



Town of West Tisbury
BUILDING & ZONING INSPECTOR
West Tisbury, Massachusetts 02575

July 19, 2022

Vineyard Preservation Trust
Attn: Nevette Previd, Executive Director
P.O. Box 5277
Edgartown, MA 02539

Re: 1067 State Rd. – Grange Hall (Follow-up)

Dear Nevette,

Please let this letter serve as a further explanation of my reasoning behind my decision to require the Martha's Vineyard Preservation Trust (and its tenant, the Martha's Vineyard Film Festival)(the Trust) to apply for a Special Permit for its use of the Grange Hall (located at 1067 State Road)(Grange), as set out in my letter dated May 20th (which is attached). My decision has not changed.

In the 1970's, the Grange held film screenings once a week or so throughout the summer – rarely (if ever) in the off-season - and it is unclear when that degree of use ended. In 1999, after the Town had adopted zoning (in 1972)(the Grange has never been located in a commercial district), the Film Festival began to show films one night a week. From what I have been able to determine, the weekly showings during the summer months continued until 2002.

Historically, the Trust has allowed or sponsored non-film events held as well throughout the warmer months. Using event permits from 2016 & 2017 as benchmarks for an average year, I

have determined that, in recent years, many events are “repeated”, even weekly, such as the Artisan’s Festival, the Antique Sale, Farmer’s Market, the World Market Monday, and others. Then there are a variety of events that have happened once but, then, the following year a “different” event would be held of a similar nature. For example, in 2016 Doug Kent had an art show for one day, but in 2017 that event turned into a one day “Artists in Art” event. In both years, the number of days the Grange was used was roughly the same.

This year, according to documents you have provided, there will be 55 discrete days of film screenings, including 8 proposed “circus” events. To my knowledge, the Circus (photos of this event attached to this letter), described as “*filmmaking activities, face painting, circus antics, a performance, and more for the whole family!*” is an event that has not taken place at the Grange before. If you subtract the number of days the Farmer’s Market was on site, which is no longer held at the Grange, there are still 26 more days of use proposed for this year of film screenings or showings alone.

The use of the Grange Hall for non-residential purposes (as it is located in a residential zone) is a protected, preexisting, nonconforming use, under both state law (G. L. c. 40A, s. 6) and the West Tisbury Zoning By-law (ZBL)(Section 11.1-1). Preexisting, nonconforming uses may not, however, be extended or altered under both state law and the ZBL (Section 11.1-3(A)), unless the ZBA grants a Special Permit. It is my job, as the Zoning Officer, to evaluate in the first instance whether a preexisting, nonconforming use has been sufficiently altered or extended to trigger the requirement for a Special Permit, as I advised you to do so in my May 20, 2022, letter. The long-established test (by the courts) that Zoning Officers employ is known as the “Powers Test”.

The Powers Test has three inquiries, and if I find that any of the tests has been triggered, then a Special Permit is required. (You have the right to appeal my decision under the Powers Test to the ZBA, which your counsel has done.) The three tests to determine whether there is an extension or alteration of a use are:

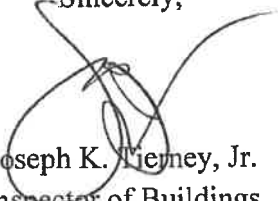
1. *Whether the use reflects the “nature and purpose” of the use prevailing when the zoning by-law took effect;*
2. *Whether there is a difference in the quality or character, as well as the degree, of use;*
and
3. *Whether the current use is “different in kind in its effect on the neighborhood.”*

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The increase in intensity of use this year, by the addition of more than 25 days of film screening/showings, in my judgment constitutes a difference in the “degree of use” of the Grange. The “Phase 2” plan to move to year-round use will further increase the intensity of use in a structure and on a parcel of land that historically was not used in the off-season. Additionally, the “Circus” meets the test of an addition of a use that is “different in kind in its effect on the neighborhood”.

In summary, I personally have no objection to the issuance of a Special Permit to accommodate the proposed film schedule and the “Circus” events, but I believe that a Special Permit is now required for the use of the Grange, as proposed.

Sincerely,



Joseph K. Tierney, Jr.
Inspector of Buildings
Town of West Tisbury

Cc: Robert McCarron, Esq. (by email RMM@edgartownlaw.com)
Zoning Board of Appeals
Jen Rand, Town Administrator
Attachments



FREE FOR ALL AGES

JULY 10, 17, 24, 31 and August 14, 21
5-7 PM at the Chilmark Community Center





Town of West Tisbury
BUILDING & ZONING INSPECTOR
West Tisbury, Massachusetts 02575

May 20, 2022

Vineyard Preservation Trust
Attn: Nevette Previd, Executive Director
P.O.Box 5277
Edgartown, MA 02539

Re: 1067 State Rd.- Grange Hall

Dear Nevette,

I have reviewed the narratives provided by the Vineyard Preservation Trust as well as Martha's Vineyard Film Festival regarding the upcoming planned uses at the Grange Hall, located at 1067 State Rd. Included in that are the Phase 1 plan and the Phase 2 plan for future use.

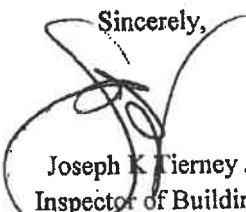
Based on my knowledge of the previous uses at the Grange Hall and both present and future planned uses I have determined that the degree and intensity of the non-conforming use is increasing and will require a Special Permit under Section 11.1-3 (A) and 8.5-2 of the West Tisbury Zoning Bylaws.

I have attached an application for your convenience.

If the Vineyard Preservation Trust feels aggrieved by this determination you may appeal to the Zoning Board of Appeals within 30 days of this notice.

Feel free to contact me if you have any questions or you need assistance with the application.

Sincerely,


Joseph K. Tierney Jr
Inspector of Buildings
Town of West Tisbury

Cc: ZBA
Planning Board

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