Minutes of the Commission Meeting
Held on June 14, 2018
In the Stone Building
33 New York Avenue, Oak Bluffs, MA

IN ATTENDANCE

Commissioners:  (P= Present; A= Appointed; E= Elected)
P  Gail Barmakian (A-Oak Bluffs)                         P  Michael Kim (A-Governor; non-voting)
P  Trip Barnes (E-Tisbury)                              P  Joan Malkin (A-Chilmark)
P  Leon Brathwaite (A-County)                           P  Katherine Newman (A-Aquinnah)
P  Christina Brown (E-Edgartown)                        P  Ben Robinson (A-Tisbury)
  - Peter Connell (A-Governor; non-voting)              P  Doug Sederholm (E-West Tisbury)
  - Robert Doyle (E-Chilmark)                           P  Linda Sibley (E-West Tisbury)
  - Josh Goldstein (E-Tisbury)                          P  Ernie Thomas (A-West Tisbury)
P  Fred Hancock (E-Oak Bluffs)                          P  Richard Toole (E-Oak Bluffs)
P  James Joyce (A-Edgartown)                            P  James Vercruysse (E-Aquinnah)

Staff:  Adam Turner (Executive Director), Bill Veno (Senior Planner), Christine Flynn (Economic Development and Affordable Housing Planner), Dan Doyle (Regional Planner).

Chairman James Vercruysse called the meeting to order at 7:00 p.m.

1. DIVISION ROAD ANR-EDGARTOWN DRI 683 PUBLIC HEARING


For the Applicant:  Doug Hoehn (Agent)

James Vercruysse, Public Hearing Officer, opened the public hearing and read the public hearing notice. The applicant is Boston Equity RE LLC and the location is Division Road (aka Henry’s Path), Edgartown (a recent 8.5 acre division of Map 37 Lot 46, 25.75 acres). The proposal is to create five lots through a Form A (Approval Not Required) application.

1.1 Staff Report

Bill Veno presented the following:
- This is a Concurrence Review from the Edgartown Planning Board.
- The MVC voted that a public hearing review as a DRI was required on May 24, 2018.
- The site plan was reviewed.
- The proposal is off Division Road, which connects Meetinghouse Way with Meshacket Road.
- The lots are all located in half-acre zoning, and average 1.7 acres per lot.
- The previous division of 25 acres should have been referred to the MVC under Checklist 2.3.c.
- There was a dispute over ownership of a lot that provides access to the private way from Meshacket Road.
• One side of the property is an ancient way (Old Meshacket Road) and another ancient way crosses near the corner of the property (Swimming Place Path). The Land Bank has asked that the MVC examine the potential for creating a public trail as part of the DRI Review.
• Old Meshacket Road appears to not be used, and divides Island Grove and the proposed division of land.
• The site is accessed with one shared driveway off of Division Road (aka Henry’s Path), which is off Meshacket Road. Division Road is a dirt road that was recently improved with Town water and sewer installations.
• The property is not mapped by NHESP as significant habitat for endangered species.
• The property is mapped on The MVC Open Space and Natural Resource Significance Map as “Important.” The MVC Open Space Policy recommends a target of 60% open space preservation on potential subdivisions in this category.
• The proposed division of land will be connected to Town Water and to the Edgartown Wastewater Facility.

Adam Turner said when the MVC looked at the project the first time, the information had just received. Doug Hoehn has now provided the Building Envelopes.

1.2 Applicants’ Presentation

Doug Hoehn presented the following:
• The proposed division of land is for 8.5 acres into five lots in a half-acre zoning district.
• The Edgartown Planning Board endorsed the ANR and then realized it should go to the MVC as a concurrence review, so the plan was pulled and not recorded.
• The applicant has submitted a plan and has prepared a covenant.
• The project will be connected to Town sewer and water.
• There is a 40 ft wide road easement with a maintenance provision.
• There is an access and utility easement.
• The development envelopes have been added to the plan.
• There is a common driveway easement with a generous stretch.
• With regards to further subdivision, the applicant has stated it will not be subdivided further.
• The applicant and the Planning Board will sign the revised plan and the covenant.
• With regards to the open space, if the common driveway is included, the open space calculations come to 58% open space. The common driveway is so big that if it is taken out of the calculations, the open space will be 60%.
• Old Meshacket Road serves as the property line between this property and Island Grove.
• The applicant will not block off their half of Old Meshacket Road. It is currently overgrown.
• With regards to affordable housing, the prior owner divided the property and sold the 8+ acre piece of land to the current applicant.

1.3 Commissioner’s Questions

Christina Brown said the development envelopes are defined in the covenant. What will be done within those spaces? Doug Hoehn said any development in the lots has to happen within the development envelope. Any clearing outside needs to be reviewed by an arborist and approved.

Doug Sederholm said the only thing protected outside the development envelope are the trees, and asked if brush cutting would be allowed. Doug Hoehn said he did not get into any amount of detail.

Doug Sederholm said are you clarifying the applicant will not block their part over Old Meshacket Road? Doug Hoehn said yes.
Christina Brown said perhaps the language could say no vegetation to be cut unless the arborist approves.

Ben Robinson said once it is built, no one really monitors what is cut. He asked what the setbacks were. Doug Hoehn said the setbacks are 30 ft/10 ft/10 ft.

Linda Sibley said the understory is an important part of the ecology. She has heard Doug Hoehn say all construction, structures, landscaping and activities shall occur inside the Development Envelope. She thinks it needs to be reiterated, and it needs to be noted about the understory.

Ben Robinson said if there is a significant buffer, the dead trees should not be removed as they are also important to the habitat.

Linda Sibley said the dead trees should be removed for safety and when used as a walking path.

Joan Malkin questioned whether a dormant easement could be granted for Old Meshacket Road to help protect it and so it could be retained as a walking path. Doug Hoehn agreed to that.

1.4 Public Testimony

Richard Brown said Meshacket Path is still Town owned. A couple of hundred years ago, all of the land was public land, and now it is individual ownership when the land was developed on either side. Meshacket Road was Town owned land and it still is. The prior subdivision of 25 acres did not go through the proper procedures, and it didn’t have to if 15 acres were not developed. Whether or not those undeveloped 15 acres will stay that way is food for thought.

Jeff Agnoli is from Island Grove and Island Grove takes up a great amount of land, and this proposal will take up the rest down to the Great Pond. As Meetinghouse Way has been paved it has brought a certain urban feel to the area, and this development will also. Would this be seen as part one of two or three other large developments that will remove open area in Edgartown, and would completely change this unique little zone? There is a large scale affordable housing plan for this area as well as another large, private development. It will change this uninterrupted tract of land.

1.5 Commissioners’ Questions

Ben Robinson said would it be worth overlaying the proposed plan on the land to see the open space and non-developable areas and habitat. Doug Hoehn said that Paul Foley had one. The northeast part of the field area sticks into lot 3 and 4.

Bill Veno said the open space doesn’t say woodlands, so it would still meet the policy.

James Vercruysse said do we know why the clearing/field is there. Bill Veno said it was credited in 2008 as open space and showed it on the site plan.

Richard Brown said the red line on the site plan is not the division line so why is it there. Bill Veno said it was estimated to be shown on the site plan.

Linda Sibley said some of the lots will be in the field rather than the woods.

Christina Brown asked if the applicant would be willing to change covenant number two to say that no understory would be cut except for a walking path. Doug Hoehn said he would like to leave the covenant as is.

Linda Sibley said the reason for the public hearing is to bring up issues that have not yet been brought up. The understory is very important. There is a symbiotic relationship with nature.

Ben Robinson said with regards to the Open Space Policy, to review the project properly the MVC should produce the overlay for the Deliberation and Decision.
Doug Hoehn said the applicants would agree to no barriers over Meshacket Road and the creation of a dormant easement.

James Vercriusse, Public Hearing Officer, closed the Public Hearing and left the Written Record open until 5:00 p.m. on Monday, June 18, 2018.

2. LAMPOST MODIFICATION-OAK BLUFFS DRI 670-M MODIFICATION REVIEW


For the Applicant: Chuck Sullivan, Geoghan Coogan

2.1 Staff Report

Adam Turner presented the following:

- The project was referred to the MVC in 2017.
- The location is on Circuit Avenue next to Giordano’s.
- The site plan was shown.
- The LUPC raised two issues: the existing conditions of the restaurant on the second floor, and how the building looks differently with the proposed modifications.
- The elevations and the plans were reviewed; approved versus the proposed modifications.
- The site photos were reviewed for the existing versus simulated photos for the proposed.
- The original proposal was for:
  - 24 Bedroom dorm housing (double occupancy).
  - 3 Kitchens (one per floor of housing).
  - 5 Bathrooms.
- The proposed modification is for:
  - 22 Bedrooms in 10 individual apartments (plans show 39 beds).
  - 10 Bathrooms in this proposal (one for each unit).
- The elevator has been pulled into the building, so the elevator tower in back has been removed.
- The first floor plans show that the entrance is to stay where it currently is. The second floor is the two-bedroom apartments and one three-bedroom apartment for workforce housing.
- The second floor was originally approved as bedrooms and the proposed is suites.
- The LUPC recommended that a public hearing is not needed if the existing conditions were provided for.

Linda Sibley asked if there was anything in the original decision that would prevent the units from being rented as short-term market rentals.

Fred Hancock said the original plan was perhaps a deterrent for short-term rentals based on the design.

Linda Sibley said she thought the MVC may need some sort of assurance that the housing will not be used for short-term market rate rentals.

Doug Sederholm said it is in the condition for workforce housing, so they would not be used for short-term rentals.

2.2 Applicants’ Presentation

Chuck Sullivan presented the following:

- The square footage went up 1,500 sf.
- The before and after views were shown.
- Most of the massing has been pushed back from Circuit Avenue.
• The main entry and the elevator core have been moved to the front, which makes for a safer entry.
• The door to the apartments is tucked away, so it is a little more private and serves as a handicap entrance to the Lampost.

**James Vercruysse**, Chairman, reminded the Commissioners that the purpose of the meeting is to determine if the modification requires a public hearing.

**Linda Sibley moved and it was duly seconded that the modification does not rise to the level requiring a public hearing. All the views raised were already vetted in the public hearing and the original decision.**

• **James Vercruysse** asked if the height of the tower meets zoning.
• **Chuck Sullivan** said zoning allows up to 50 feet with Victorian features, and they have to go back to the Planning Board with the number of apartments. He believed the height was grandfathered, but could seek relief of that requirement as a Special Permit through the Planning Board.
• **Gail Barmakian** said the triangle portion somewhat hides the tower and the Victorian features.
• **Linda Sibley** reminded the Commissioners that the motion on the floor is to not hold a public hearing, and the discussion was wandering into substantive conditions.
• **James Joyce** said the modifications really change the appearance dramatically on Circuit Avenue. There are open balconies, while would change the use of the building. It is a dramatic change. How did the proposal add 1,500 sf and lose two bedrooms, going from 24 to 22.
• **Leon Brathwaite** said with regards to the question on if a public hearing is needed, is it possible to vote and then ask questions based on that vote? No one will see this building as it is seen in the pictures. It will be seen from the ground level looking up.
• **Katherine Newman** said the bedrooms may have been reduced, but they have added bathrooms and kitchens.

**Linda Sibley retracted her motion.**

**Doug Sederholm moved and it was duly seconded that the modification is a significant change and requires a public hearing.**

• **Chuck Sullivan** said there were decks on the existing building and the approved plan, and the useable decks are pretty much the same as the previous application.
• **Geoghan Coogan** said the project now has to go to the Planning Board for a Special Permit with a full Public Hearing at the Town level due to the changes in the zoning bylaws.
• **Richard Toole** said he was opposed to the motion on the floor. The applicant has gone through a lot of work. The houses and the buildings on Circuit Avenue used to be four stories. This is recreating history and providing much needed housing. It should be moved along.
• **Fred Hancock** agreed with Richard Toole. The biggest change is on the back side on Kennebec Ave, and the modifications are an improvement.
• **Doug Sederholm** said the issue was not if it was a great project or better. It needs to be decided if the modifications are a significant change to what was approved. It is a process issue.
• **Katherine Newman** asked Doug to describe why he thought it was a significant change.
• **Doug Sederholm** said the MVC approved workforce housing, and now there are fewer workforce housing units, and more regular apartments. It seems to be more like an apartment building. It is different and he believed it needs a public hearing.
• **James Vercruysse**, Chairman, said a no vote does not require a public hearing and a yes vote requires a public hearing.

**Roll call vote. In favor: 4. Opposed: 10. Abstentions: 0. The motion did not pass.**
2.3 Commissioners’ Questions

Ben Robinson asked about the roof line and can it be revised. Chuck Sullivan showed the elevations and the plans and reviewed the roof line. It may be possible to increase the pitch.

Linda Sibley said if the Commissions approves the proposed changes, and then those are revised by the Planning Board, the applicant would need to come back to the MVC again.

Ben Robinson asked how the workforce housing is enforceable. Linda Sibley said it is up to the Town of Oak Bluffs to enforce. It is done in West Tisbury with an annual questionnaire. Adam Turner said the MVC also can enforce housing compliance. Christine Flynn said with the issue of enforcement, the MVC has asked applicants to provide documentation so staff can confirm the project is in compliance.

James Joyce said he was upset that the proposal is going from 48 beds to 39, as this is a seasonal business and it will be shut down in the off season. Workforce housing does not have to be beautiful, it has to be functional. It can be beautiful, but we need more units that are adequate. There should be something in the middle.

Geoghan Coogan said the building will not close down in the off season.

Linda Sibley said year-round workforce housing is needed. The original plan was almost uncivilized.

Gail Barmakian asked if the balconies were recessed. It appears that the towers disappear. Chuck Sullivan said the towers don’t disappear and the balconies are recessed, the elevations don’t show that well.

Gail Barmakian asked for clarification on the workforce housing. Geoghan Coogan said the renovation will make the housing year-round. The prior approval would most likely not have been used as year-round housing based on the design. The revised will be.

Katherine Newman said it is not about beautiful housing, it is about being livable. By having kitchens it is more affordable (to be able to cook) and livable. The bathrooms went from 3 to 10 and now the residents can cook their own food.

Gail Barmakian said there are no affordable units.

Doug Sederholm said it would be market rate.

Ben Robinson asked what the motivation was for the modification. Geoghan Coogan said the bylaw change.

Doug Sederholm said this is a better proposal than the original. The bylaw change gave more flexibility in how to create housing. He suggested changing the current condition for housing to housing for employment, so it is not seasonal rental housing and condition that the applicant fills out a questionnaire each year so the MVC has some type of monitoring. The best thing would be to have this as year-round workforce housing.

Gail Barmakian suggested stating what the intent of the housing is so it is not a 10 week rental.

Doug Sederholm moved and it was duly seconded to approve the modification with the condition that the housing provided is workforce housing and that the applicant provide the MVC with yearly documentation.

- Joan Malkin suggested an amendment to add language that the housing should be available to let for year-round occupancy.
- Doug Sederholm accepted the amendment.
- Richard Toole said the building needs to be designed so the housing can be heated year-round.
• James Vercriysse, Chairman, said the vote is to accept the modifications as amended with conditions.


James Vercriysse, Chairman, recessed the meeting at 8:20 p.m. and reconvened at 8:25 p.m.

Michael Kim joined the meeting.

3. SWEET & TREAT-OAK BLUFFS DRI 617-M MODIFICATION REVIEW


For The Applicant: Candace Nichols, Danny Chan, Donny Benefit

3.1 Staff Report

Bill Veno presented the following:
• The location is 6 Sea View Avenue Extension, Oak Bluffs.
• The request is a modification of the affordable housing provision.
• The bottom floor is retail, and the upper floor is two 600 sf residential units.
• The approval ten years ago was for year-round units. Now the applicant does not want year-round, so they have come back to modify with regards to the affordable housing condition.

3.2 Land Use Planning Committee Report

Fred Hancock said the applicant asked for three other conditions to be modified and the LUPC was okay with them, but not the affordable housing condition.
• The gutters and downspouts have good drainage.
• The willow tree went away and it will be replaced with a Locust tree.
• The mechanicals were outside where they belong, so that is not an issue.

The only issue was affordable housing and after two LUPC meetings, an agreement could not be made.

Adam Turner said the original Fortune World Decision in 2008 said “The Commission finds that the Applicant has offered to ensure that both residential units will be rented out on a year-round basis which will help address the housing needs of the year-round community.” Staff has recommended a condition to grant the modification request of the applicant to designate one apartment for seasonal workforce housing, which would be reserved for either an employee of Sweet and Treat or other seasonal worker on Martha’s Vineyard. Staff would also recommend a condition that a lease be submitted annually by May 31st to the MVC. The applicant’s modification request is consistent with the MVC’s Affordable Housing Policy.

3.3 Applicants’ Presentation

Candace Nichols presented the following:
• The project was approved in 2008, but it was just recently finished. Today, this project would not trigger a DRI referral.
• Last year, the applicant tried to heat the upstairs apartments, but there were issues. In order to heat the upstairs, he would need to heat the entire building.
• The applicant has family coming to use the apartments this summer, but they cannot be used in the winter.
• He checked with a sprinkler expert regarding shutting down in the winter, and it can be done.
• It is a seasonal business area and not year-round residential. Winter storms come off the pier, which also hinders the use in the winter.
• The applicant offered up to $10,000 in housing mitigation, but have revised Condition 3 to have one unit be released from the year-round housing condition, and one unit to be used for seasonal workforce housing, or at the applicant’s discretion, year-round housing.
• It is a financial issue. The ice cream store will not generate a large income seasonally.
• There is also an insurance issue to keep the downstairs unoccupied in the winter.
• If a year-round business goes into the retail space, the applicant could make the apartments year-round.
• The applicants are asking the MVC to release one unit to Mr. Chan, and condition the other unit and allow him to move forward.

3.4 Commissioners’ Discussion

James Vercruysse read the staff recommendation. The MVC Staff’s recommendation would be to grant the modification request to designate one apartment for seasonal workforce housing, which would be reserved for either an employee of Sweet and Treat or other seasonal worker on Martha’s Vineyard. Staff would also recommend a condition that a lease be submitted annually by May 31st to the MVC. Even though the year-round and seasonal workforce housing needs are well documented on Martha’s Vineyard, the applicant’s modification request is consistent with the MVC’s Affordable Housing Policy.

Christine Flynn said for the 2,800 sf project the affordable housing monetary mitigation would be $1,400, but the revised offer is better because it provides housing.

Joan Malkin said the result is consistent with the MVC policy.

Fred Hancock said the project was offered by the applicant, and he thought a fairer modification would be to have two seasonal workforce apartments.

Doug Sederholm asked if Fred would consider one of the seasonal apartments be used by the owner, since they are working there.

Gail Barmakian said in reconstructing this building, a residence was removed. Is that a consideration for deliberation?

Candace Nichols said today the applicant would not have to come to the MVC. Yes, the applicant did offer year-round housing and he did stick with it. The Lampost modification just removed beds. The MVC has the ability to work with this. It is a fairness issue as he has a hardship. He can’t do it for this summer, he did not know about it and for this summer we are asking for a waiver. There are only two units.

Linda Sibley said Christine Flynn’s recommendation seems fair. What is being offered now is almost consistent with the MVC policy. She asked that if the business becomes year-round, the residential unit would also.

Leon Brathwaite said he would take the word business out of it. If year-round so can the apartment be year round.

Fred Hancock said Gail Barmakian brings up a good point. The MVC is supposed to take into consideration if the housing units are destroyed, and they have to be replaced.

Linda Sibley said the offer is better than the $1,400 mitigation fee. Fred Hancock said that is not on the table.

Christine Flynn said the building burned down. What was there was a 200 sf room and was not a habitable unit that was displaced. There was not a kitchen in the unit.
Richard Toole said things change and to burden him with it is not fair.

Linda Sibley moved and it was duly seconded to approve the modification and condition that if the building becomes open year-round the rental is also year-round. Roll call vote. In favor: G. Barmakian, T. Barnes, L. Brathwaite, J. Joyce, J. Malkin, K. Newman, B. Robinson, D. Sederholm, L. Sibley, E. Thomas, R. Toole, J. Vercruysse. Opposed: Fred Hancock. Abstentions: none. The motion passed.

4. GILES ANR-AQUINNAH C.R. 3-2018 CONCURRENCE REVIEW


For the Applicant: Reid Silva

4.1 Staff Report

Adam Turner said the project is in Aquinnah and the proposal is to cut a parcel into two. There are already two houses in two-acre zoning. The referral for concurrence is due to it being in the Roadside District.

4.2 Land Use Planning Committee Report

Fred Hancock said LUPC recommended to not concur.

Doug Sederholm moved and it was duly seconded to not concur.

- Ben Robinson asked what the setbacks are, and do they conform.
- Redi Silva said they conform, and are 30 ft on the sides and 40 feet from the center.
- Joan Malkin asked what the abutting land is.
- Reid Silva said there is only one piece of property here and no adjacent land.


5. FLAT POINT FARM-WEST TISBURY DRI 34-M3 WRITTEN DECISION


There was a discussion about the affordable housing lot.

- Leon Brathwaite asked where the information was about the affordable housing lot.
- Joan Malkin said it was under Section 3 Findings 3.1 Project Description, the third to last bullet and noted that it is not written in the decision as an accepted offer.
- Adam Turner said the off-site affordable lot is seen as a benefit, and he will add it to benefits and detriments.

Joan Malkin questioned under Benefits and Detriments for Traffic & Transportation if the MVC found the impact to be minimal. There was testimony that it would have an impact. She suggested revising the language to “the Commission notes that the impact...”

Christina Brown said under Section 5. Conditions/Suggestions for Definitive Plan, that the MVC was not imposing but “suggesting the following conditions.” Adam Turner said he thought it should be recommendations, not conditions, and said the rest of that paragraph should be deleted.

6. NEW BUSINESS


6.1 Executive Director Report

Adam Turner presented the following:
- Stop & Shop was approved by the Edgartown Planning Board. We will start the conversations with them regarding the entrance.
- The next LUPC meeting is for the post Public Hearing on Division Road.
- We have received the Hospital DRI modification.
- On June 28, 2018 there is a meeting on the Beach Road Shared Use Path and we will go over with Mass DOT exactly what is the plan and what they propose. It is a planning meeting to have a discussion.
- The Coastal Conference was last week and it was exceptional. There were 120 attendees. Liz Durkee worked hard on this conference as well as CZM. We have high tides here on a regular basis and it will not be an easy solution. It will be a multi-year process and we have to identify actions. We met in Taunton in April and talked about how to permit things. Mass DOT is working with us and beginning to identify actions. It is a collaboration and it costs a lot of money, and we have to work with all of our partners.
  - Richard Toole added that Adam Turner also worked hard on the conference.
  - Linda Sibley said with regards to the hospital, she would like to ask them to bring information with them on what the bottlenecks will be with these kinds of issue.

6.2 Reports from Committees and/or Staff

James Vercruysse, Chairman, said he will ask FinCom to review the DRI fee schedule and we should also review the Affordable Housing Policy.

Fred Hancock asked why it would be FinCom to review the fees schedule. Adam Turner said it is our revenue. Fred Hancock said in the past it was done administratively. Adam Turner said it has not been done in ten years. James Vercruysse said staff will be providing statistics and data.

The meeting was adjourned at 9:10 p.m.

DOCUMENTS REFERRED TO DURING THE MEETING
- Martha’s Vineyard Commission DRI 683-Division ANR MVC Staff Report 2018-06-12
- Declaration of Restrictive Covenants, Boston Equity RE LLC
- Letter from Elisabeth and David Eilden, Dated May 5, 2018, RE: House lots on Division Road
- Letter from Martha’s Vineyard Land Bank Commission, Dated June 8, 2018, regarding application submitted by Boston Equity RE LLC on Division Road in Edgartown
- Easement Declaration of Restrictive Covenants and Right of First Refusal, Recorded 2/27/2007
- Plan of Land, Boston Equity RE LLC, Dated March 6, 2018
- Plan of Land, Boston Equity RE LLC, Dated May 23, 2018
- DRI 670-M Lampost Workforce Housing Modification Original Proposal and Proposed Modification
- Approved and Proposed Modification Elevations Lampost
- Existing Views and Proposed Views for Circuit Avenue and Kennebec Avenue – Lampost Modification
- Decision of the Martha’s Vineyard Commission-DRI 617 Fortune World
- Memo from Christine Flynn to MVC Commissioners, DRI #617 Fortune World Modification Request, Dated June 14, 2018
- Requested Amendments to the Decision DRI 617, Fortune World 2018, Dated June 8, 2018
- Plan of Land in Aquinnah Mass for David & Alicia B. Giles, Dated January 15, 2018
- Draft Decision of the Martha's Vineyard Commission DRI 34-M3 – Flat Point Farm Form B Plan

Chairman

Date

Clerk-Treasurer

Date

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