



## **Wave Lengths Minutes 2009-2016: 223 Upper Main St (20A-95)**

**November 17, 2009:**

### **Wave Lengths Development Discussion**

Mr. Cavallo asked if he should recuse himself as he operates the Edgartown Paint Shop located across the street. The Board asked the assistant to confer with Town Counsel.

Doug Hoehn, Schofield Barbini & Hoehn, Chuck Sullivan, architect; Melissa Vasiliadis, 50% owner of Wave Lengths; and Colin Young, builder were in attendance for the applicant. Ms. Jane Leaf, 50% owner was absent.

Doug Hoehn discussed the proposed mixed use project at 223 Upper Main Street which is located within the B-2 Business District. It will include residential units and professional office space. They will remove the existing structure, replacing it with a mixed use building, where they will continue the business of the salon on two stories. The third story shall be an apartment with two bedrooms. It will be 11,000 square feet. The back section shall have four residential units with parking on the ground floor under the residential units located on the 2<sup>nd</sup> and 3<sup>rd</sup> floors. There will be four 2-bedroom units for a total of 10 bedrooms on the property. The front building will have 2 professional commercial spaces with two stories. They have provided 18 parking spaces. The Wastewater Department has approved it with no wastewater limitation.

Mr. Mascolo asked and was told the buildings will be shingled. He asked about the issue of chemical waste from the salon. He was told that it goes into separate holding tank will continue to be pumped out. Mr. Mascolo asked what Boucle did with chemical waste. Mr. Hoehn said he would find out.

Mr. Sparks asked about having a handicapped parking space in the front of the building in view of the street. The applicant said it shall be screened. They could it be put in the rear, but they would have to move the building closer to the street.

Mr. Wilson asked about affordable housing. Mr. Hoehn said they will have to make some monetary contribution based on some sort of scale when they go before the Commission.

Mr. Wilson said he has issues with a cupola exceeding the 32-ft height limit and the handicapped parking in front building next to the street. The applicants said they could make space in the back, but they would have to bring the building closer to the street.

Mr. Mascolo said it was important that the abutters be notified. He believes the architecture is in keeping with the style of the neighborhood. He hoped the applicants would be careful about citing all sections of the bylaws in their application.

Mr. Mascolo said he would like a photo enhanced image of the neighboring property and the proposed building showing how it blends in, including landscape plantings with creative screenings. The assistant said it would be important to show the space designated for the garbage area and air conditioning units.

It was noted that this project would have to go to the Martha's Vineyard Commission as it triggers a number of items on the DRI checklist.

**January 12, 2010:**

**Wave Lengths (20A-95) Jayne Steide & Melissa Montession (Preliminary Discussion)**

Mr. Doug Hoehn, Schofield Barbini & Hoehn, and Mr. Chuck Sullivan, architect, presented the proposed plans for a mixed use project in the B-II Business District. Mr. Sullivan said he modified the plans previously presented accommodating the request of the Board to restrict the height to 32' and to remove the handicapped parking space to the back of the building. The plans call for a professional and residential space to replace the existing retail space which currently houses the salon, Wave Lengths. It shall have two floors of professional offices and the top floor shall be residential apartment/condo. The rear of the property is designed to have four attached town houses each with a two-car garage on the first floor and two floors of living space above.

**May 4, 2010:**

**Wave Lengths, 223 Upper Main St. (20A-95) – SP for Mixed Use Development in B-II**

Mr. McCourt ran the public hearing. The assistant read the public notice. Doug Hoehn, civil engineer, Schofield Barbini & Hoehn and Chuck Sullivan, architect, are the applicant's agents. Mr. & Mrs. Jim Carter (Clarion Hotel), Missy Montession (Wave Lengths part owner), Colin Young (project manager), and Sylvia Thomas (abutter) were in attendance. Mr. McCourt explained the public meeting procedure.

Mr. Hoehn reminded the board they were familiar with this proposed mixed use project. He has discussed the project with the board twice informally. The project is in the B-II Business District and was referred as DRI (*District of Regional Impact*) to the Martha's Vineyard Commission. The Commission has held one meeting and the next hearing is this Thursday, May 6<sup>th</sup>. The project involves replacing an existing commercial structure with commercial space on two floors and a condo on the top floor, and an additional structure with four 2-bedroom residential condos. The condos will be located in the back in a very tight space. They are trying to maximize the square footage. Mr. Hoehn said that "in-fill" is a mandate of the MVC Island Plan. He said there are 8 parking spaces under the condo units (2 spaces per condo.) The vegetative plans are forthcoming. The traffic study just came back today, and he has not had a chance to look at it. This hearing must be continued because the MVC has not made their final decision yet. They still have to deal with the drainage situation. He said the Carters, (Clarion Inn) are present who are located very close to the Wave Lengths' property line. He said the other abutter, Melone (the dance studio) is quite a distance away. The existing entrance way will be widened slightly, but remain in the same location. Mr. Cavallo asked about increasing the driveway by 2 feet. Mr. Hoehn said Mark London (MVC director) wants to keep the driveway on the narrow side. He said Mr. London's criticism is there are not enough parking spaces. He said in the peak season employees will not be parking on location.

Mr. Wilson asked how many "chairs" in the beauty shop. The owner, Missy Montession, said there will be 6. Mr. Wilson said the turning radius for parking spaces do not meet the standard. Mr. Hoehn responded that the width of the lot does not allow any more space. They will have to do extra backing up and maneuvering to turn around.

Mr. McCourt asked if there were any changes made to the architectural plans since the last meeting. Mr. Sullivan said he removed the tower on the front building. The back building was revised to include gables to break up the facade. The outside decks are only 4 feet wide and provided for outdoor egress. Mr. Wilson asked and was told the construction would begin in the off-season. They received permission from the Wastewater Department to have 10 bedrooms, shortly after WWD deregulated the B-II district which would have restricted

the bedrooms to four.

Mr. McCourt asked and was told one of the reasons the Commission continued the hearing was to hear the traffic study. Mr. Carter (Clarion Inn neighbor) said the business district bible is the Upper Main Street Business Plan which asks for consideration to work out shared access parking between neighboring commercial properties e.g. dance studio or hotel. Mr. Sullivan said a cut through would have to come through Willoughby's (residential lot behind Wave Lengths). Mr. Carter said that would entail a cut through private residential property which might be difficult.

Sylvia Thomas said the town messed up shared access parking with the Duarte/Hartley property and the dance studio. She said they didn't do it and it's a dead issue. Mr. Sullivan said the parking in the abutters' lots is connected. Mr. Hoehn said he does not know how it could be accomplished at this site. Mr. Carter asked if the fire department and emergency vehicles are able to get around the parking area. The spaces are only 16 feet wide.

Sylvia Thomas said she was very concerned about the density of the project – too much in size and scope. Melissa said the customers are to have six parking spaces for the six chairs in the beauty salon. The commercial parking area and the residential parking area were not meant to cross. Ms. Thomas said if the applicant is also renting office space on the second floor, possibly to a complimentary medical practice, would mean additional employees and additional customers. She does not believe there is enough parking. She said the promise is easy, to say the employees are going to park at the park and ride – but we all know it's not going to happen.

The Planning Board asked that the project be staked out before the next meeting. Mr. McCourt asked if the issues raised at the MVC have been addressed. Mr. Sullivan said yes, 16 feet per parking spot is larger than some. If everyone is careful as to how they park, it can work. Mr. Wilson said it does not meet the 24 foot standard. Ms. Montession said that although we have 6 chairs they are not used all at the same time.

Mr. Mascolo pointed out that it's 45 days of crazy. We live for those days to help support us for the remainder of the year. It is difficult to have year round business, but it's important to have year round businesses. Ms. Thomas said, she means no disrespect, but Mr. Mascolo has a large parking area in front of his business. Ms. Thomas said she is also concerned about construction hours and believes they should be 7AM - 6 PM on Monday-Friday; 1/2 day on Saturday and no construction on Sunday. She would like a condition attached to the permit if granted that restricts construction hours. Mr. Wilson said the board shall consider it.

Mr. Cavallo asked about the difference in square footage between old building and new buildings and the difference in the footprint. The applicants were asked to provide that information for the next meeting.

Mr. McCourt concerns are the lack of architectural depth in the front building on the street side. Mr. Sullivan said he could extend the farmer's porch. Mr. McCourt said it has a flat look especially when you are driving into town - you look down an alleyway. Mr. McCourt also agreed that the construction hours limitations are important and wants a plan from the applicant.

Mr. Cavallo made a motion to continue the hearing to May 18<sup>th</sup>. Mr. Mascolo seconded the motion and it was unanimously passed.

**May 18, 2010:**

**WAVE LENGTHS (20A-95) – SP: Mixed Use Development in B-II**

Mr. McCourt continued the Wave Lengths hearing. Doug Hoehn, civil engineer and Chuck Sullivan, architect for the project, agents for the applicants, reviewed the modifications to the plan and reminded the board of the site visit this morning where the project was staked out. He said they have a drainage design. The buildings are the same and the number of parking spaces is the same. Mr. Sullivan said one of the major changes to the back building is that they removed the garage doors and reconfigured the stairways to the condos. They recommended that one residential parking space be allocated to each condo (not including the condo over the commercial structure.) The other four spaces under the condos would be designated as a commercial parking space preferably for the use of the business owners. The MVC traffic engineer thought 15 parking spaces would be adequate for the front building business.

Discussions about the abutters sharing parking and connecting parking lots ensued

It was noted at the site visit the fire truck (using the proposed layout) would have to back out into traffic in order to exit. The fire department would like to have a second egress or access from another lot. The police tried backing out of a space under the proposed condos and could not do so without hitting another vehicle in a proposed parking space.

The Willoughbys, who own the lot to the north and rear of the project, would agree, but zoning bylaws do not allow commercial parking on a residential lot. Mr. Wilson mentioned that a garbage truck would not be able to turn around. Mr. Wilson suggested installing sprinkler systems in both structures.

Mr. Mascolo was not happy about the removal of the garage doors. He thought it would be healthier and more fuel efficient to leave the doors on, although that was not confirmed by the architect.

Mr. Sullivan said if the space is left open then it is less likely that the space would be used as storage. Mr. McCourt said the garage doors were removed because the spaces would be more accessible to public.

Mr. Sparks said the employees are meant to park off site. It was noted that the business has reduced the number of salon chairs from six to four. Mr. Hoehn said the project meets the bylaws. The requirement is one parking space per 350 sq. ft. for a total of 18 spaces. The commission bounced around the actual number of spaces based on business traffic, not the residential traffic. The MVC traffic engineer determined that 15 spots were adequate, but that was not based on zoning, but on the number of chairs.

Mr. Sparks said Mr. Melone, abutter and owner of the dance studio next door, should weigh in on the process. If he agreed to share the parking, the applicant could add 10 or more spaces. Ms. Steide said Mr. Melone would support the project (not necessarily the shared parking.) Mr. McCourt asked if they have considered any additional alternatives for the parking. Mr. Hoehn said they have been through many layouts. Mr. Carter said (when they expanded the Clarion) they worked diligently with the neighbors to work out parking plan which would work for everyone and would include open space and shared parking. He said the Planning Board has drifted away from that policy. He believes Mr. Melone should be contacted to consider opening up his spaces to shared parking. It would create fewer curb cuts on Main St. Mr. Sparks asked Mr. Wilson if it was appropriate to contact Mr. Melone on behalf of the board. Mr. Wilson said they could consider it. Mr. Sparks discussed the deeded access and asked how it works. Mr. Carter said it goes with the land.

Ms. Steide, said she felt that they have met all the rules and regulations for the project.

Mr. Carter said he has parking requirements for any improvements.

Mr. Mascolo said that he garage looks cleaner with garage doors. Mr. Sullivan continued to support his belief that it will allow more commercial spaces if configured this way.

The assistant shall draft a letter to Mr. Melone asking if he would consider sharing his parking lot. Mr. Mascolo says it's not fair for Mr. Melone to give up his parking lot, and reminded everyone that parking issues are only 45 days per year.

Mr. Sullivan spoke about the front of the building. He said there was a change adding a texture difference to add architectural diversity. Again the Planning Board asked the applicants for specific square footage numbers including, existing building footprint and proposed buildings' footprints and other square footage numbers.

Mr. Sparks made a motion to continue the hearing to June 1 which was unanimously passed.

### **September 21, 2010:**

#### **Wave Lengths, 223 Upper Main Street (20A-95) SP: Mixed Use Development (Continuation)**

*Public notice: Town Clerk stamp 9/1/10. Advertised in the Gazette 9/3 & 9/10.*

*In attendance: Melissa Vasiliadis (Montession), 30 Slough Cove Rd, part owner, Jayne Leaf, 7 Turkeyland Cove Rd, part owner, Nils Leaf, 7 Turkeyland Cove Rd, Doug Hoehn, Engineer, Schofield Barbini & Hoehn, Chuck Sullivan, Architect, Colin Young, Project Manager, 53 Jernegan Av, and Sylvia Thomas, 40 Curtis Lane.*  
*Materials provided: A complied site plan prepared by Schofield Barbini & Hoehn, Inc. dated July 15, 2010, MV-7939 stamped by the Planning Board on September 14, 2010.*

Chairman Wilson opened the hearing by reading the public notice. He said Mike McCourt has been involved in the process from the beginning and will chair the meeting.

Colin Young reviewed the recent discussions with the neighbors regarding the parking and access issues. Mr. Melone, abutter, told Mr. Young that he does not know what his plans are for the property at this time. He agreed to a locked gate for emergency use. Mr. Young said Mr. Carter has his own parking restrictions related to a cut through. Mr. Young said Paul Foley, DRI Analyst at the Martha's Vineyard Commission, said Mr. Carter could come back and apply for a minor modification. Mr. Young said Mr. Carter is not interested in going back to the Commission, unless he could reconfigure or move the parking spaces to another location.

Mr. McCourt asked if they have explored cutting back on the project. Mr. Sullivan, the architect said they are considering eliminating one of the units in the back. The revised plan still shows a cut through (to Carter) of 24 feet wide instead of 22 feet. It puts two more spaces outside. Mr. Sullivan has not had a chance to redesign the structure with one less unit. They need to create a turn-around situation, have reduced it by 16 feet which should reduce the traffic in the back by 25%. They will have to continue the hearing to get new drawings. They no longer will need the back deck of the condo units. They would like feedback from board.

Chairman Wilson said he would not sign off unless there are two egresses. Mr. Cavallo asked about the large tree in the back of the lot near the proposed cut through – will they be cutting it. Mr. Sullivan said tree would

have to go. Mr. Sparks said why are we discussing a cut through - when it's not available? Mr. Young thinks there would be a possibility of a cut through. He said Mr. Carter is required to have 65 spots for Clarion, and he doesn't want to give up any spots. Mr. Sullivan believes he could rearrange his parking lot to accommodate their plans and still be in compliance.

Mr. Young said it's not fair that Fire Dept. dictates the access. Chairman Wilson responded that the Planning Board asks the Fire Chief and Police Department to comment on all subdivisions and mixed use developments.

Mr. McCourt said there is still a parking issue – there is no room to turn around, regardless of the fire chief's concerns for access. We can't have cars backing out onto Upper Main St. Mr. Sullivan said originally there was a hammer head.

Mr. Sparks said we are trying to make chaos work. Now it's time to make a plan that works. Two more outside spaces and larger garage spaces to enable proper turning points is needed. He also said the facade of the building needs improving, and abutter Carter and Chief Shemeth need to get together. The property can't be increased in the back because the zoning on Mr. Willoughby's lot is residential.

Sylvia Thomas said her property is right next to the hotel's parking lot. She does not think the breakthrough from the Clarion to Wave Lengths is a good solution. She asked why can't they have a crash gate or marked zone for Fire Lane. Mr. Carter, at the Clarion has a parking situation not conducive to having traffic coming out of Wave Lengths lot into his parking lot.

Mr. Hoehn said Jim Carter was the one who brought up the parking issue in the first place, and said he would make an effort to work with Mr. Melone who doesn't know what he wants to do.

Mr. Sparks asked how they currently receive deliveries. Ms. Steide said UPS parks on the sidewalk.

The hearing was continued to October 5, 2010.

#### **October 5, 2010:**

#### **Wave Lengths, 223 Upper Main St. (20A-95) SP: Mixed Use Development in B-2**

*Those in attendance: Doug Hoehn, Chuck Sullivan, Collin Young, Missy Montession,*

*Materials presented: New site plan & new architectural drawings*

Mr. Wilson opened the public hearing and turned it over to Mike McCourt to Chair.

Mr. Sullivan said he did a couple of things: 1) narrowed the front building by two feet, 2) increased the 16 foot driveway because the commission had concerns that two-way traffic would be tight, 3) reduced the residential building in back from 4 condo units to 3 condo units, and reduced the structure's width by 14 feet (increasing the size of each of the remaining three residential units.) Both buildings and parking spaces have been slid forward. The front entry has a 20-foot hang over, and 4) created a turnaround in the back. He said those are the major changes.

Mr. Sparks brought up the issue of shared access with abutter Carter (Clarion Hotel.)

Mr. McCourt said the problem with Carter is that he needs a specific number of parking spaces for the Clarion. Mr. McCourt also said he was concerned that there is no legal deeded easement because property does change hands. A crash gate can be part of the decision's conditions. He does not believe the Carters will offer anything. Mr. Hoehn said if the general public was driving through (the adjacent parking lot) an easement would be required.

Mr. Sullivan offered to plant 3 or more additional trees. He said they will be returning to the Commission on the 21st.

Mr. McCourt asked Mr. Hoehn if there was any type of easement for just emergency vehicles. It was determined that to meet B-II regulations, Carter would need to commit to public access.

Mr. Hoehn said they will go forward to the MVC pending official agreements with the abutters. They will stay with the same number of parking spaces.

The board's pulse is that they see great progress with some rough edges. The Board primarily wants the applicants to get letters from: Mr. Carter approving access, the Fire Chief approving the plan, and Mr. Melone approving a crash gate and parking. Other issues can be discussed once access issues are resolved.

**December 7, 2010:**

**Wave Lengths (20A-95) SP: Mixed Use Development in B-II**

*In attendance: Chuck Sullivan, Doug Hoehn, Jane Steide & Gus Steide, Melissa Montesion, Fire Chief Shemeth and Colin Young.*

*Materials presented: Revised plans: 223 Upper Main Street 11/04/2010 & 10/05/2010.*

Chairman Wilson opened the continuation of the Wave Lengths hearing. He told the applicants there were some unanswered questions regarding the square footage of the structures.

A discussion regarding "structure v. structures" ensued. Mr. Wilson said he looked up the definition of "structure" and he believed the intent of the bylaw was to include all structures in the project.

Mr. Sullivan said there are two small buildings and it should be determined by how it is used. The commercial structure shall be closed at night. The building code defines a structure as: "*That which is built or constructed.*"

Mr. Sullivan reviewed the changes that were made while they were in front of the MVC, including 1) the elimination of one residential condo, but an increase in the size of the remaining three condos in the back building, 2) the reduction in size of the front building, and the addition of a 3<sup>rd</sup> commercial space in the front building, 3) a deeded dormant easement at the back of the property, 4) the offer to donate \$10,158 to an island affordable housing group, and 5) their plan to offer the residential unit above the commercial space (front building) will be sold at a reduced rate to the proposed project manager, but it will not be affordable in perpetuity.

Mr. Sullivan read the Edgartown bylaws definition of "structure" which states: *2.7 A "structure" is a combination of materials assembled at a fixed location to give support or shelter. A structure includes any building.*"

Mr. Mascolo said he was supportive of a mixed use project in the business district. He would like a report from the Fire Chief. Mr. Mascolo said he was instructed by the building inspector to have the project be in compliance with the B-II business bylaw. The Board asked for the total square footage of buildings to determine compliance with the total-floor-area to total-lot-area regulations.

Ms. Steide asked why this wasn't brought up before? Doesn't having a business in town for 22 years count for anything? Sparks responded that it was assumed the applicants were going to get access and parking from the abutting neighbors which would have allowed 80% coverage.

Ms. Steide asked for the percentage of the 244 Upper Main St. project (apartments). The board looked to Assistant Greenough who responded it was between 56-58%. Ms. Ms. Steide responded that was "bull".

Mr. Wilson read the MV Commission minutes of 11/18/2010 regarding the Wave Lengths decision.

Fire Chief Shemeth said he can get his trucks to the site now, but if something is built on the neighbors' property, the access may be blocked. He said he could still put out a fire in the building. He said the Planning Board needs to plan for the future in this case, so that it does not interfere with his ability to access other buildings. He said it would be beneficial to all properties to gain access to each others' property. He said he does not want to have more buildings constructed on abutting properties with no access.

Sullivan said it is unfair to interpret a bylaw more strictly than it's written. It's also unfair that 1) Mr. Carter (abutter and owner of the Clarion) at the first meeting said he encouraged shared access and subsequently would not provide it, and 2) that Mr. Melone (abutter on the east side) wouldn't provide a letter because he is in the process of determining what he is going to do with his property.

Mr. Hoehn joined the meeting and was asked about the lot coverage for the 244 Upper Main St. apartment project for which he was the surveyor. He responded somewhere around 56%.

Mr. Mascolo asked if shared access was achieved. Sullivan said he drew it into the plans. There were no letters or agreements from the abutters offering shared access or shared parking with the applicants.

The assistant read a letter from James Joyce, one of two MVC commissioners who voted against the project citing his concerns including, lack of usable green space, the lack of parking which barely (if at all) meets the B-II bylaws, and confusion on the offer of affordable housing.

The Chairman offered to have the Board take a vote at this meeting. Hoehn said no, because he figured the Board would probably turn it down and they (the applicants) would have to wait two years to reapply.

The applicants said they would get a letter from Mr. Melone offering shared parking by the next scheduled meeting. It was unanimously voted to continue the hearing until January 4, 2011.

**February 1, 2011:**

**Wave Lengths, 223 Upper Main St. (20A-95) Mixed Use Development in B-II. (Continuation)**

*Those in attendance: Chuck Sullivan, Jane Steidle, Colin Young, Melissa Montession, Chris White, Remy*



*Tumin, reporter from the Vineyard Gazette.*

Materials provided: None.

Chairman Wilson opened the continued hearing. Chuck Sullivan, agent for the applicant was in attendance. He said Doug Hoehn, another agent for the applicant was stuck out of town. He said the applicants have had several conversations with abutters (about shared parking), and the abutters will not put anything in writing. The applicant wants to put the current proposal (without any changes) on the table for the Board to review. One abutter will not give written permission. The other abutter, Mr. Melone, is hesitant to put something in writing, as he will be coming to this board for a special permit for an amphitheatre.

Mr. Cavallo said he is not comfortable with it. Clarion and Stop & Shop made a verbal agreement to share parking.

The Chairman closed the meeting to the public.

Mr. Mascolo said he has questions. He said he wants more business on Upper Main St. He repeated that Jim Carter said yes to shared parking and changed his mind. Mr. Mascolo said he didn't have to give a written agreement to Stop & Shop for shared parking. Mr. Mascolo started to discuss the issue of the B-2 bylaw issue of structure v. structures. Mr. Wilson said the bylaw was wrong.

Mr. Sparks emphasized that nothing the applicants or abutters said was binding.

Mr. Wilson said he wanted something in writing from the abutters. If there is nothing in writing from the abutters, he thought the applicants would come in with a new plan. He reminded the Board that abutter, Jim Carter, may not own the Clarion Hotel forever, and therefore something needs to be in writing.

The Board is not comfortable with the proposal as it is.

Mr. Wilson said he is looking for a scaled down project, and that should be a hint.

It was voted unanimously to continue the hearing to Tuesday, February 15<sup>th</sup> at 8:40 PM.

### **February 15, 2011:**

#### **Wave Lengths. Special Permit.** (Continued from 2/1/2011)

*In attendance: Jayne Steidle, Melissa Montession, Colin Young, Doug Hoehn, Chuck Sullivan.*

*Materials provided: New site plan, "Wavelengths Site Plan, Edgartown, Mass Prepared for Jayne Steidle & Melissa R. Montession, Scale 1" = 10', February 15, 2011, Schofield Barbini & Hoehn Inc. MV 7939" and new elevations "223 Upper Main St. – Offices, First & Second Floor Plans (A01); Third Floor and Foundation Plan (A02); and Exterior Elevations (A-03), Sullivan O'Connor Architects, P.O. Box 989, Oak Bluffs, MA 02557, Date: 02-11-11, Map/Parcel: 20A-95, Job #:10U01."*

The Chairman opened the continuation of the Wave Lengths application. Revised plans were provided to the board by Doug Hoehn and Chuck Sullivan showing the removal of the rear residential building from the original plan. The front building has been slightly expanded to a point just below 50% (of the useable square footage in comparison to the square footage of the lot). They stated that they have removed any discussion

regarding parking spaces as they are providing 18 spaces, meeting zoning by-laws and will provide more ease and a turn around. The front of the building will be the same distance from the road. The only change is slight expansion in the rear of the building. The building has been slightly re-configured to include 5 office spaces and a residential unit on the 3rd floor. The tower has been removed and a front and side entry porch added. The office space is a little longer than the original plan. This building is about 20% bigger than last drawing. The front of the building is slightly changed but the overall square footage is 40% smaller than the original plan which included 2 buildings. The 3rd floor apartment will have 2 bedrooms and is larger than the previous plan.

Discussion ensued about whether the new plan had to go back to the commission for approval. Applicant suggested a condition that the revised plan should be sent back to the Commission. The applicant was questioned about the basement and the response was there were no plans put forward about the basement specifically, but it would be storage. Mr. McCourt asked about parking and office space use. The office will be 250 sq. ft. and the applicant stated it will not be retail. Mr. Sparks asked questions about aesthetics including window treatments and landscaping. The applicant said the plan is for cedar shingle and shutters. There will be handicapped parking. The Board reviewed the plans and addressed employee parking. Calculations are in place for green space at 21% which is in compliance.

Mr. Mascolo made a motion to approve with the conditions to prepare the landscaping plan for planning board approval and to refer the project back to the Martha's Vineyard Commission. The motion was seconded by Mr. Cavallo and was unanimously passed.

#### **April 3, 2012:**

##### **Wave Lengths, 223 Upper Main St. (20A-95) Request for extension of SP.**

Fred Mascolo said he would have to recuse himself from the discussion, as one of his real estate sales people is involved in the sale of the property. The Board agreed he needed to recuse himself, but allowed him to stay seated with the board.

Missy Montession (Vasiliades) came to board to ask for an extension of the special permit granted to Wave Lengths approved on May 3, 2011. She said that no construction has begun as they are busy trying to sell the property. A brief discussion ensued. The Board voted unanimously to issue a minor modification to the Wave Lengths special permit to extend the deadline by one year to begin work on the project.

#### **April 16, 2013:**

##### **Old Business:**

1. **Wave Lengths**, Upper Main St. requested an extension of their special permit for one additional year. The board voted unanimously to do so.

#### **April 15, 2014:**

##### **5:32 PM: Modification to SP: Wave Lengths, 223 Upper Main St (20A-95) 1 year extension of special permit**

*In attendance: Missy Montession*

The applicant asked for an extension to the special permit for the redevelopment of the Wave Lengths property as approved on October 20, 2010. This will be the third extension for the special permit. Ms. Montession said she believes she has a buyer for the property and would like to have to special permit in place prior to a sales and purchase agreement.

Mr. Cavallo moved to extend the special permit for one year. Mr. McCourt seconded; Mr. Mascolo abstained. The motion passed 4-0, with one abstention.

**September 2, 2014:**

**6:41 PM: Discussion: Wave Lengths, 223 Upper Main St (20A-95): Request a modification to a special permit in B-II Business District.**

*In Attendance: Jane Leaf, Colin Young.*

Mr. Macolo stated that he works in real estate and represents the applicants, and therefore will be recusing himself from the discussion. Since this is a preliminary discussion and nothing will be voted upon, it was decided that Mr. Mascolo would sit in the audience.

Mr. Young approached the Board and explained a brief history of the Wave Lengths project. There were two owners in disagreement, and a suit that landed briefly in Land Court. Ms. Leaf bought out the other partner and has become the sole owner of the business. The application to be presented to the Board at a later meeting will be a modification to a special permit for a change of use from commercial space to residential space for the second floor. It has become apparent that it is not financially feasible to have more commercial space, and would be much more viable as apartments. A sample floor plan showed the conversion of the two offices to two two-bedroom, 975 square foot apartments with 1 ½ baths. The designs have not been finalized. The location of the windows may change. Parking would remain the same, as there is less parking required for residential space than commercial space. The Board inquired whether the apartments would be rented or put up for sale as condominiums. The applicants responded that initially the units will start off as rentals, but will ultimately be sold as condos when a buyer shows interest.

The MVC previously restricted the property to be year-round rental, if ever converted to residential space. There will be no short-term rentals. Since the property has been determined to be a Development of Regional Impact, the application must officially come before the Planning Board to be referred to the MVC. Once the MVC has held a public hearing for the minor modification, the application comes before the Planning Board for a final decision. The Board assured the applicants that the process is not as complicated or time consuming as it may sound, especially since the changes fall within the confines of a minor modification, and the footprint of the building is not being changed.

**May 19, 2015:**

**Public Hearing: Wave Lengths, 223 Upper Main St (20A-95) Modification of a special permit to extend the permit for the fourth year. (Colin Young for applicant)**

Mr. Young was asked if he wanted to proceed with only 4 board members. He said he would. Mr. Mascolo said he needed to recuse himself from the hearing as he has a conflict of interest with this project. One of his real estate agents is representing the applicant. It was then observed there would only be 3 members able to vote on the hearing which is not a quorum. Mr. Cavallo moved to postpone the public hearing until June 2<sup>nd</sup>. Mr. Young agreed. Mr. Sparks seconded. Mr. McCourt voted yes. Mr. Mascolo abstained. The motion passed 3-0. The board apologized to Mr. Young.

**June 2, 2015:**

**5:30 PM: Public Hearing: Postponement of Wave Lengths, 223 Upper Main St (20A-95)- Modification of a special permit to extend the permit for the fourth year. Postponed from May 19.**

*In Attendance: Colin Young*

Mr. Mascolo recused himself from the hearing as one of his real estate agents represents Wave Lengths.

Ms. Greenough read a letter from the Board of Health that was received on May 19<sup>th</sup> detailing some violations.

Mr. Young replied that he was not aware of anyone living in the basement, and would need to check in with Ms. Leaf. He also claimed that he assumed the separate tank was functioning and being used properly. Mr. Poole stated in his letter that both of these issues can be corrected rather easily. Mr. Cavallo commented that the separate tank is obviously not being used properly.

Mr. McCourt stated that the Board is not in the position to approve any extensions until those issues are rectified. He suggested the applicants obtain the proper permits or correct the problems, and then return for the extension.

Mr. Wilson moved to continue the application to July 7<sup>th</sup>. Mr. Cavallo seconded, and the motion passed unanimously, 4-0.

The applicants will need approval from the Board of Health before returning to the Planning Board.

**July 7, 2015:**

**5:51 PM: Public Hearing Continuation: Wave Lengths, 223 Upper Main St (20A-95) Modification to a SP to extend the permit for the fourth year. Violations must be resolved.**

*In Attendance: Colin Young*

Mr. Mascolo recused himself from the hearing and left the room.

Colin Young approached the Board and stated that the issues that were reported at the last hearing had yet to be resolved. Matt Poole has inspected the premises again, but has not yet sent an official letter. Mr. Young explained that the number of chairs in the salon has been reduced, which has dramatically reduced the flow to the separate tank over the years; and stated that Ms. Leaf did not realize that housing an employee in the basement was a violation of her permit. The correspondence between Ms. Leaf and the Town officials will be forwarded to Ms. Greenough. Mr. Young stated that the project will hopefully be breaking ground in October. Mr. McCourt stated that the Board would like to make sure everything is clear before proceeding with the extension, and dissuaded the Board from approving the application without verification from Matt Poole and Lenny Jason.

Mr. Wilson moved to continue the public hearing to July 21, 2015. Mr. Cavallo seconded, and the motion passed unanimously, 4-0.

**July 21, 2015:**

**Public Hearing Continuation: Wave Lengths, 223 Upper Main St (20A-95) Modification to a SP to extend the permit for the fourth year.**

*In Attendance: Colin Young*

Mr. Mascolo recused himself from the hearing and left the room.

The Board has been waiting for information from the Board of Health that was requested at the last hearing, regarding certain violations. The Board has not yet received an official letter from Mr. Poole. Mr. McCourt had a discussion with Mr. Poole about the application, and it was determined that if there is a violation, it is small and not worth being a hindrance to this request for an extension to the Special Permit. A letter from Cooper Environmental stated that the tight tank was functional and had been inspected.

Mr. Cavallo asked if construction would be starting soon. Mr. Young stated that he was hoping to start in October.

Mr. McCourt emphasized the importance of following all of the conditions from the original permit. Mr. McCourt stated that the Board may grant the permit for another full year, or in an effort to try to push the project along, have the permit expire on December 31, 2015.

Mr. Young stated that the delays have not been due to lack of desire to complete the project. He stated there have been many extenuating circumstances. He recounted the Land Court disputes and the separation of partners. He said that if the project has not begun by the end of this year, it is likely to be abandoned.

Mr. McCourt reiterated that this would be the fourth extension, which is the only reason it would not be extended for the full year.

Mr. Young stated that the financing is in the final stages. There is a contract between the building company and the bank that is currently being finalized.

Mr. Wilson asked how long the construction will take. Mr. Young replied that the building will be modular, and thought that it would be finished quickly.

Mr. Cavallo moved to extend the special permit for one full year, until July 21, 2016, with a review of the project in six months. Mr. Sparks seconded, and the motion passed unanimously, 4-0.

**January 19, 2016:**

**5:42 PM: Wave Lengths, 233 Upper Main St (20A-95) Six Month Review regarding SP extensions**

*In Attendance: Colin Young*

Mr. Mascolo recused himself from the meeting.

Mr. Young explained the progress on the project. The closing for the financing will occur on January 20, 2016. Deposits have been made on the elevators and building materials. The project will be breaking ground on March 1, 2016. The Board asked about the status of the building permits. Mr. Young replied that the contracting

company is in charge of the permits, and that Phil Miller is the general contractor. The engineering plans are in the final approval stages, and still need to be stamped by the state. Ms. Greenough requested a copy of those plans, as well as utility easements, and the financing and legal documents. Mr. Young stated that he was

**June 7, 2016:**

**7:14 PM: Wave Lengths, 223 Upper Main St (29A-95) Encase elevator shaft on roof (exceeding the roof height) with brick replicating a chimney. Determine if deminimis.**

*In Attendance: Colin Young, Jayne Leaf, Phil Miller*

Mr. Mascolo recused himself from the hearing.

Mr. Young approached the Board to explain the modification. He stated that the plans were drawn with an elevator to the third floor. The approved elevation plans showed a slanted roof, instead of showing the elevator shaft. Mr. Young explained that the space would be non-habitable and only used for transport. He mentioned that the Building Inspector had suggested that it be made to look like a chimney.

Ms. Greenough asked how high the elevator equipment would be above the roofline. Mr. Young stated that the elevator has equipment that needs to be mounted up high, and it would be about two feet above the roofline.

Mr. Young presented pictures to Board. The Board noted that there were no dimensions on the sketches.

Phil Miller, the contractor, approached the Board. He stated that he typically uses real brick, but plans to use veneer to mask the elevator equipment. He commented that veneer is used all over Edgartown.

Mr. Cavallo clarified that the building will be two feet higher than it was supposed to be.

Mr. Young stated that the plans changed so many times, and that the final submission of the floor plans did not include the elevator equipment, even though the elevator was already approved. He stated that the structure is 32 feet high. The equipment would be two feet over the height limit.

Mr. Cavallo stated that it was important to make it look nice aesthetically.

Ms. Greenough stated that she reviewed the file, and found old elevations to be compared to the picture presented. The Board noticed several major differences in what was approved, to what was being built. Mr. Young stated that the only difference was a slanted roof where the elevator equipment is supposed to be. The Board disagreed and referenced the windows on the west side of the building.

Mr. Sparks asked what happened to the rest of the design. Mr. Cavallo stated that he may not feel comfortable going forward with the project, and stated that he would like to see a plan depicting the original approval.

Ms. Greenough stated that she will take photographs of the current building.

Mr. Cavallo stated that he felt like so much time has been spent on this project, and he felt deceived. He asked if it would be acceptable to place an overlay over the plans to show the differences.

Mr. Sparks stated that he wanted to see the side of the building look like what was originally approved.

Mr. Wilson stated that the current building looks industrial, and asked about the setbacks. The applicants stated that Mr. Hoehn would need to answer questions about the setbacks.

Mr. Cisek commented that the applicants could place a rail across the top of the equipment to give it the appearance of a widows walk, or add a hip roof with shingles, as alternatives to the brick veneer.

Ms. Greenough mentioned that the applicants will be returning to the Board for another special permit, and that these changes could be incorporated into that. The applicants have asked for two separate offices and an extension to wave lengths for a massage room and full bathroom in the basement.

Ms. Greenough commented on the septic situation, and urged the applicants to install sewer. The Board stated that they would not recommend the Building Department release the project without sewer.

Mr. Sparks moved to continue the discussion to June 21<sup>st</sup> with a site visit the morning of the meeting. Mr. Cavallo seconded, and the motion passed unanimously, 5-0.

#### **June 21, 2016:**

**5:30 PM: Public Hearing: Wave Lengths, 223 Upper Main St (29A-95) SP: B-II Business District. Add two offices and a room for an extension to the beauty salon, and a full bathroom to the basement.**

*In Attendance: Colin Young, Phil Miller, Jim and Deborah Carter, Margaret Kelley, Greg Willett, and Norman Rankow*

The hearing was postponed to August 16<sup>th</sup> at 5:30 PM.

**Discussion of Wave Lengths design for elevator roof cover; and placement of windows on west side of the building.**

The Board used the opportunity to hold a discussion of the design of the building with the applicants and the public.

The Board asked Mr. Young to explain the changes made to the appearance of the building, specifically the side with no windows. Mr. Young stated that many changes were made to the project over the years, and that certain things, like the elevator shaft, were never updated on the elevations. Mr. Young stated that the elevator needed to be moved to the center of the building in order to accommodate commercially sized entrances. He stated that the windows that were originally supposed to be in that location (five in the center, three small across the top) would no longer be functional, and would be carved in with a curtain behind them. Mr. Young stated that the modular company decided to leave the windows off the plan since they would not be functional. The applicants displayed the plans to the Board. The Carters were also shown a copy, as well as the direct abutter, Kelly.

Mr. Cavallo stated that the building was approved with windows, and then built without windows, which is a problem. He stated that the applicants changed the schematic of the building without approval.

Mr. Wilson clarified that the modular company thought the windows were non-functional and decided to not install them. Mr. Young agreed, and stated that the windows have been ordered and will be installed properly according to the plans.

Mr. Wilson asked about the width of the windows.

Mr. Young stated that there would be three casement across the top with larger ones below.

Mr. Cavallo asked if shutters would be installed. Mr. Young stated no, that traditional trim would be installed around the windows. The Board noted that the trim was not shown on the pictures.

Mr. Wilson commented that he would like the design to look as much like The Inn next door as possible so that the design can remain consistent with the area. He commented that the current design is very industrial, and not looked upon favorably. He asked if the applicants would be willing to add shutters. Mr. Young stated that the applicants did not want to, and noted that shutters would not fit on some of the windows. He stated that the trim has already been purchased.

Mr. Wilson stated that the Board has never seen a landscaping plan. Mr. Young stated that he has one, and displayed it before the Board.

Mr. Carter commented that he would like to see larger windows, instead of the casement windows that are shown on the plans.

Norman Rankow asked if the plans were done by Chuck Sullivan. Mr. Young stated no, but that the modular plans were based on Mr. Sullivan's plans. The Board reviewed the original plans by Mr. Sullivan. Mr. Rankow noted that the original plans done by the architect showed double hung windows, while the modular plans showed casement windows. Mr. Young stated that they were supposed to be the exact same windows.

Ms. Greenough commented that the builder said earlier on the site visit that he was going to extend the length of the windows. Mr. Rankow stated that the windows are a different style, and that the width of the windows is the issue, not the length. Mr. Rankow commented that casement windows are traditionally narrow, and that the modular plans definitely do not show double hung windows.

Mr. Young stated that the windows have been ordered, and if they are not the correct size, they will be returned.

Mr. Rankow commented that the applicants should have followed Mr. Sullivan's plans, and noted the many differences between the two plans.

Mr. Carter asked how the plans changed from those done by Mr. Sullivan to the modular company. Mr. Cavallo stated that that is the purpose of the meeting, and that the Board does not understand either.

Mr. Young stated that the windows on the modular plan should be the same size as those on Mr. Sullivan's plan. He stated that the elevator shaft was modified, and was not updated on the other plans when they were changed. He stated that he was sure the Board was given plans when the 2<sup>nd</sup> floor offices were turned into residential apartments in 2013.



Ms. Greenough stated that the Board did not see the modular plan before construction began. Mr. Young commented that they were basically the same plans.

Mr. Wilson noted that the porches are on the opposite side.

Mr. McCourt stated that every time the plan changed, the applicants should have come back to the Board with the modifications. The Planning Board never received any type of modified plans, or a modified application. Mr. Young stated that Mr. Sullivan and Mr. Hoehn represented the project. He emphasized that significant changes had been made since 2011, and stated that the project did not receive final approval until 2014. Ms. Greenough clarified that the plans were approved in 2011, and the yearly extensions were due to the applicants being unable to begin construction due to financial constraints. She stated that the extensions to the special permit had nothing to do with any modifications made to the plans. She stated that the applicants should have told the Board that the plans had changed.

Ms. Greenough requested an opinion from Chuck Sullivan.

Mr. Young stated that there was not enough money to keep him employed, and he was released from the project.

Mr. Cavallo asked where the plans were. Mr. Young stated that Ms. Leaf or Mr. Sullivan may have them. Mr. Cavallo also requested the construction plans from the Building Inspector's office.

Ms. Greenough stated that the Board cannot make a decision on how on to bring the applicants into compliance with what the Board thought was originally approved. She suggested that Mr. Sullivan be brought in before the Board, at Wave Lengths expense. She stated that the Board also needs the construction plans from the modular company. Ms. Greenough asked if the modular company could provide any renderings of the structure, or if the floor plans and elevations were their only submissions. Mr. Young stated he provided all of the materials available from the modular company.

Mr. Carter asked if plans are stamped and recorded after they are approved by the Planning Board. Ms. Greenough stated that the decision that refers to the plans in detail is stamped and recorded in the Registry of Deeds, but that the actual plans do not get stamped or signed by the Planning Board, other than the received and approved dates.

Mr. Young stated that many changes were made to the plans after 2011, and that there were other elevations.

Mr. McCourt stated that from a practical standpoint, all changes need to come before the Board. He stated that the applicants changed the plan without bringing it in for approval.

Mr. Young stated that he did not know why the Planning Board did not have the plans. He insisted that the changes were brought before the Board. Mr. Young stated that the applicants relied on the expertise of the architect and engineer, and paid them to do this properly, and did not understand why it was not done.

Ms. Greenough asked about the modular company elevations and plans, and the set of plans that the Building Inspector has.

It was mentioned that Mr. Jason has also said that the plans do not match.

Mr. Rankow summarized the problems with the application: the architect was released from the project, and no longer has any responsibility. Mr. Rankow stated that the responsibility is always on the applicant. He stated that changes were made, and the applicants needed to come back for approval. He commented that the plan before the Board now is nowhere near what was filed. He stated that the modular company does not have the same architecture that Mr. Sullivan would do. Mr. Rankow stated that the applicants need someone who can manage the project.

No plans were given to the Board after the applicants went to the MVC.

Mr. Wilson stated that the project violates the setbacks. Mr. Cavallo asked to see the plans that were signed by the Planning Board. Mr. Young stated that he told builder that the handicapped access could not in front of the building, and needed to go around the side.

Mr. Young stated that the special permit decision does not have any plans attached to it. Ms. Greenough explained that the decision references the plans in a written out and descriptive way.

Mr. Young stated that the floor plans changed many times, and claimed that the Planning Board was aware that elevator had moved. Mr. Cavallo stated that he would like to see the plans that detailed the change of location for the elevator.

Mr. Carter commented on the site conditions. He stated that the dumpster has been full for a month, and that nobody empties the dumpster consistently. He stated that the patrons of the Inn eat breakfast while looking at a parking lot full of debris.

Mr. Wilson asked Mr. Young to deal with the dumpster right away. Mr. Young stated that the site will be cleaned within two days.

Mr. Cavallo asked if construction could take place during the summer. He stated that generally, no one is allowed to work after June 20<sup>th</sup> in the B-II Business District. Ms. Greenough stated that the construction moratorium is not a bylaw, but usually exists as a condition on a special permit.

Mr. Rankow reviewed the noise ordinance restrictions, and it was determined that the applicants will be able to continue work through the summer, with restricted hours.

Mr. Carter asked that a moratorium or limitation on hours of construction be considered, since the noise greatly impacts a guest's experience at the hotel. He asked that if construction is allowed to continue, the hours be limited to 9 AM to 5 PM. He stated that he would like the applicants to abide by the original restrictions set in 2011.

Ms. Kelley commented that the construction is especially noisy.

Mr. Wilson asked if Mr. Young could agree to abide by the construction restrictions.

Mr. Young stated he had no control over the times that construction would take place.

Ms. Greenough suggested that the Board place a cease and desist on the project for two weeks while the situation is sorted out. The cease and desist would stop all construction, except for any cleaning that needs to happen to satisfy the concerns of the Board and the neighbors.

Mr. Cavallo and Mr. McCourt stated that they were in favor of a cease and desist. Mr. Cavallo commented that the neighbors are not happy with the look of the building, and that changes were made without approval. Mr. McCourt stated that many things need to be straightened out, and suggested that building be stopped until the plans are received and reviewed.

Mr. Cavallo stated that he wanted to review the original plans by Mr. Sullivan.

Mr. McCourt emphasized that the Board needs to see that the site cleaned up quickly. He stated that there is a business next door, and that peak season is quickly approaching. He also stated that if the construction is allowed to continue, it is important that work only be performed between 9 AM and 5 PM.

The Board decided not to follow through with a cease and desist at this time, so long as the applicants follow the guidelines set out at this meeting. Mr. Young stated again that the dumpster will be emptied by June 23<sup>rd</sup>.

Ms. Greenough stated that she will alert the Board when all of the plans have been located to schedule another meeting.

Mr. Young stated again that the plans from modular company are based on Mr. Sullivan's plans. He stated that he should be able to get copies of both for the next meeting.

Ms. Greenough stated that the setbacks are in compliance. The B-II Business District is only district that measures setbacks from side of asphalt of the road, instead of the property line. The structure must be between 20 and 40 feet from that. The Wave Lengths building is 23 feet from the edge of the street asphalt.

#### **July 19, 2016:**

#### **5:48 PM: Public Hearing: Wave Lengths, 223 Upper Main St (20A-95) B-II. Review construction of a mixed use (commercial and residential) structure using plans that were not approved.**

*In Attendance: Phil Miller, Jayne Steidl, Adam Turner, Peter Look, MJ Look, James Carter, Debbie Carter, Margaret Kelley, Greg Willett, Robbie Hutchison, James Joyce*

Mr. Miller approached the Board. He stated that he was fairly new to the project, and had tried to retrace the steps taken before he was involved to bring clarity to the situation. He stated that he did not find much helpful information at the Registry of Deeds, but used minutes from the previous meetings to gather information. He stated that he found the original proposal from 2011 with the plans done by Chuck Sullivan. He stated that he also found a modification in 2014 for a change of use with interior design changes. Mr. Miller presented the floor plan from the change of use application, which showed the window locations. Mr. Miller noted that the window locations were shown in floor plan view, rather than an elevation view, and the Board may not have

noticed the change in window schedule. Ms. Greenough claimed that the Planning Board did not receive a floor plan with that application. Mr. Miller quoted the minutes from September 2, 2014 which referenced a "sample plan," which Mr. Miller assumed to be the floor plan. Ms. Greenough stated that there was no copy of the floor plan in the file.

Mr. Miller stated that the goal going forward is to construct a better building that is in keeping with the neighboring structures. He stated that it appeared that at least some of the changes in the roof entries and porches were discussed and seemed to have been allowed.

Mr. Sparks asked why the new plans were not brought into the Planning Board or the MVC when the plans were changed. Mr. Miller stated that he did not know. He stated that it was apparent that the designs for the two buildings (223 and 284 Upper Main Street) were co-mingled, and then that the elevator changed the window locations.

Ms. Greenough stated that the Planning Board did not review the interior of the building, and was only concerned about changes made to the exterior, and stated again that she did not have a copy of the floor plan.

Mr. Miller stated that it is difficult to translate a plan view plan that does not have an elevation into an elevation plan, even though the footprint did not change. He explained that the floor plan precipitated the change in use, from offices to apartments, and the change in interior layout. He noted again that the sample plan shows different window locations, but that they were shown in floor plan view only.

Ms. Greenough stated that the change in use modification was only approved because it was an interior change of use, and that it likely would not have been approved if the Board was made aware that the window schedule was different.

Mr. Wilson asked if the applicants were going to work with what is physically there and make it better. Mr. Miller stated that he would.

Mr. Miller stated that he understood the nature of the meeting, and was trying to understand the process that the application went through before he became involved. He acknowledged that mistakes were made.

Mr. Wilson stated that he would like to focus on how to improve the current situation, rather than focus on the mistakes.

Mr. Sparks addressed the second and third floor decks, and requested that they be located in the back of the building. Mr. Miller stated that relocating decks would be an expensive change; since the building is modular, there is mechanical work routed through it, and a high level of complexity would be required to move any of the decks.

Mr. Wilson commented that the Board did not know that the building would be modular.

Ms. Greenough requested a written description of what has been changed, and a view of the other two sides of the building.

Mr. Sparks commented that the window schedule is back to what was approved, and asked if the applicants would be using shutters. Mr. Miller replied that there will be enhanced trim detail on the windows.

Mr. Sparks also noticed that there is now a deck over the front door. The area was originally an office, but has been converted to living space, but was not sure whether or not that dictated the change. Ms. Greenough stated that there was originally a roof over the front door.

Mr. McCourt noticed that there used to be one entrance, and now there are two. Ms. Steidl explained that the second entrance allows people to walk through the building to the unit in the back, or to the elevator.

Mr. Cavallo stated that he would like to see more plans, elevations, and a landscaping plan.

Mr. Miller stated that he can generate plans for the other two sides of the building, the window sizes, and an architectural elevation plan of all four sides of the building.

Mr. Cavallo commented on the widow's walk, and asked if it was necessary.

Mr. Miller stated that it would not be active. The building will have a rubber roof, and Mr. Cisek had requested that the space appear like a widow's walk as a decorative element. Originally, a brick veneer was going to be installed to make the area appear to be a chimney.

Mr. Miller commented that the rear elevation is a mirror image of the front.

Mr. Miller updated that Board on the site: only interior work has been done since the last meeting. He stated that the site has been cleaned up outside.

Mr. Wilson asked if the Carters were happy with the progress on the site. Mr. Carter stated that he was, that the site has been cleaned to satisfaction and that the work is happening within the pre-determined hours.

Mr. Miller estimated that there would be a couple more weeks of interior work.

Mr. McCourt stated that he would like to see detailed plans. He stated that he did not want to slow down the work, but that it was important for the Board to see progress made with the plans. Mr. McCourt asked if the applicants could have a complete set of plans ready in two weeks. Mr. Miller stated that he was not sure about the timeline, and that renderings and elevations can take some time.

Mr. Sparks stated that he was pleased with what had been presented, and felt that the applicants are moving in the right direction.

The Board is open to holding a special meeting to review the plans for the Wavelengths application.

Adam Turner, from the MVC, stated that the Commission approved the building, and that the changes need to be evaluated for compliance. Mr. Turner stated that he did not want to slow the project down, but the applicants need to go through a similar process with the MVC. Mr. Turner stated that the Commission will work together with the applicants to try to fix the situation. The MVC was especially concerned about the landscaping, especially in front.

Mr. Cavallo stated that the application cannot be forwarded to the MVC without a complete application.

Mr. Carter stated that he was still concerned about the windows facing the side of the hotel. He stated that he would like to have a better description of their appearance and sizes. He would like that they are guaranteed to be full sized, double hung. He also stated that the construction has an effect on his business, and requested that the applicants move as fast as possible. He stated to the Board and Mr. Turner that he would appreciate everything that could be done to expedite the process.

MJ Look requested clarification. She stated that the building under construction is not the building that was approved. The Board confirmed. She asked about the exterior designs, and the approved plans done by an architect. She asked who was to blame for the mistakes. Mr. Cavallo stated that all parties are a little bit at fault.

Ms. Greenough stated that Upper Main Street has a stricter code to review than other parts of town. She stated that it is governed by a separate section of the bylaws that generally have more restrictions than other districts.

Mr. McCourt stated that the permit was extended four times. He stated that the Board thought they were extending the original plans, but apparently were not.

Peter Look was present in the audience to request clarification on the language used in the public notice. He stated that he strongly objected to the proceedings, and asked how the Board planned to mitigate the project. Mr. Wilson stated that the Board represents the Town, and that the purpose of the meeting is to determine a course of action for an applicant who violated the terms of the special permit by constructing an unapproved structure. Mr. Look asked where the Board was given the authority to mitigate, and stated that the word does not appear in the zoning act.

Mr. Sparks argued that the Planning Board is authorized to grant permits, and has the right to take actions when those plans are not followed. He invited Mr. Look to review the plans and see the many differences between them.

Mr. Look stated that he appreciate the Board's service, but believes in the separation of powers. He stated that the Planning Board cannot be the judge, the jury and the executioner. Mr. Look then left the meeting.

Robbie Hutchison stated that she appreciated the Board's concern about landscaping in the front. She stated that the area has lost the aesthetic value of the street trees. The Board agreed that the trees do not look good. Ms. Steidl stated that her project had nothing to do with the removal of limbs from the shade tree out front. The electric company was responsible, and they did a terrible job.

Mr. Wilson commented that the plans presented at this meeting are a tremendous improvement from what was built, and stated that he really liked the windows. Mr. Cavallo agreed, and stated that he would like to see details and shutters, especially for the front windows. Mr. Cavallo also requested a detailed landscaping plan.

The Board commended Mr. Miller for his good work, and looked forward to the complete set of plans.

Mr. Cavallo moved to continue the hearing to August 2<sup>nd</sup>. Mr. McCourt seconded, and the motion passed unanimously, 4-0.

**August 2, 2016: (discussion with Board members and Adam Turner, no applicants present)**

**Other Business:**

Mr. Turner requested information about the Wavelengths application.

Mr. Wilson stated that Ms. Greenough was spoken to inappropriately by an MVC employee. Mr. Turner stated that he was aware of the situation, apologized, and stated that action has been taken against that employee.

Ms. Greenough explained that the cease and desist is active, but the applicants are still working. She stated that it was helpful to have the MVC support the cease and desist. Ms. Greenough also explained that the Board is waiting for a formal application and a written list of everything that has changed.

Mr. Cavallo stated that the downside to the cease and desist is that the project is stagnant.

Mr. McCourt stated that there has been a disconnect with the Building Inspector on how to proceed properly.

Mr. Sparks stated that the Board issued the applicants a permit, and that the Board should have a right to discuss that permit with the applicants.

Mr. Wilson mentioned that he had a personal conversation with Chuck Sullivan, and it was revealed that Mr. Sullivan was never paid for the work he had done. Mr. Wilson stated that Mr. Sullivan was willing to help the Planning Board in whatever way possible.

Mr. McCourt asked if there was currently an architect on the project. Ms. Greenough stated that the applicants have someone from the modular company.

Ms. Greenough requested the minutes from the MVC hearings, specifically pertaining to the prohibition of the porch on the side of the building.

Ms. Greenough stated that she spoke to Colin Young with the Building Inspector present. Mr. Young had said that Paul Foley told them to go to MVC before being referred by the Planning Board. Mr. Turner stated that the project will definitely not be reviewed by the Commission until the application has gone through the proper channels and has been referred by the Planning Board.

Mr. Turner and Ms. Flynn exited the meeting at 6:26 PM. The Board thanked them for their attendance.

Mr. Wilson expressed concerns about the architectural precedents for the side balconies. Mr. Sparks agreed, and stated that they were not approved.

Mr. McCourt asked how the plans could get so mixed up. Mr. Wilson suggested that the office obtain a rubber stamp that would allow for the Board members to sign the plans to assure that the correct plans are delivered to the Building Inspector. Ms. Greenough stated that she has already ordered a similar stamp.

Mr. McCourt asked about the normal procedure. Ms. Greenough explained that the Planning Board issues a decision once the application is approved, which specifically references the site plans and the architectural

renderings. The assistant delivers the decision to the Building Inspector, while the applicant is responsible for submitting the plans to the Building Inspector for the building permit. Mr. McCourt suggested that the Planning Board submit the plans as well as the decision.

The Board discussed the exterior of the building. Mr. Wilson suggested that window boxes be installed to improve the appearance. He also mentioned that the neighbor has a white picket fence with plantings behind it, and suggested that the Board encourage the applicants to copy their neighbor.

Ms. Greenough mentioned that seven electrical boxes have been installed on the site, even though only five units were approved. Mr. Cavallo also mentioned the five compressors that need to be concealed.

### September 13<sup>th</sup>, 2016:

**5:45 PM: Public Hearing - Wave Lengths (Jayne Leaf); 223 Upper Main St (20A-95) B-II Business District. Applicant requests a special permit to construct a new 3-story mixed use building with three (3) residential units and two (2) commercial units.**

*In Attendance: Phil Miller; building project manager; Jayne Leaf, owner; Colin Young, Saki Pitliangas (Go Modular) representative.*

Chairman Wilson asked Ms. Greenough to read the public notice.

A copy of the original site plan prepared by Schofield Barbini & Hoehn, Inc., in 2011, the proposed landscape plan and the two renderings were pinned to the bulletin board in the Selectmen's Meeting Room.

Phil Miller approached the board and stated he was here to represent the proposed project. He passed out renderings of the proposed project to the board members and handed the assistant an additional letter of support. He did not provide the board members with any plans. He said nothing has changed since the meeting in August. The assistant left the meeting to retrieve the plans.

Mr. Sparks looked at the landscape plan and asked about the percentage of open space. Mr. Miller responded 21%. He asked if there was a planting schedule, and if the brick driveway would be installed. Mr. Miller responded no to the planting schedule and no to the brick driveway, it would be peastone. Mr. Sparks asked where the existing trees in the front of the building were on the landscape plan. Mr. Miller said the clouded area is the location of the existing trees in front. Chairman Wilson asked where the handicapped access in the front of the building was located on the landscape plan. Mr. Miller said it was not there, but was a requirement for the building permit. Chairman also asked if the stone wall on the rendering would be installed. Mr. Miller said no. Mr. McCourt asked if the windows on the side of the Clarion Hotel had been replaced. Mr. Miller said the existing windows need to be replaced per elevation plan ED3.

Mr. Cavallo asked which windows will be replaced. Mr. Miller responded that 8 windows will be replaced versus 7 windows which are proposed.

Mr. Cavallo also asked about how the original Sullivan & Associates plans that were approved by the Planning Board in 2011 got developed into the modular plans being presented today. Mr. Saki Pitliangas from GoModular said he received the conceptual plans with one entrance at the front. It was later determined that an egress was added to the rear of the building. Mr. Cavallo asked if Mr. Pitliangas changed the plans. He said yes. Mr. Cavallo asked if the modified plans were sent back to the applicant to authorize the changes. Mr. Pitliangas responded of course, I would not change the plans



on my own. Mr. Cavallo asked how many times the plans were changed. Mr. Pitliangas responded about 15-17 times. Mr. Cavallo stated that does not agree with what the applicants reported to the Planning Board. Mr. Cavallo continued to say that according to the applicants two separate plans for two separate properties both owned by the applicant, were merged together thereby creating the current proposed plans. The applicant claimed they never saw the plans. The two separate properties are located at 223 Upper Main Street (this application) and 284 Upper Main Street, another application previously approved by the Planning Board.

Mr. Cisek asked about the elevator that projects through the roof, exceeding the height restriction. Mr. Cisek also asked about the dormer on the front that creates additional mass in square footage and bulk of the building, and if something could be done about it.

It was noted that there was little to no outside lighting on any of the plans, especially for the handicapped. Mr. Miller said there are two at the front and they are not on the plans.

It was also noted there was no handicapped access on any of the plans and that applicant's agent was unaware of the new handicapped law that requires a handicapped access to any outside door, including the added one in the rear of the building. Chairman Wilson said it would violate the setbacks if installed on front. Mr. Miller said it is not a structure. Mr. Wilson said the parking is in the rear, why would the access be in the front? Mr. Miller said he knew a little about disabilities (he lost a leg in an accident) said he is planning on having them unload in the front. It was noted there were no handicapped parking spaces on any plans, and they should be included.

Mr. Sparks asked if the back door feeds into a hallway. Mr. Miller said the back door has access to all units.

Chairman Wilson requested that they provide a condominium association that explains who manages and maintains the property.

Chairman Wilson said Fire Chief Shemeth and the State Inspector for the Department of Fire Services did a walk through and were very troubled by the many irregularities of the inadequate installation of smoke alarms and related electrical systems. Colin Young said it is not finished yet. He also did a walk through and has feedback on what needs to be done, stating that it cannot be done yet.

It was discussed that the applicants need a variance or special permit for the elevator shaft that protrudes through the roof and exceeds the height restriction.

Mr. Cisek asked again about the dormer over the front door on the second floor, and suggested they redesign it to what was originally approved with Sullivan's plans. He said it does not look appropriate asking if it was a 3 pitch. He thinks it should be setback and set in from the side. The applicant's response was it is almost impossible to change it now because that is where the kitchen is located. Mr. Miller answered he does not know the exact pitch, adding that the structure has insulated panels for energy efficiency, and stairwells are located on either side of the elevator. He said everything got shifted inside.

It was noted that one window on the side of the Clarion Hotel did not have a second shutter, and why there were no shutters on any windows on the Dance Studio side of the building. The applicant's response was they would put in the second shutter. He added the lack of shutters on the dance studio side of building was because they didn't think it would be visible.

Mr. Cavallo asked what the difference was in the previous plans and the current plans other than the 6-8 windows. Mr. Miller responded that window trims are different, full Edgartown style window with sill and shutters were added. Mr. Cisek emphasized that the shutters must be hung on hinges and correct hardware used for installation, not just hammering shutters to the exterior.

Chairman Wilson said he would like the landscaping to match the Dance Studio's landscaping. He also mentioned that Norman Rankow's newly renovated structure next to the Fish Market is very well done with shutters, landscaping and white fencing. Mr. Miller said he appreciated the input and suggestions.

Mr. Cavallo said he would like to see a new set of plans that include both handicapped accesses, noting that the law changed in July regarding handicapped access to all outside entrances/exits. Lenny Jason, Building Inspector is the ADA representative. Mr. Wilson added that he would like to hear from the handicapped people in town to see if they would be happy.

Chairman Wilson said he would like to see other improvements including all outside lighting, gutters, hide the air handlers, and the electric boxes.

Chairman Wilson led a discussion as to who butchered the trees in front of the property. The applicant responded that it was Eversource Electric. Mr. Cavallo said that one large 4-6' branch was removed by the applicants.

Chairman Wilson asked about the large bulkhead and stairs in the rear of the building leading to the basement that needs to be removed from the plans. Mr. Miller said it is for service access and said the "basement is not permitted at this time." The board may condition that it will not be used for commercial or residential uses.

Mr. Cavallo made a motion to continue the hearing to October 4 asking the applicants to prepare another set of plans and address the requests made at this hearing. The assistant will prepare a list as soon as the minutes are finished and the board has reviewed the list ASAP.

Mr. Cisek said to come back with something to modify the dormer - lessen it if at all possible. The applicant's response was that the State is involved, as they approved the drawings. The applicant will review.

Mr. McCourt seconded the motion to continue and it was unanimously passed, 5-0.

### **October 4<sup>th</sup>, 2016:**

**6:33 PM: Continued Public Hearing: Wave Lengths, 223 Upper Main St (20A-95) SP: B-II Business District. Mixed Use Building. Provide Planning Board with revised plans to satisfy list of requests.**

*In Attendance: Phil Miller, Jayne Steide, Colin Young, Joseph Roberts, Chief Shemeth, Mort Fearey, Adam Turner, James Joyce*

Mr. Wilson opened the hearing.

Mr. Miller distributed packets that included the landscaping plans, elevations, and architectural renderings. Mr. Miller also presented samples of the trim, window boxes, and flood lights.

Mr. Cavallo asked if anyone of the applicants had spoken to the Carters. Mr. Young said that he spoke to them after the last meeting, and received some feedback.

Ms. Greenough distributed list of the Planning Board requests from the meeting on September 15<sup>th</sup>.

Mr. Miller stated that he brought materials generated from the list at the last meeting. He also revised the landscaping plan, and added a second handicapped access in the rear of the building. He stated that the planting plan was replicated from the neighboring dance studio, as was suggested by the Board. He also stated that he drew inspiration from the Yellow House, as was also suggested by the Board.

The Board reviewed the list of issues with the applicants:

AC units and electrical boxes screening: The applicants proposed to fence the property from the existing fence across the front with a traditional, non-porous fence with access through the rear. Mr. Miller stated that the compressors and electrical boxes will be hidden from the street.

Lighting: The applicants proposed to place hooded flood lights on the corners of the building on the left side. Mr. Miller presented the sample light, and showed that they have a 10 foot range, and would be activated by a motion sensor. The lights will be downward facing and shielded to prevent light pollution.

Railings: The applicants proposed traditional PVC railings with metal reinforcements for support. All of the railings would be the same with traditional white posts and caps.

Window boxes: Mr. Miller stated that he tried to replicate the white flower boxes on the neighboring dance studio. The window boxes were shown on the architectural renderings. Mr. Miller also presented the revised window scheme. Mr. McCourt asked if all of the windows were the same size. Mr. Miller replied that they were. He also presented an unpainted sample box. Mr. Miller mentioned that the planting scheme duplicates the neighbor.

Handicapped access: The applicants have added an electric lift with a backup battery on a pad in the rear of the building. There will be one handicapped parking space, as required.

Joseph Roberts, an ADA representative, was present in the audience to review the handicapped access. He stated that everything looked fine and up to code. He asked if the intent was to install an elevator for it to be completely accessible.

Mr. Miller stated that the applicants will be asking for some relief on the elevator.

Mr. Roberts stated that he would be willing to write up a professional assessment, if the Board would like. Mr. Cavallo stated that he did not feel a report was necessary, but was thankful that Mr. Roberts attended the meeting and provided input. The Board thanked Mr. Roberts for attending the meeting.

Dormer in front: Mr. Miller stated that modifying the dormer would cause structural issues and cannot be changed. The building is specifically built to be a high energy performing structure. Mr. Miller stated that the performance standards exceed stick-built structures by 300% on the energy scale. He stated that the building is made of panels, and since the area in question is now a kitchen, the panel contains a lot of mechanicals that are complicated and would be difficult to re-configure. Mr. Miller stated that the construction is much different than stick-built structures.

Mr. Cisek reviewed the architectural renderings and was concerned about sitting water and snow on certain areas on the roof.

Mr. Miller referred to the drainage plan included on the site plan, which showed gutters with downspouts. The site drainage will be managed by grade and structure. There will be two catch basins in sequence at the rear of the building.

Mr. Miller stated that white cedar shingles would be used. He added that the trim would be white, and the windows would have dark green shutters. The Board asked if the driveway would be asphalt. Mr. Miller said no, that native peastone embedded in recycled material was planned for the driveway.

Mr. Sparks suggested clapboarding the front gable.

Mr. Cisek asked if columns would be used to divide the units on third floor. Mr. Miller stated that there was only one unit on the third floor.

It was noted that the Fire Chief had some issues with the building, and was working to resolve them with the sprinkler company. Mr. Shemeth stated that there were some fire code issues, but that there wasn't anything that couldn't be corrected. Mr. Cavallo stated that the fire code does not fall within the purview of the Planning Board.

Adam Turner stated that the original building plan was already approved. He stated that if it was built differently than the approved plans, he hoped that the Planning Board would modify the appearance so that it would be closer to what was initially approved. He mentioned that the application needs to be referred to MVC again.

Mr. Wilson asked Mort Fearey why he was in the audience. Mr. Fearey replied that he wanted to see what would happen when an applicant builds an unapproved structure.

Mr. Wilson closed the public hearing at 6:59 PM.

Ms. Greenough asked if the applicants had any information about a condominium association. Mr. Miller stated that the information on the association was provided in the packet.

Mr. Sparks stated that the building fronts on Main St. He stated that he understood that the building could not be torn down because of the mechanicals. He stated that of the 13 issues listed, the applicants have addressed every one. He thanked the applicants for their detailed work on resolving the Planning Board's concerns.

Ms. Greenough asked if the MVC will examine the interior of the structure. Mr. Turner said no.

Mr. Joyce asked about the outstanding issue with height restriction. He stated that he wanted that issue referred to the Commission as well.

Ms. Greenough explained that there are two separate applications, one for the mixed use structure, and the other to exceed the height restriction.

The Board decided to wait to refer the mixed use structure application to the MVC until the next meeting, and then refer both applications at once.

The Board asked about access to the basement. Mr. Miller explained that there was an outdoor exterior stairway to get into the cellar. The exterior bulkhead will have a single swing door at the bottom of the stairway. Mr. Miller stated that the door and stairway were required by fire code.

Mr. Sparks moved to continue the hearing to October 18<sup>th</sup>. Mr. McCourt seconded, and the motion passed unanimously, 5-0.

October 18, 2016:

**6:10 PM: Continuation of a Public Hearing: Wave Lengths, 223 Upper Main St (20A-95) SP to construct a mixed use building in the B-II Business District.**

*In Attendance: Phil Miller, Colin Young*

Ms. Greenough stated that the public hearing for the original application for a mixed use building was closed at the last meeting. The Board moved on to the next application, and will refer both applications to the MVC at the same time.

**6:15 PM: Public Hearing: Wave Lengths, 223 Upper Main St (20A-95) SP to exceed the height limitation in B-II due to the protrusion of an elevator shaft through the roof.**

*In Attendance: Phil Miller, Colin Young*

Ms. Greenough read the public notice. Mr. Miller approached the Board. He stated that the purpose for the elevator was to have complete access to the building. He stated that handicapped accessibility is very important to the applicants, and that the structure has three stories, and the upper two floors are residential. The elevator would make the building totally accessible.

Mr. Miller presented a cross-sectional drawing to show the architectural dimensioning. He also presented letters from the elevator company Keystone, and the modular company that has been involved in the construction of the building.

Mr. Miller stated that the elevator shaft will be located at the top of the structure, and will be 1'10 $\frac{1}{4}$ " above the ridge. He presented schematics to show the size of the carriage. Mr. Miller stated that the height of the building was reduced in various ways to minimize the impact of the overall height of the elevator shaft. He stated that much of the dimensioning was driven by elevator code, which is different than the building code. He stated that in a mixed use building, any elevator that conveys to more than one unit must be a commercial grade elevator. A commercial elevator has a significantly larger footprint because the code says that a gurney needs to fit, and be able to turn around. He also stated that the larger elevator created some issues with the window schedule, which have since been resolved.

Mr. Miller stated that detailed information has been provided in the packet. He stated that the information speaks to how careful the applicants have been with the dimensioning, while still following the beam requirements that create the height of the structure. He stated that a fully dimensional plan for the overall heights of the building was provided.

Ms. Greenough commented that the information was adequate to send to the MVC.

Mr. Cavallo moved refer both applications to the MVC. Mr. Sparks seconded, and the motion passed unanimously, 4-0.

Mr. Sparks asked if there would be another stairway up to the 3<sup>rd</sup> floor. Mr. Miller replied yes, that two egresses are required.

Mr. Cavallo stated that, at some point, the Board would ask when the elevator was added and why. Mr. Miller stated that the elevator was shown on the modified floor plan that was given to the Board in 2014. Mr. Young added that the elevator was always planned, but was not included on Chuck Sullivan's elevation plans, and was only shown in plan view. He stated that the applicants were unaware of the height issue until the modular plans were received.

Mr. Young recounted the steps taken to reduce the height of the building and the impact of the elevator shaft. He stated that the applicants held many meetings to try to reduce the height, and that they made the basement deeper, and sunk the

1<sup>st</sup> floor joists into the basement. He stated that each floor was reduced from 8' to 7'6". Mr. Young also stated that in 2013, a new code for elevators was instated, which added that the gurney needed to be able to turn around easily.

Mr. Sparks confirmed that the elevator was there from the beginning. Mr. Young agreed.

Mr. Young stated that with the small size of the lot, the basement cannot be accessed by ramp. If built to code, the ramp would need to be about 130 feet long, which is not practical for the site. He stated that handicapped access was very important to the project.

The application has been referred to the MVC. The Board will hold another public hearing after the application has been received back with their comments and amendments.