

November 20, 1975

DECISION

OF

THE MARTHA'S VINEYARD COMMISSION

RE: WILLIAM H. BRINE, JR.

A Public Hearing was held by the Martha's Vineyard Commission on November 13, 1975, at 9:40 p.m. upon Public Notice to consider the application of Mr. William H. Brine, Jr. for an Application for Permit Under the Zoning By-Laws of Edgartown ("The Application"). The proposed development is a single-family dwelling to be located on Lot #52, off Litchfield Road and adjacent to Caleb's Pond, Chappaquiddick, Edgartown. This location is within 500 feet of Caleb's Pond and the development is thus a Development of Regional Impact under Development of Regional Impact Checklist Section 1.202. The application was referred to the Commission for action pursuant to Chapter 637 of the Acts of 1974 as amended ("The Act"). Said application is incorporated herein by reference.

At the hearing held pursuant to said Chapter 637 and Massachusetts General Laws Chapter 30A, Section 2, the Commission heard no testimony but received other information including plans of the proposed structure, maps of the general area and specific site, a Moratorium Exemption Form, signed by William H. Brine, Jr. and dated October 10, 1975, with copies of the deed to said lot appended thereto, and a copy of the Permit Application, signed by William H. Brine, Jr. and dated October 10, 1975.

The Commission also received the report and recommendation from the Development of Regional Impact Committee dated November 6, 1975 which reflected a meeting with Mr. Brine and an examination of the proposed construction site on Tuesday, November 4, 1975, the purpose of such meeting to discuss possible issues associated with the proposed development. This report and recommendation is incorporated herein.

Under Sections 15 and 16 of the Act, the Commission is required to make findings after its review of the Development. It must consider the probable benefits and detriments of the proposal. In this matter the Commission has been guided by its Policies to be Used in Considering Development Proposals Whose Impact is of a Regional Nature, adopted by the Commission on June 5, 1975 ("DRI Policy").

The Commission finds the probable benefits from the proposed development will exceed the probable detriment and that the proposal will not substantially interfere with the achievement of any general plan of Edgartown or of Dukes County. In particular, the benefits of the proposed construction outweigh the detrimental impacts:

- a) The dwelling as proposed in this specific site will not be detrimental to the rural quality of life, as expressed in DRI Policy 1.001.

In Re Brine

- b) The proposed dwelling will not conflict with the goals of DRI Policy 2.402, Housing.
- c) The proposed dwelling will not conflict with the water quality goal of Policy 2.60, Water Resources.
- d) The proposed dwelling is consistent with the Visual Quality policy of DRI Policy 2.90.
- e) Construction of this structure at this time will aid in the promotion of sound local economies, pursuant to Policy 2.10, Economic Development.

The Commission finds the proposed development is consistent with local development ordinances and by-laws to the extent it is required to, only the Building Permit being before it at this time. The applicant must, consistent with this decision, apply to appropriate Edgartown officers or boards for other Development Permits required.

The proposed development would have been a Section 7(c) exemption to the Island-wide moratorium under the Act and is thus also exempt from the moratorium imposed on this area which is under consideration by the Commission as a possible District of Critical Planning Concern, by vote of the Commission on October 23, 1975.

The Commission approves Town of Edgartown officials granting applicable Development Permits subject however to this decision and these administrative and development conditions:

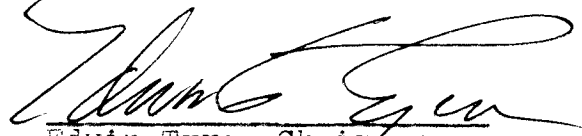
- a) That the dwelling be located one-hundred and thirty five (135) feet inland from the crest of the bluff above Caleb's Pond; and
- b) That the structure not exceed a height of twenty (20) feet maximum, as measured from the average natural ground level immediately surrounding the structure to the highest point of the structure; and
- c) That the proposed septic system be sited behind the proposed dwelling, at a greater distance inland from the high water mark of Caleb's Pond; and
- d) That covenants be entered upon the deed and duly recorded at the Registry of Deeds to reflect such conditions attached to this approval; and
- e) The approval given by the Martha's Vineyard Commission is only for the applicant and is not transferable.

In Re Brine

- f) This approval is contingent on the development proceeding as proposed; any substantial change in the size, bulk, or intensity of use of the proposed development as submitted with the Application shall revoke this approval.
- g) To be effective, this Decision must be filed by the Applicant in the Registry of Deeds together with appropriate title reference.

VOTED BY THE COMMISSION

NOVEMBER 20, 1975



Edwin Tyra, Chairman