

THE MARTHA'S VINEYARD COMMISSION

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DATE: October 31, 1994

TO: Building Inspector, Town of Edgartown
 Board of Selectmen, Town of Edgartown
 All Permit Granting Boards, Town of Edgartown

FROM: Martha's Vineyard Commission

SUBJECT: Development of Regional Impact
 RE: residential dwelling

APPLICANT: Peter Sharp
 P.O. Box 351
 Westport Point, Newark, MA 02791

DECISION OF THE MARTHA'S VINEYARD COMMISSION
 AMENDED
 SUMMARY

The Martha's Vineyard Commission (the Commission) hereby approves, with certain conditions, the granting of permits for the development contained in the Application of Peter Sharp, P.O. Box 351, Westport Point, Newark, MA 02791, as shown on the plans entitled: "Sketch Plan of Land in Edgartown, MA, drawn for Peter Sharp, December 27, 1993, Scale 1"-10', Vineyard Land Surveying, P.O. Box 421, West Tisbury, MA 02575.", consisting of one (1) sheet; plus "Peter Sharp Residence, North Water Street, Edgartown, MA, Scale 1/8"-1', May 10, 1994", consisting of seven (7) sheets depicting various views and elevations, making a total of eight (8) sheets, (the Plan).

This Decision is rendered pursuant to the vote of the Commission on October 31, 1994.

The permit granting boards of the Town of Edgartown may now grant the request for approval of the Applicant in accordance with the conditions contained herein or may grant the request for approval in accordance with the conditions contained herein and may place further conditions thereon in accordance with applicable laws or may deny the request for approval.

FACTS

The proposed development is a Development of Regional Impact

as defined by the Commission's Standards and Criteria, Developments of Regional Impact Section 3.101. The Application was referred to the Commission by the Board of Selectmen of the Town of Edgartown requesting that the proposal be designated as a Development of Regional Impact pursuant to Chapter 831 of the Acts of 1977, as amended, (the Act).

A duly noticed public hearing on the request for designation was conducted by the Commission pursuant to the Act and M.G.L. Chapter 30A, Section 2 on Thursday, November 18, 1993, at 7:39 pm. The hearing was opened and immediately continued to Thursday, December 2, 1993.

The Commission conducted a continued hearing on the request for designation of the Application as a DRI on Thursday, December 2, 1993. Following the testimony presented, the Commission voted to designate the Application as a Development of Regional Impact (DRI) and scheduled a hearing for Thursday, January 6, 1994 at 7:45 pm.

A duly noticed public hearing was conducted by the Commission pursuant to the Act and MGL Chapter 30A, Section 2, on Thursday, January 6, 1994 at 7:45 pm in the Commission offices, Olde Stone Building, New York Avenue, Oak Bluffs, MA. Following the testimony presented, the hearing was continued to permit the Applicant to respond to and address various aspects of the testimony presented.

The Commission conducted a continued hearing on Thursday, June 16, 1994 at 8:00 pm in the Commission offices, Olde Stone Building, New York Avenue, Oak Bluffs, MA. The hearing was closed the same night.

The Commission conducted a re-opened hearing on Thursday, September 1, 1994 at 8:00 pm in the Commission offices, Olde Stone Building, New York Avenue, Oak Bluffs, MA. The hearing was closed the same night.

The Commission conducted a rescheduled hearing on Thursday, September 15, 1994 at 8:00 pm in the Commission offices, Olde Stone Building, New York Avenue, Oak Bluffs, MA. The hearing was

closed.

A summary of the testimony provided at the hearings is provided as Exhibit A attached hereto. This summary is for the convenience of the reader only and was not relied upon by the Commission in reaching its decision in this matter.

The proposal is for the construction of a residential dwelling.

FINDINGS AND CONDITIONS

The Commission has considered the Application and the information presented at the public hearing and based upon such considerations, makes the following findings pursuant to Section 14 of the Act.

- A. THE COMMISSION FINDS THAT THE PROBABLE BENEFITS OF THE PROPOSED DEVELOPMENT, AS CONDITIONED, WILL EXCEED THE PROBABLE DETRIMENTS AS EVALUATED IN LIGHT OF THE CONSIDERATIONS SET FORTH IN SECTION 15 OF THE ACT (SECTION 14(A) OF THE ACT).

The purpose of the Commission, as set forth in Section 1 of the Act, is to "protect the health, safety and general welfare of island residents and visitors by preserving and conserving for the enjoyment of present and future generations the unique natural, historical, ecological, scientific and cultural values of Martha's Vineyard which contribute to public enjoyment, inspiration and scientific study."

1. Based upon the record and the testimony presented therein, and in addressing the affect on other persons or property, the Commission sets the following conditions (Sections 15(c) of the Act):
 - a. that a building envelope shall be created and that the southeast corner of this building envelope shall be located by measuring perpendicular from the north property line twenty-five (25) feet and from the street or front property line perpendicular sixty (60) feet.
and further
that the plan shall be returned to the Edgartown Historic District Commission and any other local board from whom a permit is necessary and said Historic Commission and the Applicant shall jointly develop a final building plan and design that is in keeping with the local character and flavor.
and further
that no now or proposed structures, as defined in the Edgartown Zoning Ordinance,

which be outside of the building envelope shall not exceed elevation fifteen and one-half (15½) feet above or one and one-half (1½) feet above the finished floor grade of fourteen (14) feet, except that which may be necessary to ensure a proper transition that complies with all codes.

- b. that the fence and shrubbery which exists currently along the North Water Street property line shall be reduced to no greater than three (3) feet in height and shall be maintained at said height and not be permitted to grow to such a height so as to exceed said limitation.
and further
that the Historic District Commission shall permit no future plantings along North Water Street that shall be in excess of said height restriction.
- c. that any vegetation planted along the walkway leading to the Lighthouse shall not be permitted to grow to a height so as to block the view in the future.
- d. that at such time as a plan has been devised and agreed to by all parties involved then the issue of parking shall be brought before the Land Use Planning Committee for final approval.

The Commission is very cognizant of efforts of all parties involved with this proposal to mitigate and lessen the impact upon the view of the harbor area from North Water Street and has been convinced that such measures put forth in the proposal provide the best opportunity to decrease the possible impacts.

- 2. Based upon the record and the testimony presented therein and in consideration of the conditions set forth above, the Commission finds that the proposal, as conditioned, will aid in the ability of the municipality to achieve the objectives set forth in the municipal general plan. (Section 15(g) of the Act)

The Commission is very cognizant of the efforts of the Town of Edgartown to develop its municipal plan and of the efforts and concerns for the preservation and protection of scenic vistas throughout the Town. The Commission is convinced that the proposal, as conditioned, provides the best possible opportunity to aid in the achievement of these goals.

The Commission considered the factors set forth in Sections 15(a), (b), (d), (e), (f) and (h) of the Act and found that either such factors were not pertinent to the issues raised by the proposed development, or such factors were relatively minor

in their effects in comparison to other factors.

- B. AS CITED ABOVE IN SECTION 15(g) OF THE ACT, THE COMMISSION DOES NOT FIND THAT THE PROPOSED DEVELOPMENT WILL SUBSTANTIALLY OR UNREASONABLY INTERFERE WITH THE ACHIEVEMENT OF THE OBJECTIVES OF THE GENERAL PLAN OF ANY MUNICIPALITY OR THE GENERAL PLAN OF THE COUNTY OF DUKES COUNTY.
- C. THE COMMISSION ACKNOWLEDGES THAT THE APPLICANT MUST SECURE A VARIANCE FROM THE TOWN OF EDGARTOWN WITH RESPECT TO A FRONT SETBACK BUT OTHERWISE IS FOUND TO BE GENERALLY CONSISTENT WITH DEVELOPMENT ORDINANCES AND BY-LAWS OF THE TOWN OF EDGARTOWN.
- D. THE COMMISSION FINDS THAT THE PROPOSED DEVELOPMENT IS NOT WITHIN ANY DISTRICT OF CRITICAL PLANNING CONCERN AND THEREFORE THIS ISSUE IS NOT PERTINENT TO THE PROPOSAL.

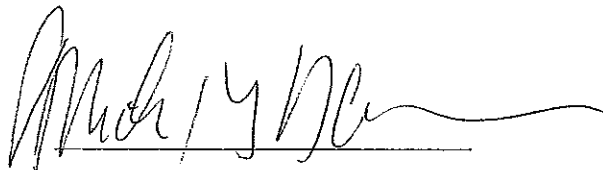
The Applicant must, consistent with this Decision, apply to appropriate Town of Edgartown Officers and Boards for any other development permits which may be required by law.

The Decision is written consistent with the vote of the Commission: October 31, 1994.

Any Applicant aggrieved by a Decision of the Staff or Committee hereunder, may appeal to the full Martha's Vineyard Commission which shall decide such Appeal, after notice and hearing, within 21 days of the close of the public hearing.

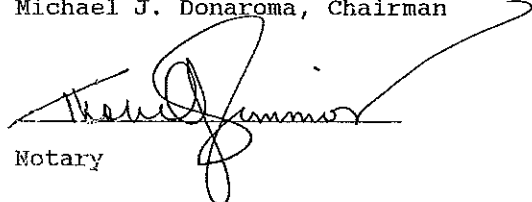
The Executive Director may issue Certificates of Compliance which shall be conclusive evidence of the satisfaction of the conditions recited therein.

Any party aggrieved by a determination of the Commission may appeal to Superior Court within twenty (20) days after the Commission has sent the development Applicant written notice, by certified mail, of its Decision and has filed a copy of its Decision with the Town Clerk in the Town in which the proposed development is located.



Michael J. Donaroma, Chairman

10/31/94
Date



Notary

10/31/04
Date

SUMMARY OF THE HEARING TESTIMONY 11/18/93

The Martha's Vineyard Commission held a public hearing on Thursday, November 18, 1993 at 7:39 p.m. in the Olde Whaling Church, Main Street, Edgartown, MA pursuant to § 14(e) of Chapter 831 of the Acts of 1977, as amended, to determine whether the following should be designated as a DRI:

Proposal: construction of two bedroom residence
North Water Street, Edgartown, MA.

Designation
Requested By: Board of Selectmen
Town of Edgartown

Following the reading of the public notice at 7:48 P.M., Ms. Sibley immediately continued the hearing until December 2, 1993 in the MVC offices, Oak Bluffs, MA.

SUMMARY OF THE HEARING TESTIMONY 12/2/93

The Martha's Vineyard Commission held a continued public hearing on Thursday, December 2, 1993 at 7:39 P.M. in the Commission Offices, Olde Stone Building, New York Avenue, Oak Bluffs, on the issue of designation of the following as a Development of Regional Impact (DRI):

Applicant: Peter Sharp
Box 351
Westport Point
Newark, MA 02791

Location: North Water Street
Edgartown, MA

Proposal: Construction of a single family residence
Designation requested by Board of Selectmen

Linda Sibley, Chair of the LUPC, read the public notice and opened the hearing for testimony. She called upon the Selectmen for their testimony.

Ted Morgan, Board of Selectmen, discussed the history of the lot, the past approval granted and the litigation that followed. He discussed the scenic vista of the area and how the charm of the Vineyard related to the vistas experienced. He discussed how the town would like to see the usage should maintain the vista while permitting the construction of a structure.

Ms. Sibley then called upon a representative of the applicant to give testimony.

Ken Hurd, representing Mr. Sharp, discussed why the proposal should not qualify as a DRI. He discussed the issue of the view preservation. He then discussed the method of referral and felt the town had all the mechanisms in place to deal with the matter.

Ms. Greene asked about the number of rooms proposed. Mr. Hurd indicated six. She then asked about the height. Mr. Hurd indicated 18 feet.

A discussion of what other boards were involved in the review followed.

Mr. Schweikert questioned whether the structure could be built in the suggested location. Mr. Hurd discussed the issue of flood plain locations, insurance issues and the like. A discussion of aesthetic desirability of the lower location followed.

Mr. Hurd noted that the proposal would be of 900 square feet.

Mr. Hall asked about the site, the lot lines and the view areas. Mr. Hurd discussed the proposal with respect to the

surrounding areas, the nearest abutters and the specific location of the proposed site. Mr. Hurd then showed a picture from the Harborview during the last hurricane.

A discussion of whether the rules and regulations had changed for the area followed. A discussion of meeting building codes followed.

A discussion of the style of structure followed. A discussion of the previous submittal and DRI followed.

George Piper, Selectman, discussed his feelings on the proposal and how he felt the proposal should have the right to move forward.

A discussion of what town counsel had said regarding this matter followed.

Ms. Sibley then called for testimony from the public regarding this matter.

Brian Hurley, representing an abutter, discussed the matter of a more in depth review process and indicated that his clients wished to have such a review undertaken. He then discussed the previous referrals and when the lot was sold and summarized the court decision on the past referral.

Jay Barbado, abutter, submitted a petition for the record and felt that the proposal should be a DRI.

Peter Lawson-Johnson, neighbor, discussed the impact of the proposal on the public and felt the proposal was a DRI. He felt the previous judgement on the same lot was still valid.

Ms. Sibley then asked if there were any others who wished to testify.

Ellen Kaplan, representative of Peter Sharp, Sr. estate, explained who the applicant was and what involvement, if any, he may have had with the purchase of the lot.

Ms. Sibley then called for any final comments.

Mr. Morgan discussed the concern of a number of persons in town.

Ms. Sibley questioned the number of letters received. Mr. Schilling noted 18.

There being no further testimony the hearing was closed.

SUMMARY OF THE HEARING TESTIMONY 1/6/94

The Martha's Vineyard Commission held a public hearing on Thursday, January 6, 1994 at 7:45 p.m. in the Commission offices, Olde Stone Building, New York Avenue, Oak Bluffs, MA on the following Development of Regional Impact (DRI).

- Applicant: Peter Sharp, Jr.
Box 351
Westport Point
Newark, MA 02791
- Location: North Water Street
Edgartown, MA
- Proposal: construction of a single family residence
qualifying as a DRI since the MVC has designated
the proposal as such according to § 14(e) of
Chapter 831 of the Acts of 1977, as amended.

Linda Sibley, Chairman of the Land Use Planning Committee, (LUPC), read the Public Hearing Notice and opened the hearing for testimony at 9:13 p.m. She called upon the Applicant for his presentation.

Glenn Provost, representing Mr. Sharp, explained the location of the site and the surrounding area. He discussed the zoning in the area, the type of structure proposed, the siting with respect to the flood plain, the boardwalk, gazebo and pier. He discussed the construction of the house, its height and other related matters.

Ken Hurd distributed computer-generated photos that related

to the proposed structure on the site. He indicated that a location had been picked on the site that met all state and local codes for building.

Mr. Jason asked that if an alternative could be found would applicant be willing to listen. Mr. Hurd indicated yes he would.

Ms. Sibley questioned what things had changed from previous decisions to make certain areas of the site unbuildable. A discussion of this matter followed. Without a variance no structure could be built below the 11-foot contour. A discussion of what elements would be needed for a variance to build in flood plains followed.

Ms. Bryant questioned what might be the reaction to a request for a variance. Mr. Hurd indicated that none had been sought for the upper part of the site.

Mr. Best questioned the scale of the proposals shown on the computer prints. A discussion of the scale of the pictures followed.

Ms. Sibley then called for a staff report of the proposal. Mr. Clifford indicated that there was none.

Ted Morgan, Board of Selectmen, discussed the proposal from the past and hoped that there could be a compromise reached to allow for maintenance of the vista as well as allowing for the construction of the structure.

Ms. Sibley then called for proponents - there were none.

Ms. Sibley then called for those opposed.

George Brush representing Peter Lauson-Johnson, abutter, spoke in favor of viewshed. He discussed a number of matters and related them to photographs with computer-generated overlays. Mr. Brush further discussed the vista, the number of lots in the area. He further explained the methodology of getting the pictures. He felt that a structure could be built on the low ground without fill or stilts. He discussed the legal issues related to construction; he further discussed the variance issue with relation to the construction of a house in the area. He discussed the significance of the area and the need to work together to have the view preserved and yet a house constructed.

Mr. Brush then read a letter regarding the view amenity from Kip Bramhault and a second letter from Ray Ellis regarding the need to preserve the view. He felt the proposal could be denied without prejudice and that an alternate location be found.

Joseph Fornes, environmental engineer discussed coastal processes, historic perspectives and alternatives available. He discussed the historic perspective of the site and surrounding areas. He felt an alternative was possible.

Joseph Eldridge, architect, discussed how one could accomplish the aims of both parties. He discussed the structural needs of any proposal that would allow for the issuance of a permit.

Mr. Hall questioned the insurance issue of this proposal. Plans must be more detailed than normal but it is insurable.

Ms. Sibley questioned the location of one of the pictures submitted. Mr. Brush noted that it was over the Sharp property.

A discussion of a hedge in the area followed.

Ms. Sibley then asked for any general testimony.

Gene Barbaddo, abutter, discussed previous support for a house on the site.

Peter Lauson-Johnson - against proposal and felt that the issue was one of which the view was worth preserving and indicated that the applicant was willing to listen to alternatives.

Ms. Sibley then called for a summation.

Ken Hurd, agent for applicant, felt the applicant was being asked to consider a great deal by asking to put the structure in the floodplain. He discussed a potential view purchase.

Mr. Jason suggested continuance for thirty days to permit applicant to sit down together and see what can happen.

Ms. Sibley then noted that the hearing was continued for thirty days or to a convenient date close to that time at 10:06 p.m.

SUMMARY OF THE HEARING TESTIMONY 6/16/94

The Martha's Vineyard Commission held a continued public hearing on Thursday, June 16, 1994 at 8:00 p.m. at the Commission Offices, Olde Stone Building, New York Avenue, Oak Bluffs, MA regarding the following Development of Regional Impact (DRI):

Applicant: Peter Sharp
P.O. Box 351
Westport Point
Newark, MA 02791

Location: North Water Street
Edgartown, MA

Proposal: construction of a dwelling qualifying as a DRI since the proposal has been so designated by the MVC in accordance with Section 14(e) of Chapter 831 of the Acts of 1977, as amended.

Linda Sibley, Chairman of the Land Use Planning Committee, (LUPC), read the hearing notice, and opened the hearing for testimony at 8:15 p.m. She called upon the applicant for his presentation.

Ken Hurd, agent for the applicant, submitted a model of the proposed dwelling for all to review. He discussed the history of how the proposal got to the present stage. He discussed the new design and how it addresses the various issues including flooding. He noted that there was a set of facade poles set on the property to help people visualize the proposed building. He further discussed the numerous boards that still needed to review the proposal. He noted that should there be any disapprovals from local boards if the MVC were to approve the proposal, then the applicant fully expected to return to the MVC again.

Ms. Sibley noted that the proposal had been before the MVC for a number of meetings and if memories needed refreshing those questions would be acceptable.

Ms. Greene questioned the number of bedrooms. Mr. Hurd indicated three. She then asked about the chimney heights. He indicated three feet above the ridge.

Mr. Best questioned whether the proposal was on-sewer. Mr. Hurd indicated the permit had lapsed and not been renewed as yet. A discussion of the sewer commission actions followed.

Ms. Rubinoff raised a question regarding flood mitigation. Mr. Hurd explained how flood hazard issues were addressed. A discussion of the state building code and the measures taken to meet the safety requirements followed.

Mr. Sargent raised questions regarding footings related to storm mitigation. A discussion of this issue followed.

Mr. Best discussed construction elsewhere in the Island that contained mitigation measures and further asked if additional measures had been taken. Mr. Hurd discussed again the measures proposed. Mr. Colaneri raised questions about the measures taken elsewhere. A discussion of this matter ensued.

Ms. Rubinoff raised a question about the possible use of pilings. Mr. Hurd explained why they were not and the possible issue of erosion.

Mr. Hall discussed the past history of the lot and its approvals. Mr. Sargent also discussed this matter.

Mr. Early questioned the roofing materials proposed. Mr. Hurd indicated wood shingles.

Mr. Donaroma asked if the Historical Commission had spoken to the new plan. Mr. Hurd discussed his meeting with the Ed. Historical Commission.

There was no staff report.

Ms. Sibley discussed the meetings that had been held between the applicant and the LUPC throughout the process.

Mr. Colaneri discussed the issue of viewshed preservation and the property owners right to use the land.

Ms. Sibley then called for Town Boards presentations.

Steve Ewing, Ed. Conservation Commission, discussed the plans that had been submitted. He discussed the concern regarding the scale of plan.

Mr. Best questioned the feelings of the Ed. Conservation Commission in viewshed protection.

Ms. Sibley read a letter from the Ed. Conservation Commission regarding the matter.

Mr. Early questioned the viewpoint of a photograph that was being used. George Brush explained where the picture was taken.

Townsend Morey explained what the MVC had approved in 1986.

Ms. Sibley called for proponents.

Townsend Morey, abutter, explained where his land was and its relationship to the proposal. He felt the proposal was a good one.

Ms. Rubinoff raised a question about past floods. Mr. Morey indicated that the living room of their cottage had never flooded.

Gene Barbatos, North Water Street, asked if there was a plan to put up so that all could see.

Ms. Sibley then called for opponents.

George Brush, agent for an abutter/neighbor discussed the various meetings that had held and discussed alterations that he would suggest. He then discussed various aspects of the new plan being offered and the neighborhood.

He offered possible mitigation measures that would, he felt, resolve remaining issues.

He further discussed changes to the view and means of preserving said view further. He offered suggestions for conditions as approved.

Joe Eldridge, architect, discussed the proposal and the scale of the structure. He discussed various architectural details that he felt could be altered to improve the design. He discussed the potential of building in the floodplain.

He then discussed the structure in relation to the view and the horizon line.

Mr. Donaroma questioned whether the in-field depiction was accurate. Mr. Eldredge felt it was. A discussion of the pitch of the roof followed. A discussion of the use of flat roofs followed.

Ms. Sibley then called for other testimony.

Gene Barbatos, North Water Street resident discussed the batter board that had been placed and questioned what they represented. Mr. Hurd discussed the points of the structure that the boards represented.

There being no further public input, Mr. Hurd summarized the proposal.

He showed a section of the plan enlarged and asked Glenn Provost, R.L.S. to explain the plan. He explained how the framework was installed. He also discussed how eye level was established.

Mr. Best raised a question as to the height of the master bedroom. Mr. Provost indicated fourteen feet. A discussion of the reason for that followed.

Ms. Rubinoff asked how far the bedroom was from mean high water. About 225 feet was the response.

Mr. Best questioned the difference between the proposal and previous submittals. A discussion of this matter followed.

Ms. Greene asked for the applicant's reaction to suggestions being offered. A discussion of this matter followed.

There being no further testimony, the hearing was closed at 9:20 p.m. and the record was kept open for one week.

SUMMARY OF THE HEARING TESTIMONY 9/15/94

The Martha's Vineyard Commission held a public hearing on Thursday, September 15, 1994 at 8:00 p.m. in the Commission Offices, Olde Stone Building, New York Avenue, Oak Bluffs, MA on

the following Development of Regional Impact (DRI):

Applicant: Peter Sharp, Jr.
Box 351
Westport Point
Newark, MA 02791

Location: North Water Street
Edgartown, MA

Proposal: construction of a single family dwelling qualifying as a DRI since the Martha's Vineyard Commission has so designated the proposal as such in accordance with § 14(e) of Chapter 831 of the Acts of 1977, as amended.

Linda Sibley, Chairman of the Land Use Planning Committee, (LUPC), read the Public Hearing Notice, opened the hearing for testimony. She called for applicant presentation.

Mr. Hurd passed around a model of the proposed house. He stated that the present plan preserved the public viewshed as much as possible, and requested that specific design issues be referred back to the Town of Edgartown for review by the Historic District Commission and Conservation Commission. He requested the MVC approval of a building envelope, with details to be worked out at the town level.

Ms. Sibley called for questions for Commissioners.

Mr. Colaneri questioned what the building height might be.

Mr. Hurd explained it wasn't but could be 25'.

Mr. Hall asked about exterior treatments.

Mr. Hurd responded that he would like white clapboard, but those are issues better left to the Historic District Commission. Mr. Briggs asked for clarification of lot lines on street lines and the applicant did so.

Mrs. Riggs questioned the scale of the windows.

Mr. Hurd responded they were 3' wide, but would need to be proportioned, per Historic District guidelines.

Ms. Sibley asked where the roofline of the previously denied house would have been and the applicant indicated so.

Ms. Sibley asked for Town Board comments.

Mr. Morgan, Edgartown Selectman, related unsuccessful efforts to purchase and completely preserve the property. He supported approving the construction of a house as long as the Town could determine what would be most appropriate on this property.

Ms. Sibley called for public testimony in favor of the proposal. There was none.

Ms. Sibley called for public testimony against the proposal. George Brush stated that applicant has petitioned the State for an appeal of the denial to build in the floodplain. They also have been working on alternative building scenarios and continued dialogue with Mr. Sharp. He claimed that the present plan is for a house that is too large and out of proportion for the street. Mr. Eldredge described possible alternative development schemes. He discussed the viewsheds, benefits and detriments associated with each scheme.

Ms. Sibley asked were there any questions from Commissioners concerning these alternatives.

Mr. Best asked about the square footage of the house and in alternative diagrams. Mr. Eldredge responded 1,400 square feet. The Commissioners discussed the relative positions within the lot of the various schemes presented.

Mr. Brush expressed support for an alternative scheme and requested MVC denial of the applicant's plan.

Mr. Colaneri questioned the pursuit of building in the floodplain.

Mr. Brush responded that he was unhappy with the DEP decision.

Mr. Sargent asked why the abutters simply haven't purchased the property.

Mr. Brush stated that the applicant has shown no interest in selling.

Ms. Sibley called for additional testimony in opposition.

Mr. Peter Lawson Johnson stated that he didn't feel the current plan was a true compromise between Mr. Sharp's desire and the neighbor's views. He stated that an MVC denial would be supportive of a fair and reasonable compromise.

Mr. Gene Barbato questioned the present plan showing a house at elevation 14', as opposed to 7'.

Ms. Sibley called for general public testimony. There was none.

Ms. Sibley called upon the applicant to summarize.

Mr. Hurd reiterated the fairness of the plan as proposed. He expressed doubt that DEP would rehear the floodplain issues. He also disagreed with some of Mr. Eldredge's conclusions and requested approval in order to pursue those very issues with the Town of Edgartown.

Mr. Sobel, attorney for Mr. Sharp confirmed that the appeal request for building in the floodplain was in fact denied because it was not filed in a timely manner.

Ms. Greene asked when that decision was made. Mr. Sobel responded "yesterday".

Mr. Sargent asked what the square footage of surrounding houses were. This information was not immediately available.

Mr. Morgan added that the appeal to the Building Board of Appeals was written on behalf of Edgartown, but it was in fact not filed by the Town.

Ms. Sibley declared the hearing closed.

Edgartown, Mass. Oct 31 1994
 at 11 o'clock and 40 minutes AM
 received and entered with Dukes County Deeds
 book 643 page 390

Attest: Beverly W. King
 Register