

COMMONWEALTH OF MASSACHUSETTS

DUKES COUNTY, SS.

SUPERIOR COURT DEPARTMENT
CIVIL ACTION NO. 2374CV00010

FLOWERWOOD, LLC,

Plaintiff,

vs.

TOWN OF OAK BLUFFS COPELAND PLAN
DISTRICT REVIEW BOARD, and AMY
BILLINGS, GAIL BARMAKIEN, ERIC
ALBERT, SHELLY CHRISTIANSEN,
BARBARA BASKIN, and TOM PERRY in
their capacity as members of the Town of Oak
Bluffs Planning Board Copeland Plan District
Review Board, and the TOWN OF OAK
BLUFFS,

Defendants.

**SUPPLEMENTAL PAGES
TO CORRECT
ADMINISTRATIVE RECORD**

1. Oak Bluffs Copeland Review Board Minutes, dated 9/19/22 (AR0021-AR0024)

FILED
SUPERIOR COURT
COUNTY OF DUKES COUNTY

APR 14 2023

REC'D

CLERK

OAK BLUFFS COPELAND REVIEW BOARD MEETING MINUTES

P.O. BOX 1327, OAK BLUFFS, MA 02557 – 1327

508 693 – 3554 x 123

Meeting of Monday September 19, 2022, 5:00pm

Oak Bluffs Town Hall, Lower Level Meeting Room

Members Present: Gail Barmakian, Shelley Christiansen, Ewell Hopkins, Amy Billings, Barbara Baskins

Chairman opened the public hearing at 5:06PM

3 Uncas Ave Map 11 Parcel 156

Robert Sawyer, owner was present via Zoom,
Demolition of main house and shed

History

Request for demolition previously denied March 18, 2019

· The structure has a relationship with the District

Elective Demolition

No condemnation determination

Submissions

Application

Letter from John Lolley, PE dated July 11, 2022

Letter from Tom Perry, Building Official dated August 2, 2022

Letter in opposition to the project from Diane Streett dated September 19, 2022

Letter in opposition to the project from Peggy Barmore dated September 19, 2022

Photos of property

(There were no plans for the proposed new development on site)

Minutes of March 18, 2019

Gail stated that this project was denied in 2019 and didn't know he could apply again for the same request unless there was something materially different. She stated that he could make the presentation but didn't know if he could go forward with a similar application without anything materially different. Robert Sawyer stated that he is here purely and simply to obtain permission to demolish this building. He added that he was told to get a structural engineer and the Building Inspector to look at the building. He presented a report and a letter from the Building Official who viewed the property. He stated that the Structural Engineer's opinion was that the building should be demolished, and it is not fit for human habitation. He added that the Building Official inspected it also and a statement from him ordering the building to be boarded up within 24hrs because it was dangerous and they didn't want anyone to go in there. He said the bottom line is that it needs to be demolished. He added that it is surrounded by commercial property and that it hasn't had any improvements in 30-40 years, there are no occupants and that he owns the property and it cost them to hold onto this property because they have no income from it. Gail stated that he knew that it was historical property and you are here because you are in the Copeland district and in the Historical District and you have bought something that's on the State

Historical Register. She noted that he has owned the building for many years and have done nothing to it and made no improvements. She added that there was a generational family living in that home. She stated that at the last hearing they called this voluntary and that you voluntarily let this house go into disrepair and the reason the Building Inspector had this boarded up was to prevent unlawful entry into the building. That was the big issue.

Gail stated that he has come back with the same argument and has done nothing to the house. He is a real estate agent and he knew what he was buying. Gail presented a copy of the minutes from March 18, 2019 to the Board.

Shelley acknowledged that unlike the last meeting he brought a report from both an engineer and the building inspector as the Board had requested or suggested might help his application, adding that she appreciated it. She noted a discrepancy that she felt was meaningful between the engineer and the subsequent determination of the Building Inspector. The engineer indicated that the structure is not suitable for human habitation and therefore should be demolished. The building inspector goes further and saying that it is not in danger of imminent failure or collapse so although they are related they are very different conclusions.

Barbara agrees with Shelley. She noted that the engineer's report never said the building could not be repaired and that is important. The Building Official clearly believes that it could be repaired.

Robert responded that there hadn't been year-round family living in there for dozens of years. Gail corrected him noting that she had said "generational" family there and that she had not said year round. Robert continued saying it was 5-6 years ago the last time they occupied the property. The Building Official says that under state code he can only order demolition if the building is in eminent danger of collapsing by itself, which apparently is not the case. Robert added that it is not financially feasible to repair this building. He added that when the Board suggests that he can spend money here that's his money. He added that the Board would not spend their money here as it is throwing good money after bad. Shelley stated that they are not the financial feasibility committee, they are the Historic committee.

Gail stated that when he purchased the property there were people living in it. He then took out the asbestos and made the building the way it is now. She added that he voluntarily made the building the way it is. He is as sophisticated buyer.

Shelley asking for demolition is not complying with the requests of Copeland other than having an engineer's report which does not comply with Copeland regulations. Also, the Building Inspector does not condemn the building and says that you can fix it.

Gail stated that for whatever reason you bought the property you knew was protected, you let it go. The applicant is asking for a demolition that does not comply with the requests of Copeland other than having an Engineer's report that does not comply. Additionally the Building Inspector does not condemn the building. Barbara stated that she was in agreement with Gail. The Board previously voted no demolition for this building and he made zero effort to improve the building. The Board said you can't demolish it so your option was to fix it. There was no submitted proof of financial hardship to fix and no accurate costs to correct. She added that there has been absolutely no effort to take into consideration the condition of the building and it is a very historical building. She noted that she doesn't see anything different today. She sees a building that needs repair and can be repaired.

Gail stated that she has letters from abutters and asked for public comment.

Dianne Streett, 14 Hiawatha stated that she would like her letter read into the record She added that in the courtroom there is a saying that you can't kill your parents and then ask for mercy

from the court because you are an orphan noting that is the situation here. You can't destroy deliberately, intentionally commit a bad act and destroy something and then ask for a benefit from it. She asked the Board to take that into consideration. She said the argument had been raised that it is expensive to rehabilitate the building and the issue is that they bought it knowing what the condition was of the building adding that they can maintain the Barn & Bistro so it is unclear why they cannot maintain the building and the shed. She thanked the Board for their consideration. Gail read her letter into the record.

Byron Barnett, 12 Hiawatha Av commented on points made by Mr. Sawyer. Throwing good money after bad when he spent money to purchase the property and then removing the siding and turned it into an eyesore. He stated that he knew people living there shortly before that. He thinks it is terrible that Mr. Sawyer has let that happen in the neighborhood. Byron disagrees that the property is surrounded by commercial property. On the contrary the Barn is surrounded by residential property. He added that this property was not an eyesore before Mr. Sawyer bought it. He added that the property was not an eyesore before Mr. Sawyer's group bought it. He thought that it's deliberately done and he requested that the application be denied.

Kathleen
~~Barbara~~ Kohler, 6 Hiawatha Av noted concern about a pattern not just specific to this particular house but on the Island of acquiring homes and leaving them to deliberate neglect and then empower people to demolish them. She added that what is most chilling is setting a precedent with other projects on the island not just in her neighborhood, her concern is for the whole Island.

Gail stated that the comment regarding a commercial neighborhood is irrelevant and what is relevant is that it is in Copeland and has to comply with the demolition requirements for Copeland and that's what the Board's findings will be.

Amy Billings stated that she wanted to make it clear that she is speaking personally and therefore recusing herself from this part of the hearing. She added that everything is accurate that the neighbors are saying. She wants to make sure that everyone looks at the timeline and looking at how it got into the shape it is in. It is accurate that it was livable, it needed a lot of work but there are a lot of houses around Oak Bluffs, especially in Cottage City Historic District and Copeland that have been renovated. A lot of the newly renovated homes are about the same age as this house and some even older.

Gail asked Mr. Sawyer if he had anything else to say. He replied that there was nothing to say and he has listened to all of your decisions.

Gail asked for a motion.

Barbara made a motion to deny the application based on the fact that it does not meet the requirements of Copeland and it is an elective demolition. Ewell seconded. The motion passed 4-0 (Amy recused herself)

Gail Barmakian 10/18/22
Gail Barmakian

Other Business

Ewell asked about updating the Copeland web page to provide more direction for future applicants or the Board's expectations. Updates will include the Board member list as well.

Oak Bluffs, MA
Town Clerk's Office
Oct 18 2022
Rec'd for Record
AT H M M

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Amy made a motion to adjourn the meeting, Ewell seconded. The meeting adjourned at 6:56PM.

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