

**WEST TISBURY ZONING BOARD OF APPEALS**  
**Minutes for Thursday, February 10, 2022 meeting**  
**Online meeting via ZOOM- @ 5:00 PM**

**Present:** Larry Schubert, Julius Lowe, Deborah Wells, John Rau, Andy Zaikis, Jeffrey Kaye and Casey Decker

**Absent:** N/A

**Also Present:** Pam Thors, Bd. Administrator, Barbara Cushman, Patti Linn, Eric Peters, Larry Cohan, Peyton Wallace, Betsy Corsiglia, Kevin Cusack, Joseph O'Donnell

**5:00 pm** – The board took up the discussion of Section 9.2-2 of the bylaws and adding it to the ZBA application.

Larry laid out where the discussion left off.

- 1) 9.2-2 should be cited in every discussion as being reviewed and complied with on every point.
- 2) The board may want to refer to it directly at every hearing.
- 3) Should it become part of the ZBA application for reference?
- 4) If so, should the ZBA require the applicant to attest that they comply?

Certain members of the board said that the onus to review and comment on Section 9.2-2 should be on the applicant.

Other members think that bringing awareness to the applicant that the ZBA will review the criteria in Section 9.2-2 as part of their application review is sufficient. This puts the onus on the ZBA to decide if the application is compliant.

Jeffrey suggested that if version one was adopted, the following language could be used:

“I comply with the criteria of bylaw Section 9.2-2 to the best of my knowledge, information and belief”.

He said that the next line should read, “If not, please explain”.

Larry stated that he would like to have an opinion by Town Counsel on this issue prior to a vote taking place.

Pam said she would email Michael Goldsmith.

**5:15 pm** – A Public Hearing on an Application for a Special Permit from Patricia A. Linn to bring into compliance, an existing 12'x 22' shed located on a pre-existing, non-conforming lot requiring 34' of East side yard setback relief under section 11.2-2 of the West Tisbury Zoning Bylaws at 566 State Rd., Assessors' Map 16, Lot 60, RU District.

The hearing notice was read. Eric Peters, atty. for the applicant explained the application. He said that the owner had applied for a building permit for the shed in 1988 but that in the process of updating the septic on the property, the shed was moved to its current location. He said that the original shed had a step at the entryway and that lawnmowers and other equipment could not be taken out and put back easily. The 6' addition, (264 sf.), was added to accommodate this need. He noted that section 11.2-2 allows an addition to a non-conforming structure if it is in harmony with, and not detrimental to, the neighborhood. He added that Joe Tierney, Building Inspector had asked the applicant to apply to the ZBA for a Special Permit to bring the addition into compliance.

Larry explained that the Planning Board had not reviewed this application yet so the board cannot render a decision.

Eric said he would rather that the Public Hearing remain open and the meeting continued.

Jeffrey asked if the application can be approved with the contingency that the Planning Board approves it.

Larry said that it cannot be.

Jeffrey asked if the ZBA can recommend approval to the Planning Board. Larry said that the Planning Board will discuss the application and send comments to the ZBA.

*A motion was made and seconded to continue the hearing until February 24<sup>th</sup> at 6:15pm.*

*A roll call vote was taken with the following resulting votes;*

*L. Schubert-yes, J. Lowe-yes, D. Wells-yes, J. Rau-yes, A. Zaikis-yes, J. Kaye-yes, C. Decker-yes.*

**5:35 pm** – A Public Hearing on an Application for a Special Permit from Christina Hsu & Peyton T. Wallace to allow construction of a 12' x 26' in-ground pool and bringing into compliance an existing 248 sf shed which will house the pool equipment requiring 5 feet of west side yard setback relief and 1 foot of south side yard setback relief under sections 8.5-4C and 11.2-2 of the West Tisbury Zoning Bylaws at 63 Otis Bassett Rd., Assessors' Map 17, Lot 16, RU District.

The engineer on the project, George Sourati was held up at another meeting and was not there to present the application. The applicant did not want to present his application himself and agreed to a continuance.

*A motion was made and seconded to continue this hearing until February 17<sup>th</sup> at 5:35 pm.*

*A roll call vote was taken with the following resulting votes;*

*L. Schubert-yes, J. Lowe-yes, D. Wells-yes, J. Rau-yes, A. Zaikis-yes, J. Kaye-yes, C. Decker-yes.*

Larry apologized to the abutters in attendance, encouraging them to attend the meeting on Feb. 17<sup>th</sup>. Mr. Cushman, an abutter, recommended a site visit. Larry explained that scheduling a site visit may happen after the hearing takes place.

#### **Cusack – review and vote on updated plans**

The board reviewed the plans submitted, which show the proposed barn as being 30' high. This fulfills the condition listed in the original Special Permit #2020-07. Kevin also asked the board if they would allow a one-year extension to the Special Permit, which expires on April 7<sup>th</sup>.

*A motion was made and seconded to approve the submitted plans and to extend the Special Permit until April 7, 2023.*

*A roll call vote was taken with the following resulting votes;*

*L. Schubert-yes, J. Lowe-yes, D. Wells-yes, J. Rau-yes, A. Zaikis-yes, J. Kaye-yes, C. Decker-yes.*

The board reviewed the letter, (see file), from Town Counsel, Michael Goldsmith regarding Joseph O'Donnell's request to build a, "sport court" on his property located at 8 Waldron's Bottom Rd.-Map 29, Lot 45.2. He refers to Section 3.1 – Use Table which states that if a "proposed use is so similar in character and impact to listed uses as to justify inclusion within a given use category".

Mr. O'Donnell entered the meeting. He stated that Reid Silva is working on his site plan which shows the sport court within all setbacks. He added that no trees would need to be taken down since this spot was the staging area when his house was built.

Larry stated that the determination is that Mr. O'Donnell will speak to Joe Tierney, Building Inspector, who will advise him to apply for a Special Permit from the ZBA under Bylaw Section 3.1-Use Table. He recommended that Mr. O'Donnell inform his neighbors of his intentions to build the court.

Pam read a short update from Town Counsel on the Larkosh case. The case will be heard in April.

Larry announced that he had reached an impasse with the Affordable Housing Committee on an issue and will be taking a short sabbatical from the Committee until further notice.

A discussion ensued regarding the policy in place with the Planning Board review of Special Permit applications.

Larry said that there is one specific section of the bylaws that addresses Site Plan Review but is unable to locate it.

Julius stated that having to filter every application through them is a waste of everyone's time. Deborah said that she had looked through the bylaws and noted that the Planning Board review is mentioned many times.

Larry asked, since the ZBA timeframe is so specific, if there was a way to present the applications to the Planning Board but deem applications to be approved by them if no response is received by the time of the hearing.

Deborah said that this seems perfectly reasonable to suggest to the Planning Board going forward.

Larry suggested that a letter be drafted to the Planning Board stating that if the ZBA has not heard from them at the time of the meeting, that the application will be deemed to be favorably reviewed by the Planning Board.

Julius stated that there appears to be a need for a checklist from the Planning Board. Pam said that this had already been suggested but that the Planning Board had instead asked that every application be submitted to them.

The Meeting adjourned at 6:20 pm.

Respectfully Submitted,

Pam Thors-Board Administrator