

THE COMMONWEALTH OF MASSACHUSETTS

TOWN OF WEST TIS BURY
ZONING BOARD OF APPEALS

DECISION OF THE BOARD OF APPEALS ON THE PETITION OF John Cain filed with the West Tisbury Town Clerk on October 1, 2019 Special Permit 2019-33.

Applicant: John Cain, 7 Dwiggins Pathe, Hingham MA 02043

Property Owner: Cove Road Inn, LLC, whose title is recorded at the Dukes County Registry of Deeds and described in Book 1465 Page 718, dated April 19, 2018.

Agent: John Cain

Locus: 90 Manaquayak Rd., Assessors' Map 7, Lot 99, RU district (7.6 ac)

Plans: Parking plan drawn by Joseph Dick, registered architect dated 9/16/19

Notice: Certified abutters list mailed on May 22, 2019, and advertised in the Martha's Vineyard Times on May 23 and May 30, 2019.

Hearing & Request:

A meeting was held on September 19, 2019 (cont. from June 6 & 13, July 25 and August 22) for an application from John Cain for a Special Permit under Section 11.1-3 (A) of the Zoning Bylaws to address the allowed uses at the Lambert's Cove Inn and Restaurant and the Town of West Tisbury Entertainment License issued annually by the Board of Selectmen, Map 7 Lot 99, 90 Manaquayak Rd, RU district.

Requirement: Section 11.1-3 (A) Extension or Alteration of Non-conforming Uses and Structures, of the West Tisbury Zoning Bylaws.

Present: Nancy Cole, Larry Schubert, Tony Higgins, Julius Lowe and Deborah Wells

Absent: N/A

Decision: On September 19, 2019 the Zoning Board of Appeals voted unanimously to GRANT with CONDITIONS, a Special Permit to outline, within the limits imposed by its Conditions, the allowable uses of the Lamberts Cove Inn property.

Vote for: Nancy Cole, Larry Schubert, Tony Higgins, Julius Lowe and Deborah Wells.

Abstained: N/A

Findings: 1) Subject property was 18 acres prior to implementation of Zoning and reduced to 7.5 acres as part of a sale in 1979.

2) Eleven abutters to the property wrote in opposition to the application for increasing the Pre-existing, Non-conforming use at The Lamberts Cove Inn. There were no correspondences received in favor of the application.

3) The testimony given in these correspondences and in person at meetings held on this application outlines the following complaints and concerns:

a) Traffic has become increasingly dangerous on Manaquayak Rd as indicated by abutters' testimony and substantiated by West Tisbury Police Department CAD Incident Report #19025588 dated 8/21/19.

b) Parking and access problems were cited by abutters utilizing the Right of Way through the Lamberts Cove Inn parking lot. The Zoning Board of Appeals requested an Engineered Site Plan showing clearly marked parking spaces including handicap spaces with dimensions and location of the Right of Way going through the parking lot. A plan including this information was not supplied by the Applicant despite the specific request made by the Zoning Board of Appeals. This fact as well as the possibility that the Applicant may need to increase parking to accommodate growth of the commercial use led the Zoning Board of Appeals to require that a separate request to review parking be submitted as a new application under Section 9.3-3, Amendment to a Special Permit dated March 28, 1995.

c) Abutters complained of excessive noise due to the change in size and amplification of outdoor events, especially those held in July and August which according to testimony is a new non-permitted use.

d) It was verified that Poolside Dining was never a permitted use and would have to be reviewed as a new application under Section 9.3-3, Amendment to a Special Permit dated November 3, 2005

4) According to all testimony, the request to Alter/Extend the Pre-Existing, Non-Conforming Use of this property would be substantially more detrimental to the neighborhood than the current use.

5) The application **DOES NOT COMPLY** with Section 9.2-2 Review Criteria of the West Tisbury Zoning Bylaws.

Conditions:

1) 10 Outdoor Speaking Events/Weddings allowed per year.

2) 3 Outdoor Speaking Events/Weddings with up to 150 guests allowed per year but not from July 1 to Labor Day.

3) The 7 remaining Outdoor Speaking Events/Weddings may not have more than 100 guests.

4) 2 Outdoor Speaking Events/Weddings allowed from July 1 to Labor Day with no more than 75 guests.

- 5) No outdoor amplified music allowed from July 1 to Labor Day.
- 6) Outdoor amplified music shall have duration of no more than 3 consecutive hours up to 9:45pm on Fridays and Saturdays and up to 8:30pm from Sunday through Thursday.
- 7) Outdoor amplified Speaking Events shall be allowed provided that the noise generated is not plainly audible to neighboring properties. This allowance will be reviewed one year from the date of Decision.
- 8) During any outdoor Speaking Event/Wedding, the restaurant will be closed.
- 9) For any outdoor Speaking Event/Wedding with over 70 guests, owner will employ the use of an offsite shuttle service to limit traffic on Manaquayak Rd.
- 10) These conditions limit the number of Outdoor Speaking Events/Weddings allowed on the property for the purpose of Event Permits issued by the Board of Selectmen.

NO VARIANCE OR SPECIAL PERMIT SHALL TAKE EFFECT UNTIL:

1. **A period of twenty days has elapsed from the date of the filing of the Board's written Decision with the Town Clerk, and the applicant has received a copy of the Decision bearing the certification of the Town Clerk that a period of twenty days has elapsed from the filing of the Decision and that no appeal has been filed, or the appeal has been denied or dismissed. The **Certified Decision** is recorded at the Dukes County Registry of Deeds and the recording fee has been paid at the Dukes County Registry of Deeds. **Only Original Documents will be accepted at the Registry.****
2. A receipt for the recording stamped by the Dukes County Registry of Deeds has been returned to the **Building & Zoning Inspector of West Tisbury** or to the office of the **West Tisbury Board of Appeals** who will turn over the receipt to the Building and Zoning Inspector.
3. **The applicants may proceed with applying to the appropriate Town of West Tisbury Officers and Boards for any other development permits which may be required by law.**

Any person aggrieved by the Decision of the West Tisbury Board of Appeals may appeal to Superior Court and must notify the Town Clerk of the action and submit a copy of the complaint within twenty days after the decision has been filed in the office of the Town Clerk.

A Special Permit shall lapse in 2 years if not utilized. A Variance shall lapse in one year if not utilized.

The Building and Zoning Inspector may approve at his discretion, minor changes that come up during the building process. All major changes to the plans or significant material changes must be approved by the Zoning Board of Appeals. Please consult with the Inspector regarding any change. Failure to do so may nullify your permit and may require removal of the unapproved construction.

NOTE WELL; the applicant will obtain all other permits or authorization required by the Town of West Tisbury before proceeding with any work.

Filed with the West Tisbury Town Clerk on October 1,
2019. _____

I certify that no appeal has been made _____