

MINUTES
DENNIS PLANNING BOARD

Monday, April 4, 2016
6:30PM - Dennis Town Hall, Stone Hearing Room

Present: Mezzadri (Chair), DiManno (Vice-Chair), Farmer (Clerk), Eldredge, Patterson, Fantozzi, Slowe (Alternate).
Absent: Malzone
Staff: Fortier, Gregory

ITEM #1:

ANR: Mirande-Holl Trust, 51 Paddock Path, E. Dennis, MA (Assessor's Map 373, Parcel 6).

Ms. DiManno recused herself. John O'Reilly was present representing Dennis Conservation Trust. This is a division of property into two lots on Paddocks Path. One parcel meets the 50' frontage; the other is non-buildable and will be merged with adjacent Town Land. A driveway currently exists on the property and will be removed into the 35' panhandle upon the death of Mirande-Holl. A note on the plan states Lot 2 and Parcel A are non-buildable.

VOTE: Ms. Farmer made a Motion to Endorse the mylar and Mr. Eldredge seconded. **5-0-0 ENDORSED.**

ITEM #2:

ANR: Alice Berry, 2 North Street, E. Dennis, MA (Assessor's Map 412, Parcel 14).

Dan Ojala of Down Cape Engineering was present for the applicant. This is a vacant property off of North Street and Sea Street and owned in common by the Berry's and the Mulroy's. The parcel will be sliced down the middle; the northern half will go to the Berry's and the south to the Mulroy's. The lots is suitable for building. The Board had no issues.

VOTE: Ms. Farmer made a Motion to Endorse the mylar and Ms. Fantozzi seconded. **5-0-0 ENDORSED.**

ITEM #3:

ANR: Priscilla Husband, TR of Mary L Husband Trust, 199 Main Street, S. Dennis, MA (Assessor's Map 95, Parcel 1 and Map 107, Parcel 32).

Dan Ojala of Down Cape Engineering was present for the applicant. This ANR was previously endorsed by the Planning Board in 2010 with a note to relocate the stairs and to remove a portion of the building; however, the plan was never recorded at the Registry of Deeds. The plan has been updated with a revised dated of 3/31/16. The driveway has also been moved and a new shed was added. A certification was missing on the paper plans and Mr. Ojala will come into the office to stamp them.

VOTE: Mr. Farmer made a Motion to Endorse the mylar and Mr. Eldredge seconded. **6-0-0 ENDORSED.**

ITEM #4:

Partial As-Built: Paul Welch, 321 Hokum Rock Road, East Dennis, MA (Assessor's Map 313, Parcel 6).

Mr. Welch was present. He is asking for an occupancy permit while additional work is being completed by September 2016. Items still needed are the driveway apron, timber ties, and re-grading. He is still seeking relief from the dumpster pad requirement and would like to keep the trash on the interior of the building but will ask for a modification at the time of a final As-built. Mr. Mezzadri affirmed that the appropriate 911 signage is present. He also noted there were vehicles in the back of the property that needed to be removed. The final As-built will be completed by November 1st. No comments were received by the audience. Mr. Fortier noted a condition that the apron needs to be in place prior to occupancy.

VOTE: Mr. Eldredge made a Motion to approve the As-built and Ms. Farmer seconded. **7-0-0 ENDORSED.**

Plan: Site Plan Showing As-Built Conditions in Dennis, MA as prepared for Welch Family Limited Partnership, 321 Hokum Rock Road by Paul Sweetser dated March 10, 2016.

ITEM #5:

Tonka Girl, LLC, 0 Love Lane, S. Dennis, MA is seeking approval for a Definitive Subdivision Plan in accordance with the Dennis Subdivision Control Laws. The property is located in the Industrial Zoning District at 0 Love Lane, S. Dennis, MA (Assessor's Map 168, Parcel 13). **Continued from 3/7/16.**

Ms. Slowe and Ms. Fantozzi recused themselves. Attorney Peter Farber was present along with John O'Reilly. Since the last hearing on this matter, they have talked with Mr. Fortier regarding the amount of vacant land in Harwich and Dennis, and how it will receive its access. They agreed that any future access to Harwich or Dennis will need to come back before the Planning Board except for the land abutting the proposed subdivision road shown as John M. Connors, Jr. (Map 168-1). In the future if this land is developed into two lots it which would require an ANR. Dan pointed out that a notation was added to the plan limiting a driveway coming off the west side of this road to serve that parcel. From the audience, Virginia Essau of 17 Love Lane asked if Harwich should approve this plan before Dennis. She also questioned the berm heights on the Dennis side. Mr. Fortier noted most of the street is in Dennis, thus, it is appropriate for Dennis to approve it first. The berm heights were accepted by Engineering at 12".

VOTE: Mr. Eldredge made a Motion to approve the Definitive Subdivision Plan and Ms. Farmer seconded. **7-0-0 APPROVED.** A certificate of Approval was signed by the Board and will be stamped by the clerk to begin a 20-day appeal period.

Plan: Existing Conditions Plan, Proposed Grading and Proposed Utility Plans, Tonka Girl LLC, 0 Main Street Ext., Harwich, MA prepared by Joh M. O'Reilly revised date 3/28/16.

ITEM #6:

L.P. Gas Equipment, Inc. (Applicant), Eastern Propane Gas, Inc. (Owner), 3 South Gages Way, South Dennis, MA is seeking Site Plan Approval to place a propane storage facility under §2.2.2.7.g and §4 of the Dennis Zoning By-law. The property is located within the Industrial Zoning District at 3 South Gages Way, South Dennis, MA (Assessor's Map 144, Parcel 5).

The applicant submitted a letter requesting this matter be continued to the May 2, 2016 hearing.

VOTE: Ms. Patterson made a Motion to continue this matter and Ms. Farmer seconded. **7-0-0 CONTINUED.**

ITEM #7:

Corsair Resort Motel RT, Downey Sea Crest RT, and Ocean Sands, Inc., 26, 33, 36, and 41 Chase Ave, Dennisport, MA are seeking a Special Permit and Site Plan Approval to change two existing residences to a motel and accessory function uses under §2.2.2.2.g and §4 of the Dennis Zoning By-law. The property is located within the Resort Residential District at **26, 33, 36, and 41 Chase Ave, Dennis Port, MA** (Assessor's Map 41, Parcels 18, 19, 20, 31 and 33).

Attorney Lester J. Murphy was present along with the applicant, Mark Downy. Mr. Murphy first addressed a procedural issue regarding a complaint that the application did not cite the proper bylaw on the relief requested, and the legal ad listed the incorrect zone. He felt these two issues were not significant enough to invalidate this matter before the Board; no misrepresentation was intended in these clerical errors. Next Mr. Downy provided a history of his endeavors on this property and how he came to require this Special Permit. He stated up front that his intent has never been to establish a motel. His family began at the Corsair and throughout the years they purchased a number of the surrounding properties. In the 90's a family asked to have a wedding on the property. The Town approved this, and it wound up providing the applicant extra income during the slow season. He began renting out the home for couples getting married and in turn they agreed to book family members at the Corsair. In time as zoning changed, neither Mr. Downy nor the Town realized the problem that had been accumulating in that there was not proper regulation for one-day entertainment licenses. At that point Mr. Downy was having ten or more weddings per year. The Town recently revisited the one-day entertainment license issue and as a result, Mr. Downy was informed that he needed a Special Permit in order to continue this business. A number of weddings are currently booked for 2016 and apart from obtaining this permit Mr. Downy will be forced to cancel them.

Mr. Murphy then gave a review of the technical aspects of this matter, noting where tents are placed, where parking is designated, number of guests permitted, etc. Up to 42 parking spaces are available, and an additional 35+ offsite by shuttle, if necessary. Music stops at 9PM and the events are usually vacated by 9:30. Mr. Downy does not contract tents but provides contacts and oversees the process. He has two employees who monitor the parking prior to the event. He referred to Mr. Fortier's review which contains 17 conditions and agrees with all except for #2 and #4. Mr. Murphy

noted that regarding #2, since kids return to school earlier, Labor Day business is slowing; therefore, he does not agree with prohibiting weddings until after Labor Day. Further, he did not want to limit the number of non-hotel registered guests (#4). Mr. Fortier said he had written that condition not knowing of all the additional parking available. Mr. Murphy suggested limiting the number of attendees to 200 guests for the remainder of 2016, then 150 in the years following. The Board was in favor of this business but wanted to hear audience comments before making any decisions. Mr. Mezzadri noted almost an equal number of abutter letters, both opposed and in favor of this Permit, were submitted. Mr. Downy noted that in 15 years, he had only received three complaints from the police, two of which were in the same day. He now has addressed noise by limiting bands to only those with soundboards, or the use of a DJ. Mr. Mezzadri asked the applicant to place arborvitaes across the back of 36 Chase for a sound barrier, and he agreed. Mr. Mezzadri also asked that a designated handicap spot be established. This will be added where the vendors pull in near the tent.

Attorney David Reid then spoke on behalf of the Seashores Condos. His arguments included the following issues: the discussion was looking at the benefits of the business versus the criteria of the bylaw for a site plan review. He noted all the spaces on Chase Ave are illegal because they are being used for commercial use and thus cannot back into the road or be within 20 feet from the lot. Spaces along the side are also illegal because they are within 10' of a sideline. Additionally, ten feet around the perimeter needs to be maintained in a vegetative state and not have parking or pathways which are currently there. In 1990 a variance was granted separating a piece to #24 with a condition of a fence and no vehicle access to the piece conveyed. The Special Permit is asking to use #26 and #36 for motel use even though they are currently residential properties for single family homes. Yet, they have already been used for motel uses and the Corsair website lists them as available through the motel, so they have been operating unlawfully. Mr. Reid also argued that a motel does not allow for cooking facilities, yet these dwellings have kitchens. He referred to Section 10-3 which requires each lot to have 25,000 sf for motel use. A variance would be required to convert these. He noted that section 10-6 lists 11 uses allowable by Special Permit as accessory uses to a motel and a wedding is not listed. He also talked about environment issues and said that #36 is in an environmentally sensitive area and the septic was designed for a single family home.

Mr. Fortier responded that there are many locations with multiple uses on the property under section 10-5. He referred to Patriot's Square as an example. The bylaws also have a provision for restaurant and entertainment on the same property. He recommended making a condition to merge these two properties which would address the 25,000 sf issue. Given zoning changes after the variance occurred, he did not believe the variance aspects are still applicable. As for the parking, it is preexisting except for the areas on the grass, which the applicant is now seeking. Regarding septic, the Board of Health had no red flags at staff review; however, a condition could be added requiring them to return to the Board of Health for additional review.

Attorney Jed Hendrick, President of Dennis Seashores Homeowners Association, spoke on behalf of the abutters. He noted that their resort has operated for 75 years with many repeat customers who in the last couple years have not returned due to noise from the weddings. He claimed the tent comes into one abutter's yard at times. Ian Ryan spoke from the audience and pointed out that not

all the guests at the Corsair are wedding guests and so noise is a concern even for the applicant's own customers; therefore, they are sensitive to this issue.

The Board engaged in discussion on various options including merging the properties or possibly notifying abutters of wedding dates. It was emphasized that Dennisport is a sharing village—shared rights to beaches, parking, etc. This is needed to help the economy succeed. A Special Permit would at least bring some regulation to the weddings which would benefit the neighbors. This is a motel hotel resort area and social events are to be expected. Merging three lots was suggested to make this work to include Lot 24. Mr. Eldredge asked if a variance would be better, but Mr. Fortier stated that a variance would take longer to obtain and would not resolve the weddings already booked for 2016; the quickest path is to obtain an ANR to merge. Mr. Murphy noted these are land court registered lots so a lot line cannot simply be removed. He stated all lots must be maintained in the same ownership and if severed, the rights of the Special Permit would terminate. Mr. Fortier said they could be merged by deed, which would accomplish the same goal (for lots 24, 26 and 36). This would make the variance irrelevant to the properties. Mr. Downy noted that he did not want to turn the entire residential area into one commercial lot and he asked not to be pushed into this position. He also noted that each house has a mortgage and separate names (mother's trust, Corsair RT, etc.) and he did not know what the ramifications would be. Mr. Fortier said if they worked with just the two lots it would eliminate pavement between lot 26 and 24 and parking somewhere else would need to be found. It was decided to grant a SP for two years and have the applicant return in December 2016 for a review. Mr. Mezzadri encouraged the abutters sit down with Mr. Downy to talk to address their concerns.

Mr. Fortier reviewed the changes and additions to the list of conditions noted in his review. Condition #2 was changed, #5 was deleted, #4 was modified regarding parking areas and control, arborvitaes will be added around the perimeter and back of #26, boundaries will be established, a handicap spot designated, a newly configured drive, by deed merge #26 and #36, if lots separated are separated then the Special Permit will lapse and preexisting a single family use will be re-established, applicant will return to BOH, tents will be kept 10' off property lines, 9PM will be limit unless licensing establishes something different, the Special Permit is granted for two years with a conditional review in 12/2016. **A copy of this report is available for public viewing in the Planning Office.**

VOTE: Mr. Eldredge made a Motion to approve the Special Permit with conditions noted above and Ms. Farmer seconded. **7-0-0 APPROVED.**

Plan: Parking Site Plan Corsair & Cross Rip oceanfront Resort, by John McElwee dated March 3, 2016.

ADDITIONAL BUSINESS:

1. Tonka Girl: A certificate of approval was resigned.
2. Planning Board Member Committee reports, if any. Ms. Fantozzi met with Mr. Fortier to discuss changes in the Hazzard Mitigation Draft.
3. Review Minutes of 3/21/16. Approved as written.
4. Discussion on Zoning Items: Postponed.

ADJOURNED: 9:30PM

The Board unanimously approved these minutes as written on May 2, 2016.