

Oak Bluffs Planning Board
Meeting Minutes

September 15, 2016 at 4:30 p.m. in the Oak Bluffs Town Hall Lower Level Meeting Room

Members in attendance: Brian Packish (Chairman), Robert Fehl (Vice Chairman), Jeremiah McCarthy, Erik Albert, Ewell Hopkins

Members absent: none

Staff in attendance: MacGregor Anderson (Clerical Assistant)

Chairman Brian Packish called the meeting to order at 4:30 p.m.

4:30 HABITAT FOR HUMANITY OF MARTHA'S VINEYARD SPECIAL PERMIT APPLICATION

In accordance with the provisions of Chapter 40A, Section 11, M.G.L., the Planning Board will hold a public hearing on Thursday September 15, 2016 at 4:30 p.m. in the Town Hall Lower Level Meeting Room, 56 School Street, Oak Bluffs on the application of Habitat for Humanity of Martha's Vineyard of 0 Towanticut Ave., Oak Bluffs, map 7-180.1, zoned R1, for a special permit under Section 4.3 of the Oak Bluffs Zoning By-Laws, Special Permit for Affordable Housing, to build an 850 square foot two bedroom, one bath, affordable single family house.

Chairman Packish opened the hearing by reading the notice aloud. Member Hopkins recused himself as he was Chairman of Habitat for Humanity. Chairman Packish explained this was a new hearing and invited the applicant to present their plans.

Greg Orcutt, vice president of Habitat for Humanity of Martha's Vineyard, introduced executive director Margo Joyce. He explained that he was applying for a single family single story affordable home, having built 12 such homes on the Island in the past, including in Oak Bluffs. He detailed their appearance before the ZBA and the granting of variances for front setbacks and frontage. Ms. Joyce confirmed the variances.

Chairman Packish asked Mr. Anderson if there were any letters from other boards or the public. There were none. He asked if anybody wished to speak in favor, opposition or had any questions. Nobody spoke. He asked the Board if they had questions.

Member Fehl asked if there was any discussion with the neighbors regarding impact. Mr. Orcutt said they had met neighbors at a previous Planning Board hearing. They had not been opposed but were curious as to the plans. Mr. Anderson said a couple neighbors had reviewed the plans in his office but with no apparent position on the project.

Chairman Packish noted that the footprint of the home at 15% of lot coverage was roughly half what was allowed by zoning by-laws. This seemed modest and even generous of the applicant given the lot size. He noted the ZBA decision in the packets was 4-0 in favor. He closed the public hearing. Member Fehl made a motion to approve the special permit as the adverse effects would not outweigh the benefits to the community or neighborhood. Member Albert seconded. The Board voted 4-0 to

approve the special permit. The Board agreed to have Member Fehl sign the decision on behalf of the Board if Chairman Packish was unavailable when it was ready.

Chairman Packish then turned the meeting over to Member Fehl, who acted as Chairman going forward. Mr. Packish moved to the audience.

Site Plan Review: Brian Packish 113 Dukes County Ave, map 11-210, conversion of existing building to apartments

Chairman Fehl asked Mr. Anderson to summarize the application. Mr. Anderson explained that Mr. Packish was converting an existing building to apartments, and the Building Inspector determined this was a change in use which would require a site plan review. The use was as of right in the B1. He further explained that some considered a change in use a move from commercial to residential, and that had been discussed with the Building Inspector, but he determined a move in the use table of Appendix A was a change of use.

Member Albert disclosed that Mr. Packish had done work for him in the past, something he had reviewed with the AG, and it was no conflict.

Mr. Packish then presented his project. The original building was built in 1909, and he'd been given approval for previous partial demolition of the building by the Oak Bluff authorities who regulated buildings over 100 years of age. He then discussed the conversion by-law 7.2 with Mark Barbadoro, which the Board did not have purview over. Mr. Packish said one condition of that by-law required approval from the Board of Health, but as he was on wastewater that was not relevant.

Mr. Packish then confirmed that the project was in front of the Planning Board because of the change of use trigger of the site plan review by-law. He said this had been applied in the past as residential vs commercial. For example, a retail establishment becoming a restaurant was not considered a change of use by the Selectmen. However, arguments could be made for the current Building Inspector's perspective that a move in the use table was a change in use. Given his role in the community, he felt it was important to be on the safe side even if it was a bit of overkill. Mr. Packish also noted he was a minor site plan review under 10.7

Mr. Packish showed the second dwelling on one lot that the Board had previously approved earlier in the year. They had discussed parking then and he felt that was important here. There were no changes to roofline, storm water runoff, and lighting other than on front of doors. Utilities were not an issue as the focus was generally gas tanks and there were none for this property. The dumpster on the property has been there ten years and was emptied weekly by Bruno's.

Mr. Packish said one focus in the previous discussion on this property was frontage. He only had 50 feet, 30 of which were affected by the building, then a sewer pump and utility pole blocked the rest. There was now a full sidewalk with no curb cut. There was no access from the street. However, he had removed three sections from what had been an eight bedroom home to make it four, reducing the

intensity of the lot. There had never been parking on the property historically. There were three spots now on the property but those were only accessible from the neighboring property which he happened to own. There were no easements for this. Mr. Packish presented another earlier plot plan to demonstrate the portions of the building he had demolished which had included four bedrooms and a bathroom along with another section. He said that while he had reduced intensity from eight to four bedrooms he was creating a duplex, acknowledging this increased intensity with a 300 square foot studio.

Member Hopkins asked for details on a fence line and parking area, which the applicant provided. Mr. Packish said he had 12 parking spaces next door at 111 Dukes County. He had nine bedrooms there. Including the new project and both lots, he had 1.5 spots per bedroom. Ultimately he planned to combine the two lots. An easement through the lots would be a challenge as they were owned by two different legal entities and mortgaged with two different banks. He felt the question could be summarized as “was the reduction from eight bedrooms to four enough to offset moving from two units to three” in relation to parking.

Chairman Fehl re-familiarized himself with the parking mitigation by-law using documents from the packet and input from the applicant. Mr. Packish explained that if you were unable to meet defined parking regulations in B1, you could go in for mitigation. It was then posted as a public hearing and the Board determined the number of spaces needed. You paid \$100 a year for each space. He noted there was no set space requirement for residential use. The by-law left those situations up to the discretion of the Board.

Chairman Fehl asked if Mr. Packish could lease space from the next-door lot as a separate entity. He said that was always a possibility. However, he had three spots now they just weren't accessible from the street. He could offer to lease spaces, but that would not be a permanent solution, and access was needed more than spaces. It would have to be an easement and that would prevent future development of that lot. He further explained parking mitigation was by right, it just required determining the number of spots, and since there were no regulations for residential, it would be at the discretion of the Board.

Member Hopkins asked to be reminded of the Board's decision on the last residential applicant in the neighborhood, just down the street from Allison Shaw's gallery. Mr. Packish said the decision had been to require none as it was residential. The argument was that there was no residential requirement, so it would require picking an arbitrary number, and also they were being allowed stacked parking spaces which don't even count as real spaces. This had disappointed the building inspector during that review. Member Hopkins explained that he wanted to be sure they followed precedent in the neighborhood.

Mr. Packish summarized that it was rare to have a project without an expansion of footprint and this had shown a reduction. He felt the former four bedrooms would have come with more cars than the 300 square foot studio would generate.

Member Albert said he viewed the bedroom count reduction from eight to four as a reduction in intensity. Member McCarthy said he appreciated the applicant's candor that the current right of access to parking on this lot might not continue. This meant the decision making process for the Board came strictly to determining if this was an increase in intensity of use that would warrant parking mitigation under the by-law. He noted that this was a studio apartment within walking distance of Town and he had taken away bedrooms. Member Hopkins said his concern with precedent had been satisfied as they had not compelled the former applicant to mitigate. He further felt that parking mitigation was not effective at this time.

Mr. Packish announced that the site plan review procedures required distribution of plans to other departments. He'd done this ahead of the process with his building permit. The Fire Department had reviewed the plans. The Police were waiting on Verizon to approve the address. He had sign offs from ConCom, the Tax Collector, the Assessor, and everybody including Wastewater. In essence the criteria of these plans being seen by other departments were met, and he had physical signatures on the permit. He said he explained this to avoid somebody thinking he'd circumvented that portion of the process.

Chairman Fehl said the Board appeared to have agreed this was a decrease in intensity. Member Hopkins reiterated his big concern was parking and he thought Member McCarthy's observation that this was within walking distance of Town was useful. With no by-law requirement to include parking in residential he was satisfied.

Member Hopkins made a motion to approve the site plan as presented. Member McCarthy seconded. The Board voted 4-0 to approve the site plan as presented. Chairman Fehl would sign the decision on behalf of the Board.

Minutes review and approval: 4/28/16, 8/11/16, 8/23/16, 8/25/16

Chairman Fehl said he had missed a meeting and felt that the minutes helped him catch up very quickly. He thanked Mr. Anderson for his approach to writing them. There were no comments on the minutes. Member Packish made motions to approve 4/28, 8/11, and 8/23 and Erik Albert seconded them. Member McCarthy abstained from all three votes. The votes were 4-0 to approve in each case. Chairman Packish made a motion to approve the 8/25 minutes and Erik Albert seconded. The vote was 5-0 to approve the 8/25 minutes.

Master Plan update

Member Packish said it had become obvious that the master plan would be dependent on funding, and would therefore need to be on a warrant article or included in the budget in some way on the April Town Meeting if that was the goal. He had done some legwork on this as he had been meeting with so many people as Chairman, and there was so much going on in Oak Bluffs. There seemed to be agreement from various leaders that the master plan was outdated and a new one was needed. In speaking with FinCom, Concom, Selectmen and the Town Administrator, it seemed they should create a small subcommittee to form consensus and after three meetings report back to the Planning Board. The

primary goal would be to reach a certain amount of agreement with the people responsible for funding the Town. It was clear based on the Planning Board budget that planning was not a financial priority in the Town. He felt that in order to find funding, they would need to reach consensus early rather than trying to find it on the Town Meeting floor.

Chairman Packish proposed two members of the Planning Board, the chair of FinCom, a member of the Board of Selectmen, and the Town Administrator. In addition, he felt Renee Balter, who had been a strong advocate of a new master plan and had participated in the discussion since the last master plan, should be included. She could be considered a representative of the Oak Bluffs Association. The discussion would focus on funding of the plan, not the specifics.

Member Hopkins asked how that would coincide with Member McCarthy's responsibilities. Member Packish said he would personally like to be on the committee, and he would propose that Member McCarthy be the second member. Member Hopkins said there were two things to consider. First, they had to find funding, and he accepted that this committee could aid in that. Second, it was important to remember the purpose and goal of the master plan as he and the Board had voiced in the past. This should not be a negotiation with other Boards about what the master plan should be. He did not want anybody off the Board defining the master plan. Input was fine, but at the end of the day the Board had to own it. He was very comfortable under these conditions.

Member Packish said breaking it out was simple. He didn't want to split hairs on whether it would be funded based on its being an action plan or policy plan or did it represent something the committee members personally supported. Member Albert agreed that they would get bogged down quickly if it did go that direction. Member Packish said the questions were "do we need a master plan" and if so "how do we want to fund it" and "how do we provide a unified front to the tax payer saying they believed in this request for funding". The only way to find success would be to engage these people.

Member Packish said if they got funding, the group would expand; Concom, Affordable Housing, Capital Improvements, FinCom...Member Albert added Parks Department, Highway Department...everybody.

Member Packish said the good news was that based on his time spent at the MVC, there were a lot of recent documents available that just needed to go through the public outreach process to ensure they were valid and up to date. Open Space and Streetscape were just accepted last year. The HPP would be accepted this winter. There was still a lot to talk about, but a lot of the work had been done. This made him believe this was not a \$100k=\$150k project but more likely \$50k to \$75k. He acknowledged the Town Administrator might feel otherwise based on his experience, but in light conversations with him, he seemed to think those numbers were on target. Member Packish said he didn't call any expenditure of this size reasonable but this seemed like money well spent with a very solid return.

Member Packish said he wanted a plan that had the support of the community so that once approved, leaders had to honor it rather than creating strategic visioning processes to circumvent it. Chairman Fehl suggested providing guidance from the Planning Board to the Committee to keep them directed

towards the objective. Member Packish said limiting the scope to financing would do that. Chairman Fehl agreed saying they should say these are the questions we need answered now, and then we will move on. Member Packish said this was strictly dollars and sense to get a budget. From there you had an RFP, there would be proposals and pitches. The Planning Board would be hiring those consultants. They may create a subcommittee similar to Streetscape that advises back to the Planning Board but this was very specific. This was a team of people to help put together a warrant article to fund the master plan.

Member Hopkins hoped Member McCarthy would get out in front of this as soon as possible. He thought it would demonstrate the transparency of the Board. By putting the newest member in this role it demonstrated there was no sacred agenda. Member McCarthy said he thought this was great. He supported bringing in others for outside the Board and felt this was the best approach to funding.

Member Packish reiterated that there were three groups that determined spending. The Town Administrator created the budget, and he ran it by the Selectmen and FinCom. It was easy enough for the Board to craft a warrant article, but this was the proper process. If it turned out they are not willing to support a warrant article he would like to know that before Town Meeting.

Member Packish said he had agreement from Ms. Balter, Mr. Whritenour, Jason Balboni, and Greg Coogan. He said Gail Barmakian had expressed an interest but he hadn't talked to her on this yet. There was support now from the Planning Board. Member Packish made a motion to create a subcommittee to work specifically on the financing of a master plan. It would consist of the himself as Chairman of the Planning Board, Jeremiah McCarthy, Jason Balboni as chair of FinCom, Gail Barmakian or Greg Coogan or a selectmen on their choosing, Renee Balter in her OBA capacity, and Robert Whritenour. If Ms. Balter chose not to participate he would like to ask Terry Appenzeller. He had been reaching out to her for several months but had been unsuccessful at contacting her. Member Hopkins seconded. Member Albert supported the plan. Member Fehl asked if he wanted to include the Capital Program Committee. Member Packish amended his motion to include Capital Improvement Committee chair Bill McGrath if he was interested. Member Hopkins agreed to the amendment and seconded. The vote was 5-0 in favor of the creation of the Committee.

Member Packish asked Mr. Anderson to draft a letter for his review that would be sent to the Committee participants. He asked it be sent out before the meeting on the 22nd. Chairman Fehl asked Member Packish if he'd chair the meeting. He would although he might co-chair it with Member McCarthy. Member Hopkins said he felt it was important for members other than the Chair to be in front of the public during outreach whenever possible. Member Packish said he agreed completely but he was staying in front here as it was an assembly of chairs of boards.

Town Hall

Member Packish noted they had expected the building condition reports on September 1st. He said the building inspector was extremely busy so it was understandable. The plan had been to review the reports with Walter Vail, Gail Barmakian, Member Fehl and Mark Barbadoro ahead of the release to the

public to ensure they were in a usable form. Because of the delay, the September 15 joint meeting with the Selectmen to discuss the reports with the public had been moved to September 22. The four hoped to meet Wednesday the 21st to review them.

Member Packish said he had been told the report would be about four pages, but he'd seen the Town Hall portion and it was four pages on its own. He had not yet seen the rest of the draft but his concern was that the other buildings would not be reviewed in the same detail leading the public to consider it disingenuous. The goal was to present this as completely as possible so people could understand it and make a decision about next steps so they could all move forward. He noted that Mr. Whritenour had sent the reports by e-mail the previous afternoon. Member Packish found the delay disheartening, having been assured in August they would be on track for September 1st. He worried it could appear the Board was trying to hold things up and that was as far from the truth as possible.

Board Member Updates

Member Hopkins read an e-mail from David Kolb addressed to the Neighborhood Organization for Reasonable Affordable Housing entitled Affordable Housing – New Information... Member Hopkins said he wrote back saying that as the former president of the Tower Ridge Association and as elected member of the Planning Board he did not appreciate the tone of the letter. He felt it was divisive while the Board was trying to work collaboratively. Member Albert asked if Member Hopkins knew Mr. Kolb. He said no, that he didn't live in Tower Ridge but one neighborhood over, although he was working with Tower Ridge on this issue. Member Hopkins said they'd had the Tower Ridge annual meeting two weeks earlier and every resident was appreciative of Member Hopkins' update. They were very upset emotionally, and had been stirred up, as the email had been the only type of information they had received on the subject. Member Hopkins explained to them that the Affordable Housing Committee was an appointed advisory board with no authority to buy even a pencil. They should focus their attention on what the Selectmen and Planning Board were doing, not what the Affordable Housing Committee was saying. He said they should have more concerns regarding Lagoon Ridge which had passed the MVC and would likely occur sooner. They could turn their attention to where it was most productive and attend the Housing Production Plan meetings which were designed for public input. The private meetings had just been getting old people literally sick with worry that they were going to have to fight Town Hall. He explained Town Hall was them. He thought there was a lot of toxic language involved in the affordable housing debate.

Chairman Fehl thanked Member Hopkins for being on top of that situation. Member McCarthy said he'd be attending the Saturday master planning class sponsored by the MVC along with Chairman Fehl.

Chairman Fehl said he was just starting meetings again with the Capital Program Committee and the Community Preservation Committee. The Community Preservation applications will be due first or second week of October, with deliberations after that. He expected to play a larger and more proactive role this year, as a few members had dominated decisions in the past. Member Packish was pleased to hear this.

Member Packish reiterated that this was an update on his activities and was not a place to deliberate. He met with the Chair of the Water Commissioners and they determined the Chair of the Planning Board should represent the Planning Board at the Water District meeting the previous week. Gail Barmakian attended as well as Member Hopkins. They delivered the message that the point wasn't did the Town need a new well, but rather how much would a new well cost the community. They discussed Zone II and devaluation of tax base to infrastructure costs. From that discussion, they agreed to have a joint Selectment, Planning Board, Water District meeting. He had since heard from a number of Commissioners that it was a productive meeting with a good tone.

Member Packish then moved on to Featherstone. The project was at the MVC and the hope was it would be on the Planning Board agenda for October 13. Among the issues was an archeological study. At the DCPC Site Plan Committee meeting Member Packish had pointed out that there was a massive Indian artifact presence on the property. The other members dismissed the notion but it was agreed that the applicant would write to the State to get a negative determination. Instead, the response from the State said it was important that they do a study as the site was listed as one of the most sensitive in Oak Bluffs.

Member Packish said he had been working with the MVC on the Water District's solar array. He said the project had shrunk by two thirds, but despite that there have been a number of ecological agencies who have shown extreme concern over negative impacts. There was large concern over the fact that they would be only receiving 40% of the electricity generated while they were placing this over their drinking water supply. This project would eventually be making its way to the Planning Board as well due to land clearing.

Member Packish then described the Phillips Hardware project, where the old building would be demolished and replaced by a new retail building with eventually eight apartments above. He had accompanied the MVC site visit and expected the project to come to the Board for site plan review.

Member Packish said he'd been working closely with Adam Turner at the MVC on the artificial turf proposal, which had been taken off the table for the time being. The applicants were going to do more due diligence and then come back with a new plan. The applicant had agreed this would bypass the LUPC and go to the full committee as a DRI.

Member Packish was contacted by Tom Zinno who represented himself as the Planning Board's representative to the Land Bank. He had now been moved to the position of Chair of the Oak Bluffs Land Bank Committee. He had called to say he had big concerns about the new well and zone II. Member Packish told him the Board had been working on this for two years and there was a formal letter on the topic. He said it was important Mr. Zinno attend the October 13 meeting to discuss the Land Bank's role in a new well, and also to discuss what it means to be the Planning Board rep to the Land Bank. Evidentially, he'd held that role for 15 years and he'd been to one Planning Board meeting. He'd need to be reappointed if that was the Board's choice and they'd need to consider the parameters he works within. Mr. Anderson added that the Assessors had recently asked for clarification on a Town

advisory committee that once guided the Land Bank but appeared to have dissolved over time. The Town Administrator was working on reviving it. Member Packish asked Mr. Anderson to suggest Mr. Whritenour contact Mr. Zinno to discuss this.

Member Packish said Mr. Zinno had asked if the Board would appoint him to the Lagoon Pond committee as well. Member Fehl was currently the representative and he said he wanted to remain in place while the debate in Vineyard Haven continued. It appeared stronger regulations were around the corner, although there had been a move in the opposite direction by some as well. This would be a topic along with the MVC nitrogen regs at the October 13 meeting.

Member Packish said he had heard that there had been a CPC proposal to fund a beach management plan at ConCom. He said he had deep concerns about that. Further, ConCom had asked that the Planning Board attend a meeting where they would discuss Streetscape. He responded as Chair that the ConCom agent had appeared at Streetscape meetings and made it very clear what she'd like to see in the flood plain. They had reflected that in the discussions. The Chair of ConCom had been interviewed in phase one and that was included in the plan. He said he'd been accused of refusing to work with others but these documents proved otherwise. However, the current meeting schedule had them as a group or individually attending approximately 40 meetings through the end of the year. He felt there was a lot of duplication in the conversation they wanted to have. He had invited them many times and they had not attended. Further, this was an elected Board and they were appointed. Planning would take place at the Planning Board.

Member Packish announced that Craig Miller, the head of the Streetscape consultant firm, had visited the Island over the weekend where they had a chance to see downtown in action. This seemed to help with his understanding of the specific needs and how things were used. Mr. Anderson had sent an e-mail to committee members inviting them to an October 3 meeting, the last before a public forum. Information gathered there would come back to the committee. They would hold one more public forum and after that the consultants would prepare a draft document for the committee to present to the Planning Board. If the document was ready to go, it would be presented to the Selectmen, and with their sign-off they would look for funding.

Member Packish said there had been concern from the community over the universal accessibility of the HPP meetings, and concerns that the Loft was not accessible. JB at the Loft had generously donated food, drink, staff cleanup, but the meeting was now moving to the Oak Bluffs School which was accessible. The Board was about inclusion so this move made sense. He had also requested a time change for the second meeting as all were scheduled from 4 to 6 which was not inclusionary. Finally, he was excited by the neighborhood association that was attending the HPP.

The Meeting was adjourned at 6:05 p.m.

The following documents were used in this meeting:

Agenda

Sign-In Sheet

Zoning By-Laws sec 4.3

Habitat for Humanity of MV special permit application and notice

Habitat for Humanity ZBA decision Aug 18 2016

Zoning By-Laws Section 7.0, 10.4, 5.0, 5.4

David Kolb e-mail of Sep 15, 2016 etitled "Affordable Housing – new information, please read carefully"