enforce parking, and the apartment tenants will only be allowed to park in the middle of the lot, and not in front of any of the buildings. Patrons of the square are allowed to park anywhere. Mr. Hajjar is experienced with parking restrictions. Mr. Hajjar explained that the manager will inspect the parking lot at night, and if a car is in violation of the lease, it will receive a warning; if that person continues to park there, the car will be towed. It will also warrant an inspection of the unit, and if there are more than two people living on the premises, all are evicted, due to a lease violation. The apartment manager will be there as necessary, every night if need be.

Mr. McCourt asked what the sightlines for the bike path would be. Mr. Sourati answered that they would remain the same. Mr. Sourati reminded the Board that the MVC would have liked to narrow the entrance and exit onto Main St, but decided to leave the decision to the Planning Board. It is important that the Planning Board approve the width of the entrance and exit as proposed.

Mr. Murphy stated that the neighboring businesses were not willing to sign the written snow plan. He stated that it would be unfair to hold Mr. Hajjar in violation of the special permit based on the actions, or non-actions, of the co-tenants. The apartments do not create snow. And since traffic and parking are not issues during the time of year when snow is present, it is strictly an aesthetic issue. The plan is to pile the snow at the ends of the island in the middle of the lot.

The applicants discussed the process of reconfiguring the lot. When the trees in the current lot are removed, they will be relocated temporarily, before being replanted in the new lot. The parking lot construction will have to happen on the weekends, since that is the only time it is empty enough. The construction bylaw states no construction noise is allowable on Sundays. The post office and the bank will always be accessible through the construction. The details of the construction proceedings have not been worked through. The applicants mentioned that they will be returning to the MVC and the LUPC to finalize the width of the entrances and exits, and to present the landscaping plan. Mr. Cavallo suggested the presentation of a landscape and maintenance plan, when created, which would allow for staff reviews and provide some sort of care and protection of the trees and shrubbery in the lot. Since the lot cannot simply be shut down for two weeks to allow for construction, the applicants agreed to present a schematic plan for the construction of the lot with a narrative of how, when and when things will occur, with plans for emergency situations. This plan will show the stages of construction without closing the

lot. The MVC specified in their decision that no exterior work can take place between May 20 and September 30. The applicants insisted that this remain a strictly exterior work condition, so that plumbers, electricians and the like may work on the premises during the summer months. Mr. Sourati reiterated that there are very few to no parking lots on the island that comply with the Smart Growth dictations on width of parking space and aisles of traffic. He stated that stop signs create confusion and are vulnerable to collisions with vehicles, so the directions will be painted on the pavement.

Mr. Wilson asked who holds the deed to the lot. Mr. Murphy replied that all four building owners are responsible for the lot, and must agree before anything is changed. They each contribute to the maintenance for the lot, but not for the reconfiguration.

Mr. Cavallo asked if the Board will have access to the manager of the apartments. Mr. Hajjar replied that he will provide the number for the operator who will page the manager at the request of the Board.

Mr. Wilson stated that he does not like to exclude disabled people. Mr. Murphy replied that the accessibility issues are a design and cost factor. There is no space in the building to install an elevator, or a second set of stairs. Mr. Wilson recommended installing chair elevators. Mr. Orlando stated that chair lifts are not rated for commercial use; Mr. Hajjar added that they are available in several of his other apartments, and have never been used. Mr. Murphy reminded the Board that the only time a death has occurred in a building equipped with sprinklers was when the fire originated on the individual. There is nothing in the building code requiring a second standard form of egress. Mr. Murphy also reminded the board that there is no need for a variance, and the lease states that the tenant may not use any outdoor space for any purpose.

Mr. Wilson asked if a large work truck could be used as the one vehicle per apartment. Mr. Murphy replied that the size of the vehicle was limited by the MVC.

Mr. Hajjar stated that the applicants who apply for these apartments will be screened through a credit check, and by references from former landlords. Mr. Wilson mentioned an instance in Vineyard Haven where a tenant was a prostitute, and how the developer had a hard time evicting her from the unit. Mr. Murphy stated that any sort of crime is a potential violation of the lease, and actions can be taken accordingly. Mr. Mascolo asked how much of a role the credit score will play. Mr. Hajjar replied that the references from former landlords are more important, and exceptions can be made for a low credit score. Mr. Mascolo asked how long Mr. Hajjar has been in the rental business. Mr. Hajjar replied since 1985, and he has over 1,200 apartments in various neighborhoods outside of Boston including Fenway, Allston, Brighton, Cambridge and in Rhode Island. He stated that success revolves around strong management and a good lease.

Mr. Murphy discussed the original Four Flags agreement from 1986. Phase one of the project was the construction of Buildings A and B; phase two was the construction of Buildings C and D. Phase three was the development of the second floors of all of the buildings. The original developer intended to put apartments above these buildings.

Mr. Wilson stated that parking and traffic were two of the major issues with this project, and felt that the conditions address these issues. The housing situation is at a critical point. Mr. Wilson stated that he has a hard time turning down the project based on the housing need and the other things addressed.

Mr. Sparks stated that he agrees with Mr. Wilson, that the opposition to this project has been based on traffic and parking. The Board has made strong efforts to correct the traffic in Edgartown: Mr. Mascolo has been insisting on a loading lane outside of Stop & Shop; and Mr. McCourt has been working to make the Park & Ride more effective. Each member of the Board has a traffic issue that they are working to resolve. Mr. Sparks emphasized that the eight additional cars are not going to destroy the Post Office Square parking lot. He stated the Planning Board represents the entire town of Edgartown, not just a section of it, and this project will benefit the entire town. Mr. Sparks also mentioned that everyone who moves to Edgartown goes to the post office, so that the 27 people who have moved here in the last year are the ones making a difference with the parking. In 1989, the Planning Board decided, with the help of engineers and attorneys, to control growth when the B-II district and the Edgartown Master Plan were ratified. These documents call for mixed use residential and commercial spaces, as does the MVC Island Plan. The square is appropriate for this type of project; in fact, the site was specifically designed for commercial space with residences above. Mr. Sparks weighed the difference between a traffic crisis and a pre-existing traffic problem. Based on all of the studies conducted, the additional cars will have no impact on traffic; the eight additional apartments, however, will make a positive impact on the need for housing. Mr. Sparks stated that there are hardworking islanders who have three to five part time jobs and still cannot find a stable place to live. This project is a step to resolve the dire housing situation. He said, we may have a traffic problem, but we have a housing crisis.

Mr. Cavallo stated that the town will benefit from getting a new, more functional parking lot, and 15 less homeless islanders.

Mr. McCourt stated that this project has caused emotional response from the public, and has probably been the most difficult decision in front of the board. The Board has been trying to handle everything as logically as possible. Mr. McCourt believes that the arguments for the project outweigh the arguments made against the project. The arguments made against the project have some bearing, but any step made to resolve the housing crisis takes prevalence over most everything. The traffic issue has nothing to do with apartments. Mr. McCourt said that it takes about 10 to 15 minutes, at most, to make it through the congestion at the post office. It is annoying, but in perspective to most traffic everywhere else off-island, it's not that bad. More importantly, there are people who are making decent wages, but still cannot afford to live here. There are local businesses who suffer from losing local employees because they are forced to move off-island. Mr. McCourt emphasized that the post office square is the perfect spot to have apartments; since they are so close to public transportation and shopping, it allows residents to live without a car. He stated that Mr. Hajjar bought the property with the intention of developing it; it was not purchased to maintain the status quo, but to be enhanced, and the apartments are a great enhancement to both the town and the island. Mr. McCourt also speculated that the apartments will have the least amount of impact on the neighborhood compared to other projects that could have been there.

Mr. Wilson added that if the townspeople petitioned the post office to deliver more mail, there wouldn't be as much traffic at the post office.

Mr. Mascolo stated that as a member of the Main Street Traffic Commission, he has studied the traffic on Upper Main Street for a long time. The conclusion he has reached is that a 10 car loading lane in front of Stop & Shop would alleviate the majority of the issues with traffic. He has been petitioning with the state for quite some time, but it is extraordinarily difficult to get the state to modify a state road. Mr. Mascolo also mentioned a recent article in the MV Gazette addressing the housing crisis, specifically a picture of a family living in a tent. Mr. Mascolo empathized with the picture stating that it is miserable way to live. He commended the applicants for their efforts to improve the parking lot, and making access for pedestrians and bicycles. He also mentioned the changes made to the building plans, and how the designs are more adequate than many Edgartown houses. Mr. Mascolo reiterated that Mr. Hajjar has been in this business for over 25 years, and must be good at it based on the amount of units he owns. Mr. Hajjar understands nuances of the rental market that the town may not even be aware of, and this project will hopefully set an island-wide trend to provide better housing.

Mr. Wilson thanked the public for attending the meetings and writing letters to provide input. He stated that the project is very different from when it started, and the contributions received from the public were a strong catalyst for that change. The applicants have considered everything that was brought up during the public hearing, and the project was modified as such. The final result is a better project based on the participation from the public. He acknowledged that the public may be disappointed that the project was not denied outright, but it has been adjusted based on the public opinion.

Mr. McCourt also suggested adding the resolution of the Mariners Way cut-through to the list of conditions. Mr. Murphy stated that the Mariners Way issue is valid, but inappropriate for a condition on this special permit; since Mr. Hajjar does not have any control over that side of the lot, and the apartments do not have an effect on that intersection. Mr. Murphy assured the Board that it will not be forgotten.

Mr. Sparks moved to approve the special permit and the waiver for the side setbacks with conditions to be finalized with the board and the applicant over the next few weeks. Some of the conditions to be included are: the manager's name and contact information to be placed on file; the landscaping plan, especially the trees behind Building C; the construction mitigation plan, including exterior construction limitations, and parking lot construction limitations as discussed and agreed upon. Mr. Cavallo seconded, and the motion passed unanimously, 5-0.

Mr. Mascolo commended the Board for the work performed on the Edgartown Lofts application. In the nine years he has served on the Board, he has not seen anything handled as professionally. He believed that everyone present had a full understanding of why the project was approved. The Board also complimented Mr. Mascolo for his management of the situation as chairman.

The Chairman commended the assistant for her input and direction on this project.

**7:28 PM: Discussion of the Mill Hill Subdivision RE: No Cut Buffer Violation**

*In Attendance: David Nash, Barry Paillet, Roger Beach & Elizabeth Henderson*

The Board conducted a site visit the morning of the meeting and has reviewed the original subdivision decision. The property appeared to be in violation of the no-cut zone buffer area that ranges from 30 feet on the southern side of the property to 40 feet around the northern side of the property. The cutting has occurred all the way to the neighboring property lines.

The Board stated that the Building Inspector, Lenny Jason, enforces these types of restrictions. A letter will be sent informing him of the violation with a copy of the conditions from the original subdivision agreement. The Board also stated that there will probably be some type of mitigation demanding the area be replanted, and possibly some type of fee, since this is not the first violation of the no-cut buffer zone on this property.

The Mill Hill subdivision was originally owned by Belizzi and Murphy; however, Murphy recently sold to an individual named Muhammad Ali. It is unknown as to who actually committed the cutting.

The Board recommended clarifying in the letter to Mr. Jason that this condition has been grossly violated twice, and suggested asking for some type of monetary settlement in addition to replanting the area. Mr. Cavallo stated that a monetary settlement would have more impact on the offender than the demand to simply replant the area. Ideally, the neighbors would like to have mature trees and shrubs replanted; as the density of the former vegetation was just beginning to provide a sufficient buffer zone. The Board will also research how much to replant and what types of trees and shrubbery will do best in that area.

The Board reassured the neighbors that the Building Inspector has experience with this type of situation, and will handle the issues efficiently. The assistant will be in touch with the neighbors to inform them of progress through the procedures.

Mr. Sparks moved to alert the Building Inspector to the situation and have him contact the Mill Hill developer to make restitution and replant the area. Mr. Cavallo seconded, and the motion passed unanimously, 5-0.

**7:39 PM: Pocha Pond-Wasque Ave RE: overgrowth and signage**

*In Attendance: Jason Gruner*

Mr. Gruner approached the Board and distributed several aerial photos of Pocha Rd intersecting with Washque Ave. Mr. Gruner lives at the end of Washque Ave and has had numerous near-miss accidents while attempting to turn onto Pocha Rd over the past five years, with an alarming increase since June 1<sup>st</sup>. There is limited visibility from Washque Ave due to an elevation drop and vegetation on the side of

the road. The traffic problems are exacerbated because the intersection is too narrow for two cars to pass each other and the deep sand inhibits vehicle maneuverability.

The signage for the Wasque Reservation is not clear; people often mistake Washque Ave for Wasque Reservation. Once the mistake has been realized, people often drive too fast back down Washque Ave and have to pull out too far into the intersection for visibility.

Mr. Gruner recommended widening Pocha Rd to be able to fit two cars, adding two stop signs on Pocha Rd at this intersection, and clearing the gully of any brush. Mr. Mascolo moved to send a letter to the Highway Superintendent to alert him of the situation. Mr. Cavallo seconded and the motion was unanimously approved, 5-0.

### **7:46 PM: Discussion of Rifle Ranges**

It has come to the attention of the Board that Ronald Monterosso has built a firing range on his property on Chappaquiddick which is perfectly legal. There are currently no town regulations regarding rifle ranges. The Planning Board has been asked by the Chief of Police to research firing range regulations and add a warrant article for the Annual Town Meeting 2015 to address the issue.

Mr. Wilson mentioned the noise bylaw, but it does not take effect until 10:00 PM.

Mr. Cavallo mentioned that in 2012, new guidelines for home firing ranges were issued by the state. The Chief of Police has investigated, as has Moriarty, the attorney for the neighbor, Stephen Olsson. It has been determined that based on the statutes, the firing range is completely legitimate.

Mr. Mascolo stated that a firing range will completely destroy the quiet enjoyment of the environment, and is more obtrusive than anything done yet in the Monterosso-Olsson feud. Mr. Sparks mentioned that if a clause in a bylaw is not explicitly stated as allowed, then it is prohibited. Ms. Greenough replied that the bylaw relating to this issue does not meet that standard. Chappaquiddick is not a District of Critical Planning Concern; however it is in the Coastal District and the Cape Pogue District. The rifle range on Monterosso's property is legal according to everything applicable. The Board will appeal the decision to the ZBA, and has already filed to override the Building Inspector's decision to enforce the bylaw.

The Board would like to develop a restriction for firing ranges. The assistant will review state laws regarding firing ranges, and the bylaws of other municipalities that enforce these types of restrictions. However, there are not many regulations on home firing ranges, and the wording is vague and complicated.

Mr. Cavallo moved to adjourn. Mr. McCourt seconded and the meeting was adjourned at 7:57 PM.



Respectfully Submitted,

Lucy Morrison  
Planning Board Clerk

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