



Peter M. Vetere
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617.345.3296

VIA CERTIFIED MAIL

February 12, 2024

Jane Rossi
Planning Board Administrator
1059 State Road
P.O. Box 278
West Tisbury, MA 02575



Re: Application for Amendment to Special Permit
Applicant: Candice M. Webster
Property: Map 2, Lot 8, 2 Simran Road, West Tisbury, MA 02575

Dear Ms. Rossi:

Enclosed herewith please find the following application materials:

1. Application for Special Permit (form);
2. Check No. 215574 for \$150.00 made payable to the Town of West Tisbury; and
3. Narrative in Support of Application for Amendment to Special Permit.

Kindly file in your usual manner and please contact me with any issues. Please also inform me of all hearings and other matters in connection with this application.

Regards,

A handwritten signature in blue ink that reads "Peter M. Vetere".

Peter M. Vetere
Attorney

encl.

cc: Ms. Candice M. Webster (via email)



Town of West Tisbury

PLANNING BOARD

P. O. Box 278

West Tisbury, MA 02575-0278

508-696-0149

planningboard@westtisbury-ma.gov

APPLICATION FOR SPECIAL PERMIT

Date: February 12, 2024

Date Received by Planning Board: _____

Name of Applicant and Mailing Address: Candice M. Webster, 2 Simran Road,
West Tisbury, MA 02575

Telephone Number(s): 508-627-0888

Name of Owner and Mailing Address (If not Applicant): _____

Map and Lot # and Street Address of Subject Property: Map 2, Lot 8, 2 Simran Road,
West Tisbury, MA 02575

Applicant is: Owner (Owner, Tenant, Purchaser, Other)

Applicable Section of Zoning Bylaw: 9.3-3

Date(s) and Title(s) of Plans Submitted: N/A

Brief Description of Proposal:

Application for Amendment to Special Permit, issued Sept. 5, 2023, to amend Condition No. 3. Condition provides: "At no time shall any portion of the property be rented except to members of the owner's family." For the reasons stated in the accompanying Narrative, the Applicant seeks to amend this condition to the following proposed language: "No portion of the main house shall be rented during the Applicant's lifetime. At all times the guest house may be rented but only in accordance with the Zoning Bylaw."

I hereby request a hearing before the West Tisbury Planning Board with reference to the above noted application.

Signed: 
Peter M. Vetere
Title(s): Attorney for Applicant

Application fee of \$150.00 is required. Date Paid: _____

FOR PLANNING BOARD USE

Size of Subject Lot: _____ Zoning District: _____

Registry Book and Page #'s and Date _____

Other Boards Involved with the Permitting:

Within an Overlay District?

Martha's Vineyard Commission Referral Required? _____ If So, MV Checklist
Items: _____

BURNS & LEVINSON LLP

OPERATING ACCOUNT

125 HIGH STREET
BOSTON, MA 02110-1624

Citizens Bank
Massachusetts

5-7017/2110

NUMBER **215574**

PAY

DATE

February 12, 2024

\$***150.00

ONE HUNDRED FIFTY AND 00/100 DOLLARS

TO THE
ORDER
OF

Town of West Tisbury
Planning Board
P.O. Box 278
West Tisbury, MA 02575-0278



AUTHORIZED SIGNATURE



THIS DOCUMENT CONTAINS HEAT SENSITIVE INK. TOUCH OR PRESS HERE - RED IMAGE DISAPPEARS WITH HEAT.

⑈ 215574⑈ ⑆ 211070175⑆ 1131001564⑈

BURNS & LEVINSON LLP

17582

Town of West Tisbury

313489

215574

Invoice No.	Invoice Date	Description	Invoice Amount	Payment Amount
02122024	2/12/2024	60971.0	\$150.00	\$150.00

TOWN OF WEST TISBURY
PLANNING BOARD

February 12, 2024

Candice M. Webster
2 Simran Road

Applicant.

Narrative in Support of Application for Amendment to Special Permit

Candice M. Webster, the Applicant in this proceeding, submits this narrative in support of her application for an amendment to the special permit issued by the West Tisbury Planning Board on September 5, 2023 (the “Special Permit”), for the property located at 2 Simran Road (the “Property”). A copy of the Special Permit is attached hereto as **Exhibit 1**.

Ms. Webster respectfully requests an amendment to Condition No. 3 of the Special Permit, which currently provides: “At no time shall any portion of the property be rented except to members of the owner’s family.” As grounds for the amendment, Ms. Webster states as follows:

Procedural Grounds

Section 9.3-3 of the Zoning Bylaw provides: “The terms and conditions of any Special Permit or Site Plan approval may be amended in the same manner as required for the issuance of the original approval.”

Ms. Webster has submitted, through counsel, the Board’s special permit application form as well as a check for the special permit application fee, both of which accompany this narrative.

The Applicant Did Not Agree to Condition No. 3 as Imposed in the Special Permit.

During the original public hearings on the Special Permit, Ms. Webster understood that the rental condition to which she was agreeing would cover only her lifetime and not bind her family thereafter. Neither Ms. Webster nor her contractor who appeared on her behalf at the public hearings received notice of the Board’s original decision on the special permit within the 20-day appeal period. Therefore, neither of them had any opportunity to challenge Condition

No. 3 originally. As Ms. Webster explained during the public hearings, her intent in seeking the Special Permit was to construct additional living space for her adult daughters and any future grandchildren in order to create a multi-generational living arrangement on the Property. Ms. Webster has strong community ties to West Tisbury and Martha's Vineyard. She first moved to the Property in 1989 and has lived there full-time ever since. She has served on Town boards and worked and volunteered in a number of positions with the West Tisbury school system. Her family has deep roots on the island: her grandparents starting visiting the island in the 1930s, and her parents purchased a summer home in Chappaquiddick in 1961 and moved there full time in the 1972.¹ She wants to ensure that her children, who grew up in West Tisbury, can continue to live and raise their own families in this community.

As such, Ms. Webster's intent in submitting the original special permit application was to provide additional living space for her whole family. Ms. Webster has no intention of renting any portion of the main house on the Property in her lifetime.² Instead, her intent is to live out her days surrounded by her family, cared for by her adult children and able to help raise her grandchildren, should she be so blessed. Her intent is to then pass the Property to her children so they can live and raise their children in the same community in which Ms. Webster raised them and in which they have created lives for themselves. Recognizing the exorbitant cost of maintaining the Property, Ms. Webster has contemplated that renting the Property (e.g., for a month during the summer) could provide a potential future source of supplemental income for her children to cover property taxes, insurance, utilities, and any mortgage payments. Condition No. 3 as imposed in the Special Permit would cut off this potential source of future income while simultaneously diminishing the Property's value by restricting its potential use, imposing a double burden on Ms. Webster's children as future owners.

Accordingly, Ms. Webster seeks to amend Condition No. 3 so that it aligns with her understanding of what she agreed to during the original public hearings. She proposes a rental

¹ In or around 2018 or 2019, Ms. Webster's parents sold a large portion of Manaca Hill facing Edgartown to the Sheriff's Meadow Foundation at a bargain price for permanent conservation instead of letting it become developed.

² As discussed below, the Applicant has in the past rented her guest house as an affordable housing unit at significantly below market rate to island residents and seasonal employees in collaboration with the Martha's Vineyard Housing Authority. For reasons of public policy, this practice should be encouraged, and not prohibited as it is under Condition No. 3.

condition that is limited to her lifetime for the main house on the Property, and that allows for her daughters to have a reasonable opportunity to generate supplemental income to support their ability to retain the main house as their primary residences.

Condition No. 3 is Against Public Policy.

The Town of West Tisbury Zoning Bylaw codifies an expansive policy supporting and in favor of providing affordable housing opportunities to town residents and seasonal employees of local businesses. Condition No. 3 runs counter to that policy.

The town's pro-housing policy is rooted in several sections of the Zoning Bylaw. For instance, Section 1.1 declares the purposes of the Zoning Bylaw and provides that it "is adopted in order to achieve the Town's planning goals," which include "[p]roviding a supply of year-round housing that is affordable to residents of West Tisbury." Further, the preamble to Section 4.4, which governs housing, provides (emphasis added):

The Town of West Tisbury values being a diverse community that accommodates residents of varying income levels. As the cost of land and housing increases on Martha's Vineyard, many local residents are being priced out of the market for homes. **The Town of West Tisbury desires to maintain and encourage housing that is affordable to the entire range of its residents**, without encouraging excessive growth that detracts from the Town's quality of life. Further, **the town desires to create and maintain a pool of housing that remains affordable in perpetuity for future generations of West Tisbury residents.**

Within this section, Section 4.4-3(A) provides for affordable accessory apartments "[i]n order to help provide affordable year-round rental housing within the context of West Tisbury's predominantly single-family home character, and to provide an opportunity for supplemental income to senior citizens and other homeowners in West Tisbury, who might otherwise find it difficult to remain in their homes due to increasing energy and maintenance costs and/or concerns about security and health." As described above, the opportunity for supplemental income to homeowners is precisely what the Applicant has contemplated for her daughters when they inherit the Property in the future, yet this is exactly what Condition No. 3 prohibits. This runs counter to the spirit of the Zoning Bylaw.

Section 4.4-4 of the Zoning Bylaw identifies "those most in need of" affordable housing in West Tisbury: "year-round residents of West Tisbury and Martha's Vineyard and seasonal employees of local businesses." As noted above, Ms. Webster has a history of renting her guest

house to year-round residents and seasonal employees at affordable rates through the Martha's Vineyard Housing Authority. No less than 10 island families have rented her guest house and thus were able to continue living and working on the island; not once has Ms. Webster ever rented the Property seasonally or short-term. Condition No. 3 would prohibit any future rental of the guest house even in accordance with the provisions of the Zoning Bylaw. This also runs counter to the spirit of the Zoning Bylaw and is clearly the opposite of what the Town professes to want to encourage in pursuit of its affordable housing goals. Condition No. 3 quite plainly *removes* a potential unit of affordable housing from the market, an outcome which should be discouraged. The Board is surely aware of the devastating housing crisis on Martha's Vineyard and throughout the Commonwealth; to impose a condition that exasperates the crisis is wholly irresponsible.³

Finally, nothing in Section 4.4-8(F) of the Zoning Bylaw provides for the consideration of the future rental use of a property subject to the Residential Floor Area special permit (the permit that Ms. Webster received). Section 4.4-8(G) limits the Board's ability to impose conditions on these special permits to those condition that "ensure the permit is consistent with the purpose of this bylaw, including a deed restriction against future development and/or subdivision of the property." As explained above, Condition No. 3 is not consistent with the purpose of the Zoning Bylaw to provide affordable housing opportunities for those most in need of it (year-round residents of West Tisbury and Martha's Vineyard and seasonal employees of local businesses), and it reduces the supply of affordable housing in West Tisbury by forever removing the guest house as a potential rental unit. Condition No. 3 is also not consistent with a restriction against future development and/or subdivision of the property; the Condition does nothing to prevent the Property from being further developed or subdivided (although it is unlikely that the Property could be legally subdivided under the Zoning Bylaw by virtue of its size, not by any effect of Condition No. 3). Accordingly, Condition No. 3 is inconsistent with the very Zoning Bylaw provision under which the Special Permit was issued. The Board should

³ While Ms. Webster has historically only rented her guest house (and has no intention of renting her main house during her lifetime), the Zoning Bylaw allows the renting of three or fewer rooms in an owner-occupied dwelling with or without meals provided by right in the RU district, where the Property is located. Section 3.1-1 (Use Table). Thus, Condition No. 3 directly conflicts with a by-right use of the Property and should be amended on those grounds alone.

consider Ms. Webster's request to amend it. There is no reason why she should be treated any differently than any other property owner in West Tisbury.

Requested Relief

Based on the foregoing, Ms. Webster respectfully requests that the Board amend Condition No. 3 to better align with her understanding of the conditions discussed at the original public hearings, to her desired intent and contemplated future use of the Property, and to the policies and provisions set forth in the Zoning Bylaw. Ms. Webster proposes the following language as an Amended Condition No. 3:

“No portion of the main house shall be rented during the Applicant's lifetime. At all times the guest house may be rented but only in accordance with the Zoning Bylaw.”

Respectfully submitted,

CANDICE M. WEBSTER

By her attorney,



Peter M. Vetere (BBO# 681661)
BURNS & LEVINSON LLP
125 High Street
Boston, MA 02110
(617) 345-3000
pvetere@burnslev.com



Town of West Tisbury
PLANNING BOARD
P. O. Box 278
West Tisbury, MA 02575-0278
508-696-0149
planningboard@westtisbury-ma.gov

**DECISION OF THE PLANNING BOARD ON AN APPLICATION FOR A SPECIAL PERMIT FOR
Island Housing Trust:**

Filed with the West Tisbury Town Clerk on September 5, 2023:

Applicant: Candice Webster, 2 Simran Road, West Tisbury, MA 02575

Owner: Candace M. Webster, C/O Mathew Weith-Capital First, 234 West Florida Street Suite 400,
Milwaukee, WI 53204

Locus: Map 2, Lot 8, 2 Simran Road, West Tisbury, MA 02575, RU District.

Plans: Plan from Vineyard Land Surveying and Engineering, 12 Courmoyer Road, West Tisbury, MA
02575, dated October 31, 2022, Scale 1"=20'.

Notice: Certified abutters list mailing sent out on March 30, 2023, posed in the Martha's Vineyard Times
on April 6, 2023 and April 13, 2023. Posted in Town Hall on March 30, 2023.

Hearing & Request:
Public hearing on an Application for a Special Permit held on May 1, 2023 and continued to June
5, 2023, August 14, 2023 and August 28, 2023.

Requirement: Allowable per Section 4.4-8 Residential Building Size Bylaw of the West Tisbury Zoning Bylaws.

Present: Virginia Jones, Leah Smith, Matthew Merry, Heikki Soikkeli, Amy Upton.

Decision: The Planning Board voted to APPROVE the application with Conditions.

Vote to Approve: Jones-yes, Smith-yes, Soikkeli-yes, Upton-yes.

Findings: The Planning Board finds the request to construct an addition of 981 square feet, consisting of a
garage, all attached to the house by a one-habitable breeze way, to an existing house that includes
a garage and two bedrooms and a bathroom above the garage to be in compliance and allowable as
a special permit under Section 4.4-8 of the zoning bylaws.

Conditions:

1. The applicants shall plant additional tall screening between the applicant's property and
the direct abutter, Hugh Phear, to obstruct the view of the applicants' property.
2. The applicant shall maintain Simran Road during construction and shall return the road
to its original condition upon construction completion. Turn outs, if necessary, shall be
created and maintained during the construction period. Applicant must be a member of the
existing road association.
3. At no time shall any portion of the property be rented except to members of the owner's
family.

4. Well shall be tested for contaminants before building permit and/or occupancy permit is issued.

4. Subject to review and approval of the Building Inspector and the Board of Health.

NOTE WELL: After the expiration of the 20 day appeal period and if no appeal has been filed, the applicant may proceed with applying to the appropriate Town of West Tisbury Officers and Boards for any other development permits which may be required.

No 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.
2. 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.**
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 Planning Board who will turn over the receipt to the Building & Zoning Inspector.

Any person aggrieved by this Decision of the West Tisbury Planning Board may appeal to 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.

The Building and Zoning Inspector and the Planning Board must approve any substantive or material changes made to the approved plans. 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 September 5, 2023

Tara J. McNeil

I hereby certify that no appeal has been filed

Tara J. McNeil

September 26, 2023
TOWN CLERK
WEST TISBURY
MASS. 02575

Case: Webster
Date: 9-25-23
Map&Lot _____

**WEST TISBURY PLANNING BOARD
RECORD OF VOTE**

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

Leah Smith John W. Smith
Virginia Jones Cynthia
MSM _____

The following members of the Planning Board are in opposition to the grant of the Special Permit.

