

THE MARTHA'S VINEYARD COMMISSION

BOX 1447
OAK BLUFFS
MASSACHUSETTS
02557

DATE: June 4, 1987

TO: Thomas Robinson, Tisbury Conservation Commission
Alishan Haigazian, Oak Bluffs Building Inspector
Richard Toole, Oak Bluffs Board of Appeals

SUBJECT: Development of Regional Impact:
RE: Construction of a Single Family Residence on
Lot 89, Assessors Map 48, Hidden Cove,
Oak Bluffs

APPLICANT: Richard Berry
55 Washburn Avenue
Wellesley, MA 02181

DECISION OF THE MARTHA'S VINEYARD COMMISSIONSUMMARY

The Martha's Vineyard Commission (the "Commission") hereby decides that it lacks jurisdiction to review the proposed construction of a single-family residence by Richard Berry on Lot 89 as shown on Assessors Map 48 in Hidden Cove Subdivision, Oak Bluffs, because there is no currently pending application for a development permit before any municipal land regulatory agency. The Commission therefore takes no action with respect to the project, and ceases its review of the proposed development, without prejudice to the Applicant. This decision is rendered pursuant to the vote of the Commission on June 4, 1987.

FACTS

The proposed development was referred to the Commission by the Tisbury Conservation Commission by letter dated February 11, 1987. On February 12, 1987, the Commission voted to accept the proposed development as a Development of Regional Impact pursuant to the Commission's Standards and Criteria, Developments of Regional Impact, Section 3.101. At the time of the referral and acceptance by the Commission, an application for a setback variance for the development was pending before the Oak Bluffs Board of Appeals. Moreover, at the time the Commission accepted the referral of the proposed development, the variance application was the only pending development permit

application. The Applicant's application for a variance was deemed withdrawn by the Oak Bluffs Board of Appeals by a "Notice of Disposition" dated February 13, 1987. A duly noticed public hearing on the development was conducted by the Commission pursuant to Chapter 831 of the Acts of 1977 (the "Act") and M.G.L. c. 30A, Section 2, on March 26, 1987, at the Commission Offices, Olde Stone Building, New York Avenue, Oak Bluffs, Massachusetts. Testimony was offered at the hearing regarding the procedural history and environmental effect of proposed development of Lot 89.

FINDINGS

Section 14 of the Act authorizes and directs the Commission to "review all applications for development permits for developments of regional impact." "Development permit" is defined in Section 6 of the Act as "any permit, license, authority, endorsement or permission required for a municipal agency prior to the commencement of construction, improvement, or alteration made to buildings or land." The Commission has powers under the Act to approve, approve with conditions, or disapprove developments of regional impact after conducting a public hearing on the application for a development permit.

At the current time, no application for a development permit for this proposed development is pending before any municipal agency. Under the Act, the Commission is only authorized and empowered to review applications for development permits for developments of regional impact. Because the Applicant withdrew his application for a variance before the Oak Bluffs Board of Appeals, the Commission no longer has jurisdiction to review the development. The Commission has concluded, therefore, that it cannot take any action with respect to the development at this time, and must cease its review of the development.

This Decision shall not be deemed to restrict the power of the Commission to review any future applications for development permits for the proposed development.

The Decision is written consistent with the vote of the Commission: June 4, 1987.

Any party aggrieved by a determination of the Commission may appeal to the Superior Court within twenty 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 of the town in which the proposed development is located.

John G. Early
John G. Early, Chairman

6/12/87
Date

Norman Friedman
Notary

6/12/87
Date

NORMAN FRIEDMAN
NOTARY PUBLIC
My commission expires Nov 2, 1990

Edgartown, Mass. June 15 19 87
at 9 o'clock and 11 minutes A M
Received and entered with Dukes County Deeds
book 475 page 867

Attest: Beverly W. King
Register