

Edgartown Planning Board
Tuesday, July 10, 2012 – 5:30 p.m.
Selectmen's Meeting Room
Minutes

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

Staff in attendance: Georgiana Greenough

Old Business:

- **Katama Airfield (Hangar)** – SP Request for extension of special permit to construct a new hangar for 1 year. Bob Stone, Jim Harrison, commissioners of the airfield said they are fighting the Nature Conservancy. They are working through the courts and a conservation restriction that states, “no increase in footprint of structure”. Mike Creato, airport manager, said there is an increase in the footprint of the structure. Bob Stone said they have been waiting three years for this decision, but Jane Varkonda, Conservation agent, is doing a “bang-up job” trying to push the project through. The agreement says the Conservancy cannot be unreasonable. The Airfield Commission is sitting on \$350,000 which they have invested short term. Currently they don't have enough money to complete the project. Creato said they are wrestling with a few issues now. It may be another month or two. Fred Mascolo asked if the PB could help by inviting the Conservancy to a meeting. Creato said to hold off for a couple of months. Mr. Sparks made a motion to extend the special permit for one year (August 5, 2013). It was unanimously passed.

Form A – Chappaquiddick Realty Trust (Olsson), Chappaquiddick & Chapel Aves (31-166)

Those in attendance: Rob McCarron, attorney for the applicant, Doug Hoehn, Schofield Barbini & Hoehn, Inc., Siamak Adibi, Joan Adibi, Camron Adibi, Ron Monterosso, Pete Rayner, Martha Weston, Ellen Weston, Jill and Jimmy Dimitri, Ted Hubbard, and Peter Norden.

Doug Hoehn, and Rob McCarron, presented the application for a Form A on Lot 31-166, a property line adjustment. The abutting piece of land was surveyed so they were able to show the whole picture. The division is two parcels of land, one is not a buildable lot, which shall be conveyed to the abutting lots 31-152 and 31-153. The original lot (31-166) is 3.5 acres of registered land. The same owner owns all three lots. .

Rob McCarron said it does not get more simple than this Form A application. It is not a subdivision – the lot being created is not subject to a Form C procedure. Mr. Hoehn said the “traveled road” issue is not according to the subdivision rules. Mr. McCarron said we are not here to debate the particulars of the issues going on in the background. Mr. McCarron said you must endorse the plan. Mr. Wilson said he does not want to be told what to do.

Mr. Wilson said that an easement on a previously recorded land court plan of the subject property was not included on this plan. Mr. Hoehn said he has no documentation for the easement, but will put the easement on the plan.

Mr. McCarron said the roads are under litigation – Ames is suing Olsson. He said the avenues shown on the plan are to remain forever open to the public. He does not believe it is relevant to this application. He believes the overall concerns are due in part to Olsson's inaccurate

advertising which stated the property is capable of accommodating more people than the Board of Health (BOH) allows. He also stated that there is a huge and dramatic change on the property, and there are no rules and regulations to deal with the land situation except through the Board of Health. Further, he stated that this Form A application will go a long way to fixing the BOH issue.

Mr. Mascolo asked if the house is rented. The response was that there is a family of 3 plus a housekeeper. The current BOH bedroom restriction is two bedrooms.

Mr. Wilson read a letter addressed to the Planning Board from the law firm of Rackeman Sawyer & Brewster written by Gordon Orloff, dated July 9, 2012 that stated they represent David Ames, Jr. and Robert Woodburn, Jr., as trustees of the David & Elizabeth Irrevocable Trust. The letter gave reasons why the Planning Board should not endorse the Form A application. Mr. McCarron explained that Mr. Orloff is representing the Ames family and does not take a position on defending the planning board.

Mr. Mascolo said they are not creating more lots.

Mr. Wilson asked if anyone from the audience wanted to comment. Ron Monterosso, an attorney who lives on Chappaquiddick near the subject location, said he agreed with the attorney from Rackeman Sawyer & Brewster. He said you have to have roads that exist. The referenced roads are not navigable. Frontage on a road is required. The cases cited by Mr. McCarron, in his letter to the Planning Board, were for vacant properties. The lot in question has already been improved. The site plan does not show the private way and does not show the telephone easement. If you endorse this plan you are about to eliminate the telephone easement line. The title certificate shows a public way that was certified by land court. The public way doesn't exist on the ground, but must be shown on the plan. The board has the right to rely on the survey, but if you have information that is contrary, you have the right to question it. If a way is not accepted by the town, it cannot just be made one by putting it on a plan. could not be public.

Chairman Cavallo interrupted to ask Mr. Monterosso to stop as he believed the board understood the situation.

Mr. Hoehn said he deals with Land Court all the time. He will call Land Court, for the "easement" and "public way" issues if the board would like. Mr. Hoehn said he has no documentation for that "public way".

Mr. Mascolo said there is more going on than meets the eye. There have been enough points raised to question the accuracy of the site plan. He believed it needed to be referred to counsel. Mr. McCourt agreed with Mr. Mascolo and would like it referred to counsel.

Mr. Sparks made a motion to refer the Form A to counsel and meet again with the applicants on July 24, 2012.

Szabo-Imrey, 60 Witchwood Lane (36-303.15) Construct an elevated deck over a 2nd floor
Ivory Littleton, builder for the applicant presented the plans for the Szabo-Imrey's widow's walk

positioned above the level of a second floor. No dimensions were provided. The Board had asked the assistant to provide decisions of past special permits regarding elevated decks, porches, and widow's walks. The assistant cited the seven special permit applications for widow's walks and found that five of them were approved with the condition they were recessed into the roof, and one application was withdrawn (too many elevated decks) and one was removed from the plans. The Board asked Mr. Littleton to revise his plans to recess the deck below the roof line and remove spindles and railings and continue with the roof material instead. Mr. Littleton said he would return with specifications and a design after he spoke with the project's architect and engineer.

Old Business (Continued)

- Doug Smith, 218 Upper Main St. Restaurant – Mr. Smith said he spoke with the BOH and they recommended an enclosed mop closet to be located outside the side entrance. The Board approved the minor modification to the plans.
- Leaf, 284 Upper Main St. – The assistant spoke with Paul Foley at the MVC, who said the applicant withdrew and immediately reapplied. The Planning Board has not yet received a copy of the new plans.
- McCourt, Chappaquiddick Ave – The special permit granted has not yet met the conditions of the special permit, yet construction has already started. The Board did receive a copy of the view easement as requested, but has not yet received a copy of the maintenance agreement between McCourt & Land Bank.

Zoning Discussion – Transient Residential Facilities

Mr. Wilson made a recommendation to amend the definitions within the Transient Residential Facilities definition as follows:

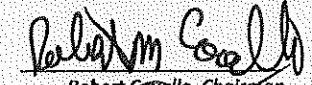



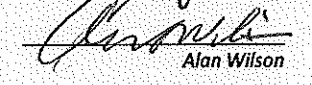
"Inn/Lodging House – A facility that rents rooms to multiple guests. Such rooms are limited to two (2) beds and one crib and cannot be occupied by more than two (2) people and one infant. Any inn/lodging house in a residential district requires a special permit and must meet all board of Health, fire and other safety requirements."

The Board responded they thought it would be difficult to regulate and enforce the number of people in a rental situation.

The meeting was adjourned at 7:05 p.m.

Respectfully submitted,

Georgiana Greenough, Assistant

 Robert Cavallo, Chairman
 Fred Mascolo
 Michael McCourt
 Robert Sparks
 Alan Wilson
Edgartown Planning Board
Date signed: 8/7/2012