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Minutes of the Commission Meeting Held on May 17, 2007 In the Stone Building Oak Bluffs, MA

IN ATTENDANCE

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

P James Athearn (E – Edgartown)	P 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)
- Peter Cabana (A – Tisbury)	P Susan Shea (A – Aquinnah)
P 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)	P Richard Toole (E – Oak Bluffs)PP
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), Jim Miller (Traffic Analyst), Christine Flynn (Affordable Housing Coordinator)

The meeting was called to order at 7:15 p.m.

1. OYSTER BAR & GRILL (MAD CORP. LLC): DRI NO. 596 – 57 CIRCUIT AVENUE – PUBLIC HEARING (CONT.)

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

For the applicant: Mike Gillespie, owner; Wyman Shaw, owner; Maurice O'Connor, architect

Christina Brown re-opened the public hearing on the application to demolish most or all of the existing building and build a new three-story building with a basement.

1.1. Applicants' Presentation

Mike Gillespie explained that he met several times and worked with Norm Whitney, Doug Ulwick, and Russ Dagnall, of the Camp Meeting Association to work out some of the issues.

- There is clearly room to make adjustments and to make the project more palatable for abutters.
- They addressed massing, noise, the space between adjacent buildings, and privacy for neighbors to the rear.
- The elevator tower has been moved to the front.

- The design now has a mansard roof, with the intention of diminishing the massing. The final revision has a 5½ ft. kneewall on the second floor and increased slope in the second and third floors.
- The function hall was decreased about 50% to 1,353 square feet, and they've added an apartment and bathrooms in the rear of the function hall, which creates a noise barrier.
- Noise is kept towards Circuit Avenue. Entrances and exits are directed to the front of the building. The only rear exits are fire exits. The resident entrance is at the front.
- The applicants listened to campground residents and tried to create solutions.
- It's not ideal to have the elevator and staircase in front but it makes sense to the community. Designing a smaller function hall makes good business sense to help people get along.
- They are trying to put a gate between their property and 55 Circuit Avenue to limit access.
- The new building will insulate noise and with the geothermal system it will create a better situation than currently exists. Noise pollution from exhaust fans, air conditioning and refrigeration will be eliminated because they'll be underground.

Maurice O'Connor, architect, described the new design.

- The major revision was to move the elevator tower and stairs and use the front as the main entrance for everyone.
- There will be six feet of spacing between the two properties
- The back of the building will be progressively stepped back as it goes from the second floor to third floor. The first floor will be stepped back 3 feet and by the third floor the building will be stepped back 7 feet.
- Windows on the second floor in back will have translucent glass and hinge from the bottom to protect neighbors' privacy..
- The entire structure has been dropped two feet to a total of 35 feet. Oak Bluffs allows towers to go up to 50 feet with a special permit from the Zoning Board of Appeals to keep the historic character of the town.
- The roof design has been changed from twin gables to a mansard roof.
- The function hall has been reduced from 2,350 sq. ft. for 220 occupants to 1,350 sq. ft. for 165 occupants.
- There will be an additional buffer of living space between the function hall and the west edge of the campground. The exterior walls have a Sound Transmission Coefficient (STC) rating as high as 63 making them 80% quieter. Additionally they'll be using laminated glass with an STC rating of 42. Also the geothermal system will make a difference in regard to noise.
- This is their third design. Some of the details need to be fine-tuned. It would be helpful for them to have some leeway for the final design. They are willing to work with the Town Historic Commission on the final details. The Historic Commission said the existing building was not deemed historic, but the owners would like to work with the Historic Commission. The footprint will remain the same, but the architectural details might change.

John Breckenridge asked if the applicant would be willing to go back to the Cottage City Historic Commission for review of the final plan. **Maurice O'Connor** asked that any approval from the Commission allow them to revise and make changes contingent on approval from Oak Bluffs Historic Commission.

Maurice O'Connor and **Michael Gillespie** answered Commissioner questions.

- Noise mitigation materials will be on any exterior walls of the restaurant, not on residential areas.
- There will be no compressors outside.
- They are proposing that propane tanks be moved underground, outside the foundation.
- The second floor doors facing the deck on Circuit Avenue will be laminated and sound-proofed. Doors won't be left open when people are milling about, both for noise and loss of air-conditioning.
- The railing on the sidewalk in front of the building, which would be brought down to ground level, is maintained to keep the look of the existing building.
- The basement design was reworked so all required plumbing fixtures for each floor are on the floor, not in the basement.
- Bicycles and trash can be kept downstairs in a storage area. Bottles will be dumped inside in the basement before being put out for transfer. It's a law that bottles are separated and are recycled. It will be better to have bottles taken care of inside. They have less control over trash pick-up.
- The roof deck won't be used by the patrons. Commissioners expressed concern that it could be noisy even just with tenants. The roof deck adds a lot for the people who live in the building and don't have a yard.
- They haven't made that much progress on the roof deck with campground residents. It's a good thing for the residents and could have gardens. He understands there's an issue about noise, but it's not for parties and reveling. They will put restrictions in the leases – if noise is an issue, the people will be thrown out. The roof deck is pushed toward the front of the building so there will be no sight lines into the neighbor's yards. Access is through an internal spiral stair.
- In response to a question as to the location of the propane tank and a requirement that it be ten feet from the building, he said that the applicants will have to look into where they can place it.
- Stormwater and roof run off will probably go to two back corners to two drywell pits. They are trying to keep any water on the property. They are not sure of the plan for keeping run-off from the front on the property.

Doug Sederholm asked about controlling access to the deck. **Michael Gillespie** explained that:

- Management people would be on site most of the time.
- The roof deck will be closed down at sundown.
- The rear rail of the roof deck is set back at least 20 feet from the rear of the building.

Jim Powell asked about the south elevation on the first floor and the distance from 61 Circuit Avenue. **Maurice O'Connor** and **Michael Gillespie** responded.

- The first floor wall is an existing wall where the kitchen is. The only part of the building they're thinking of keeping is the kitchen because the set-up is so complicated.
- There are about 6 or 7 feet between the exterior wall of the kitchen and the Hilliard's. The Oyster Bar property line abuts the beginning of the Hilliard building. It would be a problem to put a fence across it. It will be a fire exit for the building. The alley would be used strictly for fire access.

Andrew Grant prepared the traffic impact assessment. He focused on the regional aspect of the plan.

- The traffic impact assessment is related to the development plan. Oak Bluffs wants this kind of development in the town center. Walking and bicycling are viable alternatives. The site is a quarter mile from ferries, public transit, taxi service, and private boats in the harbor.
- The current location has lodging nearby. People coming to the Island for weddings will get information to get a place to stay nearby. People will still drive their cars. There are nearly 500 spaces that serve Oak Bluffs, which has the best scenario for public parking. If this project were sited elsewhere it would have to give up a lot more land to parking which is not in keeping with the Regional Transportation Plan.
- The applicants are choosing to make an investment in the town center where parking can be a pain in the neck, which may inspire people to change their habits and find alternative transportation.
- Trip generation figures indicate that the parking demand for the function hall will be about 40 vehicles, which can be accommodated in town or with off-site parking. He said the number could vary wildly.
- Mitigation measures include an annual payment into the Oak Bluffs Parking Mitigation Fund, which Oak Bluffs can choose to apply directly to traffic mitigation.
- The applicants will give a traffic questionnaire to employees that will be geared toward keeping employee vehicles out of town. Employees who walk to work will get a free meal. Employees who request one will get a VTA pass.
- The applicants will purchase bikes for employee use.
- They will pursue arrangements for off-site parking modeled after Balance's mitigation.
- The applicants will contract with local taxi companies to transport customers to and from function hall events.
- Information on traffic and transportation will be part of employee and renter handbooks.
- They are committed to getting the information out that vehicles aren't necessary when people come to a wedding event.

Jim Miller said the applicants have a substantial package of mitigation. They are in negotiations for off-site parking, but won't go into a contract for off-site parking until the project is approved. The Commission may want to see a final parking plan come back to LUPC.

Linda Sibley asked how far an employee has to walk to get a free meal.

John Breckenridge asked how many spaces they want at the Oak Bluffs School. **Andrew Grant** said that:

- The applicants are pursuing 20 spaces.

- The mitigation fund contribution is based on the number of seats. Every four seats requires one parking space.

Mimi Davisson asked about the number of rental units within walking distance. She is curious about the 500 parking spaces. **Andrew Grant** said that:

- The 500 spaces are on page 9 of the original traffic impact assessment, and don't include spaces on residential streets.
- The answer isn't to create more spaces in town, but to look toward alternatives.
- 25% of the people attending events will be using alternative travel modes.

There was a discussion of the parking mitigation fund.

- **Doug Sederholm** asked how the mitigation fee is determined.
- **Andrew Grant** said that the mitigation fund number would be adjusted based on the number of spaces the applicants can provide.
- **John Bradford** said the mitigation fund is a dedicated fund to be used by the Board of Selectmen only for mitigating parking issues.
- **Andrew Grant** said the fund is very new. Only three projects have been approved under the Parking Mitigation Fund so far.

Michael Gillespie clarified the difference between occupancy and capacity. The restaurant is currently approved for occupancy of 193 and seats for 120 by the State and Oak Bluffs.

Occupancy is the number of people allowed in the building, including staff.

- The upstairs will not be for overflow seating. It would be for functions and a supper club.
- The supper club will be no more than twice a week with one seating for a special dinner for 100 people.
- In response to a question from Linda Sibley about the inclusion of the supper club in the application, he explained that the Oyster Bar would hold two functions per week during the season, no matter what the function is.
- During July and August, the Supper Club would be about 100 people. A wedding would be about 165 people including staff.

John Breckenridge wondered whether 165 may not be permitted occupancy by state regulations. **Maurice O'Connor** said:

- There are two aspects of 'occupancy'. One is the number related to building code which determines size and number of egresses, etc. The second aspect is the number of people in the building.
- Under the building code, there's a lot of gray area for calculating occupancy.
- The project is representing that the total maximum occupancy on the second floor is 165. The state and town permits will allow a maximum of 165.

Chris Murphy asked about the definition of 'in season'. **Michael Gillespie** said that "in season" is basically Memorial Day to Labor Day, the months of June, July, and August.

Mimi Davisson asked about off-season functions. **Michael Gillespie** said that the applicants haven't offered limitations during the off-season.

1.2 Public Comment

Doug Ulwick, architect consultant to the Campground Architecture Committee, helped author Norm Whitney's letter of May 14th.

- The applicants and Norm Whitney had a very successful discussion. The elevator and stairwell have been moved to the front and the living space has been moved to be a buffer between the neighbors and the function hall. The mansard roof has also reduced the apparent size of the building.
- They believed they had assurances on some other issues that they don't feel have been addressed.
- There was to be a 6 to 8 foot alley in the back of the building.
- They discussed gating off the public walkway from Circuit Avenue. They would encourage that as a good thing to limit late night incursions.
- They like the frosted glass on the rear windows but were told they would be non-operable for visual privacy and audible privacy.
- In regard to the site layout and plan and setback, they're still not seeing a real site plan. A lot of important decisions are being made without a site survey.
- They were hoping to see an alley across the back of the building, and more of a setback to let light in. The actual mass of the building hasn't lessened. The progressive stepping back of the floors is good but the Campground didn't really get what it was after.
- There is a strong sentiment that the roof deck is not a good thing visually and for noise.
- The time they spent in discussion was useful because they saw some positive changes. They'd like to see more.

Maurice O'Connor and **Michael Gillespie** clarified that the main entrance for all parts of the building is at the tower in front.

- To move the building forward, they would need to get a variance. In five years Maurice O'Connor hasn't gotten a variance in Oak Bluffs.
- The breezeway in the rear of the building is the six feet they discussed.
- The largest gap or breezeway between the buildings is far greater than anything that exists currently between Circuit Avenue buildings and the Campground.
- There's not a lot of information about lot lines in the area. Surveyors and engineers often can't get the information for exact surveys so they advising using the mortgage plot plan.
- The applicants and Commission discussed whether there would be a continuous six feet of breezeway between the back of the Oyster Bar and the Greenups.

Rena Greenup was at the meeting with Michael and the others.

- She believed that the windows would be closed and opaque. Now we hear the second floor, but not third floor will have opaque, closed windows. She asked what happens to their privacy.
- She has asked to see the shadows. The way it was is unlivable.
- Michael wants to do well. His heart is in the right place.
- The garbage is now in the alley. The gate is broken.

Brenda Mastromonaco, speaking for her father who owns the adjacent building, submitted pictures.

- They are pleased that trash won't be in the walkway between the two buildings.
- She asked where the lot line is.
- The shed on the back of the building was within just a few inches of the building up until the 1980s. They have located a bound, but they're not sure it's in the right position. They have done some measurements.
- Propane tanks can't be buried 10 feet away from any buildings. Now they're within a foot or so of the back of the shed.
- They would still like a fence to break the properties apart. They're grateful renters won't have to use the alley.

There was a discussion of the boundaries.

- **Chris Murphy** asked if the applicants have found the boundaries.
- **Maurice O'Connor** said they haven't because there isn't a lot of good information. What normally happens is that the surveyor will write a letter to the building inspector saying he can't find the boundary information. The best they can do is use the mortgage plot plan. When they get ready to build, his guess is that the surveyor isn't going to find any more specific information.
- **Chris Murphy** said that another alternative is that the neighbors can come to some sort of agreement. He suggests the best thing to do would be come to an agreement with the neighbors.

Sue Thurber said the Hilliard building has been in the family since 1942. The bounds are indicated in the letter they submitted.

Russ Dagnall said the Camp Meeting Association has engaged a surveyor to survey the rear bounds and tell them how exact they can get.

Ray Greenup said the drawing on Page 01 of the Greenup house is inaccurate because their house follows the boundary line.

Ann Margetson spoke on the general issue of the proposal.

- They are now going to be dealing with a building with 350 potential guests in a neighborhood that's so crowded that the buildings are touching each other.
- The Commission should be dealing with the impact of that many people. It should be dealing with the regional impact, not with the building. The owners can't impact people's habits.
- Putting 350 in the building is a tragic regional impact. Weddings are twice as noisy as regular dinners.
- She challenged Commissioners to want to live next to a building with 350 eating dinner and carousing.

Paul Foley asked the capacity of the Tabernacle. **Russ Dagnall** said the capacity is 2500 but they don't serve liquor.

David Howe said a lot has been done to lessen massing and noise but they still have concerns.

- The building hasn't been stepped back the way they'd like and the roof deck is an issue for noise and safety.
- The back windows are operable and the third floor windows aren't affected.

1.3 Commissioner Questions

Michael Gillespie explained the residential component in response to Commissioner questions.

- They are proposing five residential units, two dedicated to staff.
- The units are strictly for long-term rental and will not sublet on a week-to-week basis.
- They have talked with Christine Flynn. Housing for management is the first priority, then staff, then the general public.
- The affordable housing component will adhere to state guidelines. The applicants will structure an offer based on two affordable units leased by the year to people at or below 80% Area Median Income, if that is what the Commission wants, and 3 year-round leases.
- The applicants do not want to add a condition that the residential units will not be condo units. The Camp Meeting Association has said it doesn't want short-term rentals but it doesn't have a problem with condos. If the units are condos, they will not be used for short-term rentals.

Michael Gillespie explained hours of operation.

- The restaurant is open 11 a.m. to 12:30 a.m.
- The function hall would shut down at 11:30 p.m. with everyone out by 12:00. Last call would be 11:15. People would be gently moved out at 11:30.

Commissioners discussed architectural details and the need to have the Cottage City District Commission or the Oak Bluffs Historic Commission review the architectural plans, as well as the possibility of having the revised plans return to the Martha's Vineyard Commission for approval. The applicant will discuss the issue and propose an offer.

Mimi Davisson wondered if the applicants would be willing to consider building the deck without the circular stairway access to see what the building's noise impact really is, and then install access. **Michael Gillespie** said he would be willing to consider that. **Mark London** said that it might be difficult to install a stairway after construction was completed, and it might be better to install the staircase and keep it locked.

Commissioners wondered if the building footprint could be shrunk on the two sides and whether the applicants could sacrifice another foot or two. **Michael Gillespie** explained that the original footprint is moving back, the side alleyway is being used only as a fire exit, the back alley is six to eight feet wide; they have moved the proposed building back three feet from the existing footprint.

Commissioners identified the following needed additional information.

- Lot lines are a legal problem, not a Commission problem. The Campground's survey will indicate whether there is a boundary issue.
- The applicants should develop a parking offer based on the Balance model.
- The applicants should submit a revised exterior design that describes exterior details and trim color, after review by one of the town's historic commissions.
- A proposal for dealing with the propane tanks, after looking at the requirements.
- A clarification of front porch use and an offer for the use of the deck.

Michael Gillespie clarified that the back windows would be translucent on second and third floor, and would be hopper windows to let in air; there will be two windows in the emergency exit stair. **Linda Sibley** suggested that forbidding the opening of windows in residential space is too prohibitive.

Christine Flynn added that 80% of AMI is about \$40,150.

Christina Brown closed the public hearing, leaving the written record open until June 1st, with an LUPC meeting on June 4.

2. FISCHER FAMILY FARM: DRI NO. 34M – WRITTEN DECISION

Commissioners present: J. Breckenridge, C. Brown, C. Murphy, K. Newman, N. Orleans, J. Powell, D. Sederholm, L. Sibley, R. Toole

Linda Sibley moved, and it was duly seconded, to approve the written decision. A roll call vote was taken. In favor: J. Breckenridge, C. Brown, C. Murphy, K. Newman, N. Orleans, J. Powell, D. Sederholm, L. Sibley, R. Toole. Opposed: None. Abstentions: None. The motion passed.

3. VINEYARD HAVEN YACHT CLUB: DRI NO. 602 – DELIBERATION & DECISION

Commissioners present: J. Athearn J. Breckenridge, C. Brown. C. Murphy, K. Newman, N. Orleans, J. Powell. D. Sederholm, L. Sibley, R. Toole

For the applicant: Charlie Felder (Manager); Dick Barbini (Engineer); Peter Breese and Peter MacLean (Breese Architects)

Chris Murphy reported that LUPC unanimously agreed to recommend that the full Commission approve the application with conditions and offers, including the letter of May 3rd.

- The applicant will meet with town representatives before October 15th to work out public access and parking.
- The Vineyard Haven Yacht Club will not make itself available for private parties that are not by members of the club.
- The Vineyard Haven Yacht Club will make bus passes available to employees who want them.
- Members will be strongly encouraged to carpool, walk, bike or take public transportation.
- The Yacht Club does not intend to increase the number of memberships.
- The Yacht Club will work with abutters to accommodate some of the suggestions on screening.
- The landscaping plan needs to come back to LUPC for review and approval.
- The applicant will meet with abutters to address concerns in development of the plan such as site lines
- Only club-owned boats should be stored on the property, not club member boats.
- Shoulder season events will be limited to no more than five.
- The Yacht Club is not offering to limit the nights of live music.

- The Yacht Club will contribute \$2,248 to an affordable housing agency.
- Every effort will be made to make the building as energy efficient as possible.
- Hours of operation are 8 a.m. to 8:30 p.m.

Linda Sibley suggested that the written decision would distill the offers and conditions.

Doug Sederholm asked if there is now a limit to club membership. **Charlie Felder** clarified the following.

- There is not currently a limit on memberships.
- The Yacht Club has not taken on a new member in some years. The type of memberships has more impact than the number of memberships.
- The Yacht Club has live music two or three times a summer. There is a town ordinance on live music.

Linda Sibley moved, and it was duly seconded, to approve the application with offers and conditions.

Linda Sibley added that on a regional level this is a vastly more attractive building than the existing building.

Christina Brown moved, and it was duly seconded, to suspend the rules to 10:42 p.m. A voice vote was taken In favor: 9. Opposed: 1. Abstentions: 0. The motion passed.

Jim Athearn said the project is consistent with the character of the Island and the celebration of the summer and is an appropriate use.

Christina Brown said that it is a benefit that the project was reviewed by the Commission and the Zoning Board of Appeals because there are now definitions on the use of the site and the hours of operations and there are some protections for the abutters.

A role call vote was taken. In favor: J. Athearn J. Breckenridge, C. Brown. C. Murphy, K. Newman, N. Orleans, J Powell. D. Sederholm, L. Sibley, R. Toole. The motion passed.

4. 18 STATE ROAD: DRI NO. – DELIBERATION & DECISION

Commissioners present: J. Athearn J. Breckenridge, C. Brown, C. Murphy, K. Newman, N. Orleans, J Powell. D. Sederholm, L. Sibley, R. Toole

Chris Murphy reported that after considerable deliberation LUPC agreed to unanimously recommend approval of the project. The applicant has stated that he would agree to a dormant easement but has provided nothing in writing. The written decision should include that the applicant offered the dormant easement. The trigger would be a request from the Town of Tisbury; if the Town wants it, they will have it.

Doug Sederholm summarized offers and conditions:

- The landscape plan is to be submitted to LUPC. Plants shall be native except for ornamentals near the building.
- The building is to exceed the Massachusetts energy code by 30%.

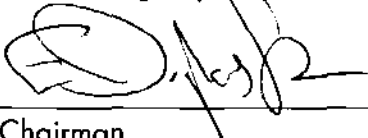
- The applicant is to provide a dormant access easement through the parking lot.
- The building is to be natural materials except for allowing plastic or composite trim that looks natural.
- Archaeological disturbance has been mitigated as much as possible by having done a study and ensuring the Tribe has an opportunity to observe any excavation.
- The dormant easement will help in the future for traffic mitigation.

Linda Sibley moved, and it was duly seconded, to approve the application with offers and conditions.

- **John Breckenridge** added that landscape plan should include stormwater management.
- **Christina Brown** thought that allowing the applicant to use composite or non-natural materials on the rear building might have been a good idea. It is more energy efficient, and it is a good experiment.
- **Richard Toole** added that that this is smart growth in-fill development.

A role call vote was taken. In favor: J. Athearn, J. Breckenridge, C. Brown, C. Murphy, K. Newman, N. Orleans, C. Powell, D. Sederholm, L. Sibley, R. Toole. Opposed: None. Abstentions: None. The motion passed.

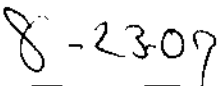
The meeting adjourned at 10:38 p.m.



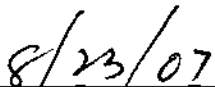
Chairman



Clerk-Treasurer



Date



Date