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Martha's Vineyard Commission

Land Use Planning Committee

Minutes of the Meeting of August 21, 2006 - **DRAFT**

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

Commissioners Present: Christina Brown, Ned Orleans, John Breckenridge, Chris Murphy, Paul Strauss, Carlene Condon, Megan Ottens-Sargent (5:52)

MVC Staff Present: Paul Foley

1. Rattner Subdivision (DRI 326-M)

Present for the Applicant: Patricia Maureen White (Owner), Carole Hunter (relocation project manager), Glenn Provost (Vineyard Land Surveying), Kris Horiuchi (Horiuchi Solien Landscape Architects), and Andrew Flake (Andrew Flake Construction, Inc.)

Present for the Town Referring Board: Murray Frank (WTPB, Chairman), Susan Silva (WTPB)

Audience: Bonnie Brooks (neighbor), Beatrice Phear (Obed Daggett Road Association), Prudence Burt (WT ConCom), Mark Yale (WTPB)

Project Location: Obed Daggett Road

Proposal: This is two separate projects: one is to move an existing 3,300 +/- square foot house to an abutting property under the same ownership; the other is to build a new house of 12,700 square feet (15,575 gross square feet including porches and basement) on the site of the existing house with a footprint of 6,774 square feet.

The meeting opened at 5:32 p.m.

Referral

- Murray Frank, Chairman of the West Tisbury Planning Board, said that the Planning Board sent this under DRI trigger 3.102b because the property is the subject of a previous decision ("once a DRI always a DRI") and because of the potential impacts of the 15,000 square foot house.
- Glenn Provost, for the Applicants, said that in all the years that he has been dealing with the MVC, he has never seen an approved subdivision have to come back for DRI review of a building permit on one of the approved lots.

Applicant Presentation

- Glenn Provost showed the site plan. The project originally came as a subdivision in 1990. The 10-acre border follows an intermittent stream. The existing house was already built at the time of the 1990 DRI.
- Presently, two building permit applications have been sent, one is to move the existing house to an approved lot, and the other is to build a new house on the site of the existing house. They are both over 3000 sf, which made it go to the Planning Board for site plan review. The new house will be in the Coastal District DCPC but will be pushed back out of the coastal shore zone.
- The property has a lot of history before town boards.

- There was a pier proposed on the property and an application for a floating dock.
- In 1997 they went to 3 local boards to add a wing to the existing house.
- In 1999-2000 they went before the Conservation Commission to build a bridge to cross a seasonal stream and build the driveway and bring utilities to the proposed moved house site.
- Also in 2000 they went before the Conservation Commission to determine if the stream was a river under the Wetlands Protection Act. The Conservation Commission believed it was. It went to DEP for a superseding decision and the DEP ruled it was not a river.
- In 2003 they went to the ZBA, Con Com and the MVC for the pier and floating dock, which were denied.
- In 2001 they went to Conservation Commission for brush cutting.
- In 2002 they went for tennis courts.
- The road to the lot where the moved house is proposed to go is built today. The plans to build this house have been evolving.
- They are in the Coastal District DCPC (500' from the shoreline).
- They went to the Planning Board for a determination on the height. In 2003 they asked the Planning Board to come to the property and determine if it was an "open" site (allowing an 18' high building) or a "wooded" site (allowing a 24' high building). The Planning Board determined that the site was "wooded".
- In 2004 they went to the Conservation Commission to remove the existing house and build a new house. The footprint of the original plan was approximately 10,000sf, which was approved with many conditions including excavation and a detailed topography of the site.
- There was a question of how to determine the ridge height. The formula is the mean of the hill height plus 24 feet. In 2004 they went back to the Planning Board and the Conservation Commission for a site visit with ridge poles and the footprint marked. Since they had a conceptual box, they wanted the Planning Board to see if the height was all right. They got an Order of Conditions from the ConCom that was good for 3 years.
- The house plans have since changed. The new plan has fewer impacts on the land than the previously approved plan including a smaller house and footprint, and less excavation.
- On May 9, 2006 a letter went back to the Con Com to see if the changes were insubstantial. The impact on the site had been significantly reduced (reads amendment to order of conditions). He said they itemized these changes so there would be a paper trail to what was approved. All of that being accomplished, they took the next step.
- There are some time constraints. They want to move the house to the new location so the family can occupy it while the new house is being built.
- First they went to the Planning Board to see what would be necessary. They thought the Planning Board was simply setting up a site visit so they did not attend the meeting when they got referred to the MVC as a possible DRI.
- He reiterated that there are two separate projects here: One to move; one to build anew. They could have opted to not move the entire house and avoided the Planning Board altogether. The house would be moved in several pieces. The footprint of the existing house is 2800 sf with a total square footage of 3,300sf. He said the building envelope does not need further approvals. The road, trenching, utilities, and bridges were approved by the Con Com. If it were smaller than 3000 sf it would not go to Planning Board.
- Glenn Provost restated that the confusing thing to him is that he has never heard of a subdivision that has been approved coming back for other permits; the building permits do not come back.

West Tisbury Town Boards

- Murray Frank, Chairman of the West Tisbury Planning Board, noted that a majority of the Planning Board (3 of 5) was here. He said he thinks Glenn's recitation is correct. The Planning Board never looked at a plan that Glenn was a part of without him being there. (Glenn restated that he thought the meeting was just to set up a site visit).
- Murray said that Ernie Mendenhall (the WT Building Inspector) thought this might be the largest building he has been asked to look at.
- The Planning Board did not see the plan of the house to be moved until now. Its bylaw states that any house over 3000 sf requires Site Plan Review. The Planning Board looks at the impact on the area, whether the height is within the constraints, sufficient distance from the bounds, important ridges, landscaping, screening, views, and renewable energy sources. The Planning Board then reports to the Building Inspector.
- With Site Plan Review, the Planning Board asks about issues but has no power to require compliance. Generally, the Planning Board says you can do this or that and the architect either says yes or no here is why I did it this way. It is usually a negotiation session where they come to compromises.
- They are particularly interested in this project because it is on the coast.
- Part of the PB site review is binding such as the height (24' in this case), location, view, and impact. They have required that footprints be moved before.
- If the Planning Board suggests things that the owner or architect does not want to change they cannot force them to change things. They can usually work things out.
- The way the peak of the house gets to be 24' is by excavating 3500 cubic yards of fill. The Planning Board approved this.
- The Planning Board has a dilemma between letting people do what they want on their land and conserving resources, character, and vistas. The MVC is now embarked on the Island Plan and should look at the impact on the electricity supply, the roads, and resources of these big houses.
- Susan Silva of the Planning Board described the process of defining the site as wooded. Behind the house is a wooded hill, so the peak of the house will not protrude beyond the tree/ridge. In the front, the house will be on the Vineyard Sound and the sight line will be clear to it. Some the Planning Board members wanted to consider the site as open, in which case it would have only been allowed to be 18 feet high.
- Mark Yale of the Planning Board said their bylaw states mean existing grade. They saw there was going to be quite a bit of excavation. They even considered changing the bylaw to read "mean finished grade" rather than "mean existing grade". Once the 24-foot plane is established, you can build below that.
- Prudence Burt of the Conservation Commission said that the Con Com had a lot of questions about the amount of material, staging, etc... There is nowhere to work. She said that she feels strongly that the Planning Board and Con Com are not able to address many of the issues involved with this project. They did not have a lot of information to work with so they made a lot of conditions. There is another wetland up the driveway but that will be impacted by all of the truck traffic. Indian Hill road, Obed Dagget Road and Cedar Tree Neck will all be impacted. They want the MVC to review this project as a DRI because they felt that there are so many things they cannot really deal with. There are probably ten different orders of conditions on different projects on this property.
- The Conservation Commission has a public hearing whenever they have an order of conditions. They did not look at the house move.
- The Planning Board does not hold a public hearing for site plan review.

House Size

- Carole Hunter wanted to make clear that in actuality the 15,575 sf number is a little misleading because it includes the basement and screen porches. The footprint is 6,175 sf. The second floor living space is 3,890 sf. The actual living space is 12,700 square feet.
- Patricia Maureen White, the owner, said the number is important because it is not as big as being portrayed. When they bought this property in the mid 1980's, they had one child. They have been coming here since the 1960's. Once they discovered they had an Indian burial ground, they protected it. They expanded our house in a funky Vineyard way as their family grew. Now they have three teenage children so they have a bigger house. Now they want to plan for the future when they might have spouses and grandchildren. They have taken this slowly and methodically. They have scaled back on their original plans. They have tried to do everything they can to go by the existing laws
- Ms. White also wanted to point out that there are several pieces of information in the West Tisbury Planning Boards referral that are factually inaccurate such as: the square feet of the house; it is not an ancient way; it does not cross a wetland.

Obed Daggett Road and Neighborhood

- The access is off Indian Hill Road and Obed Daggett Road where the layout is "as traveled".
- Beatrice Phear, representing her husband who is the President of the Obed Daggett Road Association, said most of the residents along the road have given 10-foot rights-of-ways; one portion is 8 feet but has been granted 10 feet for this project.
- There are turnouts on Obed Daggett Road but none of the turnouts are sufficient for two trucks to pass. The agreement reflects the minimum that the Road Association thinks can be tolerated. They hope that if the MVC takes this project, it will condition it to this standard. They think it is a workable compromise. There is not room for two trucks, so they are going to use radio communications to make sure that it is only one truck at a time.
- The standard for the Road Association is that the road commissioner does work and the neighbors pay. For this project there was a \$20,000 drawdown escrow set up by Mr. Rattner, and Mr. Flake offered to do the maintenance.
- Bonnie Brooks, an immediate abutter, said they are going to be heavily impacted on the road, their view as they come down the road, and the noise.
- Andrew Flake said he thinks they will use smaller trucks. They are trying to be proactive in terms of maintaining the road; it will not be 10 wheelers. They will be smaller, so more trips. The impact will be during a limited amount of time. If you look at their extended schedule most of this would occur in a narrow window.
- Mr. Flake added that he has lived here all of his life, over 30 years in the construction business. He said anyone driving in his trucks is representing him and what he stands for. He is going to be very proactive, and asked that any issues to be sent straight to him
- There are 7 year-round households, 5 seasonal households, plus year-round access to Cedar Tree Neck Sanctuary.
- The estimated length of the projects is two years for both. The house move should take less than a year. There is an overlap period but we should look at them as separate.
- The newest house on Obed Daggett Road was the Phear house in 1997. The Roberts came in on another road with a 7500 sf footprint. The new Ziff house is a similar size building.

Motion

Chris Murphy moved and it was duly seconded that LUPC recommend to the Commission that it concur with the referral to review the project as a DRI.

- Chris Murphy said that the Commission should always take seriously a request from a Town Board to review a project.
- Christina Brown said that she was not ready to make a recommendation. She noted that there are two building permits on a subdivision the Commission already approved. She sees this more as a discretionary referral.
- Chris Murphy said that the letter accompanying the referral made it sound like a discretionary referral and added that he thinks the Commission should accept it as a discretionary referral.
- It was noted that the Planning Board members present nodded in agreement.

Chris Murphy amended his motion, and it was duly seconded, to be that LUPC recommends considering both projects together as a DRI as a discretionary referral. Voice vote. In favor: 6. Opposed: 0. Abstentions: 1 (Christina Brown). The motion passed.

- Christina Brown felt LUPC should have more information before making a recommendation.

The meeting adjourned at 7:10 p.m.