

Aquinnah Planning Board Plan Review Committee Meeting November 7th, 2018

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

Also Present: Phil Regan, Jim Vercruysse, Layne Bazzy, David Giles, Robert & Mary Louise Shriber, Hugh Taylor, Carla Cuch, Adriana Ignacio

Meeting opened at 6:34pm

Peter entertained a motion to approve the 10/16 minutes as presented and amended. Motion was moved by Berta and seconded by Jim N. The PBPRC voted 6-0, the motion passed.

A list of potential changes for the bylaws was handed out. Depending on time, the Committee agreed to try and go through the list later in the meeting. The Committee was reminded that Saturday November 17th is the CPTC Workshop on Marijuana Land Use and Saturday December 1st is the CPTC Workshop on How to Hold a Perfect Public Hearing.

Jo Ann and Isaac entered the meeting.

Peter briefly discussed the idea of having Sophia open new hearings, which would help in the transfer of Peter as Chair. The Committee agreed this would be helpful.

PBPRC re-opened a meeting continued from 9/11/18 and 10/16/18 to review the request for Special Permit amendments for Niessen of 65 Moshup Trail Map 10 Lot 51 to alter the roof line by moving a chimney above the roof ridge line, change the rough opening of windows and change the siting of accessory structures where total footprint on the lot will exceed 2,000sf in the Moshup Trail DCPC. Jo Ann, Jim N and Isaac recused themselves. Peter reminded the Committee that all requested amendments, beside the chimney, were approved at the prior meeting. At the Committee's request, Peter consulted Town Counsel to get opinion and clarification on the following issues:

- Appropriateness of using the pre-existing non-conforming test as the test for a tear down and new construction – Town Counsel confirmed that this is the test that would be applied
- How abutters views are considered in making a decision – The Committee had found that there was conflict within the siting guidelines as it concerns neighbors/abutters views. Town Counsel stated that the basis for making a decision is on public view. Making a decision based on a single abutter or even a small number of abutters would probably not be a sustainable opinion and could be challenged. In addition, a single neighbor does not determine the neighborhood within the neighborhood test. The Committee found that they have been correct in interpreting the siting guidelines for abutters views.
- Case law and/or definition of “substantially more detrimental” – Town Counsel stated that this is under discretion of the Committee and is similar to the term “reasonable doubt”. Given that the installation of the flue pipe is after the fact, the Committee should apply the question/test “if it came before the Committee during the original application or

before the flue pipe had been constructed, how would you have considered it (significant or not)?”.

Berta requested that the Committee explore the idea of adding solutions and possible fines/action to the bylaws for when similar situations like this arise. Peter informed the Committee that making a decision based on recurring problems with the current architecture firm or contractor is not a reason to deny. Although some Committee members may feel that way, it is not a substantial reason and could be challenged.

At the site visit, the Committee found that the flue pipe had recently been encased in Red Cedar. The Committee asked if Phil Regan or the abutters had anything to add to the discussion. Phil stated that he agreed with Town Counsels opinions. Abutters Jim and Layne again voiced their concerns: The Committee had the chance to make the new construction conform with the district; now more non-conforming with the flue pipe; potentially approving the flue pipe is setting precedent and not holding the owner accountable; flue pip is above the tree line and conflicts with the guidelines of the DCPC and can be seen from public ways. The Committee corrected the abutters concern regarding conformity and stated that the house is now more conforming than the demolished structure (lowered height and moved out of setback).

There was discussion regarding the height of the flue pipe as it relates to the original height of the demolished structure: flue pipe is slightly higher than the demolished ridge height, however, it is now less mass. The Committee reviewed digitally rendered vantage photos and elevations of the chimney that was originally approved. Phil offered his opinion, stating that he was not advocating for one chimney or the other, but felt that the current chimney is less mass than what was originally approved and, in his opinion, is a better result in that it is now a fairly non-descript accessory to a building and he didn't understand how it could be so offensive, with respect to other opinions. He added that the Committee should vote how they feel and if they need to remove it then they will but if they are ok with the chimney then they would request to proceed with cladding it. The Committee clarified that the originally approved chimney was within the mass of the house and would not have been as visible (visible from Cliffs but not from the other side of Moshup Trail). The following opinions were made by the Committee: three Committee members felt that the project overall is an improvement and less obtrusive to what was demolished and an improvement for the Town; there was general disappointment that the process wasn't followed correctly; chimney is no more of an obstruction than the other chimneys in the area; the chimney breaks the tree line where other chimneys in the area do not and the chimney goes against the DCPC in that it creates a new skyline when all parties had worked on not altering the skyline; if the applicant had come before the committee prior to installing the chimney, then the committee would have made every effort to find a solution; compared to the chimney that was approved, what exists now is a better outcome for the Town. Phil stated that the owner hasn't said that they would go back to the original plan but that they could.

With no further discussion, Peter entertained a motion to approve the amendment as presented with the flue pipe encased in Cedar. Motion was moved by Jim M and seconded by Jim W. The PBPRC voted 3-2-3, the motion did not pass. The motion required 5 votes to pass and therefore the chimney will need to be removed and the structure will need to return to its original design. Peter informed everyone that even though this was an amendment it still fell under the Special Permit and therefore the super-majority would still be 5 votes. Isaac noted that because there

is no current penalty for this issue, there seemed to be no other outcome. There was brief discussion on this matter.

The Committee met with Robert & Mary Louise Shriber of 20 Old South Road Map 9 Lot 104 to review preliminary plans to remove the existing 600sf building and build a new 750sf two-story structure. The Committee found that 24' in height is allowable by right for this lot, but height is based on mean average grade and would be determined by an engineer. A septic plan has already been done by Schofield Barbini and Hohen and a Project Notification Form for the septic upgrade has been submitted to MHC. The Committee reviewed the MHC letter which determined that no survey was needed, however, expansion/additions to the house were not included and should be re-submitted to MHC for a determination. The owners plan on submitting an application.

The Committee met with Hugh Taylor to discuss preliminary plans for 18 and 42 Lighthouse Road. The Committee first reviewed plans to build a single gable barn measuring 34'x32' with two porches on either side at 42 Lighthouse Road. The barn would be used as living space and sited on a cement slab. There was discussion on creating a second curb cut to allow for a separate entrance to the structure from the Outermost Inn. However, the Committee needs to check to make sure that the lots have not been in common ownership since 1970 and that there is a 1,000ft distance between the existing and proposed curb cut. The Committee felt that, since the area is sensitive, an archeological determination is needed.

Next, Hugh reviewed proposed plans to site and construct a "party pavilion" for events at 18 Lighthouse Road, a registered DRI lot. The structure would be 56'x56', 16' in height, would have sliding glass walls to enclose the building and a flat roof to be used as a rooftop deck. Peter informed Hugh that he should submit an application to the PBPRC first, which would then be referred to MVC. Usually, it helps if the Planning Board is in favor of the project before it goes to MVC. Peter noted that this would be an accessory structure to a home-based business and many of the design guidelines are around residences (including the "50% wall of glass" policy). There was brief discussion regarding a potentially un-permitted deck on one of the Lighthouse Condos that crosses over onto Hugh's lot. Sophia is to look into this matter. Hugh briefly discussed adding bathrooms in the pavilion, which will need further review from Con Com and BOH. The Committee requested that, should Hugh submit a Special Permit application, the following be included: size of the lots (18 and 42 Lighthouse Road), existing footprint and proposed footprint with new additions, indication on the intended use for the pavilion and parking plans. The Committee discussed a preliminary site visit to determine visibility and other issues that may arise (to be scheduled by Sophia and Hugh).

PBPRC opened a meeting to review a Zoning Determination request from David Giles of 6 Raymonds Hill Lane Map 6 Lot 102.4 to conduct two perc tests: one in the guest house parking lot and a second within 40ft off the edge of the main house garage addition. Berta was recused. The Committee determined that both areas are disturbed, but should the owner need to go outside of the site-specific areas, owner will need to return to PBPRC for review and approval. Peter entertained a motion to approve the digging of perc tests in the locations shown on the plan (parking area for guest house and within 40ft of the South side of the exiting garage addition), no archeological observer required, if additional perc tests are needed, owner will need to return to the PBPRC for review and approval. Motion was moved by Jim W and seconded by Jim N. The PBPRC voted 7-0-1, the motion passed.

Next, the Planning Board reviewed the request for lot line revisions on an approved Form A subdivision plan for David Giles of 6 Raymonds Hill Lane Map 6 Lot 102.4. Berta was recused. In reviewing the line changes, the Committee found that each lot still maintained at least 200ft of frontage along the road and both lots were still 2 acres each. The Committee determined that the changes were insignificant. In addition, the Committee found that MVC determined that the plans do not need to be re-referred to them for DRI Concurrence Review.

The Committee briefly discussed the next meeting agenda. The Committee agreed to review the list of potential bylaw changes on their own. There was brief discussion concerning the proceedings of the Niessen meeting.

With no other comments, the meeting adjourned at 8:55pm.

Respectfully submitted,

Sophia Welch

Board Administrative Assistant