

Oak Bluffs Planning Board

Meeting Minutes

June 23, 2016 at 6:00 p.m. in the Oak Bluffs Town Hall Lower Level Meeting Room

Members in attendance: Brian Packish (Chairman), Robert Fehl (Vice Chair), Ewell Hopkins, Erik Albert (for Habitat hearing only)

Members absent: none for hearing, Erik Albert for rest of meeting, four member Board at this time

Staff in attendance: MacGregor Anderson (Clerical Assistant)

Chairman Brian Packish called the meeting to order at 6:05 p.m.

Habitat for Humanity of Martha's Vineyard Special Permit Application Public Hearing

Chairman Packish began by reading aloud the public hearing notice in full.

Member Hopkins said "Mr. Chairman, I would like to disclose to the Board formally that I am the Chairman of the Board of Directors for Habitat for Humanity. I do not believe that I have a conflict but I respect the wishes of the Board as it pertains to this public hearing, so I am happy to rescind myself and sit in the audience but I want you all to feel comfortable with whatever decisions are made."

Member Fehl asked if only three Members were needed to approve. Mr. Anderson said it required four for a special permit.

Chairman Packish explained that they were down to a four member board at the moment. He asked Member Hopkins if he had participated in the discussion for this project with Habitat. Member Hopkins said he had not, having recused himself from the discussions with the Habitat Board. Chairman Packish asked if Member Hopkins felt confident that he could make an impartial decision. He stated that he believed he could make an impartial decision. Chairman Packish said that was the criteria, and asked the other Board members for their input. Members Fehl and Albert had no objection to Member Hopkins' participation.

Chairman Packish read the rules of the hearing to the room. He then asked the applicant to present.

Greg Orcutt introduced fellow Habitat Board Member Bill Aitken and Executive Director Margo Urbany-Joyce. He explained that they were before the Board to request a special permit for an affordable house on a lot of more than 5000 square feet. Mr. Anderson briefly left the room to retrieve the documents associated with the application. Mr. Orcutt explained that the home would be built with volunteer labor, and is designed at 850 square feet to start somebody off in the community. Part of the funding came from Oak Bluffs CPC funds, suggesting the Town supports the project. The Board reviewed the location and plans, clarifying those details with the applicant.

Chairman Packish asked for any letters submitted. There were none. He then asked for those who wanted to speak in favor.

Abutter Christopher Meras asked about a small triangular piece of land that would go in front of the house. He said the surveyors showed 34.6 feet while the assessor showed 25 feet. He said whatever remains will be what is available for parking, representing the frontage. Member Hopkins said it was

27.2 feet. Mr. Meras said he and Ann Winkelman were generally in favor of the project but wanted to be sure they understood the frontage. Ms. Winkelman said the survey was not marked on the ground and needed to be.

Chairman Packish noted that there was nobody present to speak in opposition to the project. He then asked to begin the questions. He confirmed sidelines and setbacks in R1 as 20 feet. He noted the plan showed 14 foot sidelines and a 15 foot setback. He said that was the first concern and could be a ZBA issue. He said the next issue was frontage, where R1 required 80 feet and the applicant showed 27 feet. The Chairman said unless there was something he wasn't aware of, the Board did not have the ability to grant relief from those two issues through the special permit process. He said his basic understanding was that the ZBA was the place to address that.

Mr. Anderson confirmed this. He said he had included communication with Town Counsel along with the special permit criteria in the packet. He summarized that Town Counsel felt the board did not have the authority in his reading to grant a permit showing reduced frontage, the subject of his conversation. He said you could ask for a variance through the ZBA, though they had strict criteria. He said the Board could continue the hearing while the applicant went to the ZBA, could write something conditionally or deny it outright. Chairman Packish asked if other Members had questions. Member Fehl said nothing specific and he'd defer to Town Counsel. Member Albert had no questions.

Ms. Urbany-Joyce said that when she looked at 4.3.2, conditions, she noted that the Board could permit reduced sidelines and rear setback. Chairman Packish agreed, saying the rear wasn't an issue at 31 feet, the two 14 foot sidelines could be allowed, but the 15 foot front setback could not be permitted. Mr. Orcutt stated that moving back the building would split the septic. Chairman Packish said the ZBA might be able provide a variance for that, but the by-law condition stated that the applicant shall meet the front setback. Chairman Packish said that while he could not speak for the Board, it seemed to him that they needed to go to the ZBA to address frontage so they should consider exploring a setback variance as well there. He said he had never been comfortable conditioning a special permit on another board's future decision, and that usually the decisions come back complete and then the Planning Board made their special permit decision.

Mr. Barbadoro asked if the applicant could withdraw. Mr. Anderson explained that before notification of the hearing an applicant could withdraw on their own but after notice the Board had to decide to allow it.

Ms. Urbany-Joyce asked if there was a frontage requirement under the special permit for affordable housing. Chairman Packish said yes, there was a frontage requirement in the zoning district that would apply. He said applicants had been very creative in R3 on a few affordable housing applications to meet the even larger frontage requirements there, including creating a piece of a road. Frontage was not something the Planning Board could grant relief from, though the ZBA might be able to do so. He said they had the option to withdraw and come back. Ms. Urbany-Joyce asked if they would have to pay the fee twice. Mr. Anderson said that by law the advertising had to be paid for by the applicant, but if the hearing were continued it would not need to be advertised again. He said he thought the fee charged for the application was up to the Board. He noted that the Town had spent money with Town Counsel to get the opinion on frontage. Mr. Anderson said when he and Mr. Barbadoro had spoken with Ms. Urbany-Joyce he had advised speaking to an attorney as it was a tricky one. He further clarified that if it were continued, he would simply post it on the upcoming agenda for July 14, where the Board could vote to allow withdrawal if it were requested.

Chairman Packish asked when the ZBA next met. Mr. Anderson said he didn't have the date but knew their July schedule was filling up. He also advised against continuing too far out without a signed extension agreement because of the 65 and 90 day deadlines for the special permit.

Chairman Packish said personally he felt if they withdrew the Board should refund the application fee and if they reapplied they would pay the same fee and pay for advertising again. Mr. Anderson explained the advertising was more expensive than Chairman Packish thought, as it ran for two weeks, and could be over \$100 a week. Chairman Packish said he felt it should be continued to July 14, allowing the applicant to consider options. He said an agreement could be prepared for the 14th if it turned out to be needed. This would cost the applicant nothing. He closed the hearing and asked for deliberation.

Member Fehl agreed that continuing to July 14 as proposed was the best for all parties with the least impact. Member Hopkins made the motion to continue to July 14 at 6 p.m. at Town Hall Lower Level Meeting Room. Member Albert seconded. The vote was 4-0 to continue.

T-Mobile site plan review

Michael Dolan of Brown Rudnick introduced himself as the attorney representing the applicant. Chairman Packish read the agenda notice aloud. Member Hopkins asked that Mr. Dolan highlight what was incremental and what was being replaced during his presentation. Mr. Dolan agreed to do so and described the project as adding to an existing facility. T-Mobile owned three antennas atop a 40 foot lattice tower at the site. In order to meet consumer demand for speed and data the company was upgrading facilities across the country with LTE technology. That meant swapping out old antennas and adding new ones. They were replacing the three current antennas and intended to add three more in the same location. He felt the average person walking by would be unlikely to notice a change. In addition they were adding small amplifiers behind the antennas, some additional cables to the ground, and a 5x9 pad with two cabinets.

Member Hopkins asked where the cabinets were located relative to the home nearby and the ball fields. The Board and applicant reviewed the plans and were satisfied that the location was away from the house in the least crowded area of the site.

Chairman Packish said his only real concern was the location of the ground equipment and the potential need for screening. He explained this was a heavily year 'round neighborhood with a lot of traffic. If the equipment was visible from the road, then they would have to ask where the tipping point was, when enough was enough, and screening would be needed. Mr. Dolan said they would agree to put vegetation in to screen the ground equipment. Chairman Packish said he didn't want the applicant to have to put in vegetation that was unnecessary. Mr. Dolan said he would be fine with a condition where the Building Inspector or Planning Board Members reviewed the screening.

Member Hopkins said he had been concerned about emergency services and any impact on them. He noted Mr. Anderson had reached out to Fire, Sherriff, and Police, and he was satisfied now that there was not conflict. Chairman Packish explained that there were concerns about radio communications with the new Fire Station, and they had been denied access to the tower by the Water District. He said it wasn't an issue for the applicant but that he had brought it to the Selectmen and the Water District. The next time contracts went out emergency services should be considered.

Chairman Packish said in reviewing the site plan review criteria, the only issue he saw was screening, and he had no issues with Mr. Barbadoro determining that. Mr. Barbadoro said he could determine what was visible from the road, but asked for a definition of the screening. Chairman Packish said he felt any portion visible from Alpine Ave should be screened by evergreens. Member Hopkins agreed saying he didn't want to see a fence. Member Fehl agreed as well. Member Fehl asked if there was any lighting involved. Chairman Packish said no.

Member Fehl said he was surprised the water company was not there. Member Hopkins was as well. Chairman Packish said the water company leased this space to Bardwell so it was left up to him. Member Fehl said he was surprised Bardwell wasn't in attendance. Mr. Dolan said he was not involved in the leasing of this facility but some of T-Mobile's leases provided for additional antenna, and this could be at no additional cost. He said they already had approval from the lease holder. Chairman Packish said they had heard very clearly from Bardwell by letter that the Fire Station would not be able to put their antenna up, but this was a different discussion from the site plan review. Chairman Packish said his discussion early in the day with the Chair of the Selectmen was simple. There was a certain amount of revenue derived from the leasing, but the Water District was very separate per Town Counsel, its decisions impacted the Town, and the discussion hadn't been had in enough depth recently.

Member Fehl asked if there was a possibility this could interfere with emergency communications. Mr. Dolan said no, the FCC license required certain bandwidth and frequency and prohibited interference. They could lose their license if that were not corrected immediately. Member Hopkins said that had been his concern and was why he had Mr. Anderson contact the various emergency services providers.

Member Fehl made a motion to approve the site plan with the condition of evergreen screening for equipment visible from Alpine. The Board voted 3-0 to approve the site plan with that condition.

Klein Form F and subdivision plan endorsement

Susan Klein presented her signed and notarized Form F, which Mr. Anderson copied for the Board's records. She was advised to record this Form F with the registry of deeds. She then presented the mylar of her previously approved subdivision into 2 lots. The board signed that plan.

Community Empowerment Act

Member Hopkins said this was a very important situation that required proactive Town involvement. He said he wanted to do more research on it before forming an opinion but thought the Board should be aware of it. This was fundamentally about setting goals for renewables, and it was based out of Tisbury. Member Fehl said he needed to learn more. Chairman Packish said after looking through it, he felt that the endorsement of this should come from the Selectmen. He felt the Planning Board should have a voice in speaking to the Selectmen, and Richard Toole as the "one man energy council" should have a voice. He said if the Town didn't want this, he didn't think there should be a statement from the Planning Board that could be misinterpreted. He asked Mr. Anderson to put this on the next agenda, and to notify the Board of Selectmen and Richard Toole that it would be discussed.

Minutes review and approval: 3/3/16, 3/10/16, AIPB 3/23/16(no PB quorum, no PB vote), 3/24/16, 6/9/16

Mr. Anderson said only 3/3 and 6/9 were ready, as 3/23 minutes were complete but were submitted to the AIPB. Chairman Packish said he had no issues, nor did Member Fehl, who made a motion to accept the 3/3 and 6/9 minutes. Member Hopkins seconded. The vote was 3-0 to accept the minutes.

Master Plan update

Chairman Packish said this was discussed at the AIPB with all three Board Members there. Since then, Bill Veno of the MVC had sent an e-mail with course materials from the CPTC which would be helpful.

Member Hopkins said he researched different states and their approach to master planning. There is no penalty in terms of state funding here, where this can disqualify you elsewhere. He thought people on Island didn't see the negative implications of not having a new plan. Unless there were private funding sources available, the response in many towns was "so what." Member Fehl said that left the door wide open to things the vast majority of the citizens didn't want.

Chairman Packish said he wasn't a fan of a policy plan but rather an action plan. He said Ms. Barmakian was a fan of a policy plan. He felt a strong master plan would require enough engagement to get a commitment to an action plan.

Member Fehl said the Island Plan was accepted without a lot of attention but now you could refer to it and make something happen. Chairman Packish said even the people who worked on the Island Plan now roll their eyes at it. Mr. Barbadoro said he read the plan and said what concerned him was that it was about conservation but not growth. Chairman Packish agreed. Mr. Anderson said he found it to be contradictory in goals in many places. Chairman Packish said the maps caused problems and were not accurate enough to use.

Chairman Packish summarized that the Board had gathered a lot of documents, and needed to keep moving through the process and make some determinations. He said more had happened with the master plan in 60 days than in the last three years he had been on the Board. They had never gathered all the documents, brought members of other boards to the table, brought in the MVC. Member Fehl said he had reviewed all 54 slides from the CPTC training Mr. Veno had e-mailed to the Board. He encouraged the other members to review them as they were very useful.

Summer Meeting Start Time discussion

All three Board Members agreed that the 6 p.m. start time should be continued, although Chairman Packish said any of the longer three hour meetings could be a challenge. They would make an effort to avoid meetings running until 9 p.m.

Discussion on scheduling of joint Selectmen meeting to appoint new Planning Board

Member

Chairman Packish announced this was on the agenda for the upcoming Selectmen's meeting. He asked Mr. Anderson to ensure all Board members were available for the Tuesday meeting at 3:30. Member Hopkins agreed to return from a trip to D.C. early to attend. He said he wanted to express concern that this wasn't happening at a Planning Board meeting as it was a joint meeting for a Planning Board seat. It sent the wrong message that the Board was independent and distinct from the Selectmen. However, he did not want to keep pushing the date out, so would attend if others could. Chairman Packish agreed that it should have been resolved weeks earlier and personalities were getting in the way. Mr. Anderson was instructed to post the meeting the next day before the deadline if he had confirmed with Members Albert and Fehl. If any member could not make it, it would be tentatively held on the 14th of July.

Board Member Updates

Member Hopkins read aloud an e-mail from Robert Whritenour updating a new shared use bike path along Beach Road to the Eastville Road and County Road intersection. He had received the e-mail as a member of the Bike Committee. He said this was a significant alteration of the road from the drawbridge into town that he felt the Planning Board should know about. Although it was several years off it was a lot of money. Member Fehl asked to see the TIP, and member Hopkins agreed to send it to him. Chairman Packish said he had attended the meetings and it was really significant, approximately 14 feet wide, and the people weren't aware. Member Hopkins said it was important to be proactive in getting public input, given people with lawns that went to the street actually had a right of way through the lawn. Chairman Packish said the buffer spaces needed for these paths in case somebody fell from a bike exacerbated the situation. Member Hopkins said this was a classic way the Town planned, with subcommittees, and while they weren't hiding anything they weren't going out of their way to get input.

Member Fehl said he had a big discussion with someone from out of town about bike paths in urban areas vs. ours locally. These were not for commuting but for recreation. Member Hopkins agreed these were not bike paths but shared use paths, which was an important distinction.

Member Hopkins notified the Board of a retraction in the newspaper withdrawing criticism of the Oak Bluffs Planning Board over the artificial turf debate. Chairman Packish said he would speak to that in his update.

Member Hopkins asked if the Board wanted to take action over the Community Services plan for a new campus and for teacher housing on High School property. Member Hopkins said he had contacted Island Elderly Housing, which was an abutter, and they said they had plans to expand roughly 40 units as well but had not been part of that discussion. Chairman Packish asked Mr. Anderson to place the topic on the next agenda and request that a member of Community Services attend the next meeting. Member Hopkins asked Mr. Anderson to also keep the Board apprised of the School Committee meeting on the subject scheduled for June 27.

Chairman Packish said he was the representative to Roads and Byways. Their recent meeting was technical, including Niantic Park timelines, but nothing that needed to come back to the Board. He also attended the last Affordable Housing meeting where the proposed 32 unit project was discussed, and AIPB where Jackie Davis, President of the Association of Tower Ridge, invited him to attend their neighborhood meeting on Sunday. He would be clear that he was not speaking on behalf of the Planning Board. He said he was going to stress that he was impressed by their level of engagement and hoped they would continue to be part of the discussion. He also said he would ask them to look beyond innuendo and persuasion from a certain member of the Board of Selectmen to form an opinion based on fact. He said Mr. Barbadoro would be attending as well.

Chairman Packish said that a group brought information that was not factual to the Chilmark Board of Selectmen requesting a referral of the High School turf project to the MVC. He felt it was incredibly disheartening that the night before Chilmark had been represented at the AIPB including Selectmen where they had an opportunity to ask questions on the subject. The information they were presented

with was that the project was fully permitted, had been rubber stamped and was ready to break ground tomorrow, that there had been no public process. Janet Weidner of the Chilmark Planning Board said she was amazed that such a large project had not been reviewed by the Oak Bluffs Planning Board. Chairman Packish said he was upset by this as the Board was talking to the applicant and would review lighting and traffic, two of her concerns, though he wished she would have just said she didn't like turf. There was an e-mail exchange across the towns where he said the disparaging remarks did not sit well with him, they were not factual, and that there was going to be a process. He said in the e-mail that next time, instead of planning in Oak Bluffs from another town, you take the five minutes to find out the status within Oak Bluffs first. He explained the process of site plan review and requested a formal retraction. The retraction had since appeared in the paper, with Ms. Weidner saying she didn't mean to criticize the Oak Bluffs Planning Board but rather was concerned that if it was pursued in a piecemeal fashion it might never come up for review. Chairman Packish said he had spoken with friends on the Chilmark Board of Selectmen who were now disappointed in their own decision, wishing they had conditioned it on all six towns agreeing to refer. He said he had spoken with Adam Turner about the site plan review process and if the MVC wanted to take up turf vs. grass that was fine but lighting, grading, drainage, and clearing was a matter for the Planning Board. Member Fehl said he agreed and had no interest in discussing turf vs. grass, that it was not a matter for the Planning Board. Mr. Turner agreed during the conversation that morning.

Mr. Barbadoro said they needed a wiring permit for lights, which was a municipal permit. That means it has to get referred to the MVC as a previous DRI. He wanted the whole project in front of the MVC, as bleachers needed a building permit. He wanted it to come to the Planning Board as a site plan review, but statute requires that it go to the MVC. Chairman Packish said it was unfortunate that a body outside of town didn't bother to call Mr. Barbadoro to ask his plans. Mr. Anderson asked how Chilmark could refer a project that had no application. Chairman Packish said that they now know they have to go to the MVC should they decide to go forward with the project. Chairman Packish promised the Board of Selectmen in Chilmark to not plan anything in the Town of Chilmark without calling first and asked they do the same for Oak Bluffs.

Bill Vrooman said the All Island Finance Committee had their first meeting and discussed unfunded replacement costs of the turf. He said there were no funds available in the plan. Chairman Packish said he heard this was a good meeting and hoped they would keep doing it.

Chairman Packish said Bob Whritenour was eager to wrap up the Fire Station and was aware of Board concerns. It appeared to be down to the sight line down the road through the parking lot to the home behind. The lighting in the bays was on motion and timers. The bike rack was on order. It appeared to be easily addressable. Chairman Packish was clear with Chief Rose that the Board didn't want to harm the project, just address the last concerns. Member Hopkins said it had not been a moving target. The project leads were trying to negotiate it down. Chairman Packish agreed saying they basically gave a rubber stamp to the project. He has made it clear that the Board would not be doing that with Town Hall. If they design an entire project and it gets to the Planning Board and they don't like where a building is, the Board will move it. That makes it beneficial to hold portions of the town hall outreach through the Planning Board, since there will be no rubber stamp at the end. Member Hopkins agreed

saying he had been offended at how they were backed into a corner with the fire house, whereby if they didn't approve it they were obstructionists. Chairman Packish agreed saying now that they were in front of the process they were accused of being obstructionists again. He said one Selectman was convinced they were trying to block the project. Member Fehl said that couldn't be further from the truth. Member Hopkins said when he thinks of the resident who lives behind the Fire Station and how he is trying to get along with the community while they haven't even put up a shade in the bays, it sickened him. Member Fehl agreed the lights, even driving up Wing Road were offensive. Chairman Packish agreed saying from his office at three or four in the morning he'd see all the lights on, doors open, which couldn't be good for the electric bill either. Member Fehl asked if the neighbor had complained. Member Hopkins said no he was trying to get along; he had kids and a local business and needed to live in the community. Chairman Packish said the neighbor was more concerned about repercussions from complaining.

The meeting was adjourned at 7:30 p.m.

Documents used in this meeting:

`Agenda

Sign-In Sheet

Community Empowerment Act e-mail and materials dated 6/14/16

T-Mobile Site Plan Review Application and Plans

3/3 and 6/9 draft minutes

Susan Klein Form F

