

Edgartown Planning Board
Tuesday, October 1, 2013 – 5:30 PM
Selectmen’s Meeting Room – 1st Floor

Minutes

Members in attendance: Robert Sparks, Chairman, Robert Cavallo, Fred Mascolo, Michael McCourt, and Alan Wilson.

Staff in attendance: Georgiana Greenough

Form A – Gordon W. Tyra, Shurtleff Way (20B-13.1) Divide one lot into two non-conforming unbuildable lots to be conveyed to the abutters (20B-11 & 20B-12.

Nelson Smith, Vineyard Land Surveying & Engineering, Inc. presented the Tyra Form A application which creates two unbuildable lots that shall be conveyed to the abutters on parcels 20B-11 and 20B-12 leaving both newly reconfigured parcels with legal frontage (50 feet) as currently in place.

Mr. Cavallo made a motion to endorse the Form A for Tyra as presented. Mr. McCourt seconded the motion and it was unanimously passed.

Giordano Pier, 44 Caleb Pond Rd (30-55.211) Request to issue a permit for an existing 153 ft. pier with a 33 ft. “L” platform and two tie piles.

Nelson Smith, Vineyard Land Surveying & Engineering, Inc., agent for the applicant, said he is requesting a permit for an existing pier they are trying to license with the DEP. It was built by Gene DaCosta in 1983. The Con Com heard it in 1993 and issued an order of conditions. Although it was submitted to the DEP, the application was never approved. It was noted that during the 1990s there was an amnesty period to license all piers.

In 1983, the Planning Board did not have permitting authority over the construction of piers. In 1987 the town established the Surface Water District as Article 20 in the zoning bylaw which regulates piers. The faired pier line was established in 1991.

Mr. Cavallo said he believed that, regardless of the zoning bylaw for piers being passed in 1987 (5 years after the pier was constructed) the applicants are just now in the process of licensing their preexisting pier, “L” extension and tie-off piles. He believes that makes them subject to the permitting process in place at this time. Mr. Smith said the only addition to the pier will be to construct lateral access stairs.

Mr. Cavallo made a motion to send it to public hearing so everyone is able to provide input. The motion was seconded and unanimously passed. The first available hearing date is October 29, 2013.

Nelson Smith asked to have a copy of the standard pier conditions forwarded to him.

**New Cingular Wireless LLC (AT&T Mobile), 59 North Street (29A-96)
Modification to existing special permit.**

The assistant explained that this agenda item was not a special permit hearing. It is a modification to an existing special permit granted in October 2012 to license and maintain their equipment on the American Tower located at 59 North St.

Ed Pare, agent and attorney with Brown Rudnick, Providence, RI presented the application on behalf of AT&T to upgrade existing equipment located on the American Tower, 59 North St. as follows: *“replace two existing antennas in Sector A with two multi-band antennas on a new frame increasing the size from 10.3” wide to 28.5”; 5.9” deep to 9.4”, and reducing slightly the length from 75.5” long to 72” long; adding one GSM antenna between the two replacement antennas; adding six (6) remote radio heads behind the antennas; adding two (2) surge arrestors behind the antennas on the frame; adding six (6) DC cables mounted to the existing coaxial cables which will connect the replacement antennas to the equipment in the existing equipment room; and installing other minor wiring and mounting equipment all as depicted on the Plans.”*

The assistant said one of the benefits of having a public meeting (Administrative Review) with the wireless carriers is that the town may negotiate a reduction in the perpendicular extension of the antennas from the tower, making them less visible to the abutting residential neighborhood.

Mr. Mascolo said wireless cell service is a benefit to the community. It creates better coverage for customers only going to improve capacity the antennas that have poor coverage. Mr. Pare said the only way they know the coverage is poor, is from customers in that sector. Sector A has 30% coverage. One sector was targeted and it is primarily toward the Stop & Shop area. He added that AT&T installed LTE in spring, 2013. Mr. McCourt asked if there were going to be more changes to the AT&T portion of the tower. Mr. Pare said that they are constantly upgrading their equipment. They are not increasing any power or lighting.

Mr. Cavallo made a motion to approve the modification to a special permit for AT&T with standard wireless facility conditions as it complies with the intent of the bylaw. Mr. Mascolo seconded the motion adding that cell phones save lives through emergency services. The motion passed unanimously.

Patkin, 20 Garden Cove Rd (53-17) SP: Coastal & Ponds District (Continued from September 3, 2013) Enclose portion (99 sq. ft) of existing deck to increase square footage of kitchen located on a nonconforming lot.

Chairman Sparks opened the continuation to the public hearing. Todd and Yadira Patkin said they are trying to extend their kitchen out over an existing section of a 30” high deck. It is a very small addition (99 sq. ft.) to the house.

The assistant explained the continuation of the hearing was due a number of factors that needed to be clarified by the Building Inspector. 1) Had the 10% rule been used? 2) Was the previous expansion of the shed approved under the 10% rule? If not, how was it permitted? 3) Did the fact that a roof did not cover the proposed expansion area limit

the use of the 10% rule? The Building Inspector said the addition was permitted without the use of the 10% rule because it was proposed on an existing deck over 30” high.

The applicant provided the board with drawings of the existing floor plans and elevations as well as proposed floor plans and elevations along with photos of the existing structure and deck area proposed for the addition.

Mr. Mascolo made a motion to approve the Patkin application for a special permit as presented because it was not expanding a non-conformity and did not need permission to use the 10% rule limitation. Mr. McCourt seconded the motion and it was unanimously passed.

17 Chappy Rd Nominee Trust (19B-10) SP: Surface Water District (Continued from September 17, 2013): to construct, maintain and license a 95’ timber pier with an “L”, a 25 ft. platform and three tie spiles.

Chairman Sparks opened the continuation of the public hearing. The assistant explained that the reason the hearing was continued was to research and establish if an extension of the faired pier line had been approved to cover the applicant’s property. Research found, in the files of the Neuhoff pier 2003 application, a letter dated January 5, 2004 to the Planning Board from the Marine Advisory Committee stating that the Faired Pier Line was intended to extend from the end of the pier at the Chappy Beach Club to the Shellfish hatchery spile and continue around to a point on Chappaquiddick Point which is perpendicular (90 degrees) to the shore. It was an oversight that it had not been included on the Neuhoff plan. It was also confirmed that the drawing by Schofield Barbini & Hoehn, Inc. on the site plan for the Neuhoff pier should be used for reference by the Board until such time as said line is physically located on the Master Copy of the Faired Pier Line.

The assistant noted that the faired pier line does not include the width of some very large boats tied off parallel to the “T” or “L” at the end of many of the piers. Mr. Cavallo asked if going forward if the board should be looking at the width of the boat that extends beyond the faired pier line. Mr. Barbini replied that the harbormaster has the authority to ask a boat to move for navigational safety or other reasons.

Robert Cavallo made a motion to approve the application as submitted for a special permit for the construction of a pier with an “L” and one new tie off spile with the standard pier conditions, as it complied with the intent of the zoning bylaw. Alan Wilson seconded the motion and it was unanimously passed.

Discussion: Subdivision Rules and Regulations, Edgartown

The assistant presented the original typed document entitled “Rules & Regulations Governing the Subdivision of Land, Edgartown, Massachusetts” that contained handwritten amendments approved by the Attorney General in 1996 and 1999. She then presented an updated version including the amendments of 1996 & 1999 and proposed some amendments.

1. Incorporated previously handwritten ratified amendments (1996 & 1999) into the revised document.

2. Transcribed entire typed document into digital format in Microsoft Word
3. Revised the title page
4. Added a Table of Contents
5. Re-coded the entire document
6. Added updated and approved zoning maps
7. Revised schematic for unpaved road requirements
8. Added schematic for paved road requirements
9. Increased the filing fees for a special permit in the residential district from \$150 to \$175; and increased the filing fee for a site review from \$50 to \$75.
10. Increased the number of days for the Planning Board to act on a Form A (ANR) application from 14 days 21 days.

The assistant then stated she is still tweaking the document and would like to schedule it for a public hearing in the next month or so and place it on the warrant for Annual Town Meeting in April 2014. The Board agreed to review the revisions at future meetings.

Discussion: Possible amendments to existing zoning bylaw.

The assistant reminded the board that zoning bylaw amendments are under their purview with the assistance of the Zoning Bylaw Review Board. Unfortunately the Zoning Bylaw Review Board disbanded with the resignation of the Chairman and Building Inspector. The assistant said she is combing through the current bylaws and have created a list of possible amendments, and corrections. She said it appears that meeting individually with previous members and individuals who have expertise of a specific nature has been successful. She believes that the Zoning Bylaw Review Board should be re-established. Although time ran out for a complete discussion, a number of the proposed modifications were noted:

1. Medical Marijuana Dispensaries
2. Definition of “Livable floor space” is measured from the inside walls
3. Total Floor Area is also known as Gross Floor Area measured
4. Definition of “Non-habitable minor accessory structures” – examples: storage sheds, pump houses. It does not include swimming pools or tennis courts, which are considered structures.
5. Curb cuts: limited to 1 per parcel in zoning districts of R-5, B-I, B-II. Special permit may be granted under specific circumstances by the SPGA.
6. Sign bylaws to be presented to board by Sign Committee.
7. Under Surface Water District, should add spiles and floats to piers.
8. Consider adding a new article 25 for Solar Energy & Geothermal Energy.
9. Under Wireless Service Facilities, incorporate new federal law “Act of 2012” changing a “special permit process” to Administrative Review for minor modifications.
10. Consider establishing a Site Plan Review Committee which can handle applications that are in compliance with the bylaws, but currently require a special permit.
11. Modify 11.18.3.D. Island Independent Living residency requirements to make the 10-years more flexible in the event the residence is sold.

12. B-II – In B-II the special permit is generally granted to the business owner, not necessarily the property owner (landlord). It has been suggested the landowner be party to the special permit process with respect to compliance and conditions.

The board agreed to review the recommendations and discuss at future meetings.

New Business/Old Business

Ad for Planning Board Part Time Clerk, deadline for application is October 15, 2013.

The meeting was adjourned at 7:15 p.m.

Respectfully submitted,

Georgiana Greenough, Assistant

