

WEST TISBURY PLANNING BOARD MINUTES December 17, 2018 5:30 PM

PRESENT: Ginny Jones, Bea Phear, Susan Silva, Leah Smith, Matt Merry, Henry Geller.

ALSO PRESENT: Larry Schubert, Nancy Cole, Pam Thors, Myron Garfinkle, Jay Theise, Richard Rooney, Geoghan Coogan, Scott Caskey, Charlotte Caskey,

Ginny opened the meeting at 5:30 pm.

DISCUSSION:

Discussion with two members of the ZBA RE: Proposed amendments to the Housing section of the zoning bylaws:

Bea said the purpose of the discussion is to find ways boost affordable housing in West Tisbury. She said that the Multi-Family Housing section of the zoning bylaws has rarely been utilized; no one is taking advantage of it. One side of the page contains Multi-Family changes and the other side contains Henry's edits to the Top of the Shop section that Henry wrote. She said we need to make these sections of the bylaws more attractive to private developers. What has been written so far is just a draft. Currently, 75% of the rental units are to be designated as affordable. We need to slash that number and come up with a more attractive one. We should be looking at the number of bedrooms on a property as opposed to the number of units. Ginny said that the board has discussed this but has not yet made a decision on the reduction in the percentage of the affordable piece.. Bea said that the goal is to get feedback from Larry and Nancy (ZBA board members).

Henry explained that the board had created a small sub-committee that worked on revising the bylaw. They last met back in March. Bea said that what we have so far is a concept. Nancy asked if the revisions would be all across the RU District. Bea said that was correct. Leah said that 75% is not working and felt that 25% would be more encouraging. Bea said we also need to be more focused on senior housing or condos or rental apartments. These would be allowed via a special permit from the Planning Board. It could be as many as 12 units or as few as six. Larry suggested that we should place things like height restrictions in the Use Table with an asterix to "see another section". The developer received a density bonus if they provide affordable housing in their development. Nancy said the ZBA sees a problem with the top of the shop housing. Larry said there is so much jumping around in the zoning bylaws that things get missed. Nancy said that a 12 acre lot may end up with 12 structures. Nancy pointed out that applicants sometimes appear before the ZBA and complain that something may have already been approved by the Planning Board and they hadn't been notified of the meeting. Nancy asked if the housing discussed today would require a special permit. Bea said it would. Nancy pointed out that zoning has changed a lot over the years and there is a lot more density. The town needs more affordable housing.

Ginny said she wanted to address two issues. One is that the zoning bylaws are available on the town website, however, they are not easy to navigate and rules are often missed. She said there should be an index. Secondly, she said we need to have housing for the 55 and older segment of the population. Larry said that he is the Chairman of the Affordable Housing Committee and they have heard a bit about the need for senior housing. He said that when we create affordable projects, we use CPC funds and create units that are affordable, but they would be restricted to affordable income guidelines.

WEST TISBURY PLANNING BOARD MINUTES December 17, 2018 5:30 PM, pg 2

If we create housing that is not grant funded, it is not restricted by income limits. Nancy mentioned that her parents live in a 55 and older neighborhood but have their own home. They are getting ready to move to more of an assisted living facility. Ginny said we have talked about that type of housing in the Flat Lands but it never happened. Bea suggested that Nancy and Larry take this information with them and review and comment on it.

Section 4.4-2:

Bea said that right now you can have more first floor space according to the current formula which she felt is fine but Henry tweaked it a bit. Nancy said that the current building codes are so restrictive that it is too expensive to have “top of shop” housing. The fire code requires a sprinkler system and a large water tank to be installed underground. It’s an enormous expense to undertake. Bea said there could be septic issues in the MB District. Bea asked Nancy if we should just get rid of this bylaw all together. Nancy said it might be a good idea to talk with the Fire Chief or the Building Inspector to get their perspective on it. She said that the two businesses in the MB District had a terrible time with the building process in dealing with the fire code. Bea said that no one is going to want to put in employee housing at such a large cost. Larry said that the bylaw makes it seem as though it’s a good idea, but when the go through the actual process, it’s difficult.

Section 4.4-3A:

Larry suggested that the title of this section be changed to “Affordable Accessory Apartments”. He also said that, aside from the affordability piece, it should be written into the bylaws that caregivers and family members are allowed to occupy the structure. He said that a lot of people apply for accessory apartments. Leah said that the other use of the space is for family members or caregivers. Larry wondered if it said “family members” and “caregivers.” Nancy said that when an applicant is before the ZBA, they explain how the apartment can be used.

Ginny read a section of page 24 regarding what is allowed. Domicile year-round. Jane said that she and Pam had searched through several years of copies of zoning bylaws and they never found caregivers and family members. Bea suggested it be added to the 2019 warrant. Nancy said this was the intention.

Nancy said the owner occupied main dwelling requirement is no longer in the bylaws. She said she could see someone living off island, renting the main house and using the apartment. In that case, we would be losing an otherwise affordable space and the owner could rent the main house at market rate. Ginny suggested that Nancy and Larry jot down their suggested amendments. Larry said he agrees that taking out the owner occupied language was not a good thing. Larry said that it appeared to him that Nancy would like to see either the main house or the accessory apartment be rented affordably. Henry said that some may need to rent the main house at market rate. Nancy said the affordable rates are fairly substantial. If either space is rented, it has to be under the affordable housing guidelines. Bea said that with the new tax laws, enforcement will increase so that these rentals can be overseen.

Section 8.5-4 Swimming Pools:

Larry informed the board that the state code has changed to allow hydraulic covers on pools rather than requiring fences. He said that our bylaw requires a 4 foot high fence. He suggested that the bylaw be modified to say “in addition to the state code, the town requires a 4 foot fence. He said that the hydraulic covers break so it would be good if we were more restrictive. Jane was asked to ask the B&Z Inspector if a fence is required around an above ground pool.

CORRESPONDENCE:

Letter from Attorney Jay Theise RE: Hazel Coffin Form A subdivision:

Ginny said that she read Attorney Theise’s letter carefully and suggested that the board members do the same in preparation for a meeting on January 7th to discuss the Form A process with Myron Garfinkel.

Jay Theise appeared before the board and began by stating that we are seeking clarification because the lot labeled 3 acres appears to be a non-conforming lot. We are concerned about the buildability of the lot. The road runs through the lot which decreases the acreage to 2.5 or so acres. He said that the town’s bylaws state that the limit on lot size is a minimum of three acres for building purposes, so this lot does not meet that requirement. Theise said the ANR doesn’t provide any zoning relief. He said he and his client, Myron Garfinkle, feel a building permit should not be permitted. He pointed out that Mr. Garfinkle has an easement on the lot for a 4 bedroom septic. Matt Merry said that the board was not aware that there was a septic easement on the lot. It was not located on the plan and it was never brought to the boards attention. Bea stated that the board is allowed to approve an undersized lot. Theise agreed but clarified that the lot is not buildable by itself. Theise displayed the plan and pointed out where the road, which is 30 feet wide, runs through the lot and said that it subtracts from the acreage. It is not a buildable lot.

Jane informed the board that she had spoken with Joe and Omar. She said that the BOH was fine with the plan septic wise but they, and Joe would wait until after the Planning board meets on the 7th of January to discuss the Form A process and this plan before making any determinations. Ginny explained that the board had expressed their concern that this particular property was being sequentially developed over several years. Bea asked if the lot in question had been sold. Attorney Theise said at the last check, the Coffins still owned it. He said he found it strange that the lot was created because a sister needed to make some money. He said “I don’t understand why the plan doesn’t show what is there, but I am not a surveyor. Ginny said that Chuck Gilsted (Sourati Engineering Land Surveyor) had appeared before the board with several versions of the plan over the years. The board had to assume that the certified surveyor is presenting a valid plan. We have to rely on the surveyor”. Leah said we have had concerns about the quality of the road.

Matt said the road itself is not 30 feet wide even though that is what it says on the plan. Bea asked if there is any action Attorney Theise recommends. He said he is not here to appeal, I am here to seek your ability to consider this not a buildable lot. Bea said it was not the boards that would make that

WEST TISBURY PLANNING BOARD MINUTES December 17, 2018 5:30 PM, pg 4

determination. These agreed with Bea, however, he said he was invited by the Coffins Counsel because they had concerns about the lot. They are concerned something will be built on the lot. Geoghan Cooghan said that he didn't know why there would be a discussion on January 7th. He said an ANR plan cannot be rescinded or revoked by the board. If they want to appeal they would have to do so through the Building Inspector. The points discussed tonight do not apply. Also he said that the "road that appears on the land is private land, and it privately owned. Jane clarified that when Mr. Garfinkle came in to speak with her, he requested that he appear before the board to discuss the Form A application/ review process.

Letter from Rez Williams RE: Request to amend the Developmental Guidelines Section of the Special Ways zoning bylaw:

Rez letter stated that there no language stating that non- native or invasive plantings are not to be planted in the Special Ways zone.

Bea moved and Leah seconded the motion to work on the bylaw. The vote was unanimous with an abstention from Susan.

MINUTES:

- Bea moved and Leah seconded the motion to approve the December 3, 2018 minutes. The vote was unanimous.
- Bea moved and Leah seconded the motion to approve the December 10, 2018 minutes. The vote was unanimous with one abstention from Leah.

Meeting Adjourned at 7:00 pm

Respectfully submitted,

Jane Rossi, Administrator

Approved on January 7, 2019