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Via email & USPS

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Chair
Edgartown Zoning Dept.
P.O. Box 1596
Edgartown, MA 02539

Lucy Morrison
Chair
Edgartown Planning Board
P.O. Box 1596
Edgartown, MA 02539

**RE: Application for Special Permit
Martha's Vineyard Hospital
490 Edgartown-Vineyard Haven Rd.
Senior Residential Developments**

Dear Mr. Tomassian & Ms. Morrison:

I am writing this letter to you as Chairman of the Town of Edgartown Zoning Board of Appeals and relative to the current provisions of the Edgartown Zoning Bylaw and in particular, Article XV dealing with Senior Residential Developments [*hereinafter* "SRD"].

I am also writing this letter to the Town of Edgartown Planning Board, as I have previously stated orally and in writing, my opposition to the above application by Martha's Vineyard Hospital for Special Permit.

I have made a brief review of the current Edgartown Zoning Bylaws and Article XV under which the applicant has made submission. I wish to call attention to a number of provisions of Article XV which lack clarity and definition, are disharmonious and conflict with other Zoning provisions, are deficient and ambiguous in meaning and fail to provide the precision and accuracy required to properly and fairly assess and reasonably determine the merits of the application for issuance of a special permit and operation of a SRD.

The topic of SRD is set forth in Article XV of the Edgartown Zoning Bylaw, as Amended in May, 2021. Section 15.1, as an introductory statement, sets forth the purposes of the Article XV and entitled "Senior Residential Developments". Under section 15.1, "*The purpose of this article is to provide for a variety of housing types, settings and residential services to meet the needs of people as they age and people with disabilities.*" Although §15.1 does not limit the

purpose to age, this age limit is further clarified by §15.2.B of article XV which states that “*A senior residential development is intended for people age 55 or over.*”

The term “purpose” as stated in the Oxford English Dictionary, is defined as “the reason for which something is done or created or for which something exists”. So, it is reasonable to conclude, from the plain meaning of the Zoning Bylaw, that the purpose of a SRD is to meet the needs of people over the age of 55 and other people with disabilities. Does this mean that if you have a disability but are under age 55 [*for example, a young Vineyard resident disabled from injuries in an auto accident*], you will be excluded from participating as a resident of the proposed skilled nursing facility at Navigator Homes just because you’re not over age 55? Does the term “disability” encompass mental as well as physical impairments or both?

The Martha’s Vineyard Hospital has made application for a special permit for a SRD at or near 490 Edgartown Vineyard Haven Road, in the Town of Edgartown. A major component in this plan is to provide workforce housing for hospital employees who work at the hospital located in Oak Bluffs. In accordance with the stated purpose of SRD in §15.1, where is it provided in the Town zoning law that an ancillary purpose of Article XV is to provide housing for people working outside of the Town of Edgartown?

Staff apartments are addressed in §15.3.D of Article XV. It is provided there that SRD may include use of staff apartments. However, those staff apartments must meet the purposes described in §10.3.F.1¹ of the By-laws. The purpose of staff apartments as set forth in §10.3.F and states that the “*purpose of this bylaw is to address the significant shortage of affordable housing for employees working in the Town of Edgartown.....*” How can this project even be considered by the Town of Edgartown as the stated purpose of staff apartments is for employees of the Town of Edgartown, not for employees of the Town of Oak Bluffs or any other island town?

The “staff apartments” issue is further blurred by §15.4.F wherein it states that “*residents of staff apartments shall be persons employed by the SRD or by another assisted-living, medical services or emergency services entity on Martha’s Vineyard.*” This provision squarely conflicts with Zoning By-Law §10.3.F.1 as indicated above. So, does this mean that a physician in Vineyard Haven or a chiropractor in Chilmark can have employee staff apartments at this project? Also, why is the statute silent as to the term “*hospital*” which is omitted from the By-Laws? If the law clearly stated and permitted and allowed hospital employees to be housed in Edgartown, why was that term absent from the law and why has this not been addressed in the pending application?

The term “Hospital” is defined by Oxford Dictionary as “*an institution providing medical and surgical treatment and nursing care for sick or injured people.*” Based on that definition, the hospital would appear to be excluded from the zoning language as it also provides surgical treatment, not just medical services. What about the term “*emergency services*”? Does that mean a plumber with 24 hour furnace services? Further, the statute provides that “*residency requirement must be assured by deed restriction, running with the land.*” Is this intended to mean that only people working in the Town of Edgartown will be permitted as residents?

¹ Under heading of Article X, General Regulations

Also, what does the term “on Martha’s Vineyard” mean? Does that mean a medical services company with merely a post office address will be permitted to have its employees housed in the Town of Edgartown or does this mean “*operating, functioning and/or working with physical presence*” on Martha’s Vineyard and if so, why is that not clearly stated in the zoning law?

In §15.2 pertaining to “Applicability” it is stated that “The Planning Board may grant a Special Permit for a Senior Residential Development in accordance with this Article XXIII on any tract of land...” I am unable to locate Article 23 of the Edgartown Zoning By-Law. What does Article 23 state? What are its terms and provisions? How can the Town of Edgartown even consider this application for a special permit for a SRD in the absence of Article 23 of the Edgartown Zoning By-Laws? How can this project have gotten so far along without a reference to Article 23 nor its provisions nor how it applies to this project? If the voters of Edgartown approved this statute, where then is Article XXIII?

In §15.5 [*Age Appropriate Design*], it is provided that SRD must be “visitable”. Miriam Webster dictionary definition of that term *means “subject to or allowing visitation or inspection”*. However, the current zoning law provides that the combined phrases “people as they age” and “visitable” for SRD [*contrary to the dictionary definition*] to mean what is stated in §15.5.B, but that section also appears to apply to single-family, two-family and townhouse units. So, does this mean that workforce housing that is proposed on the site need to comply with §15.5.B [*equipped for seniors and people with mobility impairments*] or does that just apply to the skilled nursing facility or both or not? What about the requirement of indoor or structured parking?² Does that mean that parking is not to be visible from a public road? Here, there appears to be a conflict between the provisions of §15.4.E providing for off-street parking and §15.5.B [5] which provides for indoor or structure parking.

Section 15.3.B sets forth the uses of SRD in “one or any combination of the following uses in one or multiple physical structures”. However, §15.3.D sets forth other potential uses without the clarifying language of §15.3.B. What is the reason for that? Why are staff apartments and adult care center omitted from §15.3.B?

In §15.2.A, it provides that a Special Permit for SRD can be issued on a site with “public water and/or public wastewater”. However, in Sec. 15.6.G, omits the “and/or” provision and states that “A development served by public water *and* public wastewater shall be considered highly advantageous”. As this application clearly does not benefit from wastewater, does that mean that the project as submitted is NOT highly advantageous or in other words, simply disadvantageous?

In §15.8.B, the law provides that the Planning Board may waive strict compliance with any provision of this section, provided that such waiver does not substantially nor detrimentally

² Reference is to §15.5.B [5] of Zoning Bylaw. However, structured Parking means *providing parking within a structure below, at or above grade in a manner such that vehicles are not visible from the public street*. See <https://www.lawinsider.com/dictionary/structured-parking>

impact the overall development, the immediate abutters, the welfare of the Town of Edgartown or the purposes and intent of this Zoning Bylaw. ***If the welfare of the Town of Edgartown is of vital importance, how can the Town permit and allow non-Edgartown employees access to housing so vital to the Town and its working residents? How can the town permit this application which is contrary to the stated purposes of Article XV? How can the town consider this application for special permit, which, if granted will undoubtedly substantially and detrimentally impact immediate abutters?***

Section 15.2.B states that SRD's shall provide for universal design in accordance with the provisions of this article. However, "universal design" is not defined in Article XV nor is it repeated in §5.5 under the topic of "Age-Appropriate Design".

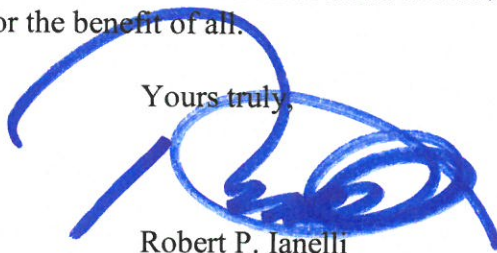
Finally, zoning by-laws define Continuing Care Retirement Facility and Skilled Nursing Facility³ but strangely, there is no stated definition of Senior Residential Development, the actual topic heading of vital central importance to Article XV. Similarly, there is no definition for adult day care center⁴, nor medical office or clinic⁵. Why is that?

With all due respect and as outlined above, it appears that portions of Article XV as enacted are ambiguous, inconsistent and unclear. There are likely others which I have not as yet discovered. The Town Planning Board, charged with the responsibility for the welfare of all town residents and all town citizens, should, in the end, do what's right. It should deny this application for special permit, notwithstanding public sentiment for speedy approval nor considerations that the hospital is the largest island employer.

After denial, the Town should consider the opportunity to revisit Article XV and re-draft and propose changes to the present By-Laws that are consistent with the Zoning By-Laws overall, that clearly state what the objectives and purposes of this amendment are, which clarify and delineate the rules for staff housing, which eliminate ambiguity and which address and more clearly reflect the needs of the citizens and residents of the Town, including those elderly adults in need of services.

In fairness, we are abutters on Teaberry Lane and we, along with other adjacent Edgartown owners, oppose this project for a number of solid reasons. However, approving this project on the law as passed and based on an unclear, ambiguous and ill-drafted law would only compound the error of this project also requiring sub-division, would invite formidable legal challenges and would eliminate the chance for the Town to make the necessary and timely amendments to the Zoning Law for the benefit of all.

Yours truly,



Robert P. Ianelli

RPI

³ Article I-General Definitions, Sec. 1.3

⁴ See Sec. 15.3.D [1]

⁵ See Sec. 15.3.C [3]