

Paul Foley

From: mike spangler [mike.woodlore@comcast.net]
Sent: Monday, November 28, 2016 4:18 PM
To: Paul Foley; Bill Veno; Adam Turner; jchristy@chilmark.org; rosross@chilmark.org
Subject: abutter input for 11/28/2016 MVC LUPC Rivera ANR CH (DRI 671 pre-public hearing review
Attachments: CHILMARK - ADDITIONAL DOCUMENTS (L0555915xA35AE)[1].pdf; CHILMARK - DOCUMENTS (L0555896xA35AE)[1].pdf; Chilmark neighbors letter to planning board 9-8-2014.pdf; QUENAMES ROAD VOTE DOCUMENT (L0495208xA35AE)-2.pdf

To: Martha's Vineyard Commission and Land Use Planning Committee Members
From: Michael Spangler and Bridget Montgomery
Date: November 28, 2016
Re: Martha's Vineyard Commission Consideration of Fourth Form A lot from Rivera property at 88 Quenames Road, Chilmark

We understand that the Land Use Planning Committee of the Commission is to meet on Monday, November 28, 2016 for a pre-public meeting to discuss the request of George and Robin Rivera to approve, through the use of the Form A process, the creation of a fourth lot from their parcel at 88 Quenames Road, Chilmark (Map/Lot No. 17-21.1). Our family owns an abutting home and acreage at 73 Quenames Rd in Chilmark (Map/Lot No. 17-20. We were cc'd on our Quenames Road neighbor David Handlin's letter to you of last week. With another Quenames Road neighbor, Flip Harrington, I will attend the meeting but we understand there may be little or no opportunity for comment at that time so we are writing to voice our agreement with David Handlin's concerns stated in his letter to you and to provide a bit more context and documentation to you.

Our opposition to this further development of a non-subdividable 15-acre lot through the use of successive Form A lots arises from concerns about the habitat, the alteration of the character of the area and the ancient Quenames Road, which dates back to the 1700s, the clear-cutting on the property in recent years and the unavoidable need for it if there are to be further dwellings and outbuildings on the property, increased housing density in a protected habitat, and the impact of this successive Form A lot development on subdivision and habitat protection laws. The history of the Riveras' efforts to develop the property as reflected in Planning Board minutes shows that the Planning Board itself has long been concerned about the increased density and inadequacy of Quenames Road. We have attached for your convenience certain Planning Board minutes reflecting these development efforts from 2005 to 2013 (2013 is when the Riveras were granted their third lot through the use of the Form A process; we assume you have received with the Planning Board referral the minutes of the 2016 Planning Board meetings reflecting the Rivera's current Form A request).

In 2004, Mr. and Mrs. Rivera purchased an approximate 15.7-acre parcel - Lot 17-21.1. In our observation, prospective buyers had adequate notice that the property could not be subdivided. The real estate agent who marketed the property, Debbie Hancock, made clear to us and said she made clear to the Riveras that the property was not subdividable and mentioned that even a single Form A was unlikely because of the inadequacy of Quenames Road, all of which was reflected in the asking price for the property. Nevertheless, from the time they purchased it until today, Mr. and Mrs. Rivera have persisted in actually dividing or trying to further divide the property into parcels through Form C subdivision, or by reaching as a practical matter the same result through successive Form A lot divisions. The history of it is:

· Immediately after purchasing the 15.7 acre parcel in 2004, the Riveras used Form A division to seek the creation of two lots, which was approved in April 2005. This Form A division created: (1) a three-acre lot with a dwelling, accessible from Quansoo Road; and (2) the remaining 12.7 acre lot. The Riveras sold the 3-acre promptly, and public real estate records show that they significantly recovered the purchase price of the entire 15.7 acre parcel.

· In the same time frame in 2005, the Riveras also submitted a Form C subdivision plan, which would create at least 3 additional lots of their remaining 12.7 acres. This was followed by another Form C subdivision plan in 2006, also seeking at least 3 additional lots. It appears that during this time frame, additional Form A division also was discussed. The minutes of the Chilmark Planning board meetings in which these efforts were discussed reflect the Planning Board's determination that Quenames Road was not adequate for further division of any sort and that the Riveras were told their requests would be considered if they could get consent of the road abutters to widen and improve the road and then did so.

· In 2006, the Riveras approached my wife and me and asked that we consent to widen the road, citing as their reasons that they planned to put in a horse stable for their young daughter and wanted to ensure emergency vehicles could get to her if she got hurt riding horses. We responded at that time that we liked the road as it was and, in fact, bought here because it was what we wanted. But we wanted to be good neighbors – and we said we would consider their request but also wanted to hear the views of the long-time neighbors in the area, especially David Handlin and Flip Harrington and his wife Sue Whiting. As we reached out to neighbors, we heard for the first time about the Riveras perhaps having sought Form As and/or subdivision plans and so we asked the Riveras about that. They responded that they did hope to obtain one Form A lot and a youth lot. We then went to the town offices to see for ourselves what had been submitted and at that time we learned that the Riveras already had gotten and sold off their first Form A lot and that they had also submitted a subdivision C plan. This plan would greatly increase the traffic on this tiny road, called for an entrance driveway to their subdivision directly across from our front door, and would undoubtedly require clear-cutting to build all the dwellings, guest houses, and outbuilding contemplated. In short, it called for a significant alteration of this habitat and the living conditions. We then wrote to the Riveras, and told them we were disappointed that they had not disclosed the extent of their development plans to us in asking us to consent to the widening of the road. We ultimately told the Riveras in firm terms that we did *not* consent to widening the road to accommodate their development plans.

· In October, 2012, on 36 hours notice, we received from the Riveras a notice of a meeting to form a road association, supposedly for the purpose of maintaining Quenames Road from its fork with Quansoo Road past the Rivera property (which implicates the properties of David Handlin, Sherriff's Meadow, Flip and Sue, Paul Pettegrove, the DiRosas, the Hergets, and us).

· To obtain the three "proprietors" signatures required to call a road association formation meeting, the Riveras asked our neighbors Michael DiRosa and Mr. Herget to sign. Mike DiRosa had no idea of any prior or current development plans or the directions to the Riveras to get the road widened, and he signed believing the goal was just to fill in pot holes and the like, not to in any way change the character of the road. The Quenames Road neighbors came from near and far on very short notice and voted down the road association. In the course of these events, when challenged that the purpose of the road association was to further their development interests on the property, the Riveras represented in writing that they did wish to get just one more Form A lot and had no plans to develop their property further. On October 6, 2012, our group sent the attached "no road association" vote document to the Chilmark Town Clerk, explaining the situation. We also send a copy to the Planning Board and we asked to be notified of any further efforts to develop the Rivera property, as it would require making changes to the road.

· There is a long stretch of the road from the Quenames/Quansoo fork to the end of Mr. Handlin's property that is owned on one side by us and the other by Mr. Handlin, and we never consented to any changes to the road on either side of the road, including cutouts, widening, cutting of brush, or any other change. Nor did we consent to any change on any part of the road where we own to the middle of it. In fact, David Handlin, having some time prior to 2012 come upon a man cutting brush from David's property, who told David he was working for Mr. Rivera, had let it be known then that he did not consent to that action or any other designed to upgrade the road at Mr. Rivera's request (or anybody else's). Moreover, we had filed our document with the Planning Board in October, 2012, with copies to the Riveras, so there was no question that we did not consent to any widening or other improvements to the road.

· It turned out the Riveras already had their third Form A request underway when they sought to form the road association in October 2012, and they continued these efforts after we voted the road association down. We did not find out about any of this until much later. The January through March, 2013 minutes of the Planning Board meetings reflect these efforts and show that the Riveras and/or their engineer represented that the road would be improved and further reflect the Planning Board telling them that they needed to discuss this with the neighbors, although for the first time, Mr. Rivera's engineer took the position that the neighbors' ownership in the road could be ignored.

· Neither the Riveras nor any representative of theirs reached out to us, Mr. Handlin, or other neighbors in 2012 or 2013 and obtained consent to change the road to create the road conditions necessary for further division of their property. We did notice that the road looked different when we returned to the island in Spring of 2013 but it was subtle and we were unable to learn who had done what in our absence over the winter.

· As it further turns out, the Riveras were given approval for their third Form A in March 2013, but none of us knew about it for over a year, when a neighbor saw the Riveras had this new 2013 lot on the market for sale. It was around this time, as well, that we noticed clearing of the Rivera's land just inside their property along Quenames Road, directly across from our home. We wrote the attached September 8, 2014, group letter to the Planning Board asking that the approval of the new 2013 Form A lot be rescinded. We also attended a Planning Board meeting to explain our concerns, which included that the Planning Board required the Riveras to make improvements to the road in order to get this third Form A lot from their original parcel, we neighbors had not been given notice or consented to any such improvements, whatever was done was done without our consent and, in any event, it did not render the road adequate for any increased density and we did not want to see further brush culling and thinning of the woods in the area.

· In September, 2016, my wife and I and Mr. Handlin saw a person who said he was working for Mr. Rivera operating a vehicle with which he was grading and laying materials and stone debris on our portions of the road; it also appears that in effect, the boundaries of the road were being pushed out by filling in the side drainage ditches. We and Mr. Handlin took photos of the road. Mr. Handlin went to ask the vehicle operator what he was doing, and the driver directed Mr. Handlin to the crew leader, who was just inside of Mr. Rivera's property along with other workers. (We observed Mr. Handlin walk to Mr. Rivera's driveway to ask about it, as directed. He stayed approximately two minutes, talking to the crew leader, and then left, walking past our home and stopping to talk to us. Mr. Rivera reacted by sending Mr. Handlin a notice of trespass, which he had the Lexington police deliver to Mr. Handlin's home in Lexington).

This brings us to the present, and our recent discovery that the Riveras have not submitted an application for a 4th lot from this originally 15.7 non-subdividable parcel of protected habitat and farmland, again through the use of a Form A application. We believe that neither the habitat nor the road is appropriate for further land division or development, and that the Form A process should not be used to achieve what is otherwise not allowed.

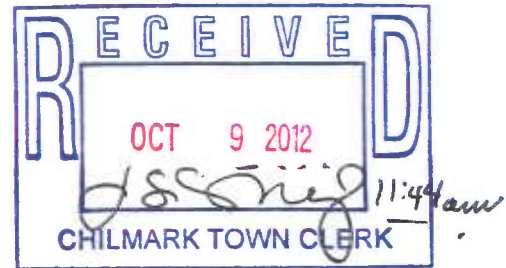
We note that since the Riveras bought the property in 2004, the woods have been noticeably thinned, and in some areas cleared outright. First, there was a fire in the original dwelling on the 12.7 acre parcel in about 2010, I believe (but it may have been earlier), which burned the existing house to the ground and caused the loss of some wooded area. In recent years, large areas of woods within the Rivera property have been cleared. We can see this from our property because they thinned the growth right up to the edge of their property along Quenames Road, leaving a thin stand of growth, and we can see into the property when we go for walks. This significantly changed the character of the parcel.

We do not believe the Form A process was meant to allow would-be developers to circumvent subdivision requirements or to alter habitat that is to be protected from development. It is, as Mr. Handlin states, a dangerous precedent to set, and one that seems to be inconsistent with the letter and the spirit of laws and regulations intended to protect wildlife habitats and farmland, preserve the beautiful rural character of Chilmark, and ensure that density is not increased in areas that cannot support it.

Thank you for the opportunity to provide our observations and concerns. We hope that the Commission will not allow the further division and development of this property.

Michael Spangler and Bridget Montgomery
73 Quenames Road
Chilmark, MA

October 6, 2012



To: Jennifer Christy, Chilmark Town Clerk

From: Proprietors Identified in "Sketch Plan Showing Jurisdiction Of Mid-Quenames Road Association"

Re: October 6, 2012 Meeting On Formation Of Road Association; Record of Vote

Dear Ms. Christy:

The undersigned are Phillips (Flip) Harrington, and four of the six property owners named on a "Sketch Plan Showing Jurisdiction of Mid-Quenames Road Association," which was submitted with an application dated September 28, 2012, to call a proprietors' meeting under MGL Chapter 28, Section 12. The other two property owners named on the Sketch Plan are George Rivera and Thomas Hergert. A copy of the Sketch Plan and application, signed by George Rivera, Thomas Herget, and Michael DiRosa, is attached.

Each of the undersigned learned of this meeting within the last two to five days. We each attended the meeting in person at 1 p.m. today, at the specified location, 88 Quenames Road, Chilmark, MA, the home of George Rivera. George Rivera was not at home and Thomas Herget was not in attendance when we arrived. After waiting a reasonable amount of time for Mr. Rivera and Mr. Herget to arrive, Michael DiRosa called the meeting to order and asked for a vote on the first order of business identified in the September 28 Application, the establishment of a "Mid-Quenames Road Association." Each of the undersigned voted NO to the formation of a road association. Accordingly, with a unanimous vote of NO of those present (and a majority of the named proprietors), the meeting was adjourned, as there is no further business to conduct. At 1:20 p.m., Mr. Rivera arrived at his home as the undersigned were dispersing, and he was told of the results of the vote.

We request that this NO vote be recorded in the files and minutes of the Chilmark Town Clerk. Further, Michael DiRosa, who provided one of the three signatures necessary to make the application to call the meeting under MGL Chapter 84, Section 12, states that no further action may be taken in reliance on his signature on the September 28, 2012, application, including but not limited to the calling of any further proprietors' meeting to establish the "Mid-Quenames Road Association."

Michael DiRosa

Michael Spangler

David Handlin

Paul Pettegrove

Cynthia DiRosa

Bridget Montgomery

Holladay Handlin

Phillips Harrington

*Phillips Harrington in the whites
again and fronts.*

Christy
TRUE COPY ATTEST:
Jennifer L. Christy
Chilmark Town Clerk

TO: The Chilmark Planning Board

FROM: Chilmark Neighbors of Rivera Property on Quenames Road

DATE: September 8, 2014

Several of us met recently with Chilmark Planning Board Chair Rich Osnoss. The purpose of the meeting was to inquire about events leading up to the Planning Board's grant of the Riveras' Application for a second Form A lot, and to express our position about it. We learned of the grant of the Riveras' second Form A Lot only in late Spring 2014 and were surprised to hear of it, because we had been told that they had been denied permission to further develop or divide the property. In addition, after we neighbors voted down the Riveras' effort to form a Road Association to improve our section of Quenames Road in October 2012, we formally requested that we be informed of any further efforts to develop their property and/or improve our section of Quenames Road and it was our understanding we would be so informed. We tried to learn through the Planning Board and other town documents what occurred but were unable to do so. Therefore, we requested the meeting with Rich Osnoss, and we are appreciative of his time and courtesy in meeting with Michael Spangler, Bridget Montgomery, and Flip Harrington last week.

By way of background, as the Planning Board is aware, in about 2005, the Riveras sought approval of a subdivision for their property. Sometime after the application was submitted, Mr. and Mrs. Rivera approached Michael Spangler and Bridget Montgomery and requested their consent to improve and widen Quenames Road. The Riveras represented that they were planning to build a stable and horse facilities for their then very young daughter and were concerned about emergency responders being able to reach their property in case of a horseriding accident. Mike and Bridget told the Riveras at the time that they bought the property in large part because of the small road and the understanding that the surrounding properties could not be developed or divided, and that they preferred to keep the road as is, but said they would consider the request as long as it did not change the development possibilities. After doing some investigation on their own, Mike and Bridget then learned that the Riveras had submitted an application for a subdivision and been told that Quenames Road was inadequate and they would need the agreement of abutting neighbors to widen the road. Mike and Bridget told the Riveras at that time that they would not agree to widen the road and that they were very disappointed that the Riveras had not disclosed the existence of the subdivision application and plan they had filed, not to mention the very significant impact it would have on the area.

We heard occasional rumors that the Riveras were determined to develop their property but nothing concrete came to light. Then, in October 2012, Mike and Bridget received at their Pennsylvania home a notice of a meeting to be held approximately 36 hours later at the Rivera property, wherein a vote would be taken on approval of a Road Association that the Riveras had applied to form. This was the first Mike and Bridget heard of it and after asking around, they learned that neighbors Flip and Sue Harrington, David Handlin, and Paul Pettegrove knew nothing of it either. Furthermore, in order for the Riveras to qualify to hold this meeting to take a vote on a Road Association, they needed signatures of two (2) abutters, one of which they obtained from the DiRosas. The DiRosas reported that George Rivera approached them and said

they just wanted to create an association to share the cost of filling potholes and the like. The DiRosas had no prior knowledge of the Riveras' attempt to develop their property. When the DiRosas learned the background, they rescinded their signature, which had qualified George Rivera to call the meeting. The seasonal neighbors – the DiRosas, Mike and Bridget, and David Handlin, then traveled to the island immediately (from Pennsylvania, Boston, and Connecticut) and appeared at the meeting, along with Flip Harrington and Paul Pettegrove. The neighbors had sent the Riveras advance notice that they would appear and vote against the road association because they understand it was in furtherance of the Riveras' efforts to develop their property, in fact.

The Riveras, having called this meeting on little more than a day's notice, were on the island but did not appear at their house at the appointed meeting time. The neighbors waited 30 minutes and then voted no to the Road Association and put the results of their vote on file at the Chilmark Town offices. At the same time, they requested notice, as mentioned above, of any further efforts by the Riveras with respect to changes to Quenames Road or development of their property.

At some point in 2013, neighbor David Handlin saw an individual cutting back growth on Mr. Handlin's property. David approached and learned that the individual had been hired by Mr. Rivera. David called the police, who told David that Mr. Rivera had the right to cut growth from the Handlin property, which we do not understand to be accurate. David made it clear that there was to be no further activity on his property without his consent and that he would not be giving any such consent.

The next time the Riveras' efforts to change the road or develop their property came to the neighbors' attention was early Summer, 2014, when we learned that he had obtained approval of a second Form A Lot sometime in the winter of 2013, and that the lot was for sale. We learned some time later that Mr. Rivera had made certain changes to the road and that it was declared adequate for a Form A lot, therefore. The Riveras did not request consent of any of the undersigned neighbors. As the Planning Board is aware, the Handlins own Quenames Road to the middle of the road on the Rivera side, from the border of the Rivera/Handlin property to the fork in the road that leads to the Rivera property. On the other side of the road, Bridget and Mike own from the fork to the existing entrance to the Rivera' property. Flip Harrington and Sue Whiting own the portion that extends beyond the Riveras, and the DiRosas and Paul Pettegrove each have rights of way through the Montgomery / Spangler property from Quenames Road to their lots. None of these neighbors were asked to consent to the Riveras' changing the road in any fashion, but the Riveras nonetheless apparently cut or caused to have cut growth in order to widen the road and made other changes in the effort to satisfy Form A requirements.

Rich Osness confirmed last week that the Riveras had been told that any further division of their property, including a Form A lot, would require agreement of the neighbors to improve the road. We further understand that Mr. Rivera represented to the Planning Board that he did obtain such approval. The Riveras did not seek or obtain our consent. Accordingly, the undersigned neighbors respectfully request that the Form A Lot approval granted to Mr. Rivera be rescinded.

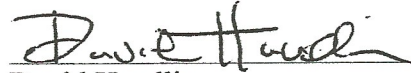
That aside, the neighbors do not believe that Quenames Road in its current state is adequate for another Form A lot. And the Riveras' persistent efforts to further divide the property are simply inconsistent with how the property was marketed at a decidedly modest price some 10 years ago.

We are available to answer any questions the Planning Board may have for the neighbors. We have authorized Mike and Bridget to appear on our behalf at the Planning Board meeting today.

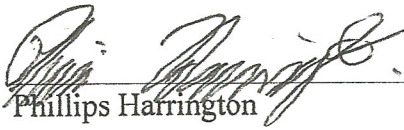
Respectfully,

BEM and Authorizations for
Cynthia & Michael Di Rosa

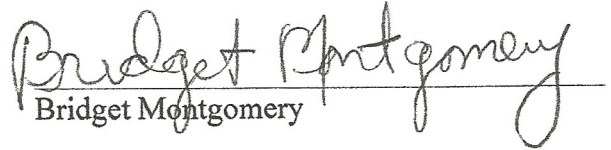
Michael DiRosa



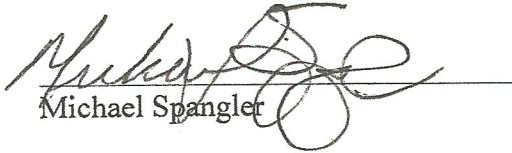
David Handlin



Phillips Harrington



Bridget Montgomery



Michael Spangler