

Edgartown Planning Board  
Tuesday, February 5, 2013 at 5:30 p.m.  
Town Hall – Selectmen’s Meeting Room  
Minutes

*Members present: Robert Cavallo, Chairman, Mike McCourt, Robert Sparks, Alan Wilson, and James Cisek, alternate for Fred Mascolo.*

*Staff in attendance: Bricque Garber*

**5:30 p.m. Thomas O’Connell, 20 Manaca Hill Rd (30-15) SP: Coastal. Construct garage.**

The Chairman opened the hearing by reading the public notice. Rob Kagan, agent and builder for the applicant, presented the application saying the permit expired because of ill health and financial issues. The garage was approved when originally presented in 2007. The Chairman read a letter from the Plaines, an abutter, in support of the application. There were no further public admissions\*. The Public Hearing was closed. Mike McCourt asked about changes from original plan. Rob Kagan said there was a change in orientation only noting that he was not involved in original project.

Bob Sparks made a motion to approve the application as submitted with conditions including that no living space shall be allowed on the 2<sup>nd</sup> floor. The motion was seconded and unanimously passed.

*\*Note: A comment from the Kiersted family was not read into the record as it was not found in the file at the meeting. The board was informed of the comment in 2007 and still voted to approve the application.*

**5:45 p.m. AT&T/Katama Silo, 14 Aero Av (45-423) Continued public hearing.**

The Chairman opened the continuation of the public hearing reminding everyone that only new information was to be presented by the public.

Karen Burke noted that Thomas Burke will not attend due to medical issues. Nancy Javares, homeowner in Beach Plumb Meadows is looking into DAS. Chilmark has DAS for beauty and no radiation. Makes sense to have DAS in Edgartown causing no harm to the Farm Institute. Karen Burke’s recommendation is to have DAS for Edgartown.

Nancy Javares introduced Maria Hopkins, appraiser, by citing her credentials. She passed out a copy of her resume saying this is not a local issue. Decrease in values for real estate properties affected by “cell towers” is called external obsolescence. “Cell towers” do have an effect on real property values due to the perception of radiation and perceived health risks and view issues. People will pay less for properties in the area of cell towers. In this case the issue is not the view, but there is concern about the proximity to houses and a children’s camp. Speaking to the Javaras home and other homes in the silo area, she said there are a couple of things to note. The closer the house is to the “tower” the more the risk of value loss, between 5-20%. It is because they are perceived to be greater the closer the property is to the “tower”. A \$3 million house would have a very small buyer pool as people just don’t want to live near a “cell tower” and these buyers will have many other choices. The buyer who may buy in the vicinity of the “tower” would look for large discount in home pricing. She does not believe that anyone will

send children to the camp in this location. Most of the time “towers” are placed in areas where there is no negative effect to value and neighborhoods. She cited studies from appraisers. A decrease in value shows property owners they can file for a reduction in property values. Case law supports this. Tax revenue decreases may offset income from cell towers. She will provide a summary and her e-mail.

Alan Wilson asked if she is aware that planning boards cannot turn down wireless applications due to health issues. Ms. Hopkins said yes, but it can be turned down due to a decrease in property values, where-ever the decrease comes from. The market shows this decrease. She cited case law that was heard in the Court of Appeals, Ontario New York. Copy of the decision was read by Ms. Hopkins. Perception is reality. Whether there is real risk is not the issue. Decrease in value is not been seen from DAS installations. She said most “cell towers” are not in the area of children and homes.

Bob Sparks asked if there a deal can be made with a homeowner to install a tower. Dan Bilezikian (AT&T) responded, saying yes, they can if turned down by the PB. He said AT&T also brought an appraiser to this meeting. He said AT&T responded to a town issued RFP and AT&T was awarded the contract. Mr. Bilezikian further stated they have differences with Ms. Hopkins statements saying that part of her cited case law has been overturned.

Mike McCourt asked AT&T if they are aware of law suits that have been brought against towns that have erected towers. Betsy Mason, AT&T attorney, said she did not know. Ms. Hopkins said there are cases and the financial effect could be negative against the town.

Alan Wilson asked if AT&T would consider DAS. Betsy Mason said she does not have the authority to say. She is not a business person but noted that the town has gone through the process of deciding what type of cell service they wanted. AT&T responded to the proposal made by the town. Also, AT&T adjusted the design to make it mutually agreeable with the Town. Alan Wilson asked for consideration of DAS.

Dan Bilezikian, corrected the statement about cell towers near schools, saying that schools are often primary sites as towns like the revenue. AT&T would not be interested in DAS.

Bob Sparks noted the alternative could be a huge tower on private land. If there is going to be cell service in Katama, this is the best way.

Mr. Richard Brown has a big problem with the location in such a green area. In New Zealand you cannot have a cell tower within 2 miles of schools. This is a terrible area for a cell tower.

Alan Wilson asked if there is a regulation about cell towers in school locations.

Ms. Burke wonders why coverage on South beach is a concern of this tower as it is too far from the Beach.

Betsy Mason, AT&T’s attorney from Anderson & Kreiger, introduced George Valentine, real estate appraiser. He stated that AT&T requested a survey. He took sales data from “before the

sale” and “after the sale” to look for empirical evidence of loss in value. He cited sales near North St. Tower and provided comps at a per square foot value. The data shows that there is not a value loss due to tower installations. He believes the silo installation is a great installation as there is no visual impact. Ms. Hopkins does not concur with the data (using square footage). She does not think these sales are comparable. She strongly disagrees with the methodology. George Valentine made the argument that his data is very good.

Richard Brown suggests that a clause be added, if it does not work out, that the town be able to cancel the lease.

Alan Wilson and Bob Sparks spoke to the difficulty of appraising property on the island and reminded everyone that this board represents all the people of Edgartown.

Mike McCourt agrees with Bob Sparks saying that this is the best idea possible in the silo. Alan Wilson cited his lightning strike incident and the need for cell service for emergencies.

James Cisek agrees that this does not appear to present much of an impact.

Bob Sparks asked the AT&T panel if there are checks for radiation in place with AT&T.

Alan Wilson made a motion to approve the application as presented, reluctantly, with standard wireless facilities conditions. Mike McCourt seconded the motion and it was unanimously passed.

**Form A - O’Dwyer, James & Karen, Dark Woods Rd (21-124-421).**

Gregory Marcella, surveyor and agent for the applicant, said this was a simple Form A, dividing one lot into two lots of similar size. It meets all frontage requirements and the two existing dwellings meet all setbacks and other zoning criteria. It is located in the Dark Woods Subdivision. Mr. Marcella showed the plans to the association board. There were no covenants against subdivision of this lot. Cliff Meehan, President, and appearing on behalf of, the Dark Woods Homeowners Association, said there were a few oversized lots in the original subdivision that were allowed to be divided. These lots originally sold for higher prices. Mr. Meehan provided a letter in support of the Form A.

Alan Wilson made a motion to endorse the ANR. Mike McCourt seconded the motion and it was unanimously passed.

The meeting was adjourned at 7:00 p.m.

Respectfully yours,

Bricque Garber, Part-time Clerk

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*Robert M. Cavallo, Chairman*

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*James Cisek, Alternate*

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*Michael McCourt*

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*Robert Sparks*

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*Alan Wilson*

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