

THE COMMONWEALTH OF MASSACHUSETTS

TOWN OF WEST TISBURY
ZONING BOARD OF APPEALS

DECISION OF THE BOARD OF APPEALS ON THE PETITION OF Lynley Projects, LLC, filed with the West Tisbury Town Clerk on July 31, 2020 ZBA Case File 2020-28

Applicant: Lynley Projects, LLC, 105 Avon Rd, Haverford, PA 19041

Property Owner: Lynley Projects LLC, whose title to the property is recorded at the Dukes County Registry of Deeds and described in Book 1518 Page 878, dated January 24, 2020.

Agent: Travis Ritchie, R&D Studio

Locus: 63 Boghouse Way, West Tisbury, MA, Assessors Map 3 Lot 7, RU district, 2.00 acres.

Plans: 1) Site Plan prepared by Vineyard Land Surveying and Engineering, dated July 14, 2020.
2) Plans and Elevations prepared by R&D Studio, dated July 2, 2020.

Notice: Certified abutters notified on July 8th 2020 and legal notice advertised in the Martha's Vineyard Times on July 9th and July 16th 2020.

Hearing & Request: A Public Hearing was held on July 23, 2020 on an Application for a 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 a flat roof dormer at 20'-1" above mean average grade and 2' of East side yard setback relief under Sections 4.3-3 (D), 6.1-4 (B), 6.1-6(A)3 and 11.1-3(A) of the Zoning Bylaws at 63 Boghouse Way, Assessor's Map 3, Lot 7, RU District.

Section of Bylaw: 4.3-3 (D), 6.1-4 (B), 6.1-6 (A) 3 and 11.1-3 (A) of the West Tisbury Zoning Bylaws

Present: Nancy Cole, Larry Schubert, Julius Lowe, Deborah Wells, John Rau and Andy Zaikis

Decision: On July 23, 2020 the Zoning Board of Appeals voted to GRANT with CONDITIONS, a Special Permit to reconstruct, with alterations, a pre-existing, non-conforming structure in the Shore Zone of the Coastal District requiring 8' of height relief for a flat roof dormer at 20'-1" above mean average grade and 2' of East side yard setback relief under Sections 4.3-3 (D), 6.1-4 (B), 6.1-6(A)3 and 11.1-3(A) of the Zoning Bylaws at 63 Boghouse Way, Assessor's Map 3, Lot 7, RU District.

Vote to Approve: Nancy Cole, Larry Schubert, Julius Lowe, Deborah Wells, John Rau and Andy Zaikis

Findings:

- 1) The pre-existing, non-conforming lot is narrow and is restricted by wetlands on the landward side and the coastal bluff on the ocean side and by two wells, one of which services an abutting property.
- 2) The approved plan locates the house an additional 10' from the coastal bluff.
- 3) The reduction in the size of the pool locates it outside of the wetlands buffer zone.
- 4) The approved flat roof height relief does not increase the overall height of the structure.
- 5) The new construction does not increase the number of plumbing fixtures/sanitary disposal fixtures in the Shore Zone.
- 6) The approved plans were reviewed by the Planning Board and reviewed and approved by the Conservation Commission..
- 7) The application complies with Section 9.2-2 Review Criteria of the Zoning Bylaws.
- 8) The extension/alteration of the pre-existing non-conforming structure is not substantially more detrimental to the neighborhood.

Conditions: 1) The applicant and installers must ensure that the barrier fencing is acceptable to the West Tisbury Building Inspector and meets the requirements of the Building Code.

- 2) The applicants and installers must comply with all other safety requirements and further permitting as required by the West Tisbury Zoning and Building Inspector and Board of Health. The applicant and installers must comply with all requirements as stated in Massachusetts State Building Code (CMR) 780 which regulates the requirements for swimming pools.
- 3) The fencing should be of the height and description as in approved plans and sited as in approved plans. Any changes to the fencing must be approved by the Zoning Board of Appeals.
- 4) Lighting for the pool must conform to Section 8.6 of the West Tisbury Zoning Bylaws, the lighting regulations.
- 5) The initial filling of the pool must be from a mixture of well water and an off-site source of water brought in by tanker. At any time that the pool is substantially or completely drained, the water must be pumped into a tanker and disposed of off-site in a responsible manner and site. The refilling of the pool must be from a mixture of off-site source of water brought in by tanker and well water. This condition must be posted in visible place for the pool service employees to see. The applicant must ensure that the service company is aware of this condition.
- 6) The applicant and the pool service company must do any minimum maintenance draining of the pool in such a manner as to direct all drainage away from any wells on the property or neighboring property, and away from any wetlands. Drainage must not flow onto neighboring property. Drainage may not occur until such a time that there is no longer any chlorine or other salt content in the water. This condition must be posted in a visible place for the pool service employees to see. The applicant must ensure that the service company is aware of this condition.
- 7) Any changes to the pool application must be approved by the ZBA.
- 8) Temporary or permanent fencing as required by the West Tisbury Building Inspector must be in place before the pool may be filled with water, and the pool installation must be compliant with all State and Local regulations.

NOTE WELL: It is understood that the applicant will obtain all other permits or authorizations required by the Town of West Tisbury before proceeding with any work.

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.

Filed with the West Tisbury Town Clerk on July 31, 2020

Sara J. Kelly 31 2020

I certify that no appeal has been made August 27 2020

