

TOWN OF TISBURY

Office of
BUILDING INSPECTION & ZONING ENFORCEMENT
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March 16, 2021

Dear Attorney Coogan,

I received your letter dated March 9, 2021 and write to confirm my stance as conveyed to you in my emails dated March 5, 2021. Your conclusions are not supported by the relevant statutes or judicial precedent so I must continue to disagree with you. I know you are seeking a written legal opinion or decision of some kind from me, but due process does not allow this. Formal decisions from the Zoning Enforcement Officer are only issued through an established process with a right of appeal, such as a building permit application or a zoning violation notice.

As the Zoning Enforcement Officer, I determine if a zoning violation exists. It is my view that 10 & 12 Cromwell Lane merged with 9 Main Street when the former became vacant parcels under the control of Susan & Sherman Goldstein. The current parking lot at 10 & 12 Cromwell Lane is now on the same lot as the Mansion House because of this merger. Since the parking lot is on the same lot as the principal use, there is no violation of Tisbury Zoning Bylaw 07.07.01, there is no enforcement action for me to take, and no formal decision for me to issue.

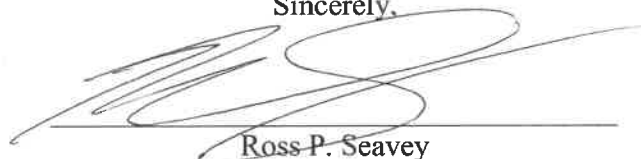
My referral to the Martha's Vineyard Commission (MVC) is valid. The DRI Checklist makes no mention of an exemption for parking lots adjacent to or part of an operation as you suggest. A parking lot for 10 or more vehicles is DRI 3.1(h), and since my view is that the lots have merged, DRI 3.1(i) and 1.3(d) could also apply since the Mansion House has an existing parking lot and is DRI 550. Since I determined there is no zoning violation, the MVC may review the project, and, as is the normal course, the Tisbury Zoning Board of Appeals (ZBA) may not modify the Mansion House Special Permit until the MVC makes a determination on the DRI. Town Counsel will be at the ZBA meeting on April 8th to explain this to any ZBA member with questions.

I researched this issue, spoke to Town Counsel, and read the relevant case law regarding merger before I wrote my emails to you on March 5, 2021. I am confident in my conclusion. You are welcome to submit a written legal opinion for my consideration based on the facts before us and Massachusetts' merger precedent if you disagree with me.

I will not address the other matters raised in your letter as they are irrelevant to the issue at hand and I have already spent a significant amount of the taxpayers' time and money researching this issue, talking to counsel, and responding to your claims. All statements in my emails dated March 5, 2021 are still true; it is my view that 10 & 12 Cromwell Lane merged with 9 Main Street for zoning purposes, and there is no zoning violation with the parking lot. As such, the parking lot may be used if approved by the MVC.

To state this again, all matters you raised, and my conclusions, were reviewed by Town Counsel, and they affirmed my understanding of this issue.

Sincerely,



Ross P. Seavey

Building Commissioner/Zoning Enforcement Officer

CC: John "Jay" Grande, Tisbury Town Administrator; Laura Barbera, Tisbury Zoning Board of Appeals Administrative Assistant; Jonathan Silverstein, Esq.; Adam Turner, Martha's Vineyard Commission Executive Director; Alex Elvin, Martha's Vineyard Commission DRI Coordinator.