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Decision of the Martha's Vineyard Commission DRI 707 9 Beecher Park Demolition

1. SUMMARY

Referring Board: Zoning Board of Appeals, Town of Oak Bluffs

Subject: Development of Regional Impact #707 9 Beecher Park Demolition

Project: Demolition of a historic house and construction of a new house in the Vineyard Highlands.

Owner: Melissa & William Callahan

Applicant: Chuck Sullivan

Applicant Address: Melissa & William Callahan Chuck Sullivan
36 Webaqua Road P.O. Box 989
Vineyard Haven, MA 02568 Oak Bluffs, MA 02557

Deed: Registered Land: Book 81, Page 151

Project Location: 9 Beecher Park, Oak Bluffs. Map 8, Lot 120 (approximately 0.22 acres).

Decision: The Martha's Vineyard Commission (the Commission) approved the application for the project as a Development of Regional Impact with conditions, at a vote of the Commission on September 9, 2021.

Written Decision: This written decision was approved by a vote of the Commission on October 7, 2021.

The permit-granting authorities of the Town of Oak Bluffs may now grant the request for approval of the Applicant's proposal in accordance with the conditions contained herein and may place further conditions thereon in accordance with applicable law, or may deny the request for approval.

2. FACTS

The exhibits listed below including the referral, the application, the notice of the public hearing, the staff report, the plans of the project, 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 Martha's Vineyard Commission.

2.1 Referral

The project was referred to the Commission on June 23, 2021 by the Zoning Board of Appeals of the Town of Oak Bluffs, 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 Items 8.1b (*Demolition/Exterior Alteration of Structure Older than 100 years*). After receiving the referral, staff also determined that the structure was listed on MACRIS which triggers Checklist Item 8.1a (*Demolition/Exterior Alteration of a Structure Listed on MACRIS*). 8.1a requires review as a Development of Regional Impact with a mandatory public hearing.

2.2 Hearings

Notice: Public notice of the hearing on the Application was published in the MV Times on July 29, and August 5, 2021; notice was also published in the Vineyard Gazette on July 30, and August 6, 2021. Abutters within 300 feet of the property were notified by mail on July 27, 2021.

Hearings: The Commission held a duly noticed public hearing on the Application that was conducted pursuant to the Act and M.G.L. Chapter 30A, Section 2, as modified by Chapter 831 on August 12, 2021, which was closed that same night with the exception of the written record which was left open until 5:00 pm on August 19, 2021 and closed at that time. The hearing was held entirely using remote conference technology as allowable under Chapter 20 of the Acts of 2021.

2.3 The Plan

The following plans and documents submitted by the Applicant and contained in the Commission's project file constitute "the Plan." All pages are 8.5" x 11" unless otherwise noted.

- P1. X-101 Existing First Floor Plan for the Callahan Garage, 9 Beecher Park Oak Bluffs, MA 02557 prepared by Sullivan and Associates Architects consisting of one (1) 36" x 24" page dated August 17, 2020 and scaled to ¼" = 1'-0".
- P2. Existing Floor Plans and Elevations package consisting of four (4) 36" x 24" pages for the Callahan Residence, 9 Beecher Park Oak Bluffs, MA 02557 prepared by Sullivan and Associates Architects, dated August 17, 2020 and scaled to ¼" = 1'-0", including X-101 Existing First Floor Plan; X-102 Existing Second Floor Plan; X-103 Existing Exterior Elevations; X-104 Existing Exterior Elevations.
- P3. Floor Plans and Elevations package for the Callahan Residence, 9 Beecher Park Oak Bluffs, MA 02557 prepared by Sullivan and Associates Architects consisting of six (6) 36" x 24" pages dated

April 14, 2021 and scaled to ¼" = 1'-0", including: A-101 First Floor Plan; A-102 Second Floor Plan; A-103 Roof Plan; A-201 Exterior Elevations; A-202 Exterior Elevations; and S-100 Foundation Plan.

- P4. Site Plan of Land in Oak Bluffs, MA Prepared for William Callaghan by Vineyard Land Surveying & Engineering consisting of one (1) 24" x 18" page dated April 15, 2021, scale 1" = 10'.
- P5. Callahan Residence package for 9 Beecher Park Oak Bluffs, MA 02557 consisting of twelve (12) 36" x 24" pages dated August 11, 2021 and scaled to ¼" = 1'-0" unless otherwise noted, including: cover page; A-001 General Notes, no scale; A-002 Drainage Plan Landscape, scale 1" = 10'; A-003 Lighting Plan Landscape, scale 1" = 10'; A-101 First Floor Plan; A-102 Second Floor Plan; A-103 Roof Plan; A-201 Exterior Elevations; A-202 Exterior Elevations; A-203 Exterior Elevations; A-204 Garage Exterior Elevations; and S-100 Foundation Plan.

2.4 Other Exhibits

- E1. Letter to Oak Bluffs Zoning Board of Appeals from Adam Turner, MVC Executive Director, dated May 20, 2021.
- E2. Referral to the MVC from the Oak Bluffs Zoning Board of Appeals, received June 23, 2021.
- E3. OAK.530 Inventory Report from the Massachusetts Cultural Resource Information System (MACRIS).
- E4. OAK.B MACRIS Area Form for Vineyard Highlands/East Chop.
- E5. Easement Agreement between the East Chop Association and William J. Callahan and Melissa D. Callahan consisting of seven (7) pages for approximately a thirteen (13) foot wide by fifty (50) foot long piece of land required to install an upgraded septic system, dated December 11, 2020.
- E6. Photos of the site and neighborhood taken in July 2021 by MVC staff.
- E7. Staff Report for DRI 707 9 Beecher Park Demolition dated July 23, 2021, and updated on July 28, August 12, and August 13, 2021.
- E8. Structural Report prepared by Reid Silva, Vineyard Land Surveying & Engineering, consisting of four (4) pages, dated August 5, 2021.
- E9. Staff PowerPoint Presentation dated August 12, 2021.
- E10. Email from Chuck Sullivan, Architect, to Alex Elvin, MVC DRI Coordinator, consisting of one (1) page, dated August 18, 2021.
- E11. Staff Nitrogen Report, dated August 19, 2021.

- E12. Letters from the following citizens: David & Christina Gomes, August 9, 2021; Cecilia Brennan, August 10, 2021; Perry & Kim Patterson, August 11, 2021; and Alfred & Joan Eville, August 17, 2021.
- E13. Minutes of the Commission’s Land Use Planning Committee Pre-Public Hearing Review, July 26, 2021.
- E14. Minutes of the Commission’s Public Hearing, August 12, 2021.
- E15. Minutes of the Commission’s Land Use Planning Committee Post-Public Hearing Review, August 30, 2021.
- E16. Minutes of the Commission’s Deliberation and Decision, September 9, 2021.
- E17. Minutes of the Commission’s Approval of the Written Decision, October 7, 2021.

2.5 Summary of Testimony

The following gave testimony during the public hearing on August 12, 2020:

- Staff presentation by Alex Elvin, DRI Coordinator and Christina Mankowski, Historic Structures Planner.
- Presentation of the project by Chuck Sullivan, Architect.
- Oral testimony from Public Officials speaking for their Boards: None.
- Oral testimony from the Public:
 - Barbara Baskin, Oak Bluffs Historic Commission;
 - Cecilia Brennan, direct abutter;
 - Kim and Perry Patterson, direct abutters;
 - Craig Dripps, president of the East Chop Association.

3. FINDINGS

3.1 Project Description

The proposal is to demolish an existing 2,029 ft², six-bedroom house built in 1877 in the expansive Campground style, and an existing garage (likely from the 1930s), and replace them with a new 3,593 ft² five-bedroom house, and a new 672 ft² garage with an office/bedroom on the second floor. The house and garage will be connected by a covered porch. The new buildings are intended as a year-round residence.

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 criteria that the Commission normally uses in evaluation the benefits and detriments of such a proposal. The Commission has considered the Application and the information presented at the public hearing, including listening to all testimony presented and reviewing all documents submitted during the hearing and review period.

3.3 Benefits and Detriments

Based on the record and testimony presented therein, the Commission finds the following pursuant to Sections 14 and 15 of the Act.

A. THE COMMISSION FINDS THAT THE PROBABLE BENEFITS OF THE PROPOSED DEVELOPMENT WOULD EXCEED THE PROBABLE DETRIMENTS, AS EVALUATED IN LIGHT OF THE CONSIDERATIONS SET FORTH IN SECTION 14(a) OF THE ACT.

A1. The Commission finds that the proposed development at this location is essential and appropriate in view of the available alternatives (Section 15(a) of the Act.)

The project aims to preserve the character of the existing structure, which is part of the historic Highlands neighborhood. The Commission notes that while the loss of the historic structure is unfortunate, the proposed replacement is a meaningful attempt to replicate the style and character of the neighborhood.

The Commission finds that the probable benefits of the project outweigh the probable detriments, as described below. With respect to impacts upon the environment (Section 15(b) of the Act) and the provision of municipal services or burden on taxpayers (Section 15(e) of the Act), the Commission find that the project will have a beneficial impact. With respect to persons and property (Section 15(c) of the Act), impact on the supply of needed low- and moderate-income housing for Island residents (Section 15(d) of the Act), consistency with town, regional, and state plans and objectives (Sections 14(b), 15(g), and 15(h) of the Act), and public facilities (Section 15(f) of the Act) the Commission finds the project will have a neutral impact.

A2. The Commission finds that the proposed development would have a beneficial effect upon the environment relative to other alternatives (Section 15(b) of the Act).

With respect to Water Quality (including Groundwater), the Commission finds that the project will have a beneficial impact with the addition of an Innovative/Advanced (I/A) septic system. (The number of bedrooms on the property will remain at six, including a den and office that the town Board of Health regards as bedrooms.) The property drains into Oak Bluffs Harbor, which is not considered impaired, but for which the MVC has established maximum annual nitrogen limits. The property currently exceeds the limit, and an I/A system will bring the property nearly into compliance, at 2.77 kilograms per year. An easement has been granted for a leaching field on the abutting property to the east that is owned by the East Chop Association.

With respect to Stormwater, the Commission finds the project will have a neutral impact. The impervious surface area will increase due to the larger building footprint, but trench drains will be installed around the new building.

With respect to Energy, the Commission was unable to reach a consensus as to whether the project will have a beneficial, detrimental, or neutral impact. The larger structure, and its use as a year-round residence, will entail a larger energy load than at present, but the Applicant will install electric heat pumps, with a high-efficiency propane boiler for backup, which will mitigate some of the resulting greenhouse gas emissions. Commissioners note that the proposal does not fully comply with the MVC Energy Policy, which includes a preference for all-electric design and onsite solar.

With respect to Open Space, the Commission makes no finding, but acknowledges that the total footprint of proposed structures on the property will increase about 602 square feet (from about 2,686 to 3,288 square feet), including deck space. The property also abuts a larger property to the east that is owned by the East Chop Association and protected as open space.

The Commission finds that impacts associated with Coastal Erosion, Flooding and Ecology and Habitat do not apply to the project.

A3. The Commission finds that the proposed development would have a neutral effect upon other persons and property (Section 15(c) of the Act).

With respect to Traffic and Transportation, the Commission makes no finding, but acknowledges that the property will be used as a year-round residence by the current owners.

With respect to Character and Identity and Scenic Values, the Commission finds that the demolition of the existing house, given its style and condition, will be a detriment, while the proposed replacement will reasonably maintain the general character of the house and neighborhood. Commissioners note that the new building will be larger with slightly different architectural features than the existing structure, but also that the existing structure would be challenging to bring up to code. Commissioner also note the following:

- The existing two-story residence was built in 1877 in the expansive Campground style, with several additions over the years, and is listed in MACRIS.
- The property is not within any historic district, although the Oak Bluffs Historic Commission (OBHC) has some purview over structures that are more than 100 years old. The OBHC had not reviewed the project, although a member of the Oak Bluffs Historical Commission had urged the MVC to consider whether some portion of the front of the house could be preserved.
- Vineyard Land Surveying and Engineering provided a structural report on the building, including foundation support, first and second floor framing, and exterior weather proofing condition. The report states that the house “does not exhibit any major structural stability problems,” but that it would need “significant structural upgrade in each of the load bearing components with any major renovation project.”

With respect to Economic Development, the Commission finds the project will have a slightly beneficial impact by creating a small number of temporary jobs.

With respect to Safety and Health, the Commission finds the project will have a neutral impact, since the existing structure is in good condition and poses no safety hazard.

With respect to Noise, the Commission finds the project will have a neutral impact, since the proposed uses are generally the same as existing, but acknowledges the concerns of some neighbors that the project may lead to an increase in noise (see Impact on Abutters).

With respect to Night Lighting, the Commission finds the project will have a neutral effect. A lighting plan shows a mix of parking, path, and wall-mounted lighting around the proposed buildings.

With respect to Impact on Abutters (after completion), the Commission finds the project will have a potentially detrimental impact, but more information would be needed to make a clear determination. The Commission notes that several neighbors wrote in support of the project, while two neighbors raised concerns about noise and traffic resulting in part from the increased size of the proposed building, including the expanded deck to the south. Commissioners also note that the current house is occupied seasonally and will become year-round.

The Commission finds that impacts associated with Social Development do not apply to the project.

A4. The Commission finds that the project as conditioned will have a neutral effect on the supply of needed low- and moderate-income housing for Island residents (Section 15(d) of the Act).

The Commission notes that the property as proposed will be fit for year-round residence, although there are no specific provisions that it must remain year-round. The current and proposed structures are not considered Affordable Housing.

A5. The Commission finds that the proposed development would have a slightly beneficial effect on the provision of municipal services or burden on taxpayers in the making provision therefore (Section 15(e) of the Act).

The Commission notes that the project will likely have a minimal impact on municipal services, since the site is already developed and close to town, and that the project will likely increase the value of the property, leading to increased property taxes for the town.

A6. The Commission finds that the proposed development would use efficiently and would not unduly burden existing public facilities (other than municipal) or those that are to be developed within the succeeding five years (Section 15 (f) of the Act).

A7. The Commission finds that the project as proposed generally does not interfere with the ability of the municipality to achieve objectives set forth in the municipal general plan, and would not contravene land development objectives and policies developed by regional or state agencies (Sections 14(b), 15(g), and 15(h) of the Act).

The project generally aligns with the Island Plan, including Section 2 (Development and Growth), Section 4 (Built Environment), and Section 6 (Livelihood and Commerce); and the Oak Bluffs Master Plan, although both plans include the goal of preserving existing historical resources.

A8. The Commission finds that the proposed development as conditioned is consistent with municipal ordinances and by-laws (Section 14(c) of the Act).

B. THE COMMISSION FINDS THAT THE PROPOSED DEVELOPMENT WOULD BE CONSISTENT WITH THE LAND DEVELOPMENT OBJECTIVES OF THE COMMISSION, AS EVALUATED IN LIGHT OF THE CONSIDERATIONS SET FORTH IN SECTION 14(b) OF THE ACT.

The requested project in general advances the Commission's land development objectives, as outlined in Section A7 of this Decision.

C. THE COMMISSION FINDS THAT THE PROPOSED DEVELOPMENT IS CONSISTENT WITH MUNICIPAL DEVELOPMENT ORDINANCES AND BY-LAWS, TO THE BEST OF THE COMMISSION'S KNOWLEDGE.

The project is consistent with local zoning and would be allowable by Special Permit.

D. THE COMMISSION FINDS THAT THE SITE IS IN CONFORMANCE WITH THE REGULATIONS OF DISTRICTS OF CRITICAL PLANNING CONCERN, AS EVALUATED IN LIGHT OF THE CONSIDERATIONS SET FORTH IN SECTION 14(d) OF THE ACT.

The project site is within the Martha's Vineyard Lawn Fertilizer Control District, but no other DCPCs.

In sum, after careful review of the Plans and its attendant submittals and the testimony presented by the Applicant and others, the Commission has concluded that the benefits of this proposed development in this location exceed its probable detriments in light of the considerations set forth in Sections 14(a) and 15 of the Act.

4. DECISION

The Martha's Vineyard Commission deliberated about the application at a duly noticed meeting of the Commission held on September 9, 2021 and made its decision at the same meeting.

The following Commissioners, all of whom participated in the hearing and deliberations participated in the decision on September 9, 2021:

- Voting to approve the project: Jeffrey Agnoli; Fred Hancock; Michael Kim; Joan Malkin; Kathy Newman; Brian Packish; Ted Rosbeck; Doug Sederholm; Linda Sibley; Ernie Thomas; Christine Todd; and James Vercruysse.
- Voting against: None.
- Abstentions: Jay Grossman; Ben Robinson.

Based on this vote, the Commission approved the application for the project as a Development of Regional Impact with conditions.

This Written Decision is consistent with the vote of the Commission on September 9, 2021 and was approved by a vote of the Commission on October 7, 2021.

5. CONDITIONS

After reviewing the proposal for this Development of Regional Impact, the Commission imposes the following condition in order to minimize the potential detriments and maximize the potential benefits.

1. BUILDING

- 1.1 Prior to the receipt of a building permit, the Applicant shall submit final exterior construction details and a list of materials to be used to the Oak Bluffs Historical Commission (OBHC) and LUPC. The MVC requests that OBHC review the plans and report its findings to LUPC. LUPC shall review and approve the construction details and list of materials prior to receipt of a building permit, to ensure consistency with the plans submitted at the public hearing.
- 1.2 The Applicant shall reuse the materials in the existing building, including floor joists, sheathing and other materials, to the greatest extent possible in the new building.

2. WASTEWATER

- 2.1 The Applicant shall install an Innovative/Alternative (I/A) septic system for the new building, in order to reduce the amount of nitrogen entering Oak Bluffs Harbor. Plans for the I/A system shall be submitted to the LUPC for review and approval prior to receipt of a Building Permit.

3. ENERGY

- 3.1 As offered by the Applicant, the new house shall be all-electric, with the exception of a high-efficiency propane boiler for backup heating and hot water.

4. LIGHTING AND LANDSCAPE

- 4.1 As offered by the Applicant all exterior lighting shall comply with International Dark Sky Association standards.
- 4.2 As offered by the Applicant, the mature cedar tree on the north side of the existing building shall be preserved.

5. MODIFICATIONS

- 5.1 Any proposed modification to DRI 709, as approved herein, including any modification resulting in any change of use or change in intensity of use, shall be referred to the MVC for prior review and approval.

6. CONCLUSION

6.1 Permitting from the Town

The Applicants must, consistent with this Decision, apply to the appropriate Town of Oak Bluffs Officers and Boards for any local development permits which may be required by law.

The permit-granting authorities of the Town of Oak Bluffs may now grant the request for approval of the Applicant's proposal in accordance with this decision and may place further conditions thereon in accordance with applicable law or may deny the request for approval. Any permit issued by the Town shall incorporate the plan approved by the Commission.

6.2 Notice of Appellate Rights

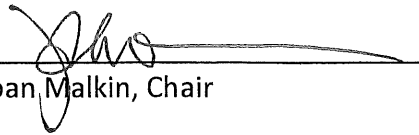
Any party aggrieved by a determination of the Commission may appeal to Superior Court within twenty (20) days after the Commission has sent the development Applicant written notice, by certified mail, of its Decision and has filed a copy of its Decision with the Oak Bluffs Town Clerk.

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 begin substantial construction.

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6.4 Signature Block

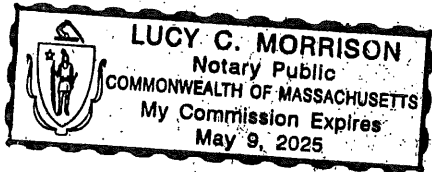

Joan Malkin, Chair

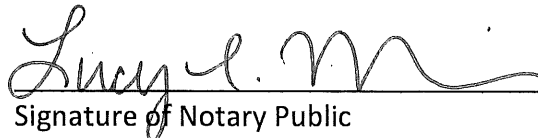
21 October 2021
Date

6.5 Notarization of Decision

Commonwealth of Massachusetts
County of Dukes County, Mass.

On this 21st day of October, 2021, before me,
Lucy C. Morrison, the undersigned Notary Public, personally appeared
Joan Malkin, proved to me through satisfactory evidence of
identity, where 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: October 21, 2021

Deed: Book _____, Page _____

Document Number: 91257

Cert. No: 14878