



RE: Phillips Hardware
30 Circuit Ave.
Oak Bluffs, MA, Map 8 Parcel 272-0

Town of Oak Bluffs, Massachusetts
Office of the Planning Board
P.O. Box 1327
Oak Bluffs, MA 02557
508-693-3554 x154
PLANNING BOARD

NOTICE OF DECISION AFTER REMAND **July 23, 2020**

RE: Phillips Hardware Special Permit

Phillips Realty Trust
30 Circuit Ave., Oak Bluffs, MA
Map 8 Parcel 272-0, zoning district B1

The Oak Bluffs Planning Board held a Virtual Public Hearing on Thursday, July 23, 2020 at 5:00 p.m. via Zoom on the application of the referenced petitioners seeking:

Approval of Modifications to Special Permit granted June 28, 2018, under Section 7.2 of the Zoning Bylaws (Conversion of an Existing Building to Mixed Use – Commercial with Apartment Units). On June 28, 2018, the Planning Board granted a Special Permit to the Phillips Realty Trust (the “Applicant”) allowing to demolish an existing 8,570 square foot building (currently a hardware store on the first floor; former hotel on second and third floors) and to construct a new three-story 17,844 square foot mixed-use building on the same footprint. The owners of a nearby building (the “Appellants”) appealed the Planning Board’s decision to the Massachusetts Land Court. On June 22, 2020, the Land Court remanded the matter to the Planning Board (by agreement of all parties) so that it may have the opportunity to consider modifications to the proposed project concerning the appearance and dimensions of the proposed building.

DECISION: A motion was made to approve the modifications to the height and appearance, based on the revised plans and findings under Zoning Bylaw 7.2. The Board, consisting of Ewell Hopkins (Chair), Mark Crossland (Vice Chair), Erik Albert, Bill Cleary, and JoJo Lambert voted unanimously to grant the special permit and approve the site plan with the two conditions imposed earlier fully in force.

Procedural History (Also see: Special Permit Granted June 28, 2018):

06/14/18 Special Permit granted and Site Plan approved with conditions.
06/28/18 Planning Board filed its decision with the Town Clerk.

- 07/19/18 Plaintiffs, Donald B. Comer, Laurence H. Hardoon, Patricia M. Quinn and Jenny E. Young (as noted, the Appellants) filed an appeal to the Land Court under G. L. c. 40A, s. 17, which was assigned Docket No. 18 MISC 000366.
- 06/06/20 Appellants and Applicant filed with the court a Joint Motion for Remand after reaching a settlement agreement. The Planning Board agreed to the remand request.
- 06/22/20 The Land Court remanded the matter back to the Planning Board for consideration of the Applicant's amended plans at a public hearing.
- 06/30/20 Notice of Planning Board Public Hearing posted in Town Hall and on web site.
- 06/30/20 Notice of Planning Board Public Hearing mailed to abutters (and abutters of abutters) within 300 feet, the applicant and abutting Planning Boards.
- 07/02/20 First Notice of Public Hearing published in the Martha's Vineyard Times.
- 07/09/20 Second Notice of Public Hearing published in the Martha's Vineyard Times.
- 07/23/20 Planning Board opened public hearing, closed public hearing and made decision.

General Findings:

1. The Site is located at **30 Circuit Ave.** in the B-1 Zoning District shown on **Assessors Map 8 as Parcel 272-0**. The building known today as **Phillips Hardware** was formerly *The Oakwood Hotel* and dates back to 1870. The Oakwood Hotel once had five rooms, a kitchen, bathroom and front entrance on the second floor. The third floor had 10 rooms and guests shared the kitchen and bathroom with the second floor.

2. The Applicant seeks to return the building to the way it looked as The Oakwood as shown on architectural plans dated April 26, 2018 **and as amended on June 25, 2020**.

3. The modifications are limited to the approved third floor and roof. There are no proposed changes to the previously approved site plans, or other levels of the building. The main roof ridge has been lowered about ten (10) inches. The center portion between the two gables has been lowered about 4.5 feet to produce a lower middle section resulting in a different window fenestration. In addition, the roof pitches have changed slightly to accommodate a slightly lower height to the overall building.

4. Both Appellants and Applicant, pursuant to Mass. R. Civ. P. 25(c), jointly sought an order remanding this matter back to the Planning Board so that it may have the opportunity to consider modifications to the proposed project pursuant to a Settlement Agreement concerning the appearance and dimensions of the proposed building.

5. Per order of the court, both parties reserve their respective rights of appeal under G.L. c. 40A, § 17. The Massachusetts Land court shall retain jurisdiction of this matter. The parties are to submit to the court a joint written report every 60 days as to the status of the remand; and within twenty (20) days after filing of the Board's new decision of the Town Clerk, the Plaintiffs (the "Appellants") shall either file with the court a second amended complaint seeking review of the new decision and request a further status conference, or the parties shall file a stipulation of dismissal, unless otherwise ordered by the court.

Testimony:

1. Letter dated July 20, 2020, from Mark Leonard dated July 20, 2020, requesting that the Oak Bluffs Planning Board protect the limited opportunities for affordable housing in the downtown area and require a portion of the residential units in the Phillips Hardware building permanently designated as affordable/workforce housing.

2. Lynn Vera, 42 Kennebec Ave., expressed concern about sound coming from the mechanical deck and was assured that there will be a sound wall around it and it is located atop the third floor.

Decision of the Board:

Member Mark Crossland made a motion that the proposed changes do not constitute an impact or material change to the Special Permit granted June 28, 2018 and therefore they should approve the modifications as presented under **Section 7.2.4 Conversion and Expansion or Tear Down and Re-Build with Expansion of Existing Building to Apartment Units** and approve the site plan with the conditions listed below. Member Erik Albert seconded. The Board, constituting a quorum and the required supermajority, consisting of Ewell Hopkins (Chair), Mark Crossland, Erik Albert, Bill Cleary and JoJo Lambert voted unanimously to approve the modifications to roof and appearance as depicted on plans dated June 25, 2020 and presented in public hearing.



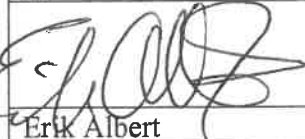

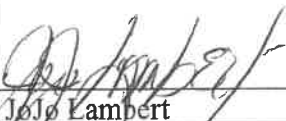
In addition, it is the opinion of the Planning Board that the modifications do not trigger additional review by the Martha's Vineyard Commission (MVC).

The conditions imposed with the Special Permit granted June 28, 2018 remain fully in force.


D. Record of Board Vote.

The members of the Planning Board voted as follows to grant a Special Permit subject to the above-stated terms and conditions:

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Signature	In Favor	Against	Abstain	Recuse
 Ewell Hopkins	X			
 Mark Crossland	X			
 Erik Albert	X			
 Bill Cleary	X			
 JoJo Lambert	X			

Filed with the Town Clerk on: August 3 2020



Colleen Morris, Town Clerk

Copy of Special Permit Mailed to:

Phillips Realty Trust
 157 Pennsylvania Ave., Vineyard Haven, MA 02568

All Noticed Parties (see abutter list)

The Planning Board of the Town of Oak Bluffs hereby certifies that a Special Permit has been granted to Phillips Realty Trust, 157 Pennsylvania Ave., Vineyard Haven, MA 02568, affecting the rights of the owner with respect to land or buildings at 30 Circuit Ave., Map 8, Parcel 272-0. Said Planning Board further certifies that the decision attached hereto is a true and correct copy of its decision granting said special permit, and that copies of said decision, and of all plans referred to in its decision, have been filed with the town clerk.

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The Planning Board also calls to the attention of the Owner or Application that General Laws, Chapter 40A, Section 11 (last paragraph) provides that no special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the town clerk that twenty days have elapsed after the decision has been filed in the office of the town clerk and no appeal has been filed or that, if such appeal has been filed, that it has been dismissed or denied, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The fee for such recording or registering shall be paid by the Owner or Applicant.




Ewell Hopkins, Chair

Dated: _____, 2020

This decision was filed in the office of the Town Clerk, on August 3, 2020. Appeals, if any, should be made pursuant to Section 17, of Chapter 40A of the Massachusetts General Laws and should be filed within 20 days of the filing of this decision in the office of the Town Clerk, excepting that such timeframe may be suspended and extended pursuant to Section 17 of Chapter 53 of the Acts of 2020 (Covid-19).

August 23 2020
Date Appeal Period Expired

I hereby certify that no appeal has been filed within the twenty-day period following the date of the filing of this decision.

Attest: 

Colleen Morris, Town Clerk

