

Fw: ZBA Decision from 1998

MIKE COLANERI <mcpa72@hotmail.com>

Tue 8/23/2022 3:57 PM

To: Alex Elvin <elvin@mvcommission.org>; Adam Turner <turner@mvcommission.org>; Christine Flynn <flynn@mvcommission.org>; ben robinson <benjaminrobinson@gmail.com>; Jane Rossi <planningboard@westtisbury-ma.gov>;

 1 attachment

ZBA Decision - Island Co-Housing_12_3_1998.pdf;

Alex;
please read ,review, and note ,that the 1998 MVC/ZBA decision and the details under which it was approved, have been incrementally expanded and grown far beyond the original intent of the permit that was granted at that time.

Again I ask,

Why wasn't there a DHCD review? With that review not being done , means this "alleged 40-B" was in words only and not a valid 40-B.!

It may also have been a flawed approval and have questionable legal standing by the MVC and the ZBA.

The document has many conditions and refers to the "Open Space" of Co-Housing parcel, which infers that no further subdivision may be allowed.

David's history is key to any further division of the co-housing property as applied for by Red Arrow and S M..

I am a staunch supporter of affordable housing and the great need that has existed for many years now, but please be mindful that we are a state and town or rules regulations and laws.

I do not support proposals of this type of development/housing at any cost, like many seem to think is defensible.

Please distribute to MVC members and staff for the Red Arrow DRI record.

Regards.

M Colaneri

From: David Vigneault <david@housingauthoritymv.org>

Sent: Tuesday, August 23, 2022 2:45 PM

To: Michael Colanari <mcpa72@hotmail.com>

Subject: FW: ZBA Decision from 1998

FYI: attached is the ZBA Coho decision dated 7/22/98 which follows and refers to the MVC Coho decision of 6-25-98. Both reference 40B but the process does not appear to have been reviewed by DHCD and approved before going to the ZBA. At least, there is no such record that I have seen.

David Vigneault, Executive Director

Dukes County Regional Housing Authority

21 Mechanic St. PO Box 4538, Vineyard Haven, MA

Phone 508-693-4419 Fax 508-693-4419

From: Zoning Board of Appeals <zba@westtisbury-ma.gov>
Sent: Tuesday, August 23, 2022 12:22 PM
To: David Vigneault <david@housingauthoritymv.org>
Subject: ZBA Decision from 1998

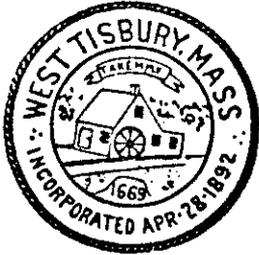
David,

I located the attached. Hope it's what you needed.

Kim Leaird
Board Administrator
Zoning Board of Appeals
Town of West Tisbury
PO Box 278
West Tisbury, MA 02575-0278
508-696-0107 Phone
508-696-0103 FAX
zba@westtisbury-ma.gov

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BR 743P6561



Town of West Tisbury

BOARD OF APPEALS

West Tisbury, Mass. 02575,

FINDINGS AND DECISION

RE: Application of Island Cohousing LLC for Comprehensive Permit

DATE: July 22, 1998

PROCEDURAL HISTORY

1. On or about January 21, 1998, Island Cohousing LLC (hereinafter, IC), in conjunction with South Mountain Co., Inc. (hereinafter, SMC), did apply for a comprehensive permit, pursuant to G.L. c. 40B, to construct sixteen single family homes, a common house, a storage barn, a woodworking building and office building, and a storage building, with associated outdoor storage, parking, and infrastructure improvements.
2. A public hearing was held on March 18, 1998, continued from time to time, and terminated on July 7, 1998.

FINDINGS

3. IC is a "limited dividend corporation" as that term is used in G.L. c.40B, s. 21 and 760 CMR 31.01 (1) and is eligible to apply for a comprehensive permit.
4. IC is a qualified applicant pursuant to 760 CMR 31.01 in that it is a limited dividend corporation, it has a funding commitment from a subsidizing agency (See Exhibit D, Letter of Martha's Vineyard Cooperative Bank), and it has "control of the site" as that term is used therein in that it owns the site in fee simple absolute (See Exhibit F, Deed).¹
5. The Town of West Tisbury has not met any of the statutory minima set forth in G.L. c. 40B, s. 20 or 760 CMR 31.04.

¹ All "exhibits" are those contained in the applicants' "Comprehensive Permit Application and Supporting Information," unless otherwise set forth herein.

BK748PG562

6. The proposed site is located off Stoney Hill Road in West Tisbury. It is identified as Assessor's Parcel Map 10, Lot 200, Lots 2 and 3. The site is located in an Agricultural-Residential District.

7. The proposed site contains 35.2 +/- acres. Lot 3 (residential component) has 29.9 acres; Lot 2 (commercial component) has 6.3 acres.

8. The proposed development is shown on a set of plans, the cover sheet of which is entitled, "Plan of Land in West Tisbury, Mass., prepared for Island Cohousing, L.L.C.," prepared by Schofield, Barbini & Hoehn, Inc. (hereinafter, the Plan), which was submitted as part of IC's application.

9. The homes will be a mix of two, three and four bedroom structures. Each will be placed on an individual lot of approximately 5,000 square feet.

10. Four (4) of the homes will be made available to households earning not more than 80% of the area median income as determined by the Massachusetts Department of Housing and Community Development.

11. The common house will contain approximately 3,000 square feet and will be situated on commonly owned property; the storage barn will contain approximately 2,700 square feet and will be situated on commonly owned property.

12. The woodworking and office building on Lot 2 will contain approximately 5,400 square feet on two levels. The storage building on Lot 2 will contain approximately 4,500 square feet on two levels.

13. The proposed commercial use of the property is integrally related to the residential use of the property in that such commercial use simplifies construction of the residential component, contributes to the affordability of the housing units, and does not detract from the residential character of the project.

14. The applicant proposes to provide water for domestic consumption to all of the proposed buildings via a common well or wells, and to establish a homeowners' association to maintain and repair such facilities.

15. The applicant proposes to handle wastewater from all of the proposed buildings via a common septic system or wastewater treatment facility, with composting toilets and greywater systems, and to establish a homeowners' association to maintain and repair such facilities.

BK 748PC563

16. The applicant proposes to establish a homeowners' association to maintain and repair all roads and bikepaths serving the subject property.
17. The applicant proposes to establish a homeowners' association to maintain and all common areas on the subject property, including the common house and the storage barn.
18. The principal proposed means of access to and from the site will be via an internal drive, as shown on the Plan. The Board of Appeals finds that this internal drive, as designed, is safe for both pedestrian and vehicular traffic.
19. The intersection of the proposed internal drive and stoney Hill Road presents no risk to pedestrian or vehicular traffic on existing roadways. There is adequate capacity to carry the additional minimal traffic generated by the proposed development.
20. The proposed development will not imperil the health or safety of the residents of the Town of West Tisbury, endanger the natural environment, or interfere with critically needed open spaces within the town. The proposed design of the improvements is not seriously deficient.
21. The proposed development serves the social, economic and community needs of West Tisbury in that it provides a housing alternative not readily available to the low and/or moderate population of the community.
22. The project has been architecturally designed so as not to cause a detriment to neighborhood visual character or social structure.

DECISION

Pursuant to G.L. c. 40B, the Board of Appeals of West Tisbury, after public hearing and findings of fact, hereby grants a comprehensive permit, with the following conditions, to Island Cohousing LLC in conjunction with South Mountain Co., Inc. for the construction of sixteen single family homes, a common house, a storage barn, a woodworking building, an office building, with associated outdoor storage, parking, and infrastructure improvements on Assessor's Parcel Map 10, Lot 200, Lots 2 and 3, as shown on applicant's preliminary plan entitled "Plan of Land in West Tisbury, Mass., prepared for Island Cohousing, L.L.C.," prepared by Schofield, Barbini & Hoehn, Inc.

EX7480564

Conditions

1. No building permit for any dwelling unit shall be granted by the Building Inspector without first obtaining Board of Health approval for a sewage disposal system to service such dwelling. Approval by Board of Appeals of this comprehensive permit shall not be treated as, nor deemed to be, approval by the Board of Health of a permit for the construction and use of a sewage disposal system.
2. The Conservation Commission's Order of Conditions regarding this property, if any, shall be made a part of this comprehensive permit. If there is any inconsistency between the plans accompanying this comprehensive permit and the plans as may be approved by the Conservation Commission, the applicant shall submit an amended plan to the Board of Appeals for approval. Said amended plan shall be accompanied by a letter setting forth any and all changes from the submitted plan and shall include revised drainage calculations, if applicable.
3. The Martha's Vineyard Commission's decision dated June 25, 1998 regarding the property shall be made a part of this comprehensive permit. Each and every condition set forth therein is hereby incorporated by reference in this comprehensive permit decision and made a condition hereof.
4. During construction applicants shall conform with all local, state, and federal laws regarding noise, vibration, dust, and blocking of town roads. The applicants shall at all times use all reasonable means to minimize inconvenience to residents in the general area. Construction of the proposed ways, services, and improvements shall not commence on any day before 7:00 A.M. and shall not continue beyond 6:00 P.M. There shall be no construction on any Sunday or federal legal holiday.
5. Prior to the issuance of a building permit for a lot reserved for affordable housing, the applicant shall obtain a letter from the Board of Appeals indicating that the deed for such lot contains enforceable restrictions consistent with this decision.
6. Three (3) of the affordable homes shall contain two bedrooms. One (1) of the of the affordable homes shall contain three bedrooms. All of the affordable homes shall be of a design expandable to four (4) bedrooms. The affordable homes shall be integrated as to location with the market rate homes.
7. The number of bedrooms to be ultimately permitted on the premises shall not exceed sixty-six (66) in total. No individual single family home shall have more than four (4) bedrooms.

8. Prior to the issuance of any building permit, the applicant shall provide documents establishing a homeowners' association to the Board of Appeals for approval as to form. Such documents shall set forth the obligations of the homeowner's association in the maintenance of all common areas and improvements, including but not limited to, roadways, bikepaths, water supply, and wastewater systems.
9. Prior to the issuance of any building permit, the applicant shall provide detailed plans to the Board of Appeals for approval, indicating the following aspects of the development:
 - a. All no build buffer areas;
 - b. All proposed bikepaths;
 - c. All improvements to be made to Stoney Hill Road from the development entrance to State Road;
 - d. All turnouts to be constructed on Stoney Hill Road;
 - e. All emergency and fire access routes;
 - f. All exterior lighting for the subject property.
10. No commercial deliveries of lumber to Lot 2 shall take place except during the hours between 8:30 A.M. and 2:30 P.M. on Mondays - Fridays, inclusive.
11. SMC may have signs not to exceed six (6) square feet in the aggregate. The Board strongly recommends that SMC keep the same style sign it now uses in Chilmark.
12. Use of Lot 2 for commercial purposes shall be limited to SMC. SMC may not transfer any interest in Lot 2 to successors, heirs, assignees, lessees or any other transferees. SMC's use of Lot 2 is limited to a design and business office for the contracting business, woodworking shop, and associated storage.
13. Preference for one of the affordable two-bedroom homes shall be given to persons over the age of fifty-five (55).
14. The homeowners' association shall become a member of the Stoney Hill Road association, in the event such an association is formed.
15. No change in the ownership of the common areas shall occur without the approval of the Board of Appeals.

BK748PG566

16. A copy of the final regulatory agreement between the Dukes County Regional Housing Authority and IC shall be provided to the Board of Appeals.

17. A copy of the rules and regulations finally adopted by the homeowners' association shall be provided to the Board of Appeals.

RECORD OF VOTE

The following members of the Board of Appeals vote to grant a comprehensive permit subject to the above-stated terms:

Anthony Ariz
Lupe W. Hill
Eric C. Whitman

Robert M. Sil
Antoni M. Colon

The following members of the Board of Appeals are in opposition to the grant of the comprehensive permit:

J.D. [Signature]

Filed with the Town Clerk on July 30, 1998.

Prudencia W. Solon
Town Clerk

Copy of Findings and Decision mailed to:

Edgartown, Mass Dec 3 1998
at 3 o'clock and 32 minutes P M
received and entered with Dukes County Deeds
book 748 page 561
Attest:

Diana E. Powers Register