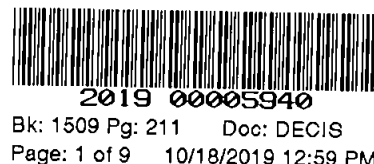




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Decision of the Martha's Vineyard Commission

DRI 693 – The Mill House Historic Demolition

1. SUMMARY

<u>Referring Board:</u>	Building Inspector, Town of Tisbury, MA
<u>Subject:</u>	Development of Regional Impact # 693 Mill House Historic Demolition
<u>Project:</u>	To redevelop a structure (known as Molly's House, built in 1750) including a mill (moved to the property in 1886) (the "Mill"). This renovation included demolition of the original historic cape house (built in 1750) and Mill, as well as various non-historic portions of the property that are believed to be added after 1930.
<u>Owner:</u>	Lise N. Revers, Trustee of the Lise N. Revers 2017 Trust
<u>Applicant:</u>	Lise N. Revers; Peter Rosbeck (Builder); Patrick Ahearn (Architect)
<u>Applicant Address:</u>	Lise N. Revers: 4 Deer Path Lane, Weston, MA 02493 Rosbeck Builders Corp: 20 East Line Road, Edgartown, MA 02539
<u>Project Location:</u>	29 Mill House Way, Tisbury. Map 6-C, Lot 16 (1.41 acres).
<u>Deed:</u>	Book 1456, Page 264
<u>Description:</u>	The Applicant demolished certain portions of the building located at 29 Mill House Way in Tisbury. Pursuant to Section 8.2a of the Development of Regional Impact ("DRI") Checklist, DRI approval was required prior to demolition. A demolition permit for the work was erroneously issued and the work was performed prior to DRI review/approval. Subsequently, the Applicant came before the Martha's Vineyard Commission (the "Commission") for DRI approval after demolition.
<u>Decision:</u>	The Martha's Vineyard Commission voted to approve the application with conditions on September 19, 2019.
<u>Written Decision:</u>	This written decision was approved by a vote of the Commission on October 3, 2019.

2. FACTS

The exhibits listed below including the referral, the notice of public hearing, the staff report, images, correspondence and other related documents are incorporated into the record herein by reference. The full record of the application is kept on the premises of the Commission. Many of the plans, staff notes, information and correspondence are available on the DRI 693 webpage on the Commission website: <http://www.mvcommission.org/dri/summary/693/54920>

2.1 Referral

The Project was referred to the Commission on April 23, 2019 by the Building Inspector of the Town of Tisbury, MA for action pursuant to Chapter 831 of the Acts of 1977, as amended (the Act) and the Commission's Standards and Criteria Administrative Checklist for Developments of Regional Impact, DRI Checklist 8.1a (Exterior Alteration of a building over 100 years old); a Concurrence Review. The Project was only referred after the much of the existing property had been demolished, including the historic cape section.

2.2 Hearings

Notice: Notice of a public hearing on the Application was published in the Martha's Vineyard Times on August 8 & 15, 2019. The public hearing was also advertised in the Vineyard Gazette on August 9 & 16, 2019. Public hearing notices were mailed to abutters within 300 feet of the Project on August 6, 2019.

Hearings: The Commission held a public hearing on the Application that was conducted by the Commission pursuant to the Act and M.G.L. Chapter 30A, Section 2, as modified by Chapter 831, on August 22, 2019, with the written record left open until 5:00 p.m. on August 29, 2019 and closed at that time.

2.3 The Plan

The following documents, submitted by the Applicant and contained in the Commission's Project file, constitute "the Plan." Pages are 8.5" by 11" unless otherwise noted.

- P1 "The Revers – Main House Construction Documents - Permit Set, Revised Issue - August 31, 2018," 29 Mill House Way, Tisbury, MA consisting of forty (40) 11" by 17" pages including Existing Floor Plans, Existing Elevations, Proposed Floor Plans, Reflected Ceiling Plans, Proposed Elevations, Building Sections, Details, Window Schedule, Door & Hardware Schedules, Interior Elevations, and Millwork Details.
- P2 "Revers Residence, 29 Mill House Way, Vineyard Haven, MA 02568, Issued for Historic District Commission" Exterior Elevations package, consisting of seventeen (17) 36" by 24" pages, prepared by Patrick Ahearn, Architect, dated July 18, 2019. The package contains options for the exterior elevations, including Chimney on Central Volume, No Chimneys on Central Volume, and No Column Capitals.
- P3 "Revers Residence, 29 Mill House Way, Vineyard Haven, MA 02568, as Approved by the Historic District Commission" package; consisting of six (6) 36" by 24" pages, prepared by Patrick Ahearn, Architect, dated July 31, 2019. The package contains an Illustrative Site Plan dated April 12, 2018, scale 1 inch = 20 feet, and final elevations for front (west), rear (oceanside east), side (north), and side (south).
- P4 "The Revers – Barn-Garage Construction Documents - Permit Set" package, consisting of fourteen (14) 36" by 24" pages, including Site Plan for Proposed Pool, prepared by Schofield, Barbini &

Hoehn, Inc., Scale 1" = 30', dated October 11, 2018; Illustrative Site Development Plan, Scale 1" = 10', dated November 20, 2018; Proposed Floor Plans, Scale ¼" = 1'; Reflected Ceiling Plans; Exterior Elevations; Building Section, Scale ½" = 1'; Window and Door Schedules; Interior Elevations; Existing Floor Plans, Scale ¼" = 1'; Existing Exterior Elevations; and Renovations, Repair Foundation Plan and Framing Plan prepared by Arthur Choo Associates, Inc., dated November 30, 2018.

- P5 "Building Permit and Construction Timeline for 29 Mill House Way, Vineyard Haven, MA" consisting of one page detailing the permitting and construction events from September 4, 2018 to April 17, 2019.
- P6 "Water View with Notations," an 11" by 17" image submitted by Sean Murphy detailing the age of sections of the house along with the sections to be demolished per the original building permit shown from the east elevation.
- P7 "Aerial View with Notations," an 11" by 17" image submitted by Sean Murphy detailing the age of sections of the house along with sections to be demolished per the original building permit shown from above.
- P8 Letter from Sean Murphy consisting of two (2) pages detailing the Applicant's offers, dated August 22, 2019.

2.4 Other Exhibits

- E1. Referral to the MVC from the Tisbury Building Inspector received by the Commission on April 23, 2019.
- E2. Staff Report by Commission Staff, dated August 22, 2019 and revised on September 16, 2019.
- E3. MACRIS Record, Inventory Number TIS.107, The Mill House, consisting of four (4) pages including the Form B survey dated March 1980.
- E4. 29 Mill House Way Building Card, Map 6-C, Lot 16, Vision ID 542.
- E5. Photos of the interior rot damage provided by Peter Rosbeck.
- E6. Photos of the barn taken by Commission Staff.
- E7. Letter from Tribal Historic Preservation Office dated June 19, 2019.
- E8. Commission Staff slide shows dated June 3, 2019; August 19, 2019; August 22, 2019; September 16, 2019; and September 19, 2019.
- E9. Letter from the Tisbury Historical Commission consisting of three (3) pages, dated August 5, 2019.
- E10. Letters from the following citizens:
 - a. Charles and Nancy Parrish, dated July 17, 2019.
 - b. Kathleen Katterhagen and Neil Smith, dated August 21, 2019.
 - c. Charles and Nancy Parrish, dated August 21, 2019.
- E11. Minutes of the Commission's Land Use Planning Committee, June 3, 2019.
- E12. Minutes of the Commission's Public Hearing, August 22, 2019.

- E13. Minutes of the Commission's Land Use Planning Committee, September 16, 2019.
- E14. Minutes of the Commission Meeting of September 19, 2019 - Deliberations and Decision.
- E15. Minutes of the Commission Meeting of October 3, 2019 - Approval of the Written Decision.

2.5 Summary of Testimony

The Commission received the following testimony during the public hearing of August 22, 2019.

- Introduction of the Project by Christina Mankowski, Commission Historic Structures planner.
- Presentation of the Project by Applicant's attorney, Sean Murphy, including the following chronology of events:
 - The Applicant submitted permit applications to the Town of Tisbury to demolish portions of the building and to retain portions of the old cape. From September 2018-November 2018, the Town of Tisbury requested structural documents and framing plans.
 - On November 14, 2018, the Tisbury Building Inspector issued a building permit, without having first referred the Project to the Commission for DRI review. The structure was listed on MACRIS, which requires a mandatory DRI review.
 - In March 2019, work was started, and the interior was stripped.
 - On approximately April 1, 2019, the Applicant's builder, Peter Rosbeck, met with Tisbury Building Inspector, Ken Barwick, to discuss unsafe conditions in the older, middle portion of the structure resulting from the interior demolition. During the week of April 1, 2019 the Mill was secured and raised in place, and the previously approved portions of the structure were demolished, as well as the older, middle portion of the structure for which the Building Inspector had verbally issued approval to be demolished. Although these activities should have been referred to the Commission for DRI review, once again, such referral did not occur.
 - A stop work order was issued (April 13-17, 2019) and work has not been performed since the issuance. The Applicant agrees that the Project should have been referred to the Commission prior to the commencement of its demolition activities, but did not provide any explanation of why it did not identify this issue prior to the demolition.
 - The Applicant participated in a review process conducted by the Tisbury Historical Commission (the "THC"). The THC conducted a thorough public hearing and review of the Project and made several revisions. It recommended approval of the Project by the Commission, subject to several conditions.
 - The Applicant submitted offers to the Commission, including: \$25,000 to be donated to the Commission to create a database for the Town of Tisbury that will list all of the properties on MACRIS and/or properties that are over 100 years old; fund the cost to reprint the cover page of the Tisbury Building Permit application to add "Year Structure Built" to the cover; and preserve the Mill.
 - The Tribe has conducted an archeological inspection, and there have been no findings.
 - Harold Chapdelaine, Chairman of the Tisbury Historical Commission (THC), said that the THC worked with the Project architect, Patrick Ahearn, in an effort to come up with a design that is more reflective of Town character and that it was the opinion of the Tisbury Historical Commission that the proposed replacement structure met that goal.
- Oral testimony from Public:
 - Margie Snow stated that her family purchased the home in the early 1960s and lived in it for many years. She expressed extreme dissatisfaction that it was demolished without

going through the proper process. There was a lot of history in the house that could have been preserved, but was demolished. History was lost.

- Charles Parrish, an abutter, urged that the Mill should be restored and protected for the long term, and was concerned that the Applicant was proceeding in a piecemeal fashion which may end up leaving the future of the barn portion of the property uncertain.

The written record was left open until August 29, 2019, but no other correspondence was received from the public, and the Applicant did not provide any further information.

3. FINDINGS

3.1 Project Description

- The Mill House consists of three adjoining structures, with the oldest portion having been built in 1750. The Mill and original Cape style home still hold/held distinctive period design.
- The original Cape style home is/was deemed historically significant as the original owner, Mary “Aunt Molly” Merry is thought to have housed Revolutionary War soldiers in a sailor’s tavern in the house.
- The Applicant provided the following timeline regarding the Building Permit, demolition and construction of the Project:
 - On September 4, 2018, on behalf of the Applicant, Rosbeck Builders Corp. (RBC) submitted a permit application to the Town of Tisbury along with plans drawn by Patrick Ahearn, FAIA, to allow renovation of the middle portion of the structure, renovation of the “Mill,” and removal of a significant portion of the existing house that consisted of multiple additions and modifications (believed to have been made after 1930).
 - On October 11, 2018, Ken Barwick, the Building Inspector for the Town of Tisbury, sent an email to RBC requesting structural drawings to detail walls that were to be demolished and the new floor and foundation system.
 - On November 1, 2018, RBC submitted structural plans to the Town of Tisbury.
 - On November 14, 2018, Tisbury Building Permit #10782 was issued “[t]o construct renovations to existing single family dwelling to include **to demolish portions of dwelling interior and exterior** per plans and descriptions” (emphasis added). No referral was made to the Commission prior to the issuance of that building permit, nor did the Applicant seek to engage the Commission in the Project at this time.
 - On March 27, 2019, RBC began interior demolition of the middle portion of the structure to prepare for lifting of the middle section where a new foundation would be poured.
 - In April 2019, Peter Rosbeck met with Ken Barwick to discuss the unsafe conditions in the older middle portion of the structure created by the interior demolition. According to the Applicant, Mr. Barwick granted permission to Mr. Rosbeck to demolish the middle section, subject to RBC ensuring that the “Mill” be saved. No referral was made to the Commission prior to this permission being granted,
 - On the week of April 1, 2019, RBC secured the “Mill” and raised it in place and demolished the previously approved portions of the structure as well as the older middle portion of the structure that Applicant claims Mr. Barwick had approved verbally.
 - On the week of April 8, 2019, footings were poured for new foundation per the original plans submitted to the Town.
 - During the week of April 13-17, 2019, Interim Building Inspector Barwick contacted Commission. As a consequence of communications between the Commission and Mr.

Barwick, Mr. Barwick issued a verbal stop work order. No work has been performed on the Project since issuance of the stop work order.

- A Building Permit for the subject work should not have been issued, as the Project should have been referred to the Commission under Section 8.1a of the DRI Checklist for DRI Review before any action was taken.
- Neither the Applicant nor the Building Inspector's office took the requisite steps to refer the Project to the Commission prior to the demolition.

3.2 Statutory Authority

The purpose of the Commission, as set forth in Section 1 of the Act, is to "protect the health, safety and general welfare of island residents and visitors by preserving and conserving for the enjoyment of present and future generations the unique natural, historical, ecological, scientific and cultural values of Martha's Vineyard which contribute to public enjoyment, inspiration and scientific study by protecting these values from development and uses which would impair them, and by promoting the enhancement of sound local economies."

The Commission has reviewed the proposal as a Development of Regional Impact, using the procedures and applicable criteria set forth in the Act. The Commission has considered the Application and the information presented at the public hearing, including listening to all the testimony presented and reviewing all documents and correspondence submitted during the hearing and review period.

3.3 Benefits and Detriments

Based on the record and testimony presented therein, the Commission did not weigh the benefits and detriments of the proposed demolition because the historic structure had already been demolished. The Commission did, however, consider the proposed new structure in light of the historic context. Furthermore, the Commission considered, in light of the fact that the demolition may well not have been approved by the Commission on review, the loss to the public of this historic resource as a result of the demolition, and the loss of the artifacts and antique building materials of potential historic and/or cultural value that were in the house, what conditions should be imposed by way of redress.

In sum, after careful review of the Project and its attendant submittals, and the testimony presented by the Applicant and others, the Commission has concluded that application should have been referred prior to any demolition activity taking place.

4. DECISION

The Commission deliberated about the application at a duly noticed meeting of the Commission held on September 19, 2019, and made its decision at the same meeting.

The following Commissioners, all of whom participated in all hearings and deliberations on this Project, participated in the decision on September 19, 2019:

- Voting to approve the demolition and accept the offers and conditions: Gail Barmakian; Leon Brathwaite; Christina Brown; Robert Doyle; Josh Goldstein; James Joyce; Joan Malkin; Kathy Newman; Ben Robinson; Linda Sibley; Ernest Thomas; Richard Toole; and James Vercruysse.
- Voting against the Motion: Clarence A. "Trip" Barnes III.
- Abstentions: Doug Sederholm.

This Written Decision is consistent with the vote of the Commission September 19, 2019, and was approved by vote of the Commission on October 3, 2019.

5. CONDITIONS

After reviewing the proposal for this Development of Regional Impact, the Martha's Vineyard Commission imposes the following conditions on the Project. The resulting decision to approve the Project is based on the proposal as modified by these conditions. These conditions form an integral and indispensable part of this Decision.

These conditions are an essential part of this Decision and shall be enforced as written. The primary enforcement agent for the compliance of these conditions is the building and zoning enforcement officer of the Town. If the Commission or the Town finds it necessary to seek judicial relief to enforce these conditions, the Applicant shall pay the Commission's and/or Town's attorney's fees and costs incurred in obtaining judicial relief.

1 Historic Preservation:

- 1.1 As offered by the Applicant, Rosbeck Builders Corp. will donate \$25,000 to the Commission to allow the Commission to create a database for the Town of Tisbury that will list all properties on the Massachusetts Historical Commission database and/or properties that are over 100 years old by assessor map and parcel, or for such other purposes as the Commission determines is necessary in order to allow the Tisbury Building Department to determine if a property requires referral to the Commission.
- 1.2 As offered by the Applicant, Rosbeck Builders Corp. will fund the cost to reprint the cover page of the Tisbury Building Permit to add "Year Structure Built" to the cover page. Rosbeck Builders Corp. will suggest to the Tisbury Building Department that "Year Structure Built" be in a red or bold font.
- 1.3 The Applicant shall donate \$75,000 to the Martha's Vineyard Museum to finance research and exhibits regarding architectural and other related history of Tisbury or for programs related to cataloging historic structures. The Museum and Commission value historic architecture as a major portion of their mission. The Applicant, along with Commission staff, members of the THC and the Museum will design a scope of work that forwards the goal of preserving, documenting and celebrating the historic architecture and remaining structures on Martha's Vineyard. Payment shall be to the MVC to be given to the Museum to complete the scope of work.
- 1.4 As offered by the Applicant, Rosbeck Builders Corp. will have the property inspected by Randy Jardin, a cultural resources representative of the Wampanoag Tribe of Gay Head (Aquinnah), and report these findings to the Commission. This inspection has been completed, and the Applicant shall make a presentation on the findings to the LUPC.
- 1.5 The structure known as the Mill will be made structurally secure and be maintained in its current exterior significant architectural form including doors, windows and shutters and any other elements. The Tisbury Historical Commission and the Martha's Vineyard Commission shall survey the exterior of the Mill to determine the significant historical features, and report these findings to the Commission.
- 1.6 As offered by the Applicant, the portion of the structure known as the "Mill" will be preserved (it is presently held by steel beams above a proposed foundation) and will be connected to the remainder of the structure per the plans and specifications.
- 1.7 As offered by the Applicant, the Applicant will withdraw the building permit for the barn from the Town of Tisbury. The barn must be preserved in its current state until such time as the Applicant requests permission from the Commission to modify the existing building. During that time, the

barn must be protected from further deterioration, until a determination on its age and use can be reviewed by the Commission. Any design plans and/or changes made to the barn on the property must go before the Commission and the Tisbury Historical Commission for approval.

- 1.8 The Conditions proposed in the letter from the Tisbury Historical Commission (listed as Exhibit 9 on page 3 of this Decision) and the corresponding plans, (listed as Plan 3 on page 2 of this Decision), provided by the owner's architect, Patrick Ahearn, will be implemented.
- 1.9 The "Mill House" is a protected historic house and is subject to Commission and THC approval for any and all future permitting in perpetuity.
- 1.10 The verification of all architectural and site requirements/conditions will be completed by a third-party registered design professional who will conduct periodic inspections and submit a report/affidavit to the Tisbury Building Department confirming that all requirements/conditions were properly carried out. This effort will be paid for by the Applicant.
- 1.11 Outdoor construction from July 4 to Labor Day is limited to the hours from 8:30 a.m. to 4:30 p.m.
- 1.12 The donations required under Conditions 1.1 and 1.3 shall be paid by the Applicant prior to the issuance of any Building Permit.

2 Green Construction:

- 2.1 The newly constructed structure will be all-electric; no fossil fuels will be used in the building systems, the heating of the pool, or appliances installed in the house. An exterior gas grill is allowed.
- 2.2 The newly constructed structures on the property must achieve a HERS rating score of 20 or below. The historic Mill section is exempted from this requirement.
- 2.3 The newly constructed structures on the property will not use any PVC or plastic based products on the exterior, to include but not limited to all trim, rakes, railings, balustrades, columns, wall coverings, and decking.

6. CONCLUSION

6.1 Permitting from the Town

The permit-granting authorities of the Town of Tisbury shall not grant the request for the Building Permit consistent with the Applicant's plan as prescribed in this Decision. The permit-granting authorities of the Town of Tisbury shall only grant the Building Permit based upon the condition(s) set forth herein being satisfied.

6.2 Notice of Appellate Rights

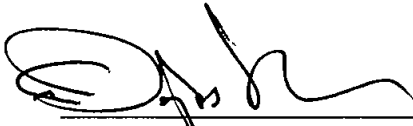
Any party aggrieved by a determination of the Commission may appeal to Superior Court within twenty (20) days after the Commission has sent the development Applicant written notice, by certified mail, of its Decision and has filed a copy of its Decision with the Tisbury Town Clerk.

6.3 Length of Validity of Decision

The Applicant shall have two (2) years from the date of receipt of the Decision of the Martha's Vineyard Commission contained in this document to comply with the terms of this Decision. If the Applicant fails

to do so within two (2) years, the Applicant must return to the Martha's Vineyard Commission and seek a modification before any construction activities can occur on site.

6.4 Signature Block



 Douglas Sederholm, Chairman

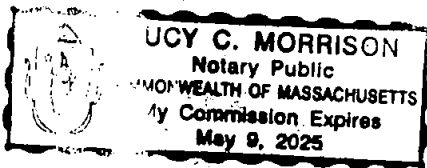
10/18/2019

 Date

6.5 Notarization of Decision

Commonwealth of Massachusetts
 County of Dukes County, Mass.

On this 18th day of October, 2019, before me,
Lucy C. Morrison, the undersigned Notary Public, personally
 appeared Douglas Sederholm, proved to me through satisfactory evidence of
 identity, which was/were personal knowledge to be the person(s)
 whose name(s) was/were signed on the preceding or attached document in my presence, and who
 swore or affirmed to me that the contents of the document are truthful and accurate to the best of
 his/her/their knowledge and belief.





 Signature of Notary Public

Lucy C. Morrison

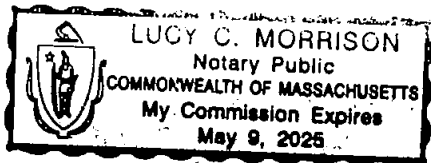
 Printed Name of Notary
 My Commission Expires May 9, 2025

6.6 Filing of Decision

Filed at the Dukes County Registry of Deeds, Edgartown, on: _____

Deed: Book _____, page _____

Document Number: _____



ATTEST: Paulo C. DeOliveira, Register
 Dukes County Registry of Deeds