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## **Martha's Vineyard Commission**

### **Land Use Planning Committee**

# **Minutes of the Meeting of July 10, 2006**

Held in the Stone Building, New York Avenue, Oak Bluffs.

Commissioners Present: *Christina Brown, John Breckenridge, Chris Murphy, Carlene Condon, Jim Powell*

MVC Staff Present: *Mark London, Paul Foley, Chris Flynn*

Press: *Ian Fein*

### **1. DRI 548-M JE&T Construction/Fairwinds**

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Present for the Applicant: *Tom Richardson*

**Project Location:** Irene's Way, Tisbury, MA

**Proposal:** To allow tenants to finish basements and add bathrooms.

The meeting opened at 5:32 p.m.

#### **Applicant's Presentation**

- Tom Richardson said that when walkouts became an option, some neighbors asked if they could finish their basements and add bedrooms.
- The Tisbury Building Inspector said that they should have it clarified by the Zoning Board of Appeals.
- The ZBA voted 3-2 that it deserved a hearing.
- In June they issued a Modification to the Comprehensive Permit with conditions (see Tisbury ZBA Modification conditions)
- Ultimately the question became: what are these rooms going to be used for?
- The ZBA said they could finish the basements but not use them as bedrooms. Condition #4 pertains to a tenant who went ahead and did work on his own without a building permit. He did not put in a bedroom or a bathroom but he did work without a permit. He said that the homeowners have a sense that if they have a basement, they could finish them, now it sounds like they can't do that even for a recreation room.
- 8 of the 12 houses have walkouts.
- Mr. Richardson responded to a letter from abutter Linda Gorham:
  - #1 re: Speeding: - they have put in speed bumps which were not required.
  - # 2re: Drainage: - they put an additional culvert that was not called for.
  - #3 re: Landscaping- they just spent \$10,000 on 70 new trees that were not being taken care of by the neighbors. They have planted over 200 trees on the site and spent over \$103,000 on plants to this day.
  - #4 re: Who will enforce conditions? Answer - the Homeowners Association.

- #5 re: Marketing: - They never marketed to anybody that they could finish their basements and rent them out.
- Finally, he said that despite what appears to be a lot of negativism, there are three affordable units and a few moderates with mostly local families.

### **MVC Issues**

- When construction started on this project it was quite controversial. The original proposal started with 24 units. During the DRI process the number was reduced to 14. The Tisbury ZBA cut it down to 12.
- Once construction began, the MVC got a lot of calls from concerned neighbors about the no-cut zone being ignored and the buildings were all built in only one of the approved four styles.
- Mr. Richardson noted that they did get a modification from the ZBA to approve full dormers on the one style (the Bedford) but that the ZBA did not refer it to the MVC.
- It was noted that some of the houses are two stories high on the road in the subdivision, however, some of the abutters face very high buildings

### **Motion**

- **Chris Murphy moved and it was duly seconded that LUPC recommend to the Commission:**
  - **that the proposed modifications as conditioned by the ZBA do not rise to the level of regional impact to require a new public hearing; and**
  - **that the proposed modifications be accepted, subject to staff review of the landscaping and drainage plan..**

**The Motion passed unanimously.**

- It was suggested that while the Applicant is before the Commission, it would be desirable to ensure that the project has been built as approved.
- A Site Visit was scheduled for Thursday Morning July 13.

## **2. Pre-Application Review of 38 Main Street Tisbury – Ben Hall Jr.**

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Present for the Applicant: Ben Hall Jr.

**Project Location:** 38 Main Street, Tisbury, MA

**Proposal:** To expand an existing building on Main Street in Tisbury.

### **Discussion**

- Ben Hall Jr. wanted to describe the project and his issues with the Tisbury Building Inspector's reasons for referring it to the MVC.
- The project is at 38 Main Street – the building north of pushcart alley.
- It is a 3-story building.
- He bought it in 1987 with a partner.

- They got approval to do an ice cream parlor; this fell through. They then got approval for a Chinese restaurant, which did not go ahead.
- The partners finally worked out their differences last year. Ben Hall proposed re-financing the project.
- He went to the ZBA and was granted a special permit. A retaining wall was poured. At the front, they propose to change some windows and expand the door to be A.D.A. accessible. In order to do this, they will have to move the display window.
- They now want to add a new core, expand the third floor, and add an ell to the back.
- They propose to add 485 new sf of commercial space on first floor, 485 sf of office space on the second floor, and add 28.5 sf to the existing residential unit on the third floor. They also plan to add 1,814.5 square feet of new unfinished attic space on the third floor; eventually they could come back to convert the attic to residential space.
- The original proposal was to have two new apartments on the third floor, but the Building Inspector would have sent them under DRI Checklist 3.401b (the existing is 3 commercial, 1 office, and 1 residential). They are not now planning on adding any units.
- There was some discussion over the DRI Trigger which says "Any development, including the expansion of an existing development, which proposes to create or accommodate..."
- Then there is the third trigger, 3.301e which Mr. Hall maintains brings in all sorts of items that do not belong.
- Mr. Hall was asked if the intention is to include apartments on the third floor, why doesn't he just bring in the full proposal of what he intends to do? This would appear to be segmentation.
- He replied because of the cost. The construction of the third floor attic can be done with the existing financing. Adding the apartments now would require sprinklers, an elevator, and different financing.
- The applicant is questioning the meaning of "accommodate" in 3.401d and the words "change of intensity of use" in 3.301e.
- It was moved that we defer this to another LUPC when Ken Barwick can be here and we could have a chance to look at this more closely.

Adjourned 6:58