

## WEST TISBURY ZONING BOARD OF APPEALS

Minutes for Thursday, May 27, 2021 meeting

Online meeting via ZOOM- @ 5:00 PM

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

**Absent:** Larry Schubert

**Also Present:** Pam Thors, Bd. Administrator, Reid Silva-Vineyard Land Surveying, Phil Regan and Matt Cramer, Hutker Associates, Henry and Kari Leal, Amy and Jay Scott, Joe and Penny Berini, Fausta Hammarlund.

The minutes of the meeting of 5/13/2021 were reviewed and approved.

Deborah asked if the ZBA would like to send a sympathy card to Kent Healy whose wife Maureen has died. All agreed that it would be appropriate to do so. Pam said she would mail a card on Friday.

The board discussed the status of Governor Baker's latest announcement regarding the end of the state of emergency on June 15<sup>th</sup>. Specifically, the board talked about the pros and cons of getting back to "in person", meetings. Pam said she would keep them apprised of Town Hall procedure updates.

**5:15 pm** - A Public Hearing on an Application for a Special Permit from Sanke Realty Trust to construct a 20'x40' swimming pool and an 847 sf. garage in the Inland Zone of the Coastal District at 160 Plum Bush Point Rd., Assessor's Map 35, Lot 6.15 RU District under Sections 8.5-4C and 6.1-5B of the West Tisbury Zoning Bylaws.

The hearing notice was read and Reid Silva from Vineyard Land Surveying presented the project. He stated that the Planning Board still has to do a site visit. They had done one a few years ago to determine tree height, etc. but since then, there have been changes to the plan. He did note however that the Planning Board can only make recommendations to the owner. He shared a google map showing that the property is located directly on the pond. He described the history of the subdivisions of the original lot. He said they had applied to the Conservation Commission, (Concom), a few years back and to The Natural Heritage Foundation. He said the plan is similar but not exactly the same, noting that nothing within the jurisdiction of the Concom has changed.

He said that the pool will have a salt water filtration system with a below grade vault for the pool equipment. He pointed out the location of the fence and surrounding landscaping.

He stated that the garage meets the "non-habitable" designation required in bylaw section 6.1-5A but because it is over 676 sf., cannot, according to the Building Inspector be considered a "minor accessory structure". Therefore, they are applying under section 6.1-5B for relief.

Matt described the garage which has a workshop and storage for bikes in one section. He said that they chose the design and materials to blend into the landscape. He stated that the structure is only 21' high.

Reid pointed out the area of priority habitat designated by the Mass wildlife Natural Heritage and Endangered Species Program, (NHESP). He said the plan was approved by them yesterday.

John asked if they are here for a Special Permit, or to appeal the Building Inspector's decision to deem the garage not allowable due to its size. Reid said they are here for a Special Permit asking for relief per section 6.1-5B of the bylaws.

Julius noted that the bylaw could be improved but that in general, accessory structures in the Coastal District should be reviewed.

Phil stated that in many instances, a garage is a necessity.

Julius said that an average sized garage is allowed by right in the Coastal District, but that with the addition of the bike workshop and storage, the building does not conform to the size restrictions.

Julius asked Pam if the correspondence from the Concom and the Planning Board address the garage. She said that the correspondence does not directly relate to the garage. She explained that Maria McFarland, Concom Board Administrator, was concerned about the change in the building envelope and the view channels, and that it has been ZBA procedure to have site review by the Planning Board prior to acting on any applications. She verified that there was no correspondence from abutters.

Reid stated that the garage is 170' from Plum Bush Point Rd., citing the various opinions on the meaning of "front yard" in terms of location of structures. He noted his concern regarding the interpretation and how it relates to the garage and the proposed, (not in this application), solar array.

Deborah suggested waiting until any changes due to Planning Board concerns have been made.

Reid stated that the ZBA is the only board they are waiting for to approve the application, since the Planning Board is an advisory board and not a Special Permit granting authority in this case. He said that the Conservation Commission approved the project 2 years ago and that he will give Maria McFarland a copy of the new plan.

John stated that the Planning Board has asked the ZBA to hold off on approving any Special Permits until they have rendered an opinion on the project. He said with that in mind, the hearing should be continued.

*D. Wells moved and C. Decker seconded to continue this hearing until June 10, 2021 at 5:15 pm, in order to give the Planning Board time to finish their review of the project.*

*A rollcall vote was taken with the following resulting votes; 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 Henry and Kari Leal to construct a 25'x40' 2 story garage with a 2 bedroom accessory apartment on the second floor on a pre-existing, non-conforming lot located at 43 Stonebridge Rd., Assessor's Map 3, Lot 58, RU District under Sections 4.4-3A and 11.2-2 of the West Tisbury Zoning Bylaws.

The notice was read and Kari Leal presented the project. She explained that the garage is to the right of the house and that there is a 2 car garage with a workshop area on the first floor and a 2 bedroom accessory apartment with a separate storage area on the second floor.

Deborah asked if the storage area is accessible from the apartment. Kari stated that it is not.

Henry Leal stated that after speaking about this with Pam, he reviewed the plan with the Building Inspector, Joe Tierney, who verified that the storage area is separate from the apartment.

John asked if the primary means of egress is accessible from the garage. Henry described it, saying that it is not.

Julius invited comments/questions from the public.

Fausta Hammarlund, an abutter, voiced her concerns for the accessory apartment but not for the garage/workshop. She said she is concerned about rental activity in the neighborhood, noting the density along the road.

Kari said that their family is growing and that they need more space, adding that they are very sensitive to the concerns of the neighbors.

Julius clarified that affordable accessory apartments cannot be rented at market rate. He said that it is a restricted use and can be occupied by family members, caregivers and affordable housing eligible renters only.

Fausta stated that knowing this alleviates her original concerns.

Amy Scott, an abutter and lifelong islander, voiced her support of her children's application, citing the dense buffer from the road.

Joe and Penny Berini, abutters, voiced their support of the project.

Correspondence was read from abutters not in attendance, Christopher Anderson and MacKenzie Brookes and David Lowe and Susan Mann,

John asked about the size of the business and whether there would be additional work vehicles and/or employees.

Henry said that there will be no sign and no employees.

Pam commented that she and Henry had gone over bylaw section 8.5-1A-(Home Occupations Permitted by Right) and that he fulfills all requirements. She said that he is aware that if his business grows, he may have to apply for a Special Permit for a home occupation.

Julius said that the use is allowable, and in some cases encouraged, in the interest of the island economy. He said that his main concern is for the adherence to the restrictions on the affordable accessory apartment.

*D. Wells and A. Zaikis moved to close the Public Hearing and open the Board Meeting.*

*As there were no additional comments or questions from board members, J. Lowe moved and J. Kaye seconded a motion to approve the Special Permit.*

*A rollcall vote was taken with the following resulting votes; J. Lowe-yes, D. Wells-yes, J. Rau-yes, A. Zaikis-yes, J. Kaye-yes. C. Decker-abstained.*

*Julius went over the 20-day appeal process.*

Andy asked about the monitoring process relating to affordable accessory apartments. Pam said that the Affordable Housing Committee is involved and that Joe Tierney is ultimately responsible for the monitoring of the use of these apartments. Deborah explained that unfortunately, there are not many of these apartments built that go into the Dukes County Regional Housing Authority rental pool.

The Meeting adjourned at 6:05 pm.

Respectfully Submitted,

Pam Thors-Board Administrator