



PO BOX 1447, OAK BLUFFS, MASSACHUSETTS, 02557, 508-693-3453  
FAX 508-693-7894 INFO@MVCOMMISSION.ORG WWW.MVCOMMISSION.ORG

## Minutes of the Commission Meeting Held on June 12, 2008 In the Stone Building 33 New York Avenue, Oak Bluffs, MA

### IN ATTENDANCE

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Commissioners: (P = Present; A = Appointed; E = Elected)

P James Athearn (E – Edgartown)	- Ned Orleans (A – Tisbury)
P John Breckenridge (A – Oak Bluffs)	P Jim Powell (A – West Tisbury)
P Christina Brown (E - Edgartown)	P Doug Sederholm (E – Chilmark)
P Peter Cabana (A – Tisbury)	P Susan Shea (A – Aquinnah)
- Martin Crane (A – Governor Appointee)	P Linda Sibley (E – West Tisbury)
P Mimi Davisson (E – Oak Bluffs)	- Paul Strauss (County Comm. Rep.)
- Mark Morris (A – Edgartown)	- Richard Toole (E – Oak Bluffs)
P Chris Murphy (A – Chilmark)	- Andrew Woodruff (E – West Tisbury)
P Katherine Newman (A – Aquinnah)	

Staff: Mark London (Executive Director), Bill Veno (Senior Planner), Paul Foley (DRI Coordinator), Bill Wilcox (Water Resource Planner), Christine Flynn (Affordable Housing Planner)

The meeting was called to order at 7:40 p.m.

### 1. **MOUJABBER: DRI 607 – PUBLIC HEARING (CONT.)**

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Commissioners present: J. Athearn, J. Breckenridge, C. Brown, M. Davisson, C. Murphy, N. Orleans, J. Powell, D. Sederholm, S. Shea, L. Sibley

For the applicant: Matt Iverson (Lawyer), Peter Pometti (Architect), Joe Moujabber (owner).

**Doug Sederholm** reported that the Commission received a letter from the Oak Bluffs Town Administrator regarding a May 27<sup>th</sup> meeting of Oak Bluffs Town Boards for a presentation by the architect.

The Commission has received a new set of plans.

#### **1.1 Applicant's Presentation**

**Peter Pometti**, architect for Mr. Moujabber, reported that in response to conversations at the last meeting, the design has been changed.

- Two feet have been taken off the length of the garage.
- Three feet two inches have been taken of the length of the middle section connector.
- In total, the addition is five feet two inches shorter.
- The ridge of the addition is eighteen inches lower than the existing ridge of the house.
- The second floor balcony was eliminated and replaced with a set of windows.

- The triple door downstairs was changed to a double French door.
- The deck area off the family room is smaller in width than before.
- Lattice work has been added beneath both sets of decks.
- The addition is not visible from the ferry terminal or from the front of the house.
- In lowering the ridge of the addition, the dormers are lower, too.
- By lowering the connector, a hallway downstairs was eliminated.
- The second floor is on one level.
- He outlined the square footage.
  - The existing house first floor living area is 1,169 square feet, plus 543 square feet of porches. The footprint of the existing house is 1,712 square feet. The existing garage footprint is 960 square feet.
  - The proposed addition is 728 square feet on the first floor plus porches, with 137 square feet of porches, creating a 965 square foot footprint.
  - The new garage was originally 24 feet wide. The garage is now 22 feet wide, which affects the upstairs.
  - The existing second floor is 905 square feet. The new second floor is 538 square feet.
  - The lot coverage is based on the certified plot plan which indicates 32% site coverage.
  - The mortgage survey shows the lot as 8,200 square feet. The assessor's records give the figure of 7,841 square feet. The applicant hired Dick Barbini to do a survey which shows 8,180 square feet. Using 8,180, the proposed plan is in compliance with zoning at 32% lot coverage.
- Oak Bluffs boards discussed the question of uncovered structures, in this case porch steps, being within setbacks. There wasn't consensus on whether uncovered steps were an issue, but an adjustment could be made at the top of the steps to bring them within the setback requirement.

**Mimi Davisson** asked about the difference in elevation of the lot. **Peter Pometti** explained that the front most corner is 21 feet; the lower left corner is 16 feet, so there's a difference of 5 feet.

**Kerry Scott** reported on the letter written after Oak Bluffs's joint meeting between the Oak Bluffs Zoning Board of Appeals, the Cottage City Historic District Committee, and the Copeland District Committee, held at the Commission's request.

- The meeting was not a hearing.
- The session began with a brief presentation by the architect. People present asked questions and made general comments.
- Generally people were pleased that design elements from the original house were incorporated into the new design and that the size and scope of the project had been reduced.
- Concerns were that views from abutting properties are affected.
- The current design raised questions of runoff and drainage.
- The lot size may not be adequate for the structure.
- The exterior structure may not meet setback requirements.

**Matt Iverson**, the applicant's lawyer, described their positions on the issues raised at the meeting.

- Regarding views from abutting properties, they have a design that's smaller and narrower. It's still visible, but it addresses views from the sea.
- Drainage and runoff have been addressed.
- Lot size and setbacks have been addressed.
- They view the addition as a secondary and subordinate structure.

**Peter Pometti** added that runoff is designed so that everything slopes to Pasque Avenue into the driveway and they feel that there isn't runoff to the adjacent lot.

**Mimi Davisson** said there's a vertical drop of 5 feet but the drop of the ridgeline is only 18 inches. She asked if there's a way to lower the addition further.

**Peter Pometti** explained they're trying to match the roof pitch of the original building and want the floor heights of the original building and the addition at the same level. By lowering the ridgeline 18 inches, they've lowered the walls and can't really create usable second story addition space if the ridgeline were lowered further.

## **1.2 Town Boards**

No comments.

## **1.3 Public Comments**

**Nancy Reid Hendricks** commented on the proposal.

- On the bluff all the front porches line up, as do the backs of the houses.
- The addition would eliminate that sense of openness along the back of the houses that is characteristic of the neighborhood.
- The family room double door of the addition will look right over their yard. As an abutter, it will have an effect.
- She's glad to see the addition is smaller, but she feels it should only be an addition of 9 feet to fit into the neighborhood.
- Her biggest concern is that it's still pretty big.
- Responding a question from Doug Sederholm, she said the Moujabber lot used to have a one car garage that was similar to outbuildings on abutting lots.

**Sam Rowe** said he's followed the issue in public hearings and in the newspapers.

- He feels everyone has been trying to accommodate someone who has been doing things illegally from the beginning.
- The increase is more than 50% of the original building.
- He said if the Commission doesn't apply it's normal diligence to review of this project, he and anyone else will be able to put up an illegal structure, adjust it, and get away with a 50% increase.

**Matt Iverson** responded to the comment that the existing structure is illegal. A judge from the superior court disagrees. It should be stated that Mr. Moujabber was given a building permit that was later withdrawn.

**Doug Sederholm** clarified, and the attorney agreed, that the issue is still open. The issue of the garage's legality has been discussed in a number of other public forums and is not an issue for the Commission to address.

The resident of 14 Seaview Avenue extension commented on the plan.

- He admires the architect's ingenuity but it jars him to look at the proposal.
- He read a statement about preservation and preserving what the community values.

**Aaron Naparstek** commented on the proposal.

- The plan seems to be heading in the right direction.
- The proposed addition still seems to be too big to be considered secondary in scale and mass.
- The proposed addition is approximately 4 feet taller than the original building. The roof line appears to be shorter because of the elevation of the lot and possibly some excavation.
- The height of the proposed addition would have a significant impact on the viewscape from the back of their house. If the addition were not so tall, the view would be preserved.
- The Copeland regulations may require the posting of a performance bond. In this case, this would be an important regulation to adhere to. The establishment of an escrow account may help ensure the enforceability of offers and conditions.

**Peter Pometti** clarified that there is no excavation. They're using existing grade.

**Stephanie Kiefer**, representing neighborhood families, acknowledged that the most current plan is an improvement but said it still seems too big.

- The question should be whether it is too big for its stated purpose. The stated purpose is an addition onto a five bedroom single family house.
- The ridgeline of the addition may be dropped 18 inches, but the wall and drop is not characteristic of the North Bluff.
- There is an addition of five dormers.
- The exterior wall length, the width, and the dormers will all affect the character of the North Bluff.
- She appreciates the Commission's thoughtful review of the project.

**Doug Sederholm** said the proposed addition would increase the living area of the structure by about 60%.

A neighbor expressed a number of concerns.

- He's concerned that the garage could later be converted into living space. He would expect there would be a firm condition prohibiting use of the garage space as living space.
- He's concerned about the increase in water use.
- He's concerned that the house could be used for employee housing.

**Peter Pometti** said the Board of Health has permitted the existing house for five bedrooms. After the addition, it will still be a five-bedroom house, so the number of residents and water use won't increase with the addition.

**Doug Sederholm** asked if the applicant would agree to a condition prohibiting the use of the house for employee housing.

- The applicant agreed the house would not be used for employee housing.
- The applicant agreed that the garage would not be used for living space.

There was a discussion of runoff.

- **Belleruth Naparstek** said she wanted to speak for the people behind the structure. They were badly impacted by runoff. There is an increase of pervious surface. Water run-off is a problem.
- **Bill Wilcox** explained that roof run-off should be guttered and run off should go into dry-wells.
- **Peter Pometti** explained that they have not yet submitted a run-off plan. Gutters are problematic because they may not fit with historic district detailing.
  - They've shortened the driveway and lowered it. They'll have a French drain in front of the garage.
  - In terms of water going to the harbor, water seems to be going the other way.
  - They have no problem containing it.
- **Bill Wilcox** said the site is at the high point of the bluff so run off may go off into Nantucket Sound.

**Ms. Kiefer** asked about the demolition of the existing new structure. **Peter Pometti** will submit in writing that they will remove the structure in the accepted manner. **Matt Iverson** specified that they submitted as an offer that construction will take place after Columbus Day and before Labor Day.

#### **1.4 Commissioner Questions**

**Mimi Davisson** asked whether the Copeland District has allowed other buildings that are historically pristine to expand.

**Chris Murphy** suggested that the applicant create a dry well for roof runoff and garage run off.

**Kerry Scott** thanked the Commissioners for their hard work.

**Doug Sederholm** continued the public hearing until Thursday, June 19<sup>th</sup> at 5:00 p.m. for the purpose of receiving written testimony answering previously asked questions. No new testimony will be taken unless a significant new issue is raised.

## **2. M. V. AGRICULTURAL SOCIETY: DRI NO. 374-M – DELIBERATION & DECISION**

*Commissioners present: J. Breckenridge, C. Brown, M. Davisson, C. Murphy, K. Newman, J. Powell, D. Sederholm, S. Shea, L. Sibley*

**Jim Athearn** recused himself.

**Doug Sederholm** gave the LUPC report.

- The discussion at LUPC centered on a vegetative buffer along State Road. The original approved plans show a green buffer but not what was expected. Vegetation seemed to be restricted to the State Road right of way. Abutters expressed concern about noise and traffic.
- At LUPC Chris Murphy moved to recommend a condition that the applicant provides a 20 foot buffer on its property along State Road. The buffer should be like a traditional New England hedgerow, not too high and not too dense, with the intent of not entirely obscuring the view from State Road.
- LUPC voted unanimously to recommend that the Commission approve the new building and the buffer condition, as well as approve the project as built, including the existing light poles.

***Linda Sibley moved, and it was duly seconded, to approve the proposed new barn, as well as the rest of the landscaping and site installations on the property as they exist today, with a 20' hedgerow along State Road.***

**Kathy Newman** asked the total amount of the buffered area and what the usual width of a buffered area is. **Chris Murphy** said that the State Road right of way is 10 to 15 feet and he is suggesting that the Agricultural Society buffer be another 20 feet.

**Linda Sibley** said the applicant has done a great job of expressing what the Commission is looking for. She feels, however, it's important that the applicant submit the landscaping plan to LUPC so it's clear where they'll concentrate their plantings and where they might leave the view to open space.

***Linda Sibley amended the motion to include that the final landscaping plan should be submitted to LUPC.***

**Christina Brown** said the language of the motion states the requirement of a hedgerow, meaning some natural vegetation partially screening the open space and creating a transition to the field.

**Chris Murphy** said that the Commission is making this a lot less stringent than it might, and perhaps the Commission should consider a 50 foot no-cut zone. This is a public parking lot.

**Christina Brown** said that there is a distinction between a hotel, a church, and a farm field, and the kind of buffer that should be required. This would be a hedgerow that defines and softens the views, even though the view is sometimes parking.

**Chris Murphy** said that parking sometimes takes place eight or nine times a month.

**Linda Sibley** said that generally people do want to see the Ag Hall Buildings and the hayfield. If there's a problem with parking along roads when the field is ready to be hayed, that is a different problem that won't be resolved by widening the buffer.

**Doug Sederholm** said the public hearing did not address parking as a problem.

**Linda Sibley** said thinks it should be possible to see the barn and field, and there shouldn't be a wide or dense buffer.

**Chris Murphy** said this project was put in a residential area and there is an impact on the area. There are light poles that have become permanent which has an impact on neighbors. The Commission has the duty to protect the neighbors as much as it can from this intrusion.

**Christina Brown** said they only turn lights on during the Fair. They left the light poles up because it's expensive to take them down. She said that there was no oral testimony about the light poles. There were two letters submitted.

**Kathy Newman** asked for confirmation that the as-built plan is the aerial photo.

**Mimi Davisson** said she likes consistency. If there are fifty foot buffers on other projects, there should be fifty foot buffers on this one. The light poles should also be consistent with other projects. Just because everyone loves the Ag Society doesn't mean that the project should have different conditions regarding lighting.

**Doug Sederholm** said consistency with all other decisions doesn't always work. Here we are talking about views of a field.

**Linda Sibley** recommended that a condition be included that the lights would be used only during the Fair, based on testimony.

- She added that the applicant had testified that exterior lights will be turned off when not in use and that should be included as a condition.
- She commented that the Fair lights are much more obtrusive than the parking area lights.

**Jim Powell** supported Linda's condition as a way to support the initiative to save Island road character and to support the neighbors.

**Chris Murphy** said he's not suggesting that the light poles be taken down. He said that when the Commission first considered the project, it did recommend a viewpoint from State Road. When Jane's Fair Way went in, that view also became open. He would hope that the applicant would fill in the gap through which the barn can be seen.

**Linda Sibley** said that she is suggesting that the plan come back to LUPC for approval so neighbors are sufficiently protected and but that there are also open views of the field and the barn.

**Doug Sederholm** said he thinks the proposal is fine without the conditions. The applicants have done a fine job managing the field, lighting, and buffer, and he trusts that they will continue to comply with the original buffer condition.

Commissioners agreed that the benefits are clear and outweigh the detriments.

***A roll call vote was taken on the motion to approve the proposal with the following conditions:***

- ***A landscaping plan for the vegetative buffer along State Road will come back to and is subject to the approval of LUPC,***
- ***The light poles will only be used the nights of the fair,***
- ***Exterior lighting will be turned off when the buildings are not in use.***

***In favor: J. Breckenridge, C. Brown, M. Davisson, C. Murphy, K. Newman, J. Powell, S. Shea, S. Sibley. Abstentions: None. Opposed: D. Sederholm. The motion passed.***

### **3. NOVA VIDA: DRI NO. 603 – PUBLIC HEARING (CONT.)**

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*Commissioners present: J. Athearn, J. Breckenridge, C. Brown, P. Cabana, M. Davisson, C. Murphy, K. Newman, J. Powell, D. Sederholm, S. Shea, L. Sibley*

*For the applicant: James Weisman (architect); Darran Reubens (architect); Pastor Valci Cavalho (pastor).*

**Chris Murphy** reopened the public hearing.

#### **3.1 Applicant's Presentation**

**Jamie Weisman** thanked the Commission for the process. If they hadn't had to keep evolving the project, the proposal wouldn't be anywhere near as good. He apologized to the neighbors for lack of communication. There has been a meeting at the Church with the neighbors.

**Darran Reubens** explained the proposed changes.

- After discussion with the fire department, a change is proposed to the exterior.
- Winter activities will end by 9:00 p.m. Summer activities will end by 10:00 p.m.
- The facility will be used only for church-related activities. It will not be rented out for outside weddings or parties.
- The day care is for twenty-eight children for the Martha's Vineyard Hospital. The church will continue the daycare at the same capacity with no intention of increasing the numbers.
- Parking numbers have changed from 37 to 34.
- The landscaping plan adds oak and holly towards the north side and pitch pine towards the south side.
- Exterior lighting code requires that any exit doors have artificial lighting. The proposal is for manually-operated, downward lighting.
- An onsite review of structure indicates that reinforcement on the inside may be required. The exterior won't change. Certification by structural engineer is part of the building application process. The reinforcement will be certified.

**Darran Reubens** reported on questions that were asked at previous hearings.

- Deacon Perotta explained that water pressure depends on how far the property is from the source. Atmospheric pressure may affect water pressure by two or three pounds per square inch but this building's water use will not affect water pressure on Ryan's Way.
- Technically the Church could hookup to the high school wastewater system if and when it is connected to the town sewer. The Church is open to hooking up to it.
- The day care is not a home business because there is no residence on the property.
- The fire chief looked at the plan. The plan seemed okay to him. The only change is that the road needs to be eighteen feet wide.



- The Church wants a kitchen. The health department requires that it be commercial. It won't be rented and will only be used for church-related activities.
- Some kind of internal support will be necessary for structural integrity.
- Seating capacity is based on state code. Fewer than 500 seats requires two means of egress. The proposed aisle width and 150 seats meet state code.
- The pastor and architects met with the neighbors and reviewed parking and landscaping.
- The community room will be used only for the Church. That wasn't the original idea but it's the idea now.

**John Breckenridge** asked about special activities. **Jamie Weisman** said that the language being used is that the community room will only be Church-related activities and will only be after Church services, weddings, and religious classes

**Doug Sederholm** said that Mark London has pointed out that the Oak Bluffs Zoning administrator has stated that a stand-alone community center at this site is not allowed. Any activity has to be Church-related.

**Doug Sederholm** said, at the last session of the public hearing, members of the neighborhood expressed concern about late night noise and socializing at the site late at night. **Jamie Weisman** confirmed that they are offering that there will be no outside activities and socializing outdoors after the end of the activities.

Commissioners and the applicant discussed water use.

- **Doug Sederholm** asked if the applicant is offering further mitigation if the water meter reading is greater than 153,000 gallons which is 10% greater than the 2006 reading.
- **Bill Wilcox** said the average use of the previous owner was 144,000. The Church use in 2006 was 139,000 gallons.
  - 153,000 is not within the guidelines of the policy for the watershed.
  - The water quality policy states, on sites where there is previous use over the guidelines, that level of use may continue, but there should be no increase in use from the new project.
  - 153,000 gallons represents a 10% fractional increase.
  - The nitrogen load limit is 5.9 kgs per year. The Church would be slightly over 17 kgs per year.
  - A denitrifying system will take out about 40%, dropping the nitrogen down to 12 kgs per year. The site is in the Sengentacket watershed which is a nitrogen sensitive watershed.
- **Jamie Weisman** said this is a theoretical problem so far. They're eliminating nine bedrooms. They feel they'll be way below previous use.
- **John Breckenridge** asked if the applicants would be willing to denitrify this parcel of land.
- **Darran Reubens** said he thinks the applicant would like to hook up with the high school.
- **Jamie Weisman** said if there was nothing on the horizon it would be a different situation. It doesn't make sense to spend \$50,000 for denitrification when they could potentially hook up to the high school.

- **John Breckenridge** asked if they could come up with a figure of money they could put in escrow to use for their own denitrification or other purposes, which would be considered a benefit.
- **Kathy Newman** asked how much the day care contributes to the nitrogen issue.
- **Bill Wilcox** said the daycare with 28 children uses 168 gallons of wastewater per day, 60% of the Title 5 design flow. The calculation for 150 seats are 270 gallons per day which is also 60% of Title 5 design flow. The daycare flow is equal to an average household. Cutting the daycare in half would reduce nitrogen contribution by about 4 kgs annually.
- **Kathy Newman** wondered whether reducing the number of kids in daycare might help deal with traffic and nitrogen.
- **Bill Wilcox** reported that the town reads the meters at the end of June. The reading is from June 2007.
- **John Breckenridge** pointed out that reducing day care reduces nitrogen contribution by only 4 kgs.
- **Mimi Davisson** asked if the Commission policy relates to change in use of the existing structures.
- **Bill Wilcox** read the policy: If the previously developed site already exceeds the nitrogen loading limits in this policy, the total nitrogen loading of the property shall not be increased.
- **John Breckenridge** asked if there was a way to discuss how to mitigate the nitrogen contribution today, even though the water policy doesn't require mitigation in this case.

There was a discussion of the building structure.

- **Susan Shea** asked who did the inspection and what type of reinforcement would be needed.
- **Darran Reubens** said he did the inspection and the building will need some type of support in the middle. It's forty feet wide. At twenty feet there will be a beam. The floor has to be held up.
- **Jamie Weisman** said there are many ways to reinforce it. A structural engineer will have to sign off on it.

**John Breckenridge** asked about the number of people who would be able to fit in the space.

**Jamie Weisman** said that the building code doesn't specify capacity. Clear aisles specify capacity; with three foot aisles the seating capacity would be 150 people.

**Mimi Davisson** suggested that staff provide a list of churches' capacity and number of parking spaces so Commissioners may see the comparison.

**Mark London** made a number of clarifications.

- Commissioners have a memo on water pressure.
- He explained that daycare is permitted as of right whether there is a residence on the property or not.
- Under the Dover Amendment, churches are permitted in any district. The town may impose reasonable regulations on development but may not prohibit the use.

- Home business regulations do allow a business use of 750 sq. feet accessory to a residence. This does not apply in this case.
- Noise regulations prohibit noise after 11:00 p.m.
- The resolution of the cease and desist order is waiting on the Commission's decision.
- It is up to the building inspector insures that the building is structurally sound.

**Peter Cabana** said he's hearing that the applicant can't go beyond 150 occupants because of the number of egresses. **Jamie Weisman** said there are no code limitations; the applicant chose to limit occupancy to 150 people.

**Susan Shea** said that one of the neighbors had asked who would be managing the property.

**Pastor Cavalho** said that the trash is picked up every Tuesday by Bruno's.

### **3.2 Public Comment**

**Preston Averill**, 15 Ryan's Way, asked when summer and winter begins. **Chris Murphy** suggested that the applicant add specific dates to the winter/summer offer.

**Anthony Capelli** asked about the cease and desist order. **Chris Murphy** said that the cease and desist was issued by the building inspector and he should be the person to answer the question about it.

**Christina Brown** said she was glad to hear that there had been a meeting between the applicant, architects, and neighbors and wondered what the issues were.

**Russ Wendt** said that they did have a meeting on June 9<sup>th</sup>.

- Darren, some of the neighbors, and the pastor were at the meeting. They met at One Ryan's Way.
- It was productive. The neighbors saw the top drawing.
- He hoped that the Commissioners knew that the meeting was taking place and were invited.
- The neighbors passed on their feelings about the impact of the project.
- There are ten properties on Ryan's Way. One Ryan's Way has changed hands and one other property, Dr. Campbell's, is for sale. The eight others are homes are in the hands of the original owner.
- He likes the peace and quiet.
- During the meeting, he made some suggestions for steps that could lessen the impact, including that all the parking abutting Anthony Capelli's disappear.
- A second consideration would be to close the second egress at the curve and widen the other egress onto State Road.
- They would like to see a 50-foot buffer on the neighbor's side.
- Rather than a six-foot fence, he would like to see plantings such as arbor vitae.
- The church is not 2800 square feet. The structure is well over 5600 sq. ft.
- Noise and lighting are an issue.
- Mr. Cavalho said he would move the parking. He didn't want to reduce his parish.
- It was a nice meeting but there wasn't any give and take. We're still butting heads. The pastor doesn't really want to listen. He has reduced hours from 10:00 p.m. to 9:00 p.m. but they haven't seen other changes.

- Extrapolating from the World Revival Church parking spaces, this church should have 56 spots which is high impact. The other nine properties are all residences.
- He has yet to see the articles of organization of the church. He hasn't seen financial statements. They're concerned about how long the church is going to be there. They have yet to hear from any parishioners. He hasn't heard about the cost of the church or where the money is coming from.
- He's not sure how a daycare and church can operate at the same time, and how the commercial kitchen is integrated.
- The term 'related church activity' isn't specific enough. They want to know exactly what that is.
- He wondered whether a member of the church could invite 149 people to use the church or community center for free. He wondered if everyone on the church property has to be a member.
- He said that Mr. Cavalho said he needs 150 people to make the finances work. Mr. Wendt said this seems like a business. If it weren't a business, then you could permit it for 25 people and then increase the number.
- The cease and desist is in place until the Commission makes its decision on aspects of the project.
- They propose using the basement for a community center. Only 768 square feet are available. We need to know the impact of where the 150 people are going to consume their food.
- They will have to get food deliveries. 150 people are a lot of people to feed. Where are the trucks going to back up? Where is the food going to be stored?
- Is the elevator considered one of the egresses from the basement?
- One Ryan's Way was never considered a boarding house. The traffic study indicating there were 100 trips a day is erroneous because the residents of Ryan's Way have yet to see that site used as a boarding house for the previous owner.
- They would like to see 50 foot setbacks for the property.
- They would like to see reasonable, dimensional review of the parking. He asked where overflow parking would go. He asked if they would park at the World Revival Church.
- "We're not upset with Mr. Cavalho. We need answers to this."
- The light issue is still not resolved. The kind of lights and when they're on has to be specifically defined. There has to be enforcement.
- He wants to know what kind of sign and what size will go up.
- He wants to know who will be responsible when a car alarm goes off. Is there a real property manager?
- They would like to know if there will be a performance bond. If the project is not completed, what will happen?
- They would like to know something about the organization that's in there. They haven't seen anything to that effect.

**Mac Stark**, Buddy's Way, thanked Paul Foley for his work and the help he's given.

- He has seen the neighborhood scream for a stop sign and it isn't until someone dies, that the highway department erects the sign.

- There are two churches within a block of each other with services at the same time. If there is a fire on Buddy's Way on the night of the service, how will the fire truck get to his house.
- They are not opposed to the Church. The issue is the impact on their community. They are being left in the cold.
- How many churches are enough?

**Ann McManus** thanked Paul Foley because he's listened to the neighbors' concerns. He's tried to get answers.

- They are not opposed to churches. They are opposed to the impact of the number of people on their community. The churches are a block apart with services at the same time.
- If the applicant isn't going to do what he says he's going to do, what is their recourse? They had a bad experience with another church and are still having it.
- They wonder what their rights are.

**Anthony Capelli** said it seems like the playing fields aren't level.

- He asked why the cease and desist wasn't complied with. It's hard to have trust in the pastor if he didn't comply.
- Based on what has happened in the past, compliance is a big issue. The specifics have to be spelled out.

**Linda Sibley** said the question of whether the Commission's authority supersedes the Dover Amendment is a question for the Commission's attorney.

Commissioners discussed asking the Commission Chair to discuss with town counsel the interplay between the Dover Amendment and Chapter 831.

**Kathy Newman** said she wants to be clear that the applicant should be developing an offer related to nitrogen.

**Darran Reubens** clarified that the bottom drawing has been changed to comply with the fire chief's requests.

**Mimi Davisson** asked whether there could be one access on Ryan's Way.

**Susan Shea** asked whether they can move the parking to the other side.

The applicant did state that they will pursue access through the Mormon Church site.

**Russ Wendt** read the definition of impact from Webster's Dictionary: striking or collision; to pack firmly together; to strike forcefully. He read the definition of reasonable: being in accordance with reason; not extreme or excessive; moderate, fair; being within the bounds of common sense; sensible; not making unfair demands; logical; average.

**Chris Murphy** closed this session of the public hearing and continued the hearing until June 26<sup>th</sup> for the purpose of receiving written testimony.

***Commissioners agreed to suspend the rules and extend the meeting to 11:05 p.m.***

#### 4. OPTIONS IN EDUCATION: DRI NO. 423 M-6 – CONCURRENCE REVIEW

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*Commissioners present:* J. Athearn, J. Breckenridge, C. Brown, P. Cabana, M. Davisson, C. Murphy, K. Newman, J. Powell, D. Sederholm, S. Shea, L. Sibley

*For the applicant:* Bruce MacNelly (architect)

**Linda Sibley, moved, and it was duly seconded, that the Commission follow the recommendation of LUPC with regards to the Charter School and not hold a public hearing for the reason that the proposed project is within the scope of the Master Plan that has already been approved by the Commission. Additionally, the Commission should send a letter to the West Tisbury building official expressing its appreciation for the fact that he continues to refer the Charter School to the Commission and explaining the reasoning for not concurring.**

**Linda Sibley** said the decision to not concur is not arbitrary. Each time the Charter School has proposed a modification, it has been in keeping with the school's 2004 Master Plan which was approved by the Commission.

**Christina Brown** added that the modification proposes no increase in students or staff and no change in parking.

Commissioners reiterated that West Tisbury's referral of a modification to an approved DRI is totally appropriate.

**John Breckenridge** said that the only reason he would consider opening this up for a public hearing is for a review of the school's denitrification. **Chris Murphy** suggested, the next time the school comes in for a modification, it could address the nitrogen issue.

**Mimi Davisson** suggested that it would be helpful for newer Commissioners to review the Master Plan.

**Bruce MacNelly** said they are adding a few toilets.

- He clarified that they are not increasing load, but, because the addition is displacing some of the existing system, they're changing the system over to trenches which is an upgrade.
- The maximum number of kids is 180. They're at 170.
- Impact on abutters, a gymnasium and a fire station, was dealt with in the Master Plan.
- They're adding a sprinkler system.

**Peter Cabana** said the school is going carbon neutral and it would be great if it were to present to LUPC that process/project, not as a requirement but as a teaching tool.

**A voice vote was taken. In favor: 10. Opposed: 0. Abstentions: 1. The motion passed.**

**Linda Sibley moved, and it was duly seconded, to approve the modification. In favor: J. Breckenridge, C. Brown, P. Cabana, M. Davisson, C. Murphy, K. Newman, J. Powell, D. Sederholm, S. Shea, L. Sibley. Opposed: None. Abstentions: J. Athearn. The motion passed.**

**Linda Sibley** suggested that a presentation of the school's master plan that would be useful.

**Bruce MacNelly** invited Commissioners to a presentation of the school's energy feasibility study on Tuesday, June 17<sup>th</sup>.

The meeting adjourned at 11:05 p.m.

Christina Brown

Chairman

March 9, 2009

Date

W. J. Means

Clerk-Treasurer

March 6, 2009

Date