

Aquinnah Planning Board Plan Review Committee Meeting November 14<sup>th</sup>, 2017

Members Present: Peter Temple, Chairman, Jim Wallen, Sarah Thulin, Isaac Taylor, Berta Welch, Jo Ann Eccher and Jim Newman

Members Not Present: Jim Mahoney

Others Present: Chris Alley, Elise LeBovit, Jay Bodnar, John McDonald, Cully Vanderhoop, Len Butler, Richard Skidmore, Karen & Jared Salvatore, Kristen Fauteux, Joan Goodman

Meeting opened at 6:35 pm.

First on the agenda was the review of the October 17<sup>th</sup> minutes. Berta made a motion to approve the October 17<sup>th</sup> minutes as presented and amended. Jim N seconded. The PBPRC voted 5-0-1, the motion passed.

PBPRC opened a meeting to discuss a request for a zoning determination to enclose a breezeway from Doug Plumer of 3 Meeting House Way Map 9 Lot 83 and 100. The PBPRC reviewed the plans presented and found that enclosing the existing 38.5sf breezeway between the two buildings is not visible, would not have a negative impact on the neighborhood, would not expand the footprint and is within the 70sf maximum for a Zoning Determination. Peter entertained a motion to approve a Zoning Determination to enclose the existing breezeway. Motion was moved by Jim N and seconded by Jim W. The PBPRC voted 7-0, the motion passed unanimously.

PBPRC opened a hearing to act upon a request from John McDonald of East Pasture Road Map 8 Lot 80 for Special Permits for clearing, cutting and topping of trees on Sheriffs Meadow Foundation (SMF) property off East Pasture Road Map 8 Lots 86 and 87. Sarah was recused. Stating for the record that he sits on the Sheriffs Meadow Board, Chris Alley presented the plans to cut and prune trees on the North-West side of the SMF property. It was noted that within the deed of the land to SMF, Yvette Eastman had reserved a 100' wide view easement for the owner of Map 8 Lot 80. Alley discussed the plans to cut back 3 black oak trees, prune 2 white oak trees and top 1 beetlebung tree within the 100' wide view easement. Kristen Fauteux of SMF discussed the proposed plan and informed the PBPRC that Adam Moore of SMF, a licensed forester, worked with the applicant and had evaluated the ways in which to address each tree using good forestry management practice. The PBPRC further discussed the plan and reviewed photos of McDonald's residence from different vantage points. The PBPRC found that the south side of the residence is visible from the hill on State Road before Chockers Lane and when entering Aquinnah on State Road by Herring Creek and felt that the proposed plan may increase the structures visibility. At the site visit, the PBPRC had found that McDonald's lot does have other view channels when walking around on the deck. Discussion was had on preserving the habitat that exists on the SMF lot and the detriment of cutting the trees. Fauteux stated that the habitat would not be harmed and in fact, cutting the proposed trees could help in future growth of other vegetation. Further discussion took place on the McDonald's residence visibility and cutting the 3 black oak trees and the potential of cutting

other trees on McDonald's lot. The idea of allowing the black oaks to be cut so that the structure would be screened up to the 2<sup>nd</sup> story deck railings was also discussed. Discussion took place about the additional trees and vegetation that are going to be planted to minimize and break up the mass of the structure, a condition in the original permit including a post completion landscape review. Peter read a letter from Scheuer, an abutter, who wished to preserve screening between his home and the McDonald home. Although his wish relates to the planting of vegetation that is required of the McDonald, Scheuer is not affected by the view request on the SMF lot. Ultimately, the Committee felt that no trees should be cut until they had a better sense on how the structure would be screened with the planting of other trees and vegetation and after the structure weathers. It was determined that the Committee would wait and re-visit the hearing in April 2018, at which time, a post completion landscape review will take place. Committee members were encouraged to visit the site. The PBPRC scheduled the April 2018 meeting for April 11<sup>th</sup>, 2018. Peter entertained a motion to continue the hearing to April 11<sup>th</sup>, 2018 at 6:40pm with a site visit at 4:30pm with the agreement that the applicant will send a letter to stop the clock and all trees and vegetation is allowed to grow in the interim. Motion was moved by Jim W and seconded by Jim N. **The PBPRC voted 6-0, the motion passed.**

The PBPRC found that Alan Slatas could not make the meeting and requested to move his hearing to December. Peter entertained a motion to reschedule Slatas' hearing to December 13<sup>th</sup> at 6:30pm with a site visit at 3:00pm. Motion was moved by Berta and seconded by Jim W. **The PBPRC voted 7-0, the motion passed.**

PBPRC opened a hearing to review the temporary conditions designed to mitigate the relocation of the Lighthouse and management plans as permitted in the Special Permit for the Town of Aquinnah dated October 29<sup>th</sup>, 2014. Berta and Isaac were recused because they both were abutters and left the meeting. A quorum was still present. Prior to beginning the review, Peter re-familiarized the Committee with the Special Permit. The Committee found that the Islands End Condo Assoc. (IECA) had concerns about privacy with the Lighthouse being moved 150ft closer to their condos. In addition, the Committee found that the Special Permit granted was more restrictive in terms of public interest in limiting access to the lighthouse and therefore no permanent restrictions had been set and it was to be reviewed after the first full season of operations. Although the Lighthouse has been open since the move, the Park has not been opened until this past summer. After that background on the intent of the original Special Permit dated October 29<sup>th</sup>, 2014, the Committee reviewed and discussed the conditions one-by-one.

The Committee, after asking both the applicant and Joan Goodman who is an abutter and a Lighthouse Condo owner, found that all the conditions set in the permit dated October 29, 2014 were met as required. There was discussion on condition number 4; notification of events to Condo owners. Joan asked which events/activities the permit was referring to, to which the applicant replied all events such as weddings and private events and that proper notice had been given for all of them except for one because it was scheduled late. The Committee asked

if the three-day notification of events to the Condo owners was still necessary and adequate. Joan guessed that the three days was OK and assumed that an event like a wedding would give notification well in advance. The applicant generally agreed.

In reviewing condition number 10, limitation of number of people within the viewing gallery level, the applicant requested to change and amend the condition. The PBPRC found that while the Town has tried in good faith to limit the number of people in the viewing gallery at any one time to 8 and that signs are posted informing people of the restriction and warning the public of the impact of noise on abutters, it still has been difficult to regulate due to traffic going up and coming down from the light room. The applicant further noted that when it is crowded, the number restriction is about maintaining safety as much as possible. In addition, the applicant noted that the guides at the Lighthouse try to quiet the public down when they get boisterous. The applicant requested to amend and change condition 10 to read “limit the number of people at the viewing level of the Lighthouse to ensure public safety and to keep people moving and avoid congestion in the gallery.” Joan asked how many people that would be. The applicant replied that it is hard to say but not more than a dozen. It was also noted that there can be no more than 25 people in the structure at one time, any more than that it can start to be congested. The applicant stated that during the shoulder season it is easy for the guides to regulate the number of people at the viewing level but when its July and August its difficult. The Committee asked for Joan’s opinion as an abutter on this requested amendment. Joan, only speaking for herself and not the other Condo owners, felt that no matter what, there will never be more than 12-13 people (half of the total amount of people allowed in the structure at one time) at the viewing gallery level, and won’t make much of a difference. She stated her concern for people “gawking” at her and the condo owners and making a lot of noise and hearing peoples’ conversation from the viewing gallery. The Committee didn’t want to put in a hard number in the decision but felt that amending the condition to read “To ensure public safety and keep people moving at the viewing gallery level and away from the condominium’s side, limit the total number of people in the lighthouse at any one time to 25” was sufficient. Joan understood that the guides cannot enforce people to be quiet and understood that she lives close to a public space. The Committee noted that the signs to remind the public of noise would still be required by the Special Permit and if the condo owners feel that the noise level is too much they can come to the Lighthouse Advisory Board and submit a complaint.

The Committee discussed condition 12 of the original permit, sunset operation hours, and found that reducing sunset hours to one evening per week (not on Saturday) was too limiting to the public and did not uphold the spirit of the DCPC. Discussion was had on Lighthouse sunset hours in the past. The Committee asked for comments from the applicant and abutters. The applicant requested to amend condition 12 to increase the number of sunset hour openings to 4 days a week to allow for more opportunity to the see the Lighthouse and Park. Joan stated her concerns regarding the number of cars and increase of traffic and people. The applicant responded that generally, people at gallery level would not be looking

towards the Condos and that Committee would not be looking to promote a “Menemsha style” sunset event. To which Joan stated that eventually that would happen. The Committee reminded everyone that the condition is only addressing the Lighthouse sunset hours and that the Park is always open for sunset. The Committee ultimately felt that condition 12 in the original permit should be amended to read “Public sunset viewing hours shall be scheduled up to 4 days a week, excluding Saturday, at the discretion of the GHLAB from 7pm to 9pm in June and July and 6pm to 8pm in August and September, and at the discretion of the GHLAB in other months.”

In reviewing the operation hours of the Lighthouse, the Committee found that the opening hours, as set in condition 13 shall remain as 10am to 4pm, as amended earlier, but can be shortened at the discretion of the GHLAB. There was discussion on keeping the hours of 4pm to 7pm reserved for events. The Committee ultimately felt that the GHLAB should determine the hours.

In discussing the last condition of the permit, condition 14, the Committee found that allowing only 4 events during July and August did not meet the demand or give the Town the opportunity to make money and found that permitting a total of 8 events in July and August would benefit the public and Town. The Committee determined that condition 14b should be amended to read “Hold events in the area where the Lighthouse was formally located, not around the new location.” In addition, the Committee found that at the end of condition 14c of the original permit should be amended to read that “...but limit the overall number of wedding/private events that have this access to a total of 8 during July and August.”

The Chair stated that the intent of reviewing the Special Permit was to review what was working or not and to work on making the management plan general enough so that the GHLAB would be the first place where conflict could be addressed and resolved so that the PBPRC wouldn't need to review the Special Permit as often. Joan raised concern again regarding the increase of sunset evenings for the Lighthouse. The Committee noted that the amendment was not a mandate but merely an allowance of up to four nights and is designed to give flexibility to the operator of the Lighthouse. In addition, the Committee added that the Condo owners can raise any concerns on any adverse impact of an extended schedule with the GHLAB first to try and reach a resolution prior to coming to the PBPRC. With no other comments from the Committee, applicant or abutters, Peter entertained a motion to recognize that certain conditions in the Special Permit dated October 29<sup>th</sup>, 2014 were met as required and approve the amendments as requested by the applicant. Motion was moved by Jim N and seconded by Sarah. **The PBPRC voted 5-0, the motion passed.** Discussion was had on the appeal period and the appeal process.

The PBPRC opened a hearing to conduct a post completion landscape review for the Lighthouse area and parts of the circle and a post completion/operation review of a temporary plan for pedestrian and vehicular traffic and signage at the Lighthouse and circle as required in the Special Permits for the Town of Aquinnah

dated February 4<sup>th</sup>, 2015 and March 27<sup>th</sup>, 2015. The Committee found that in terms of the landscaping portion of the review there wasn't any issues to discuss. However, in discussing the vegetation around the fencing in the park, the Committee found that it has been difficult to maintain the growth of vegetation in two areas due to the public's interest in viewing the cliffs. In attempting to keep people from trampling the vegetation, the applicant proposed the amendment to build two viewing stands, not to exceed 40sf, at grade level in the two areas of heavy traffic. Discussion took place on the appropriate materials for the pathway from the shops to the Lighthouse making it ADA as well as extending the walkway along the road to the base of the stairs to allow for an alternative route. MVC is checking on materials and slopes of the path to see if the path can be ADA compliant. In addition, Peter noted that the Town and Committee need to address the night light issue at the Cliffs. Without a presentation, the Committee determined that this hearing should be rescheduled to the December meeting. Peter entertained a motion to continue the hearing for the review of landscaping, pedestrian paths, vehicular traffic and signage to the December 13<sup>th</sup> meeting at 8:00pm with a site visit at 3:20pm. Motion was moved by Jim W and seconded by Jim N. The PBPRC voted 5-0, the motion passed.

The PBPRC opened a hearing to act upon a request from the Town of Aquinnah Community Preservation Committee of 15 Aquinnah Circle Map 6 Lot 25.1 for Special Permits under sections 13.4 & 13.8 of the Aquinnah Zoning Bylaws for relocation and siting of an existing structure within the same lot, addition of open and roofed decks and excavation for crawl space and retaining walls. The PBPRC reviewed the plans as presented by Richard Skidmore, Community Preservation Committee member. Richard informed the Committee that the Board of Selectmen have approved the proposed plan. In reviewing the plans, the PBPRC found that of the 1,632sf pre-existing non-conforming structure known as "Helen's House" only the back portion of the structure (672sf) would be relocated South-East and downgrade of its current location and the remaining 960sf would be removed. The 672sf front portion of the house would be slightly elevated in the new location, and a wood deck would be built connecting the structure and the other two existing structures known as "The Restaurant" and the "Fry Shack". The PBPRC found that the proposed wood deck would be 1,682sf where 192sf would be covered and a 752sf bluestone terrace would be sited on the backside of the property. In reviewing the proposed retaining wall, the PBPRC found that the maximum height of the wall would be 4' and sited around the exterior edge of the bluestone terrace. The Committee found that, subject to an archeological review, the excavation of the retaining wall would not harm the resources protected by the DCPC. In addition, the plans proposed a larger green space where there is currently parking encircling a garden. Handicap parking would be sited to where parking for "Helen's House" is currently located.

In discussing elevations, the Committee found that while the ridge height of

“Helen’s House” is under the restricted max. height of 18’, it would be sited such that its ridge will be a couple of feet higher than the ridge of the “Restaurant.” However, the plans propose to elevate the “Restaurant” at least a foot, so all buildings will be at about the same height when the project is completed. The Committee found that while the white trim on all the structures do not comply with the Town guidelines, they are pre-existing non-conforming and are of historical significance being that it was the home to a prominent Town elder. In addition, the Committee found that the area is of high density already and the white trim would be no more detrimental to the neighborhood.

There was a discussion concerning the use of the structures, however, the Committee determined that use was not in their purview and would be determined by the Selectmen and the Town. The Committee found that the layout of the plan/site was general enough and would give flexibility for whatever is decided in terms of use. The Committee determined that relocating the 672sf structure and creating a gathering space by way of building a deck connecting all the structures met the requirements for granting Special Permits in the DCPC, would improve the public’s view of the Lighthouse from key viewing spots, minimize visibility of manmade structures and ultimately greatly improve the use of this public space. Elise LeBovit asked the Committee to discuss the parking of Condo owners in front of the “Restaurant”. The Chair stated that this past year there was parking for residents and condo owners in front of the “Restaurant.” However, once the power lines are buried a portion of the pavement will be replaced with grass subject to the pedestrian plan. The Chair continued to state that the Town’s position on this matter is that the Condo Owners do not have a right to park there but do have an easement to cross over the land. If, however the Condo owners are ever able to prove they have right to park on the property, then the Town accommodate them. No more comments were made on this matter. Based on the findings, Peter entertained a motion to approve the siting of the structures conditioned upon the following: subject to an archeological determination, subject to a final recommendation from the Community Preservation Committee on final details such as trim and other building materials and review and approval of final elevation drawings. Motion was moved by Jo Ann and seconded by Jim W. The PBPRC voted 5-0, the motion passed.

The PBPRC opened a hearing to conduct a post growing season review and determine final mitigation efforts in the Cliffs and Moshup Trail DCPCs as required in the Special Permit for the Town of Aquinnah dated April 24<sup>th</sup>, 2017. Peter reminded everyone that due to the possibility of an endangered species in the Lighthouse area that would be destroyed by the move, the Town was required, by NHESP, to enter into a conservation restriction on slightly over 2 acres of land and

to produce a management plan to promote the propagation of the species. A management plan had been developed and implemented, however, the Town did not bring it to the PBPRC for the necessary permits to brush cut in the Cliffs DCPC. The conservation management permit was approved by the secretary of Energy and Environmental Affairs as well as NHESP and was approved by the Aquinnah Board of Selectmen. After the plan had been implemented, the Committee had found that the cutting was extensive and determined the following concerns after the brush cutting had been done between the Lighthouse and shops and by the Town employee parking lot: clearing went far enough making it attractive for people to walk towards the edge of the cliffs, there weren't sufficient steps to prevent people from walking through the conservation area to the edge of the cliffs and the removal of screening around the employee parking area which had kept it out of the public view.

After Peter confirmed that all Committee members received and read a letter from Carlos Montoya concerning the hearing, Jo Ann waved the reading of the letter. The Committee, in reviewing the proposed mitigation plan, found that if the 15' vegetative buffer at the edge of the cliffs was slightly expanded, remained unmowed and if the bushes were allowed to grow back to normal height, then the brow of the edge of the cliffs would not be visible to the public. In addition, the Committee found that proper fencing and signage will keep people on the path and decrease the incentive of going to the edge. The Committee determined that stronger language on existing mounted signs should be used to deter people from entering the conservation area including warning signs of ticks and poison ivy. Discussion took place about the where the split rail fence meets the road and the Committee determined that it should be extended so there is no open space at the point where the path turns to meet the road.

The Committee briefly discussed concern with screening the Town employee parking lot. The Committee found that trans-planting bushes in front and around the parking lot would be adequate screening. In addition, the Committee determined that the vegetation around the parking lot be allowed to grow back and that in time would aid in screening the lot. As part of the Aquinnah Circle Landscape Plan, the Town plans on opening the view of the homestead from the shops looking down. The Committee found that the plants screening the Homestead could be moved over to screen the Employee lot.

Regarding Carlos' letter, the Committee discussed his concern of the amount of land to be cleared. If the plan submitted to NHESP was to clear 2 acres or more of vegetation/habitat, it would be an automatic referral as a DRI to the MVC, with their concurrence. However, the PBPRC found that the management plan for which the Town is seeking permits clears less than 2 acres, thus, the application does not require referral to the MVC.

The Committee discussed another issue raised by Carlos in his letter concerning the Commission's review and approval of the pedestrian path up to the shops through conservation land. However, the PBPRC disagreed that the Commission needed to give approval and in fact the Committee was given the authority and right by the Commission to permit pathways through the DCPC. Since the Committee is waiting for an opinion on whether the final pathway can be ADA compliant, the Committee has continued the issue of the path to the December 13<sup>th</sup> meeting at 8:00pm where they will make the final determination.

Based on the findings, Peter entertained a motion to approve the mitigation plans proposed by the Town for clearing in the Cliffs DCPC conditioned upon the following: increase the buffer of un-mowed area at the brow/crown of the Cliffs as agreed, applicant will transplant and plant bushes around the edge of employee parking lot and allow the buffer area to grow back to screen the lot, applicant will maintain the fencing and expand to it, stronger language shall be used to warn people on the dangers of leaving the pathway, and any additional clearing requires a permit from the Committee and referral to the MVC if the total cleared area exceeds 2 acres.

Motion was moved by Jim W and seconded by Jo Ann. **The PBPRC voted 5-0, the motion passed.**

Meeting adjourned at 9:47pm.

*Respectfully submitted,  
Sophia Welch  
Board Administrative Assistant*