

Edgartown Planning Board  
Tuesday, September 17, 2013 – 5:30 p.m.  
Town Hall - Selectmen's Meeting Room

Minutes

*Members in attendance: Robert Sparks, Chairman, Robert Cavallo, Fred Mascolo, Michael McCourt, and Alan Wilson.*  
*Staff in attendance: Georgiana Greenough, Assistant*

**Form A (Continuation from August 20) Mark Foulkes, 24 Clevelandtown Rd (29A-71) Create two lots from one under Subdivision Control Law 81P that allows a tract of land that has two buildings constructed before the Subdivision Control Law was adopted in Edgartown (1973).**

The Planning Board members conducted a posted site visit on the morning of August 20, 2013. The meeting agenda that was proposed for August 20, 2013 was postponed until September 17, 2013. Chuck Gilstad, Sourati Engineering presented the application. He said the farmhouse and garage were both built in 1875. He provided proof by giving the board a copy of 1972 Real Estate Valuation List from the assessors' office showing "Stokes, Robert W.", on two lots, one is 11,625 sq. ft. and the other is 22,940 sq. ft. Also provided was the 1991 Real Estate Valuation List with "Foulkes, Richard D. & Ruth" on two lots with same description. Therefore the property had previously been two separate lots which were combined by the assessor during the 1990's. All setbacks including ones created from the new lot line are conforming (10') however, at the back of the garage the setback was 2" short of the 10' minimum.

Mr. McCourt asked about a curb cut for the driveway. Mr. Foulkes replied that they had previously accessed the property through an easement on the abutting lot belonging to Danberg. Mr. Gilstad stated that access has been added to the site plan in the form of a shared driveway off Clevelandtown Road, at the request of the Planning Board.

Additionally the applicant complied with the Board's request to insert a statement that endorsement for the plan under the Subdivision Control Act should not be construed as either an endorsement or an approval of zoning lot area requirements.

The board voted unanimously to endorse the Form A (ANR) application as revised.

**Public Hearing: 17 Chappaquiddick Rd Nominee Trust (19B-10) SP (Surface Water District) construct a 95' non-commercial licensed private timber pier with a 25 ft. "L", a 25' platform and 3 tie spiles.**

Chairman Sparks opened the hearing by reading the public notice. A site visit was conducted the morning of the hearing. Mr. Barbini, Schofield Barbini & Hoehn, Inc. presented a new application to construct a 95 ft. pier with a 25 ft. "L" attached on the east side of the pier with a lower platform, and a new spile. The Conservation Commission has issued an order of conditions and the Planning Board approved a special permit for the previous owners, Dibari/Liddle in October 2008 for a 115 ft. pier,

25 ft. "T" at the end of the pier etc. to be located on the east side of the property toward the Chappy Beach Club. The new applicants decided the existing licensed plan does not fit in with their aura.

The plan was revised for the new owners to construct a 95 ft. pier with an "L" at the end of the pier, a 25 ft. platform and three tie spiles. The Marine Advisory Committee provided a draft of their minutes covering their approval of this new location for a pier.

The assistant noted that the original faired pier line did not extend to this lot. Mr. Barbini responded that the DiBari/Liddle application was approved in 2008 by this board. He added that the faired pier line was previously extended for the Neuhoff pier application which was heard in 2003. Although there were no written decisions in the files, the Neuhoffs have a pier.

Mr. Cavallo made a motion, Mr. McCourt seconded and it was unanimously moved to continue the hearing until October 1, 2013 at 6 p.m. for the purpose of researching the approval of the extended faired pier line.

**Public Hearing: Summerhouse LLC/Walsh, 32 Caleb Pond Rd (30-45) SP (Surface Water District) Add 1 pile, extend pier 10 feet, and add a 5'x 25' foot "L" to an existing licensed private timber pier.**

*Those in attendance: Richard Barbini, agent, and Lynn, abutter to the property on the south side.*

Chairman Sparks opened the hearing by reading the public notice. A site visit the morning of the hearing was conducted by members of the board. Richard Barbini, Schofield Barbini & Hoehn, Inc. presented the application for additions to an existing private licensed timber pier. The application was approved by Con Com and Marine Advisory Committee.

Mr. Barbini continued by saying an issue came up with next door neighbors, the Lynns who own a licensed spile located in the Walsh's water space. That spile is located 42 feet from his own pier and is located 47 feet from the applicant's pier. Mr. Barbini put his crew out there in the water, pulled the Lynn's prop on their Whaler out as far as it could go and determined there was 15' of clear space for swing. A number of years ago the Marine Advisory Committee discussed the elimination of free swinging tie spiles at private piers. Charlie Blair, the Harbormaster, suggested an outrigger tie from the Lynns pier where their boat would be free and clear. He added there is a difference between a freestanding spile in a mooring field and an outrigger tie spile.

Mr. Martin Lynn, abutter, said he would like to support this application. However, he stated that he has only one spile. The applicants already have two spiles and are adding a 3<sup>rd</sup>. He uses his pile continually and believes it will be too close to the applicant's addition of an "L" to his pier and the new spile. He believes it would be a huge hassle and expense to move and relicense his spile. He wondered if the applicant wants his (the Lynns) spile in their water space. He said his spile is a very valuable item to him. He said 15' clearance is not a lot of swing space. He is trying to protect his single asset – a freestanding spile. He added that the spile predates his purchase of the property.

Mr. Barbini said the one pile the Summerhouse LLC/Walsh folks are adding is not free standing. He added that he may get Walsh to relocate it, but he does not believe Walsh will pay for the permitting at the state level. The cost for permitting is about \$3,000. Mr. Barbini suggested the Lynns use the original engineer who licensed his pier to draft plans for the relocation. Mr. Lynn asked when work would be done. Mr. Barbini said he thought it would be next Spring (2014). Lynn wondered if he could get the permitting done in time. Mr. Barbini responded that the local permits could be done, but the state level is another story.

Mr. Wilson believes it restricts Mr. Lynn's boat to 15 feet. Even to his own dock. Mr. McCourt is concerned with the "L" which limits the distance to Mr. Lynn's existing pile. Mr. Barbini responded that it doesn't limit it any more than it limits it to his own dock.

Mr. Cavallo motion to accept application as presented with standard pier conditions including the Brewer and Wilson amendments & standard pier conditions. Mr. Mascolo seconded the motion and it was unanimously passed. The Chairman asked Mr. Barbini to put the abutter and the applicant together to discuss the possible relocation of the Lynn pile.

**Public Hearing: Leonard, Wm. & Michelle, 6 Fowler Ln (12B-131) SP:**  
**Demolish & rebuild a preexisting nonconforming dwelling on a preexisting nonconforming lot.** *Cliff Meehan, a builder, was in attendance.*

Chairman Sparks opened the hearing by reading the public notice. All members of the board, except Mr. Mascolo, conducted a site visit the morning of the hearing. Mr. Barbini, Scofield Barbini & Hoehn, Inc. presented the application. The background of the property is that the Leonards purchased 2 separate houses on 2 separate lots at two separate times. They will demolish the existing (smaller) structure, and rebuild it adding about 59 sq. ft. They will enclose the screened porch facing the pond and fill in a small section at the front of the building. They will add 10% to the structure, by right, according to Article 13 in the zoning bylaw. The existing square footage is 657 and shall increase to 716 sq. ft. which uses up 59 sq. ft. of the 65 sq. ft. allowed under the 10% rule. They shall rebuild the structure about 5 feet further away from Sengekontakt Pond. The larger lot has a septic system. The smaller lot (the subject of this application) has a cesspool. The applicant proposes to tie in to the sewer. According to updated Flood Plain Maps, they are no longer located in the Flood Plain. They intend to create a crawl space under the entire new structure.

The original site plan was modified because the abutters, Cutler and Piatt, wrote a long letter to the Planning Board discussing access to the property and other issues. The assessors' record shows a dog leg accessing the property from Fowler Ln. Therefore Mr. Barbini drew the dog leg on the original plan. It is a right of way. He said that no one agrees who owns it (the dog leg) but all agree there is no question it is a right of way for everyone. Ergo, the dog leg was removed from the revised plan. Mr. Barbini added that it does not change the application. There is no deeded easement, although they all agree they all are allowed to use it.

Another abutter William J. Dunn, Jr., 4 Fowler Av., wrote a letter in favor of the applicant's project.

The well is located under the existing structure. Mr. Wilson said he does not believe it is potable, but Mr. Barbini said it is potable. Mr. Barbini added that the applicant may tie into the abutters well or tie into town water through the BOH who have not yet approved it. The applicants shall be reducing the existing two bedrooms down to one bedroom. The owners do not live here year round. The applicants are aware they must apply for a demolition delay permit prior to any construction. They also must get permits from the Board of Health, Wastewater, and Water Departments to get up to code.

The Chairman closed the public hearing. Mr. Cavallo said they are utilizing the 10% rule. Mr. McCourt said they are pretty much rebuilding a shack, moving further away from the pond and getting a better septic system.

Mr. McCourt made a motion to approve as presented. Mr. Cavallo seconded the motion and it was unanimously passed.

The assistant left the meeting due to illness. The remaining minutes were supplied by Robert Sparks and Robert Cavallo.

**Public Hearing: Lindenberg, 63 Lighthouse Rd (3-8) SP: Poge, Coastal. Add a 194 s.f. addition to a pre-existing 1,944 s.f. dwelling & construct a 1,540 s.f. drylaid stone terrace. (Agent: Carole Hunter)**

Chairman Sparks opened the hearing by reading the public notice. A site visit was scheduled but did not occur. Carole Hunter presented the application highlighting the fact that the property had not used the 10% addition to the floor areas (Article 13.4.A.8.) allowed with a special permit from the board. There were no letters from other boards, abutters or the general public. The addition would not interfere with the view of the neighbors, and it was to be located on the inland side of the house, not obstructing any view from the water.

The board voted unanimously to approve the special permit as presented for the above reasons, with a condition about no further development of living space, outside lighting limited to that required by building code shall be downward lit.

There being no further business before the board, the meeting was adjourned at 7:05 p.m.

Respectfully submitted,

Georgiana Greenough, Assistant

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*Robert Sparks, Chairman*

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*Robert Cavallo*

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*Fred Mascolo*

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*Michael McCourt*

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*Alan O. Wilson*

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