

WEST TISBURY ZONING BOARD OF APPEALS

Minutes for Thursday, June 11, 2020 meeting

Online meeting via ZOOM- @ 5:00 PM

Present: Nancy Cole, Deborah Wells, John Rau and Andy Zaikis

Absent: Julius Lowe, Larry Schubert

Also Present: Pam Thors, Board Administrator, Deborah Ceden, Travis Ritchie, Julie and David Fleischner, Tucker Hubbell, Dan and John Scherlis

The Board voted to approve payment of the following: Payroll-\$2,320.50 and MV Times bill-\$347.10

The minutes of the meeting held on May 28th 2020 were approved with corrections.

During the discussion of the minutes, the Peter's Construction application was brought up. Nancy asked Pam to notify Michael Goldsmith and ask him if this can be considered a pre-existing non-conforming use.

The Board got an update on the Dan Larkosh situation. Pam explained she inadvertently missed the 100 day deadline for final action by the board but that the application was timely filed with the Town Clerk within 14 days of the hearing. Town Counsel will be advising the board regarding the response to the Constructive Approval sought by Dan Larkosh.

5:15 pm- A Public Hearing on an Application for Special Permit from Debra Ceden to construct a 789 sf. Accessory Apartment requiring 20' of setback relief from the West side lot line under Sections 4.4-3 (A) and 4.3-3 (D) of the Zoning Bylaws, 182 Otis Bassett Rd., Map 17, Lot 45, RU District.

The notice was read and Deborah presented her application. She stated that other than the main dwelling, there are no other structures on the lot and that the 3 bedroom main dwelling was converted to a two bedroom with the approval of the Board of Health. She stated that her second request is for 20' of side setback relief in order to build without having to remove the two largest Oak trees on the lot. She said that her neighbors on that side are supportive of her project and have no problem with the setback relief she is requesting.

She stated that her main objective in applying for an Accessory Apartment is to at some point have her parents move here. She also stated that she would like to be able to age in place herself and that having an Affordable Rental income may allow her to do so. She noted that she sits on the Board of the Island Housing Trust and appreciates the need for Affordable Housing here. She mentioned that she has a Home Occupation permit from the town and having her office outside of her main dwelling might be of interest to her down the line.

Six letters of support were read, two being direct abutters to each side of her lot. There were no letters in opposition to the project. All plans were reviewed. Nancy stated that 20' of relief is a significant amount. Deborah mentioned that one her neighbors had been granted substantial setback relief for an accessory structure on their lot and she hoped for the same. She also mentioned again, the two largest trees on her lot which would have to be moved, at great cost, in order to move the apartment further away from the lot line.

Deborah Wells moved and Andy Zaikis seconded to close the Public Hearing and open the Board Meeting.

Andy stated that when it comes to setback relief, he considers the opinions of the abutters to be the most important factor to consider so since the immediate abutters are both in support; he is in support as well.

Deborah Wells stated that moving the two trees to relocate the apartment could be more detrimental to the neighborhood than allowing the setback relief.

John Rau stated that abutters may not always remain the same and that he believes that adhering to setback requirements helps to retain the rural character of the Town but in this case, since so many abutters have voiced their support, he agrees to support the application as well.

Nancy mentioned the yearly affidavit that must be signed off on and went over the 20 day appeal process.

A motion was made to approve the application. A roll call vote was taken. The vote on the motion was unanimous; Nancy Cole-yes, Deborah Wells-yes, John Rau-yes, Andy Zaikis-yes.

5:35 pm- A Public Hearing on an Application for Special Permit from Lynley Projects LLC to reconstruct, with alterations, a pre-existing, non-conforming structure in the Shore Zone of the Coastal District requiring 8' of height relief for flat roof dormer under Sections 6.1-4 (B), 6.1-6 (A) 3 and 11.1-3 (A) of the Zoning Bylaws, 63 Boghouse Way, Map 3, Lot 7, RU District.

The notice was read and Travis Ritchie agent for the applicant explained the details of the project. He stated that the owners, Julia and David Fleischer have been approved to put a new foundation under the existing home which lies within the Shore Zone but have discovered that the house has a lot of rot and structural damage. They would like to reconstruct the dwelling on approximately the same footprint but reduce and reconfigure the interior spaces. Travis mentioned that they had tried to shift the center portion of the house back away from the bluff and removed a small bump out on one side of the house and added that sf. to the other side. It was noted that the new septic system was approved by the Conservation Commission, (ConCom). Travis also stated that the ConCom had weighed in on the project, suggesting that the house be moved back but their hearing was continued until after the ZBA has rendered their decision. It was noted that one of the immediate abutters, Snezana Westby, built her main dwelling only 11 feet from her lot line. This abutter has already stated her concern for noise.

Travis stated that moving the house landward could pose a risk to the wetlands, where rebuilding in the original location, if there is a risk, only affects the owner and not the property of abutters.

Travis stated that the erosion data indicates the loss of 2/3 of a foot each year, but added that there is a bulkhead and heavy vegetation in that area.

Nancy suggested that the house could be turned 90 degrees so as to lessen the sf. in the Shore Zone noting that some views would be affected. Travis stated that if in 20 to 30 years, the house could be jeopardized and the owners' investment would be at risk but if the wetland were jeopardized, it would negatively affect everyone in the area.

The floor plans were reviewed. Travis stated that they had tried to keep the same layout but that structural engineering and costs to meet code worked against that option. The bed and bath count were discussed. Pam said that Joe Tierney, Building Inspector had brought up the outdoor shower and wanted her to let Travis know that it would count as a "plumbing facility". Travis stated that they are not increasing the number of total bathrooms in the new plan. Pam stated that the Assessors' card shows 4 bathrooms and suggested that the Board of Health may need to do a "walk through" to verify the info.

In the discussion of the new plan, the new owners said that they love the old house but that many parts of the structure are in complete disrepair and not salvageable. They stated that cost wise and energy wise, total reconstruction seemed the best choice.

Deborah asked if any parts of the house could be used for construction elsewhere. Nancy said that the narrowness of the road may not allow for this.

Travis went over the sf. diagrams submitted; stating that the old house was 5,125 sf. and the proposed reconstruction would be 4,875 sf. (10% reduction).

The height restrictions in the bylaw were reviewed. The only height relief being requested (8') is for the shed roof over a portion of the third floor to allow additional headroom. Travis maintained that similar height relief was given in a Special Permit in the same neighborhood within the last few years.

Pam mentioned that Tom Tate who is building a house on an abutting lot contacted her for information on the height above mean average grade of the proposed construction. She said that Tom had emailed Travis directly, got the information he was looking for and is okay with the project.

Pam read the letter from Joe Tierney into the record which questions the bathroom count.

Travis reiterated that the new plan has no increase in the plumbing. Nancy said they would have to hear what Joe has to say about that. Travis ended by saying that they tried to consider all aspects of the site and the effect on the neighbors.

A motion was made to continue the hearing until July 23, 2020 at 5:35 pm. The roll call vote on the motion was as follows; Nancy Cole-yes, Deborah Wells-yes, John Rau-yes, Andy Zaikis-yes.

6:15 pm- A Public Hearing on an application for a Special Permit from Patient Centric of Martha's Vineyard, Ltd. to amend Special Permit #2017-19 to allow the operation of an Adult/Recreational Use Registered Marijuana Dispensary, along with the Registered Medical Marijuana Dispensary previously approved at this location under sections and 9.3-3 and 3.1-1 (Use Table) of the Zoning Bylaws, Map 16, Lot 101, 510 State Rd., MB District.

A motion was made to continue this hearing until July 23, 2020 at 5:55 pm to allow the Martha's Vineyard Commission to act on the application referred to them. The roll call vote on the motion was as follows; Nancy Cole-yes, Deborah Wells-yes, John Rau-yes, Andy Zaikis-yes.

Lambert's Cove Inn Parking-The Board discussed the parking at the Lambert's Cove Inn. They reviewed a letter Pam had drafted for the board's approval. The issue of putting a time limit was discussed.

A motion was made to send a signed copy of the letter to John Cain with a follow up letter to be sent at the end of August. The roll call vote on the motion was as follows; Nancy Cole-yes, Deborah Wells-yes, John Rau-yes, Andy Zaikis-yes.

Three abutters to the property, Tucker Hubbell, Dan Scherlis and John Scherlis were present and explained that they were not in favor of the Board's vote to notify John Cain regarding the parking at the Inn. They cited the fact that the conditions of approval for the Special Permit allowed in the fall of 2019 did not include following up on the parking situation that had been discussed at the hearings. Only the findings cite the problems with parking and the hope that the Cain's will address the issue. They stated their collective opinion that in light of COVID-19 and the negative effects it must be having on the Inn, that it would be wrong for the ZBA to pursue this now, especially since the board does not have the legal right to demand this action. It was agreed that if there were complaints about the parking the Zoning Official has a process in place to address them and until then, the ZBA should take no action.

A motion was made to rescind the earlier vote to send the letter to John Cain regarding parking at the Inn. The roll call on the motion was as follows; Nancy Cole-yes, Deborah Wells-yes, John Rau-yes, Andy Zaikis-yes.

The meeting adjourned at 6:45 pm.

Respectfully Submitted, Pam Thors-Board Administrator