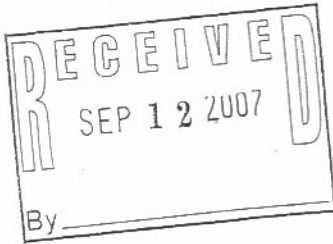




TOWN OF OAK BLUFFS

Post Office Box 1327 · Oak Bluffs, MA 02557
Telephone 508-693-3554 · Fax 508-696-7736



Board of Selectmen

Kerry Scott, *Chairman*
Gregory A. Coogan
Ronald L. DiOrio
Duncan Ross
Roger W. Wey

September 11, 2007

Michael M. Dutton
Town Administrator

Martha's Vineyard Commission
P.O. Box 1447
Oak Bluffs, MA 02557

RE: Referral of Application by Joseph G. Moujabber to the
Copeland Plan District Review Board for 10 Seaview
Avenue Extension, Oak Bluffs, Massachusetts

Dear Members of the Commission:

We are in receipt of a letter dated September 7, 2007, from the attorneys for Joseph G. Moujabber to Jerry Wiener (the "Moujabber letter"), our Building Official, regarding the above property, which is located in Area F (the North Bluff) of the Copeland Plan District of Critical Planning Concern (the "Copeland Plan DCPC"). Under Section 9(1)(D)(6)(a) of the Oak Bluffs Zoning By-laws (the "Zoning By-laws"), Mr. Wiener also serves as the administrator for the Copeland Plan District Review Board (the "Board") which, as you know, reviews applications for certificates of appropriateness under the regulations governing the Copeland Plan DCPC.¹ The Moujabber letter "requests a hearing and further consideration by the [Board] regarding his pending application for a certificate of appropriateness for a proposed addition on his property at 10 Seaview Avenue Extension" under Section 9(1)(D)(6)(b) of the Zoning By-laws.

¹ On May 7, 1992, the Martha's Vineyard Commission (the "Commission") approved proposed regulations for the Copeland Plan DCPC, as it then existed, which were subsequently incorporated into the Zoning By-law. On April 6, 2004, the Commission issued a memorandum to various boards of the Town of Oak Bluffs memorializing its approval of Area F, the North Bluff area. The memorandum also stated that "all rules and regulations that govern other portions of the district shall also govern the newly adopted area."

September 11, 2007

On August 7, 2007, a judgment entered in the Dukes Superior Court affirming the independent and broad powers of the Board, but requiring the Board to grant further consideration to Mr. Moujabber's application for a certificate of appropriateness. The judgment entered under a Decision and Order from Judge Richard T. Moses dated July 27, 2007. The Judge's Decision raises several questions as to how to apply the Copeland Plan DCPC regulations to the North Bluff area. Judge Moses noted that the Copeland DCPC regulations provide "tremendous power" to the Board but, at the same time, "provide relatively sparse information relating to the design of a proposed project." (Decision at 6). More specifically, for example, Judge Moses pointed out that: a.) the language limiting "new structures to Victorian-style architecture in order to enhance the ' . . . inviting and open 'village green' of the park' (Decision at 7) was apparently drafted with the Commission's initial designation of the Ocean Park area in mind rather than the North Bluff; b.) the requirement that projects must enhance and preserve the asymmetrical skyline provides limited guidance (Decision at 8); and c.) the provision that "views from abutting properties shall be preserved", read literally, could require that "no structure could be built since the construction of any structure is highly likely to impact the view of something from abutting properties, including pleasing scenic views as well as unsightly views." (Decision at 11). The above noted points are areas in which the Town boards could use the Commission's guidance.

The Moujabber letter requests guidance from the Board, and further suggests that, following the Board's input, Mr. Moujabber will submit revised plans to the Board (as well as the the Zoning Board of Appeals and the Cottage City Historic District). We believe that Mr. Moujabber's approach is constructive, but we also believe, given the questions raised by the Court, that the Town boards would benefit from the Commission's review of this project. Accordingly, this Board has decided to refer the matter to you as a Development of Regional Impact under Section 3.101(a) of the Standards & Criteria, as amended through December 18, 2003, with the expectation that you will assist the Town boards in establishing appropriate parameters for their review.

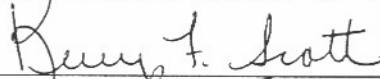
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In view of our request for guidance to our Town Boards, we further request that you waive any filing fees and proceed with your review on an expedited basis.

Very truly yours,


OAK, BLUFFS BOARD OF SELECTMEN

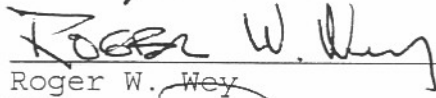


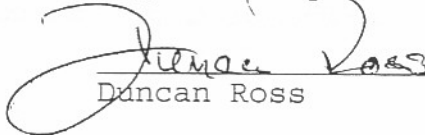
Kerry F. Scott, Chairperson



Ronald L. DiOrio


Gregory A. Coogan


Roger W. Wey


Duncan Ross

OBBOS/jmh

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