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CAPE COD
COMMISSION

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DEVELOPMENT OF REGIONAL IMPACT EXEMPTION DECISION

DATE: April 27, 2023
PROJECT: 96 Megansett Road, Bourne (File No. 22012)
APPLICANT: Cape Club Building, Inc.
c/o Michael Intoccia
25 Tiot Street, Sharon, MA 02067
PROPERTY OWNER: Megansett by The Bay, LLC.
100 Cape Club Drive, Sharon, MA 02067
PROPERTY/SITE: 96 Megansett Road, Bourne, MA 02666
(Assessors Map 54.0; Parcel 15)
TITLE REFERENCE: BCRD Book 34264, Page 153

SUMMARY

The Cape Cod Commission (“Commission”) hereby grants Development of Regional Impact (“DRI”) Exemption, with Conditions, to Cape Club Building, Inc. for the construction of a single-family dwelling and accessory structures at 96 Megansett Road (“the Project”) pursuant to a vote of the Commission at its meeting on April 27, 2023.

FINDINGS

The Cape Cod Commission hereby finds and determines as follows:

- F1. The Applicant proposes to remove existing structures and construct a new single-family dwelling and associated improvements including but not limited to a swimming pool, tennis court, patio, driveway, and retaining walls (“Project”). The Project also includes an upgrade to the existing septic system and a new pier ramp and floating dock in Squeteague Harbor.

- F2. The Project underwent review pursuant to the Massachusetts Environmental Policy Act, M.G.L. c. 30, §§ 61-62I ("MEPA") because it requires Agency Action and meets/exceeds MEPA thresholds related to coastal bank and wetland alteration. The Secretary of the Massachusetts Executive Office of Energy and Environmental Affairs required the preparation of an Environmental Impact Report ("EIR") due to its location within a Designated Geographic Area around one or more Environmental Justice ("EJ") populations.
- F3. On October 31, 2022, The Secretary issued a final Certificate which determined that the EIR adequately and properly complied with MEPA and its implementing regulations. The Commission opened the DRI public hearing period on the Project by staff hearing officer on December 15, 2022. The Applicant and Commission extended the hearing period by mutual agreement through May 18, 2023, pursuant to Section 6(vi) of the Cape Cod Commission Act ("Act"). The Applicant submitted a DRI Exemption Application for the Project to the Commission on March 29, 2023.
- F4. The Project literally qualifies as a DRI because it meets or exceeds the DRI review threshold appearing in Section 2(d)(i) of the Enabling Regulations Governing Review of Developments of Regional Impact, *Chapter A of the Code of Cape Cod Commission Regulations of General Application*, as amended November 17, 2021 ("Enabling Regulations"). Said Section 2(d)(i) provides:
- "Any development for which an Environmental Impact Report (EIR) is required to be prepared under the provisions of MEPA shall be deemed a DRI. The Applicant shall file a DRI application for the proposed development to the Commission for review as a DRI."*
- F5. Where a proposed development literally qualifies as a DRI, Section 12(k) of the Cape Cod Commission Act and Section 7 of the Enabling Regulations state:
- "Any applicant may apply to the Commission for an exemption from Commission review... where the location, character and environmental effects of the development will prevent its having any significant impacts on the values and purposes protected by the Act outside of the municipality in which the development is to be located."*
- F6. The Cape Cod Commission held a hearing on the DRI Exemption application on April 27, 2023. At that hearing, the Commission voted to approve the DRI Exemption Request.
- F7. The location, character and environmental effects of the Project will prevent it having any significant impacts on the values and purposes specified under the Act.
- A. The Project is a single-family dwelling and related accessory structures, which type of development is generally not considered to have significant impacts outside the Municipality in which it is located.
 - B. The Project does not meet or exceed any of the thresholds set forth in Section 3 of the Enabling Regulations (Developments Presumed to Developments of Regional Impact) and would not be subject to mandatory DRI Review but for the EIR requirement.
 - C. The DRI Exemption is consistent with the Act, the Enabling Regulations and the values, goals, and purposes of the Regional Policy Plan.

CONCLUSION

Based on the above Findings, the Commission hereby further finds and determines that, though the Project literally qualifies as a DRI, it may nonetheless be exempted from Commission DRI review because the Project will have no significant impacts on the values and purposes specified in Section 1 of the Cape Cod Commission Act outside of the municipality in which it is proposed due to the Project location, character, and environmental effects. As such, the Commission hereby grants the DRI Exemption requested by Cape Club Building, Inc. for the Project described herein, subject to the Conditions, below.

CONDITIONS

- C1. This Decision shall be final when the appeal period set out in Section 17 of the Cape Cod Commission Act has elapsed without appeal (or if such an appeal has been filed, when the appeal has been finally settled, dismissed, adjudicated, or otherwise disposed of in favor of the Applicant). Thereafter, pursuant to Section 12(k) of the Act, Cape Club Building, Inc. has three (3) years from the date of this written decision to exercise the right granted hereunder.
- C2. A copy of the Decision, when final and prior to commencement of the Project, shall be recorded with the Barnstable County Registry of Deeds.
- C3. This Decision applies only to the construction of a single-family dwelling and accessory structures as described herein. If further development that meets or exceeds the mandatory DRI Review thresholds under *Chapter A of the Code of Cape Cod Commission Regulations of General Application* is proposed on the Property, the development shall be referred to the Commission.

SIGNATURE PAGE FOLLOWS