

## THE MARTHA'S VINEYARD COMMISSION

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Date: April 4, 2002

To: Building Inspector, Town of Oak Bluffs

From: Martha's Vineyard Commission

Subject: Development of Regional Impact  
Re: construction of a 4,400-foot addition for the purposes of adding  
showers and locker rooms.

Applicant: Martha's Vineyard Ice Arena  
91 Edgartown/Vineyard Haven Road  
Oak Bluffs, MA 02557  
Map 50 lot 30

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Decision of the Martha's Vineyard Commission  
Summary

The Martha's Vineyard Commission (the Commission) hereby approves the  
granting of permits for the development, as submitted, contained in the application of

the Martha's Vineyard Ice Arena, 91 Edgartown/Vineyard Haven Road, Oak Bluffs, MA 02557 as shown on the plan entitled: "Site Plan in Oak Bluffs, MA for Martha's Vineyard Ice Arena, Schofield, Barbini & Hoehn, Inc., Box 339 Vineyard Haven, MA 02568, Scale 1" = 40', Dated 1/16/2002" consisting of one sheet; plus "Martha's Vineyard Ice Arena Existing Conditions" consisting of one sheet; plus "Martha's Vineyard Ice Arena - Existing Conditions 3D View" consisting of one sheet; plus "M.V. Arena Proposed Plan, Sam Sherman Assoc., Vineyard Haven, MA 1/1/02" consisting of one plan; plus "Martha's Vineyard Arena Proposed 3D View" consisting of one sheet; and totaling five (5) sheets (the Plan).

This Decision is rendered pursuant to a vote of the Commission on March 21, 2002.

The Building Inspector of the Town of Oak Bluffs may now grant the request for approval of the Applicant's proposal in accordance with this Decision or may grant

the request for approval and may place conditions thereon in accordance with applicable law or may deny the request for approval.

Facts

The proposed development is a Development of Regional Impact (DRI) as defined by the Commission's Standards and Criteria, Developments of Regional Impact, Section 3.301b. The Application was referred to the Commission by the Building Inspector of the Town of Oak Bluffs for action pursuant to Chapter 831 of the Acts of 1977, as amended (the Act). The Application and notice of public hearing relative thereto are incorporated into the record herein. Martha's Vineyard Commission staff document exhibits are also incorporated into the record by reference.

A duly noticed public hearing on the Application was conducted by the Commission pursuant to the Act and M.G.L. Chapter 30A, Section 2, as modified by Chapter 831, on Thursday, March 21, 2002, at 7:30 p.m. in the Commission Offices, Olde Stone Building, 33 New York Avenue, Oak Bluffs, Massachusetts. The Hearing was closed the same night.

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The proposal is for the construction of a 4,400 square foot addition to an existing building for the purposes of adding showers and locker rooms.

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

#### 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 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).**

This project is an addition to an existing Ice Arena but does not increase the capacity of the Arena. As such, the project is not expected to attract more clientele, but only to serve them better in a modern code-compliant facility.

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**B. THE COMMISSION FINDS THAT THE PROPOSED DEVELOPMENT WILL NOT SUBSTANTIALLY OR UNREASONABLY INTERFERE WITH THE GENERAL PLAN OF ANY MUNICIPALITY OR THE GENERAL PLAN OF THE COUNTY OF DUKES COUNTY.**

The Ice Arena has been in operation at this location since 1974 and is primarily surrounded by other community uses.

**C. THE COMMISSION FINDS THAT THE PROPOSED DEVELOPMENT IS CONSISTENT WITH MUNICIPAL DEVELOPMENT ORDINANCES AND BY-LAWS, TO THE BEST OF THE COMMISSION'S KNOWLEDGE.**

Within the R3 zoning district, recreational facilities are allowed by a Special Permit from the Board of Appeals.

**D. THE COMMISSION FINDS THAT A PORTION OF THE SITE IS WITHIN THE ISLAND ROADS DISTRICT AND THAT THE ACTIVITY THAT IS PROPOSED TO TAKE PLACE WITHIN SAID DISTRICT BOUNDS IS CONSISTENT WITH THE TOWN OF OAK BLUFFS REGULATIONS GOVERNING THE DISTRICT.**

The proposed addition shall have no further impact within this district, as there will be no change in access to the facility, no additional curb cuts, and the entire addition will be screened behind existing utilities and landscaping.

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

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This Decision is written consistent with the vote of the Commission: March 21, 2002.

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 twenty-one (21) days of the close of the public hearing.

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.

The applicant shall have two (2) years from the date of receipt of the Decision of the Martha's Vineyard Commission contained in this document to begin substantial construction, and should substantial construction not occur during said two (2) year

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DRI No. 49M

period, then this Decision shall become null and void and have no further effect. This time period may be extended upon written request from the Applicant and written approval from the Martha's Vineyard Commission.

Jan R. V.  
Chairman

4.5.02  
Date

Irene Miller Fyler  
Notary

4-5-02  
Date

**IRENE MILLER FYLER**  
NOTARY PUBLIC  
MY COMMISSION EXPIRES

## EXHIBIT A

Excerpt from the Minutes of the  
Full Commission Meeting of March 21, 2002**Public Hearing: Martha's Vineyard Arena Modification (DRI #49M).**

Ms. Brown read into the record the Notice of Public Hearing for the Martha's Vineyard Arena Modification in the Town of Oak Bluffs (DRI #49M). *[See the Full Commission Meeting File of March 21, 2002 (the meeting file) for a copy of said notice.]* Ms. Brown then explained the Hearing procedure that would be followed that evening.

**Applicant's Presentation.**

**Richard Barbini of Schofield, Barbini & Hoehn**, representing the Applicant, introduced himself and explained that the Martha's Vineyard Arena was a 501(c)(3) nonprofit charitable organization. With him that evening, he said, was **Brion McGroarty, president of the organization**. "Our sole mission in life is to freeze water," he joked. "Once it's frozen, we then lease it and rent it to anybody that wants to have some sort of skating activity on it. That's all we do." Mr. Barbini then enumerated the various school and community groups that used the arena facilities. "We run on what we rent the ice for, as well as donations," he added.

Next, Mr. Barbini related that there was two things about the arena that were "way below standard": the public restroom facilities and the locker rooms. Thus, the Applicant was proposing to attach to the side of the arena an addition of 4,400 square feet (20 feet wide by 220 feet long, along the length of the existing building). He used a site plan to show where the addition would be built. Said area, he noted, would contain four locker rooms, shower facilities, bathroom facilities for the locker rooms and new public restroom facilities for both sexes.

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Mr. Barbini described the existing lot, which was a little over 3 acres, and how in order to accommodate the addition, the Applicant would be swapping with the Town of Oak Bluffs Resident Homesite Committee a sliver of land that ran along the side of the existing structure for an equal sliver behind the rink. The swap had been approved by said committee, he noted, and would appear as an Article on the Annual Town Meeting Warrant in April. "We have the Selectmen's blessings, and we anticipate absolutely no issue to the Town allowing us to swap this piece of land," he stated.

Mr. Barbini explained that because of the swap the Applicant would be able to put a 20-foot-wide addition onto the side of the building, while keeping the setbacks exactly as they were currently. He then pointed to a three-dimensional rendering of the present arena and the addition, showing how the roof line of the present structure would be extended down and the addition put underneath it. Said walls would be block or metal, he said, whichever would be the more cost-effective. "But you will not see anything from the road," he stressed, "because between this addition and the road are where the cooling towers are now."

Noting that the Applicant hoped to carry out the project as soon as the money to do it was available, Mr. Barbini explained that they also needed to upgrade the septic system. "We will be putting in an advanced-treatment septic system behind the arena and existing parking lot," he related. He then invited Mr. McGroarty to speak.

Mr. McGroarty introduced himself and emphasized that the arena served "many hundreds of children here on the Island with a very wholesome activity for them to do." They also served around 100 adults who used the facility, he added. He thanked the Land Use Planning Committee (LUPC) for their recommendation that the Application fee be waived. He concluded by joking, "We've actually just recently unearthed some

anthropological evidence on the site that we're actually a, it seems that we're a core habitat for high school hockey champions."

Mr. Barbini finished up by informing the members that during the winter months the Youth Hockey teams sponsored a number of tournaments, "which brings a lot of people to this Island on weekends that I know that book the hotels, use the restaurants. So it does bring a major financial impact in the winter."

#### **Staff Report.**

**Jennifer Rand, the Commission's DRI Coordinator**, reported that she had the letter from the Resident Homesite Committee referred to earlier by Mr. Barbini. She also confirmed that the land swap article was on the Town Meeting Warrant. There would be no changes to the parking plan and the lighting plan, and the Staff had no issues with what the Applicant planned for the septic system, she added.

Responding to a question from Ms. Brown, Ms. Rand explained that the Applicant had two alternatives for the new septic system and had not decided yet which to use. "But Staff is comfortable that it would be over-designed because of Title V standards for what they need," she said, "so Staff has no concerns about that."

#### **Questions and Comments from Commission Members.**

Addressing a question from Jane A. Greene, the Chilmark Selectmen's Appointee, Mr. Barbini explained that they were looking at the BioClear, FAST and Amphidrome advanced septic systems. James Athearn, a Commission member at large from Edgartown, asked for further details about the alternative systems. "They're biological treatment processes that reduce the nitrogen, one," responded Mr. Barbini. "They also reduce the other waste products and make the waste stream going into the water much cleaner than the standard septic system. They all do basically the same thing, just different types of processes."

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and hire a new one every year, because that's the secret to this hockey thing," joked Mr. Barbini. "You can only coach one year, and then you have to get a new guy."

After more talk about the championship boys' team and the up-and-coming girls' team, Mr. Barbini mentioned that the arena was "well used. If you go up there on a weekend, you won't believe it." West Tisbury Commission member at large Linda Sibley wondered if the facility was open year-round. Mr. McGroarty answered that the arena was closed half of April, all of May and June, and half of July. "So we're a nine-month facility," he said. Mr. Barbini explained that in July the arena hosted hockey and figure-skating camps.

Ms. Sibley also wanted to know if the facility had been insulated. "We started off with no roof and no sides, then it went half sides and then we closed it in a few years ago and insulated it all and put dehumidification in and everything else," replied Mr. Barbini, who added that there was public skating time at the arena as well.

Mr. Athearn asked if the seasonality of the activity would affect the use of the biological wastewater treatment systems. "It will affect it," explained Mr. Barbini. "There's a start-up period on all these biological processes. There's two ways you do that. You either force-feed it in the off-season, and by force-feeding it, I mean you add carbon to it ... There's a lot of ways to do that. Or since this starts up slow in the summer, before we get our peak season, there's enough time to acclimate it. So we're not going to have an issue, I don't think. But seasonality does have effect. Not as much as house seasonality, because it's not closed that long."

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Ms. Ottens-Sargent inquired whether there were prospects in the future for a more energy-efficient cooling system. "Only if we get a windfall, a major windfall," replied Mr. Barbini. Ms. Ottens-Sargent mentioned that the school system and its gym classes also used the arena. Mr. McGroarty pointed out that they had just appointed an Energy Study Committee. "There are some technologies that the price is coming down low enough that I think we can get there," he said, "but we're getting to the point where we should at least be looking at it. That's where we stand."

"Do you know what our last year's bill was?" wondered Mr. Barbini. "Yeah, we spend about \$80,000 a year on electricity," responded Mr. McGroarty. Mr. Barbini stressed that there was no way that the organization could get a discounted rate on electricity.

If they were able to afford the energy changes, asked Ms. Sibley, would that save the facility a lot of money in the long run? Or was it altruistic? "No, it's not altruistic," said Mr. McGroarty. "We struggle for money, and if it's something we can do that will help us save, use less electricity and save money, you know, as much as we struggle financially, that'll be the one that tips the scales."

The Hearing Officer asked for testimony from members of Town Boards; none was forthcoming. She then asked for testimony from members of the public.

#### **Testimony from Members of the Public.**

**Theophilus Nix of Oak Bluffs** had a question: "I wanted to know if the Applicant was going to ship the extra ice over to Cape Cod."

There being no other comments or testimony, Ms. Brown closed the Public Hearing at 7:55 p.m.

Eggenstown, Mass. April 5, 2002  
at 3 o'clock and 28 minutes PM  
referred and entered with Dulles County Deeds  
book 878 page 039