

# PLANNING BOARD

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## MEETING MINUTES

**DATE:** August 17, 2016  
**TIME:** 6:15 PM  
**PLACE:** Town Hall Annex, 66 High Point Lane  
**ATTENDANCE:** Bellante-Holand, Doble, Robinson, Seidman & Stephenson  
**BILLS:** Comcast (July 2016).....\$27.19

### APPOINTMENTS:

6:15 PM Public Hearing (Cont): Special Permit - Vineyard Haven Restaurant Associates, LLC, AP 09C08, 52 Beach Road  
Attendance; Liz Wild, Melinda Loberg

The public hearing was continued at 6:15 PM. Planning Board Chairman, D. Seidman read the public hearing notice into the minutes and introduced the board members.

The applicant's representative, L. Wild informed the Board that the restaurant had been operating all summer long without a permit. Current hours of operation were 5 PM to 11 PM, seven days a week. Submitted was a hard copy of the restaurant's (Garde · East) webpage listing in Google confirming the hours.

L. Wild indicated that she wanted to expand the operations to include brunch. The property owner wanted to serve brunch, Friday – Sunday from Noon to 3PM and dinner from 5PM – 11PM. She inquired if the amendment would be considered at the hearing, because she did not want to return to the Planning Board for an amendment. And the Board agreed.

D. Seidman inquired about the parking arrangements. He noted that the previous applicant had to secure 31 parking spaces off-site. L Wild replied that the property owner purchased RM Packer's property across the street at 45 Beach Road, which provided 14-16 spaces, in addition to the ten (10) on-site at the location of the restaurant. The restaurant also had an informal agreement with Hinckley's & Sons that allowed them to share the entire parking lot with the MV Film Theater after 5PM. The MV Film Society provided the staff to direct motorists to their parking spaces. D. Seidman recalled that one of the tenants, Wolf Den's Pizzeria had a total of fourteen (14) to sixteen (16) spaces

at 45 Beach Road. The vast majority were leased by Budget Rental. Liz Wild noted that a fair number of the car rental agency's leased spaces were vacant during the summer season. The few cars in the lot belonged to the marina's patrons, who were allowed to park their leased vehicles on the premises.

D. Seidman inquired if the consumption of liquor on the deck was "cut-off" at a certain hour. Liz Wild indicated that the restaurant did not encourage patrons to linger. They wanted to turn the tables twice and close for the evening as early as possible. They were also aware that they had to be considerate of the patrons that were docked at their marina.

D. Bellante-Holand ate dinner at the restaurant recently and noticed a small shed to the right of the restrooms that appeared to be used as a recreation room with a ping pong table. She inquired if it was part of the marina's or restaurant's operations. Liz Wild explained that it was part of the marina. It was adjoined by the garage, in which she, and five other employees parked their vehicles.

B. Robinson inquired about the arrangement and actual number of parking spaces on Hinckley's property. Liz Wild inferred that the arrangement was informal. She did not have an idea about the actual numbers of spaces. It was more than sufficient for both the restaurant and Film Theater's use. She did not recall experiencing an evening during the summer where they did not have sufficient parking at Hinckley's property. Liz Wild noted that the majority of the restaurant's patrons came from the mooring field and the marina via dinghies.

D. Seidman inquired about the liquor license. Liz Wild reiterated that they did not allow their patrons to linger in the restaurant. He noted that they were not allowed to have live entertainment. Liz Wild noted that they've had issues with the loud music played across the street at the Artcliff Diner. They were permitted to have a food truck that was open into the early hours of the morning. The music was played very loud and carried out to the harbor.

Liz Wild submitted a hand drawn floor plan for the first and second floors. She explained that the configuration of the tables varied every night, pending on the reservations. Patrons were served on the decks. D. Bellante-Holand inquired if it included the seats in the catwalk. Liz Wild indicated that the catwalk led to the marina and was not part of the restaurant. D. Bellante-Holand witnessed people on the catwalk being served by the restaurant. Liz Wild indicated that they were boaters from the marina. They accommodated the boaters who did not want to get dressed.

D. Bellante-Holand mentioned that there were waiters serving the people. Liz reiterated that it was the boater area on marina property. B. Robinson believed it was part of the restaurants' service, unless they were gifting the food to the boaters. Liz Wild believed it was similar to take-out. In this instance they were being served. B. Robinson believed there was a clear distinction between take-out and wait service. He thought they should include it within the seating capacity. D. Seidman questioned if the restaurant was full at

the time the service was extended to the boaters, because it was possible that they did not necessarily exceed the maximum seating allowance. D. Bellante-Holand noted that the restaurant was not full at the time she attended.

D. Bellante-Holand thought that if they were concerned about the “noise” level in the area they should consider language that would confine their activity or provide the applicant with a policy to help them clear the decks after a certain hour. Liz Wild informed the board that the last seating was normally at 9:45 PM, so that they are cleaning the premises by 11 PM. D. Bellante-Holand did not want to be too restrictive. C. Doble inquired if they imposed a similar restriction on Beach Road Restaurant. D. Bellante-Holand clarified that she did not want to limit the restaurant’s overall operations, just to reduce the potential for “noise” from the deck beyond the closing hour. Liz Wild noted that the only people to be disturbed by the restaurant’s outside activity were the marina’s patrons, who were exposed to a very loud noise level from the abutting hotel’s customers, who frequently “partied late at night”.

B. Robinson reported that the vast majority of the restaurants (with one exception) closed between 9PM – 10PM. Liz Wild noted that the Artcliff’s food truck was open until the early hours of the morning. During the discussions that followed it was noted that the restaurant was not insulated, so that it was a seasonally operated enterprise. D. Seidman inquired about the time frame, and it was suggested that they would be open from May 15 to September 30<sup>th</sup>.

D. Seidman inquired if they were interested in adding a 10:30 PM last call for service. C. Doble did not believe they were being consistent, and spoke against the condition. D. Bellante-Holand concurred.

B. Robinson noted that Hinckley’s closed at 5 PM on Saturdays and at noon on Sundays. D. Seidman noted that they had sufficient parking on the lot they owned across the street in addition to the ten (10) on-site parking spaces. Liz Wild reminded the Board that the previous food service establishments did not experience any parking issues when they served lunch for the past seven years.

C. Doble asked Liz Wild how patrons were made aware of the parking spaces across the street. Liz Wild replied that they had a sign on the premises directing people to the off-street parking lot. Patrons were also informed to park across the street at the time they made their reservations. B. Robinson noted that applicant would have limited parking on weekends. D. Seidman believed they had sufficient parking on the lot across the street. B. Robinson inquired if she had an active agreement with Hinckley’s & Sons. Liz Wild replied in the affirmative.

There being no further discussion, B. Robinson moved to close the hearing and enter into deliberations. H. Stephenson seconded the motion, which motion carried. 5/0/0 The discussions closed at 6:47 PM

6:48 PM        Deliberations: Special Permit - Vineyard Haven Restaurant  
Associates, LLC, AP 09C08, 52 Beach Road

The deliberations of the previously closed hearing were opened at 6:48 PM. B. Robinson moved to approve the applicant's proposal to operate a full service restaurant in the Waterfront Commercial District as amended (weekend brunch, extended hours of operation) at the hearing with conditions and restrictions. H. Stephenson seconded the motion. Said motion carried. 5/0/0

D. Seidman recommended continuing the deliberation of the hearing until September 7, 2016 at 6:30 PM to review the draft special permit decision. The Board agreed and so moved m/s/c 5/0/0

The Planning Board resumed their regularly scheduled session at 6:58 PM.

7:00 PM        Public Hearing (Cont.): Special Permit: Christopher Dias, SBS Properties,  
LLC 22A13.11 & 22A13.14, High Point Lane

The public hearing was continued at 7:00 PM. Planning Board Chairman, D. Seidman referred to the draft decision and made the following recommendations:

- a. Eliminate Finding No. 6 (The applicant indicated that he was no longer interested in retailing...). D. Seidman did not recall that the applicant ever planned to retail the specialty lumber. B. Robinson noted that in his testimony to the Planning Board, the applicant indicted that his operation was strictly wholesale.

B. Robinson noted that the applicant met with the Site Plan Review Board as required by the zoning regulation, and recalled that the one issue they were most concerned about was the grading on the southwest corner of the lot. C. Doble inquired if the Site Plan Review Board generated correspondence for the Planning Board. B. Robinson could not respond.

- b. Revising Condition No. 1 to read as "The applicant shall utilize permeable surface materials for all improvements on the showroom and apartment parking lot off High Point Lane".

H. Stephenson inquired if the condition superseded the MV Commission's DRI Decision. D. Seidman and B. Robinson reviewed the Decision and affirmed that the condition was an additional restriction generated by the Planning Board that did not impact the MV Commission's Decision.

- c. Adding Condition No. 2 to read as "The applicant is required to submit a landscape plan to the Planning Board for their approval, prior to construction".
- d. Adding Condition No. 3 to read as "The applicant will commence construction of the front retaining wall facing Island Cove Miniature Golf".

- e. Adding Condition No. 4 to read as “ The applicant is required to meet the zoning district’s minim 15 ft. rear/side setback requirements”.

Board members appeared to be in consensus of D. Seidman’s recommendations. The board secretary inquired if they had reviewed sections 05.23.05.02 & 05.23.05.03 of the bylaw to determine if any of the requirements or recommendations listed was relevant to the application before them. She incorporated the language into the draft decision for their review.

D. Seidman thought it was important to list the applicant’s hours of operation. B. Robinson noted that the DRI Decision listed the hours as 7:00 AM to 5:00 PM. C. Doble inquired if the Decision listed the number of bedrooms . H. Stephenson replied that they were one bedroom apartments. B. Robinson calculated that the applicant was providing approximately 800 sq. ft. apartments.

D. Seidman noted that the access was limited to High Point Lane by the MV Commission and listed as a condition. The applicant agreed to extinguish his right across the 20 ft. right-of-way leading to State Road. D. Seidman recalled that the building inspector required the applicant to provide seventeen (17) parking spaces.

B. Robinson did not believe the Board discussed the installation of the utilities, but assumed that they were going to be underground. D. Seidman replied that it was a requirement. B. Robinson requested that the requirement be listed as a condition.

D. Seidman recommended continuing the hearing. Board members reviewed their schedules and all five members were available to meet on September 21<sup>st</sup>. B. Robinson moved to continue the hearing on September 21, 2016 at 7:00 PM.

7:30 PM        Public Hearing (Cont.) for Carl Kenney re: Non-Appurtenant sign MVSB (24”X20”) in the B-2 District (CANCELED)

Board members were informed that the location of the sign was listed incorrectly in the public hearing notice, so that the correct abutters were never notified of the pending application for a special permit.

The applicant was notified of the administrative error and advised that the Planning Board was in the process of arranging the advertisement, and notifications for the new process, at their expense.

Planning Board members were advised that the hearing date for the applicant’s hearing was scheduled on September 7, 2016 at 6:00 PM. C. Doble and D. Seidman were not available on the date. The board secretary was to notify the applicant, and advise him that the hearing was to be continued to the following meeting on 09/21/16.

## **BOARD DISCUSSIONS:**

### **1. Committee Reports**

#### Parking Committee

H. Stephenson indicated that Angela Grant agreed to re-organize the shuttle bus routes so that they came back through the town by the parking lots, and to extend the hours of

operation to accommodate the community's workforce. She asked if the Vision Council would consider placing the subject on their meeting agenda to solicit the town's opinion on potential stops, using the school's parking lot, etc. The Parking Committee was also interested in discussing the old Fire Station lot on Beach Road with C. Doble and members of the Vision Council.

#### Vision Council

C. Doble was aware of the Parking Committee's interest in meeting with the Vision Council from H. Stephenson, with whom she had been working on potential uses for the old fire station lot. They wanted to meet with the Parking Committee to discuss their parking strategies and the actions that could be taken on the lot that would allow them to continue its current use as it transformed to its final use.

Additional discussions ensued about the Parking Committee's dislike of the long term parking leases enjoyed by a few businesses, and T. Israel's preference for the long term lease.

C. Doble noted that they were all working on topics that crossed over. She felt the conversations had to come together because they all overlap. B. Robinson thought the Traffic Committee (Gateway Committee) and Parking Committee should meet first. The meeting however had to wait, because the Traffic Committee was still in the fact finding phase. The old fire barn site was being reviewed by the Planning Board. The first two committees were organized by the Board of Selectmen.

Additional discussions ensued, and B. Robinson offered to coordinate the joint meeting for the Parking and Traffic Committees.

#### Harbor Management Committee

B. Robinson reported that the committee was seeking funds to replace the pier at Tashmoo, and to replace 60 pilings and the whalers at Owen Park. Total cost was approximated at \$500,000.00- \$600,000.00.

2. John W. Grande, Town Administrator  
RE: AG's response to Lynne Fraker's Open Meeting Law Complaint

C. Doble thought J. Grande misrepresented the Planning Board in his response to the AG's letter regarding L. Fraker's complaint.

D. Seidman thought the whole episode was ridiculous, and did not understand how the AG could not have realized that the matter pertained to the Board of Selectmen's office.

C. Doble believed it was an issue for the Planning Board and the board secretary. B. Robinson referred to the Planning Board in the third footnote on the front page of the AG's response, when the Board of Selectmen created the workgroup. C. Doble thought they should address it with J. Grande, because it was a misrepresentation of the circumstances.

B. Robinson inquired if there were any repercussions. Board members noted that the Planning Board will have a violation on record with the Attorney General, when it J. Grande and the Board of Selectmen violated the open meeting law. D. Seidman noted that he had approached J. Grande about the letter, asking that he clarify the situation with

the Attorney General. Board members questioned the merit in approaching the town administrator on the topic, when it clearly did not benefit him to do so. They agreed to drop the matter on this one occasion.

### 3. Island Housing Trust

RE: Request for letter of support for Chap. 40B comprehensive permit

D. Seidman and C. Doble recused themselves from the discussions, because they served on IHT's governing board. C. Doble asked H. Stephenson, D. Bellante-Holand and B. Robinson wished to write a letter of support on the Board's behalf.

Board members were informed that P. Jordi met with the Planning Board on August 3, 2016 to present the housing project IHT was pursuing as a Ch. 40 development. The proposal was for ten duplexes containing twenty units with a total of forty bedrooms. D. Bellante-Holand did not understand why the applicant reduced the scope of the proposal when affordable housing was scarce. D. Seidman understood that the land was in a recharge area.

B. Robinson did not think the location was appropriate for housing, because it did not have access to town water, town sewerage, public transportation, etc.

H. Stephenson thought it was a mistake not to endorse a proposal that provided affordable housing. The proposal was a good compromise. She did not understand why the Board felt the development should be denser. B. Robinson clarified that his opposition to the endorsement was not based on density, but on the location, for the above described reasons. He supported affordable housing, but it had to be done correctly. They had a responsibility to the community to make sure that the housing was done correctly and followed smart growth policies.

D. Bellante-Holand inquired if their letter made a difference. She was advised that the project was moving forward irrespective of the board's support or lack thereof. B. Robinson indicated that if he supported the project he would do so with conditions. H. Stephenson offered to revise L. Peak's letter for D. Bellante-Holand and B. Robinson's review and endorsement.

### 4. Housing Protection Plan

C. Doble informed the Board that the consultants scheduled informational meetings at 6 PM on 9/22, 11/17, and 12/15 at the Tisbury Senior Center. She thought they should starting planning to advertise the meetings.

D. Seidman reported that the committee was working on a supplement that was going to be inserted in the MV Times to inform islanders about the meetings.

## **CORRESPONDENCE RECEIVED:**

### 1. West Tisbury Planning Board

RE: All Island Planning Board Mtg on 9/26/16

### 2. Tisbury Zoning Board of Appeals

A. Case #2262 – Abby Hirsch, AP 06D01 (5 bdrm lodging house)

B. Case #2263 – Maura & George Valley, AP 05C26 (Guesthouse)

3. MV Commission

A. 12 August 2016 Extended Schedule

4. Joint Committee on Economic Development & Energy Technology Bill Summary

D. Seidman advised the Board that the state had just passed a bill offering millions for projects. He asked Board members to review the handout for potential projects. He explained that the grants were just approved.

C. Doble inquired if there was additional information available. D. Seidman reiterated that they just passed the bill, so that it may be a while before they can access the information online to learn more about the availability of funds, application process, etc.

**CORRESPONDENCE SENT:**

1. Tisbury Zoning Board of Appeals  
RE: Christopher Dias, SBS Properties

**OTHER TOPICS NOT ANTICIPATED BY THE CHAIRMAN:**

**PRO FORM** Meeting opened, conducted and closed in due form at  
8:35 P.M. (m/s/c 5/0/0)  
Respectfully submitted;

\_\_\_\_\_  
Patricia V. Harris, Secretary

**APPROVAL:** Approved and accepted as official minutes;

\_\_\_\_\_  
Date

\_\_\_\_\_  
Daniel Seidman  
Chairman