



THE COMMONWEALTH OF MASSACHUSETTS

TOWN OF WEST TISBURY

BOARD OF APPEALS

DECISION OF THE BOARD OF APPEALS ON THE PETITION OF Patricia Roads, *Filed with the West Tisbury Town Clerk on July 24, 2015, ZBA Case File 2015-26.*

Applicant: James Wasserloos, PO Box 546, Edgartown, MA 02539.

Owner: Patricia Roads, 30A Dr. Fisher Road, West Tisbury, MA 02575, whose title to the property is recorded at the Dukes County Registry of Deeds Book 1333 Page 488, dated 10/31/2013

Locus: 30A Dr. Fisher Road, Assessors Map 21 Lot 13-4A, West Tisbury, MA, 02575; RU District, 0.9 acres

Plans: 1) A site plan dated June 22, 2015 from Vineyard Land Surveying, 2) proposed home business office plans dated July 1, 2015, 3) photos of above ground pool and fencing which are on file at the ZBA office.

Notice: Certified abutters list mailing sent out on July 1, 2015. As advertised in the Martha's Vineyard Times on July 2 and July 9, 2015.

Hearing & Request:

July 16, 2015 -An application by James Wasserloos agent for Patricia Roads for a Special Permit for a home business, above ground pool and setback relief.

Requirement: Section 4.2-2D Setback relief, 8.5-1B Home Occupations by Special Permit and 8.5-4C- Pool by Special Permit.

Present: Roger Hubbell, (Chairman), Tony Higgins, Larry Schubert, Toni Cohen and Julius Lowe.

Absent: Nancy Cole, Bob Schweir

Decision: The Zoning Board of Appeals voted unanimously to GRANT with CONDITIONS a Special Permit for 18 feet of setback relief; an above ground pool with an insulated pool equipment container and a home occupation office for a health coach.

Vote for: Hubbell, Higgins, Schubert, Cohen and Lowe.

Vote Against:

Findings:

- 1.) The above ground 18 foot diameter pool is located 32 feet from the west property line. Along this property line, 15 feet deep, is native low level vegetation with oak trees.
- 2.) The applicant agreed to plant a mix of 28 Leyland spruce and Arborvitae 4-6 feet in height along the west and north sides of the pool as shown in site plan submitted.
- 3.) The pool is for personal use and not a part of the applied for home business.
- 4.) The pool equipment will be located in a sound proof container.
- 5.) The proposed 20 ft. x 16 ft. office with loft area above is to be used by the owner for her business as a health coach. The loft is for storage only as indicated on the plan. This structure is non-habitable space. There are no employees.
- 6.) The property is ground leased from the Island Housing Trust and their policies allow business uses.

- 7.) The application for this permit is consistent with the definition, goals, objectives and conclusions contained in the West Tisbury's Master Plan concerning Home Occupations. Under Action to Protect Community Resources and Character it is stated: Allow for a diversity of home-based businesses, with a permitting process to insure minimum conflict with surrounding land uses".
- 8.) The application is consistent with the review criteria 9.2-2 of the Zoning Bylaws.
- 9.) The applicant must obtain a building permit for the pool and structure.

Conditions:

Home Business- Health Coach

- 1) Days of Operation- 4 days out of 5, Monday- Friday with a maximum of four clients per day, 16 per week. There will be no group sessions.
- 2) Hours of operation are to be 8:30 am to 2:30 pm.
- 3) The office space and storage loft are considered non-habitable space.
- 4) Any change of use of the office space will need Zoning Board approval.
- 5) The planting of 28 Leyland spruce and Arborvitae 4-6 feet high will be completed before pool may be used.
- 6) The pool fencing must be of the height and description as in approved plans and sited as in approved plan. All fencing, gates and alarm must be in place before filling pool.
- 7) The applicant and /or the pool service company must do any 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 time that there is no longer any chlorine or other salt content in the water.

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. A Certificate of Granting will also be issued.
2. The Certified Decision and the Certificate of Granting are 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.**
3. 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.
4. **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.**
5. Note well: You must obtain a Building Permit from the Building/Zoning Inspectors Office prior to construction of the project

Any person aggrieved by this 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 and the Zoning Board of Appeals must approve any substantive or material changes made to the approved plans or made to a structure during actual construction and/or to a use. Please consult with the Inspector regarding 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 24, 2015.

August 14, 2015
 no appeal has been filed
 TOWN CLERK
 WEST TISBURY
 MASS. 02575

Case: 2015-26
Date: _____
Map & Lot: 21-13-4A

WEST TISBURY ZONING BOARD OF APPEALS
RECORD OF VOTE

The following members of the Zoning Board of Appeals vote to grant a Special Permit subject to the above stated terms:

<u>[Signature]</u>	<u>[Signature]</u>
<u>[Signature]</u>	<u>[Signature]</u>
<u>[Signature]</u>	_____

The following members of the Zoning Board of Appeals are in opposition to the grant of the Special Permit:

_____	_____
_____	_____
_____	_____

Attest:

[Signature] Register