

TOWN OF TISBURY
Office of
BOARD OF APPEALS
VINEYARD HAVEN,
MASSACHUSETTS

DRAFT MINUTES OF SEPTEMBER 22, 2016

Present: Jeff Kristal, Sue Fairbanks, Michael Ciancio, Tony Holand, John Guadagno, attorney Jonathan Silverstein and Laura Barbera, Administrative Assistant.

Case #2266: Colin Weir - 5:30 p.m.

Sitting on the case: Jeff Kristal, Susan Fairbanks, Michael Ciancio, Tony Holand and John Guadagno.

Kristal opened the public hearing for the demolition and reconstruction of a pre-existing non-conforming structure on a non-conforming lot.

Colin Weir was present. He explained that this Board had already seen a petition for this project in 2010, but they let the permit lapse and now require a new one.

They will demolish the structure but will maintain the existing footprint. This plan is different than the one permitted in 2010 in small ways. The house sits skewed on the lot so they plan to square it off and they will also demolish the foundation. The roof level will be higher by three feet. There will also be a cantilevered fireplace which will extend 6.3 feet from the west side property line. The height of the house will measure 24'7", but Kristal noted that the chimney has to be included in the overall height.

The applicant offered to submit new elevation plans.

The existing dwelling now measures 7 feet and 8.1 feet from the west side but once reoriented the side setback will be 8.4 feet from the west property line. The east side setbacks will be 11.5 feet.

On the 2010 plan, they had asked for a deck on the front, but the board only allowed them a landing and stair. The deck will be constructed in the rear.

Kristal preferred to see the house repositioned so that they can meet the side setbacks. Mr. Weir believed that there may be a septic issue by moving it closer to the east. Ciancio thought that the septic could be re-piped if necessary.

Holand motioned to approve the special permit with conditions. Guadagno second the motion. Conditions to include; two weeks' notice to abutters prior to demolition; debris wet down during

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demolition; the house will be repositioned to be more conforming on the sides and standard lighting. It was unanimously approved.

Case #2265: Island Housing Trust - 5:50 p.m.

Kristal opened the public hearing on the request for a comprehensive permit for the construction of ten duplex buildings.

Sitting on the case: Jeff Kristal, Susan Fairbanks, Michael Ciancio, Tony Holand and John Guadagno.

Jonathan Silverstein, town counsel, Reid Silva, engineer, Phillippe Jordi, IHT director, Derrill Bazy, IHT project manager, Ruth Silman IHT attorney, Michelle Crowley, landscape architect; Treff Lafleche, architect.

Mr. Jordi explained that they are requesting a comprehensive permit for 10 duplex, 40 bedroom affordable housing rental project.

The former “Bridge Housing” affordable housing development went through a thorough review before this board and the Martha’s Vineyard Commission, however, this project has less impact than the 2007 Bridge Housing project. There will be a smaller building envelope and many “no cut zones.” Nearest abutting house will be 210 feet away. Less parking will be needed because there will be fewer dwellings and the dwelling heights will average between 21 and 22 feet high.

DCRHA will be contracted to maintain the property and these units will be rented to island working families.

Dan Hill, land use attorney, represented a few neighbors to oppose the project. The Bridge project was appealed in 2007 and was based on hydrology concerns. He received some information from the ZBA file with regard to this issue, but found it outdated.

He added that he believed the board should hire a peer civil engineer to review some of the claims made by the applicant. Part of this lot has been purchased by the Land Bank and even though IHT is using that part of the lot for nitrogen credit, but he didn’t believe they have the right to do this under the current agreement with the Land Bank.

He found insufficient information and plans without signature or stamp by an engineer and also questioned the accuracy of there being only 40 bedrooms.

With regard to impact on wells in the area, no information has been provided showing the location of all of the abutting wells within at least 500 feet and asked for the ZBA to require revised drawings that provide stormwater, utility, and elevations for peer review.

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Mr. Bazy noted that DEP is allowed some discretion as to whether there can be a private vs. public water supply but IHT has complied with the public water supply requirements at great cost. They also have an agreement with the Land Bank to use some of their property for wells or septics. DEP requires extensive testing as well.

Mr. Bazy added that groundwater flow is to the northeast. Reid Silva, engineer, noted that monitoring wells and extensive research had been done on hydrology. This site is 14.85 acres and the land bank does not own the property, but rather an easement protecting the property. IHT made the agreement with Land Bank to maintain the right to use the property for wells and septics if needed. Even with no nitrification the lot could handle 65 bedrooms under Title V.

Ruth Silman reminded the board that the requested waivers do not include any from Board of Health or health codes and include only the following:

Uses permitted under 04.02, 04.03 and 04.04;
Rate of development
Parking regulations - providing 35 spaces
Waiver from fees required by any board or department.

Board of Health review will be held separately and no waivers will be needed so it wouldn't be necessary for the ZBA to address the issue.

Mr. Hill questioned the accuracy of the old hydrology report and asked that the hydrology, septic and wells be fully vetted at this level. He also brought up that there was a project limitation suggested by MNHESP and asked to see that on the plan as well. Mr. Bazy pointed out the plan with limitations noted.

Mr. Laflesche stated, with regard to the bedroom count, if the height of a ceiling is under 7 feet it doesn't qualify as a bedroom. The 40 bedroom count is indeed accurate.

Jonathan Silverstein explained that this board can address waivers from local regulations but the septic issue doesn't have to be addressed by the board because the applicant didn't request any waivers.

John Cassell, abutter, commented that he was comparing the failed Bridge Housing development to this project which he didn't believe to be pertinent. He added that Bridge Housing also claimed that they couldn't reduce the number of units even though they eventually did.

Carol Collins noted that Reid's comments were incorrect because the MVC said at the last meeting that they had nothing to do with water.

Mr. Silva noted that the MVC created the Tashmoo watershed area, so they are very much involved with hydrology, as does the local Board of Health.

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Janet Woodcock stated that the MVC did not review this information at length and simply approved this new plan as a modification. Kristal noted that the ZBA is looking at this project as new, not as an amendment.

Robert Diaz, abutter, commented his well is located 75 feet from the proposed leaching facilities. No board or commission has addressed any of the neighbor concerns so he wanted the ZBA to vet the hydrology issue.

Paul Munafo, abutter, had questions about the limitations imposed by the Land Bank and Ms. Silman explained that under the easement granted IHT gave the Land Bank permission to use the northern portion with the exception of possibly locating a well or leach field on that section but must return the property to its previous condition.

Mr. Munafo continued that he preferred to see fewer units on the property.

Mr. Diaz pointed on the map the distance to his well but Mr. Bazzy noted that his well is located 350 feet from the nearest septic system.

Ken Bilzerian, abutter, noted that with so many cars parking on the site, oil spills will happen over time and will leach into the groundwater.

Kristen Henshaw, abutter, objected to the project, stated that the impact to the neighborhood will be monumental, especially traffic.

David Ferraguzzi, noted that water quality and the septic system issues are really under Board of Health purview.

John Abrams, South Mountain Company, offered that his company has completed 8 affordable housing projects over the years and even though many people complain beforehand, he's never heard any complaints after the fact.

Mr. Diaz believed that the reason why people don't complain after the fact is because they are beaten down from fighting.

Mr. Abrams stated that he's spent a lot of time talking to neighbors around these projects after the fact, and it became clear that they were simply afraid of change.

Chris Crawford, abutter, commented that Mr. Abrams first project was for 2 units, not 20.

Marie Doubleday, Island Housing Trust member, stated that she has worked with Philippe Jordi on many projects and while they have had their disagreements, it's never the intent to ruin anyone's well or property values and they end up creating energy efficient affordable units that benefit the island.

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Doug Ruskin, director on Island Housing Trust, commented that even though Philippe is the face of the Board, there is still a board of directors behind the scenes. He clarified that if a private developer purchased this property, by right, could have produced approximately 25 percent more bedrooms without an application for a comprehensive permit, but rather with a subdivision application.

A letter was read from Fire Chief John Schilling strongly in favor of the project.

Doug Ruskin pointed out that IHT is not out to poison anybody, but rather they are acting for the common good. If there are going to be complaints, then he would like to hear solutions as well.

Ciancio asked about the number of wells and Mr. Silva stated that there are two wells proposed on site which will serve the property. He added that he wouldn't waive his inspection fees.

Kristal asked about surfacing and Mr. Bazzy stated that they will use sand and hardener. Stormwater will be contained on site.

Kristal asked about the older hydrology report and Mr. Silva did not recommend doing another survey since water levels and water tables haven't changed and the soils haven't changed and nothing will change the directional flow.

Fairbanks asked about well monitoring and Mr. Jordi stated that there are many tests required by DEP. Nitrogen testing will be done by contracted testers. Test wells will also need to be tested before and after construction on theirs and neighbors within 500 feet.

Kristal asked if they could reduce the number of units and Mr. Jordi stated that the Bridge project was only half affordable, as opposed to IHT which is entirely affordable.

Mr. Silverstein advised that the board could ask for a pro forma showing the reduction of one building and, or four bedrooms and for town sewerage for a total of 3 pro forma.

Mr. Hill requested another hydrology report and an updated utility plan as well as a plan showing the neighboring wells.

Kristal supported the idea, even though the septic, wells and hydrology will need permits from the Board of Health.

Kristal asked for a written response from IHT's counsel in response to Mr. Hill's comments.

The meeting adjourned at 8:45 p.m.

Meeting date next month 10/20/16 at 5:30 p.m. at the Emergency Services Facility.

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Respectfully submitted,

Laura Barbera
Administrative Assistant