

Edgartown Planning Board
Tuesday, April 16, 2013 at 5:30 PM
Selectmen's Meeting Room
Minutes

Members in attendance: Robert Cavallo, Chairman, Fred Mascolo, Michael McCourt, Robert Sparks, and Alan Wilson. James Cisek joined the meeting for the Schifter Decision discussion. Staff in attendance: Georgiana Greenough, Assistant

Revised Form A – Robert C. Childs (Olsson), (31-166) Determine if changes are significant enough for the applicant to re-apply.

Those in attendance: Rob McCarron, attorney for the applicant and Dough Hoehn, agent for the applicant.

The Planning Board denied this Form A application on Monday, July 23, 2012. The applicant subsequently appealed the decision of the Planning Board on August 10, 2012 and the appeal is pending. Rob McCarron and Doug Hoehn discussed a newly revised Form A application. Mr. McCarron said this is a new application that is substantially the same as the original one. He stated they filed for two reasons: changed circumstance and new information.

- a. The changed circumstance is the litigation between the applicant (Chappaquiddick Realty Trust/Olsson) and his neighbor (Ames Trust Land & Elizabeth Land) has now been settled. There is a new 8-foot wide “Easement Agreement” recorded at the Registry of Deeds on 12/05/2012 and a note to that effect is reflected on the revised plan prepared by Schofield Barbini & Hoehn, Inc. dated April 10, 2013. The “Easement Agreement” allows Olsson to use the abutter’s (Ames, parcel 31-145) driveway off Chapel Av.
- b. The “new information” consist of copies of eight (8) previously approved Form A plans that show planning board approvals of existing accessory structures that remain on unbuildable lots. One example is on Cooke St. & Tilton Way. Mr. McCarron said the revised Form A would fix encroachment issues and does not create any new buildable lots. It does, however, allow the BOH to consider permitting additional bedrooms to the dwelling located on assessors’ parcels 31-152 & 153.

It was noted the site plan reflects a second access to the Ames property via the extended easement on Olsson’s property. The board was told it was an emergency access.

Chairman Cavallo asked what was going on up there. Mr. McCarron responded that Mr. Olsson is doing extensive renovations in a modest neighborhood. Mr. Sparks said the advertising prepared by the applicant, stated the property could accommodate 40 people, which is clearly in violation of the BOH regulations.

The easement shall be null and void if the property is advertised for, or rented to, over sixteen (16) overnight guests. Mr. Sparks asked how the easement agreement could allow 16 people in the house. Mr. Mascolo said we’ve approved numbers of Form As. Mr. Sparks said it’s a problem. Mr. Mascolo said it’s the problem of the Board of Health and the police. These are not Form A subdivision problems.

Mr. Sparks commented that if the dwelling had six (6) bedrooms, the number of guests allowed would be two per bedroom or twelve (12) overnight guests per the BOH regulations.

Fifty (50) feet of frontage has now been created on the newly created easement using the Ames driveway to connect to a newly created extension over the northwest portion of the Olsson property (Lot 1). Mr. McCarron still does not believe this issue is in the purview of the board. The newly created lot (Lot 2) shall be added to the property off Chapel Av. If the revised Form A application is endorsed, the applicant will then be able to file with the BOH for a new septic system which shall allow additional bedrooms to the existing single family dwelling on assessors' parcels 31-152 & 153. Matt Poole, BOH agent conducted an inspection of the Chapel Av. single family structure on parcels 31-152 & 153 with the use of a search warrant. According to the report, the house did not violate the current bedroom count. There shall be periodic seasonal visits by the BOH.

The assistant suggested the board forward the project back to counsel as litigation is still pending, and to take under advisement that the applicant may consider dismissing the pending litigation against the board. The board voted unanimously to send the applicant's materials (site plan, easement agreement, and samples of similar Form A applications which were approved) to town counsel. Mr. McCarron and the board agreed to continue the application to May 7, 2013. The assistant said, because the Edgartown Subdivision Rules & Regulations state that a Form A application decision must be made within 14 days (application was received by the Planning Board on April 10, 2013), counsel should be asked to draft an agreement, to be signed by Mr. McCarron, extending the time frame.

Public Hearing: Michael & Rebecca Hegarty, 9 Garden Cove Rd (44-53) SP: Coastal & Ponds District. Construct 18' x 38' in-ground swimming pool & related equipment.

Those in attendance: Richard Barbini, Schofield Barbini & Hoehn, Inc. and the Hegartys.

Chairman Cavallo opened the hearing by reading the public notice. Mr. Barbini presented the application by stating the application is a request for a standard in-ground pool in back of the house, inside an existing fence area to be modified to accommodate the pool regulations. The only difference is the proposed pool sits in ground water. It was conditioned by Con Com that the pool must be constructed when the pond is at low water and any pump-outs must be retained on the property and not run into the wetlands. The swimming pool checklist items were reviewed. The pool shall be a salt water system. The pool equipment will be placed next to the existing air conditioning and heating units, which are located next to the neighbor's air conditioning units. Lighting shall be that required by building code and downward lit. The heating unit shall be a propane system. When constructed, the pool has to meet or exceed the hydrostatic pressure or the pool will pop out of the ground.

Mr. McCourt asked if they were going to enclose the pool equipment. Mr. Barbini responded it is highly treed in that area right now, and they are not planning on it. Mr. McCourt asked what happens when the neighbor sells their property. Mr. Mascolo said the location of the air conditioning units will become preexisting equipment nestled together. The equipment is located in the setbacks.

Mr. Mascolo made a motion to approve the application to construct an 18' x 38' in-ground swimming pool as presented. Mr. McCourt seconded the motion and it was unanimously passed.

Public Hearing: Thor Peterson, 4 Trapps Pond Rd (12-31) Variance: to construct a 16' x 32' storage shed within the rear setback by 10 feet.

Those in attendance: Adam Hayes, applicant's agent and the Petersons.

Adam Hayes, presented the application showing the location of the proposed shed. The shed is being constructed to house bicycles. Mr. Peterson owns two bicycle shops and needs space to store the bicycles. The Petersons have been here for 32 years. The Con Com approved their application and provided an order of conditions. The revised location is topographically suitable. The first location was over 15' into the 25' rear setback. The abutters have shown no opposition to the construction of the shed. There will be no driveway. The bikes will be carried from the truck to the shed. The shed will not be built on a slab, but on cement pilings. The currently proposed location is over 10' into the 25' setback. The Board conducted a site visit in the morning and determined the revised location is the only appropriate location at this time, given the unusual shape of the lot. It was noted that the existing garage is also located over 17' into the rear setback. The applicant stated there shall be no electric or plumbing brought to the shed.

A motion was made to approve the variance as presented with the conditions no electric or plumbing shall be installed. Mr. Sparks seconded the motion and it was unanimously passed.

Review Schifter/Wasque Partners LLC Relocation: Decision: Findings & Conditions.

George Sourati was in attendance to review with the Planning Board the decisions for both the Schifter and Wasque Partners, LLC special permits. The board discussed the Findings and Conditions in the decisions, agreed on some modifications and unanimously approved both decisions.

Old Business:

1. **Wave Lengths**, Upper Main St. requested an extension of their special permit for one additional year. The board voted unanimously to do so.

New business:

2. The board asked Mr. Cisek if he would like to be reappointed as an alternate member of the Planning Board. He agreed. The board voted unanimously to do so, and said Mr. Cisek is definitely an asset to the board. The assistant will notify the Selectmen's office.
3. The board was asked if they wanted to vote in a new Chairman for a year. The board voted unanimously to elect Mr. Sparks to serve as Chairman until next annual town meeting in April 2014. The assistant will notify the Selectmen's office. Everyone thanked Mr. Cavallo for a good job done during his term as Chairman for the past year.

The meeting was adjourned at 7:13 pm.

Respectfully submitted,

Georgiana Greenough, Assistant

Robert Cavallo, Chairman

Fred Mascolo

Michael McCourt

Robert Sparks

Alan O. Wilson

Edgartown Planning Board