

Aquinnah Planning Board Plan Review Committee Meeting November 13th, 2018

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

Not Present: Isaac Taylor

Also Present: Phil Regan, Larry Schubert, Roxanne Ackerman, John Miller, Brooks Billingham, Walter Verdick, Ann Steinberg, Jonathan Steinberg, Don Margolis, Jay Bodnar, Spa Tharpe

Meeting opened at 6:40pm

There was brief discussion concerning a Form A subdivision for lot line revisions for Leonard of 266 Lighthouse Road and Steinberg of 264 Lighthouse Road. In reviewing the proposed plan, the Committee determined that a Special Permit may be required to adjust the line due to current frontage bylaws. If a Special Permit is not required, the Form A subdivision would not require a hearing. Peter will consult Town Counsel on the matter.

Jim W, acting Chair, opened a hearing to act upon a request from Douglas Plumer of 3 Meetinghouse Way Map 9 Lots 83 & 100 for Special Permits to site and construct a 576sf garage where total footprint of structures on the lot will exceed 2,000sf. Brooks Billingham presented the proposed plans to construct a 24'x24' garage/studio with a detached bedroom at 17' ½ above mean average grade (under the 18' height restriction for a lot that is open and highly visible). In reviewing the site plans, the Committee found that the structure meets all setback requirements: will be 51' from the South-East wetlands, 50' from the sideline of Church Street, and outside the 30' requirement from all abutting property lines. The Committee found that the lot has inadequate frontage along Church Street (110' along Church Street) and determined that a variance for frontage on Meetinghouse Road will need to be granted per section 13.4-10-B because the lot is non-conforming (the road runs through the property and not alongside the property line). Due to the narrowness of Meetinghouse Road, the Committee requested that the applicant widen the curb cut to allow for a turnout. While the structure will be slightly visible, the applicant plans on planting vegetation around the structure for additional screening (will return to the Committee for a final landscape review). Abutter Roxanne Ackerman voiced concern with certain vegetation that is not "attractive" and requested that the applicant look at planting native vegetation. Brooks informed the Committee that the site plans still need to be reviewed and approved by the Board of Health and Conservation Commission. Berta made a motion to approve the plans as presented; grant a Special Permit for all structures on the lot to exceed 2,000sf because the proposed structure is below the as of right height in the area and because the applicant will plant vegetation to increase screening; grant a Special Permit for non-conforming frontage along Meetinghouse Road under section 13.4-10-B; subject to the following conditions: subject to conditions set by the Conservation Commission and Board of Health, subject to PBPRC review and approval of a final landscaping plan, and the applicant will widen the curb cut to create a turnout. Motion was seconded by Jim M. **The PBPRC voted 7-0, the motion passed.**

Sarah, acting Chair, opened a hearing to act upon a request from John Miller of 25 Old South Road Map 9 Lot 175 for Special Permits to site and construct a 144sf addition with a roof deck. With no formal plans to review (no site plans or elevations), the applicant and Committee agreed

to continue the hearing to the December 11th, 2018 meeting. Sarah entertained a motion to continue the hearing to December 11th, 2018 at 6:45pm. Motion was moved by Jim M and seconded by Jim W. The PBPRC voted 7-0, the motion passed.

PBPRC opened a hearing to act upon a request from Steinberg Family LTD Partners of 264 Lighthouse Road Map 5 Lot 215 for Special Permits to demolish an existing dwelling and construct a new dwelling where total footprint of structures on the lot will exceed 2,000sf in the Coastal DCPC. Prior to reviewing the proposed plans, the Committee found that the applicant and neighboring property are in the process of adjusting the lot lines to correct the setbacks for a garage on the abutting lot. A Special Permit may be needed to adjust the line due to current frontage bylaws, however, the Committee felt that this would not change the review of the Steinberg proposal and would only be a condition to approval.

Phil Regan presented the plans to demolish a 1,230sf structure and construct 2,240sf of new footprint (garage with detached bedroom above and second living space structure connected by above ground deck). In reviewing the elevations, the Committee found that, while the new structure would be 1,000sf larger, it will be approximately 5' to 7' lower in height (front building will be 5' lower and back building 7' lower than the existing ridge height), and less visible from public ways and therefore no more detrimental to the neighborhood. In addition, the proposed deck will be 1,078sf of the total 2,240sf and the Committee determined that there will be less mass visually. In reviewing the site plan, the Committee determined that the existing structure is non-conforming given its proximity to the abutting property line, however, the new structure will be less non-conforming in that it will be moved further from the lot line (existing building is 3' ½" from the line and proposed will be sited 10ft from the line). The Committee found that in shifting the structure 10ft from the property line, the driveway will be shifted/curved to the East. In reviewing the design of the proposed structure, the Committee found that it will meet the open and visible design specifications with Cedar shingles and horizontal Cedar boards and slabs. In addition, the Committee determined that the structure will be under the "50% wall of glass" policy. While both structures will be flat roof, the detached bedroom (small of the two structures) will have a green roof and rooftop deck with railings 3' ¼" above the roof height.

The Committee discussed whether the proposed project would be permissible given that the new structure (even though lower than existing) is above the as of right height. Peter reminded the Committee that, per section 13.4-11-A, by Special Permit, the applicant may alter, extend or reconstruct the pre-existing non-conforming structure if the new structure bears resemblance to the original structure and if the PBPRC finds that the change is not substantially more detrimental to the neighborhood. In this case, the applicant is proposing to make the new structure less non-conforming by lowering the height and the Committee determined that it is less non-conforming and no more detrimental to the neighborhood. There was brief discussion concerning the letter from the Leonard Family, abutters to Steinberg, who were in favor of the proposed project. In discussing archeology, the Committee felt that a PBPRC determination will be required with a recommendation from MHC.

Based on the findings, Peter entertained a motion to approve the plans as presented for the siting of a new structure (a reconstruction of a pre-existing non-conforming structure) based on the determination that the new structure is no more detrimental to the neighborhood than the existing structure and is less non-conforming because it will be further from the property line; grant a Special Permit for the footprint of all structures on the lot to exceed 2,000sf because the actual

enclosed living space is just under 2,000sf (large amount of deck which is not visible), the profile of the structure will be lowered and trim will not be white and overall less visible from public ways; grant a Special Permit under section 13.4-10-B for the expansion and/or reconstruction of a structure on non-conforming lot as to frontage; approval is subject to the following conditions: subject to the conditions set by the Conservation Commission and the Board of Health, subject to an archeological determination by the PBPRC with a recommendation from MHC, subject to approval of a Form A to adjust the property line between the two lots and any other permits required in this process, all exterior lighting will comply with the Towns Exterior Lighting Bylaw, and all trim must be of neutral materials and/or of neutral colors; no white or light paint. Motion was moved by Jim M and seconded by Sarah. **The PBPRC voted 7-0, the motion passed.**

PBPRC opened a hearing to act upon a request from Walter Verdick of 7 Sea Mist Lane Map 12 Lot 35.3 for Special Permits for clearing and cutting of vegetation in the Moshup Trail DCPC. This request was subsequent to the clearing and cutting of vegetation beyond the limited work zone which had been previously approved by the PBPRC in a Special Permit dated September 30, 2013. This hearing was a review of a Zoning Violation given the lot's location in the Moshup Trail DCPC. At the site visit, the Committee found that the applicant had cleared approximately 8ft beyond the limit of work area on three sides of the structure, which had been re-marked with silt fence. The Committee could not determine if any large trees had been removed as no tree stumps were visible and the area had been re-graded and seeded with grass. The Committee discussed whether they would have approved the cutting if the applicant had originally presented a landscape plan. The Committee found that the area is not a NHESP habitat and agreed that the vegetation should be allowed to grow back. The applicant explained why the area had been cleared and cut: when the silt fence was removed (permission given by the Tree Warden who was also working on the property), in order to even the grade, they had to clear/disturb some of the area on the outside of the silt fence. There was brief discussion on the conflict of having the Tree Warden authorize removal of vegetation when they are one of the contractors for the property. The Committee agreed not to discuss this when all parties were not present.

Regardless of the applicants reasoning, the Committee reminded him that no clearing or cutting is permitted in the Moshup Trail DCPC without a Special Permit. The Committee determined that allowing the vegetation to grow back and planting of various vegetation such as clethra (which had been removed) in the spring is adequate restitution for the zoning violation. In addition, the Committee determined that restitution of the violation will include a warning to Jim Morgan, contractor of the work, reminding them that no clearing or cutting can be done in the Moshup Trail DCPC without a Special Permit issued by the PBPRC. Peter entertained a motion, in light of the application, to approve the cutting and clearing as submitted and determined that restitution and remediation will include the following: applicant is to allow the vegetation to grow back and planting of various vegetation such as clethra (which had been removed) in the spring) is sufficient and a warning will be sent to Jim Morgan, contractor of the work, from the Chair of the PBPRC reminding them that no clearing or cutting can be done in the Moshup Trail DCPC without a Special Permit issued by the PBPRC. Motion was moved by Jim M and seconded Sarah. **The PBPRC voted 7-0, the motion passed.**

The Committee discussed the Special Permit dated September 30th, 2013 for Verdick which required the review of a mutual acceptable landscape and restoration plan for screening of the newly created driveway. At the site visit, a post completion landscape review was done, and the

committee found that vegetation had been planted and if let to grow and mature would provide a sufficient buffer. Based on these findings, Peter entertained a motion determining that everything that had been requested by the Committee was planted and therefore the condition has been met subject to the following: applicant has an obligation to try and maintain the vegetative buffer and must replace any that die. Motion was moved by Jim M and seconded by Sarah. **The PBPRC voted 7-0, the motion passed.**

PBPRC opened a hearing to act upon a request from Lang Gerhard of 13 East Pasture Way Map 8 Lot 127 for Special Permits to change the rough opening of one window unit and site and construct a 500sf deck on an existing building in the Coastal DCPC. Jay Bodnar and Spa Tharpe presented the plans to site and construct a 500sf deck (“L” shape measuring approx. 10’x31’6” and 8’4”x9’) and requested to change the application by removing the request to change the rough openings of the window. Jay informed the Committee that they plan on using existing posts and diamond cement piers that would require no digging (4ft rods attached to the deck and pushed through the cement and into the ground approx. 1 ½”). Given the sensitivity of the property, the Committee felt that a PNF should be sent to MHC regarding the type of footings for the project. The Committee found that the height of deck would require railings, however, it would not increase the visibility of the already existing structure. In addition, the applicant will be removing the existing shower wall, therefore slightly decreasing the mass of the structure. There was discussion concerning the proximity of the proposed deck to a coastal feature (16ft of a coastal bank). While the proposed deck is within 100ft of a feature, the Committee felt that, dependent on Town Counsel opinion, the deck would not be considered footprint given that it would not have weather walls (per the Coastal DCPC definition of footprint). The Committee found that there is existing vegetation on the property that aids in screening the structure which the applicant will maintain. At the site visit, the Committee found that the exterior light fixtures do not comply with the Town’s bylaw and must be changed or fixed to comply with the bylaw by completion of the deck. Based on these findings, Peter entertained a motion to approve the addition of the deck and the other changes as presented, subject to the following: review by Town Counsel on the Coastal DCPC bylaws, subject to an archeological determination, exterior lighting fixtures must be fixed/changed to be made compliant with the Town’s Exterior Lighting bylaw, and all materials must be natural and/or of neutral colors; no white paint. Motion was moved by Jim N and seconded by Jim W. **The PBPRC voted 7-0, the motion passed.**

PBPRC opened a meeting to review a request from Kenneth Dipietro of 5 Sunset Lane Map 6 Lot 105.2 to review and approve the pool as conditioned in the Special Permit dated May 15, 2017. Berta was recused and Sarah abstained. The Committee found that since the approval of the Special Permit, conditions for the pool had not been reviewed. While a Special Permit is required for the siting of pools, the Committee determined that this pool is not a significant change to the original approved plan because it had been discussed and noticed appropriately at all of the original hearings/meetings. The Committee treated the request as an amendment and no public hearing was required. Phil Regen presented the proposed plan to site a 6’x13’ and 5’ deep “immersion tub” between the two living structures, behind a wooden fence and contained by a 5’ metal mesh fencing on three sides with self-closing doors. While the applicant referred to the feature as a “immersion tub”, the Committee found that the amount of water (just under 3,000 gallons) surpasses the minimum State building guidelines for a pool and the Committee determined to treat it as a pool. In reviewing the plans, the Committee found that the doors leading out to the pool will be alarmed. The Committee also found that along the East side fence there will

be vegetation planted to decrease the visibility of the pool area and create a buffer zone. There was discussion on whether abutting properties would be able to see the pool lighting as well as whether there will be window treatments for the structures. With the pool being between the structures and buffered by vegetation, Phil didn't feel that the lights would be highly visible. In addition, he informed the Committee that the windows will have automatic shades. The applicant plans on filing the pool with on-site water. The Committee requested that the applicant confirm with the Fire Chief on the necessity of a hydrant system. Based on the findings, the Committee determined that the pool met all applicable Zoning Bylaws. Peter entertained a motion to approve a Special Permit for a swimming pool as an accessory use with the above conditions and a determination that this is not a significant change and will be treated as an amendment and does not require a public hearing. Motion was moved by Jim M and seconded by Jim W. **The PBPRC voted 5-0-2, the motion passed.** There was discussion on scheduling post completion landscape reviews as conditioned in the Special Permit.

PBPRC opened a meeting to review a Zoning Determination request from Berta Welch of 10 Raymonds Hill Map 6 Lot 102.3 for an 80sf addition. Berta was recused and presented the proposed plans. In reviewing the presented plans, the Committee found that the 80sf addition will be sited on the North-East side and within the mass of the building. While the requested 80sf addition of weather wall is over the 70sf maximum for a Zoning Determination, the Committee found that the applicant has removed 280sf of existing deck and therefore the 80sf addition is minimal in footprint. In addition, the Committee found that the addition will have no negative impact on the resources protected by the Aquinnah DCPC (no digging and will be sited on cement slab), is consistent with the goals and guidelines of the DCPC and is not detrimental to the interests of abutters. Based on these findings, Peter entertained a motion to approve a Zoning Determination for the presented plans. Motion was moved by Sarah and seconded by Jim W. **The PBPRC voted 6-0-1, the motion passed.**

With no other comments, the meeting adjourned at 9:25pm.

Respectfully submitted,

Sophia Welch

Board Administrative Assistant