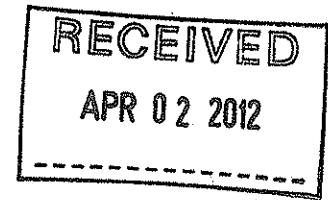


Town of Aquinnah
PLANNING BOARD



TO: The Martha's Vineyard Commission

DATE: April 2, 2012

RE: Additional written comments regarding proposed Aquinnah By-Law changes.

Regarding the addition of a date(s) for establishing "grandfathering," **on the advice of Town Counsel** we propose the use of a single date for all DCPCs: the date these changes to the bylaws become effective, (hopefully May 8, 2012). We propose this practical solution for several reasons:

1. This simplifies the process in that we don't have to go back and establish what did or didn't exist 20 or 30 years ago (and our town doesn't have the best record keeping) or deal with questions of overlapping DCPCs.
2. If we have been doing our job properly we haven't allowed any nonconforming structures to be built since the designation date so using the implementation date of these changes doesn't change what's grandfathered.
3. Our 200 foot frontage requirement became part of the Aquinnah DCPC on May 10, 2011, so to use the date of designation for the DCPC of June 17, 1999 would not protect any new homes or additions to existing homes that were built during the 12 years between those dates on lots with less than 200 feet of frontage. This would impact a lot of properties and would not likely pass at Town meeting.
4. There are certain municipal structures (that should have but did not go through the permitting process) in the Moshup, Coastal and Cliffs DCPC's that were constructed after the designation of those DCPCs, that we would like to legitimize and grandfather (shops at the cliffs, parking attendant booths, beach boardwalks and handrails).

We would amend the proposed new section 13.4-11 as follows to reflect this:

13.4-11 Pre-existing, nonconforming Structures and Uses

A. Any pre-existing, nonconforming structure or use which does not conform to the provisions of this By-Law or any amendment thereto may nevertheless continue in its use. Pre-existing, nonconforming structures and uses **in existence at the time this provision is adopted by the Town** may be reconstructed, altered, or extended by Special Permit from the Planning Board Plan Review Committee; provided, however, that the reconstruction, extension, or alteration bears a reasonable relationship to the original size and nature of the nonconforming structure or use, and that the Planning Board Plan Review Committee finds that the change, extension or alteration is not substantially more detrimental than the existing nonconforming structure or use to the neighborhood. Changes qualifying for a zoning determination under Section 13.14-1 do not require a Special Permit if the Planning Board Plan Review Committee makes a finding that the proposed reconstruction, alteration, or extension does not increase the nonconforming nature of the structure or use.