

WEST TISBURY
CONSERVATION COMMISSION
MINUTES OF MEETING
June 30, 2020

Present: John Brannen, Geraldine Brooks, Whit Griswold, Donna Paulnock, Binnie Ravitch, Peter Rodegast, Michael Turnell, and Tara Whiting-Wells

Staff Present: Maria McFarland

Also, present for all or part of the meeting: David and Julie Fleischner, Travis Richie, and Reid Silva

Whit Griswold, called the meeting to order at 5:10 P.M. This meeting was held via Zoom in accordance with the Order Suspending certain provisions of the Open Meeting Law, G.L. c.30A sec.20. All votes will be taken by roll call vote.

Minutes: The minutes of the June 9 meeting were approved with revisions. Roll Call Vote: John, Whit, Geraldine, John Binnie, Peter, and Tara voted in favor. Michael abstained.

Continued Public Hearing:

Map 3 Lot 7/SE79-414, a remote public hearing under the requirements of G.L. Ch.131 § 40, as amended, and the West Tisbury Wetlands Protection Bylaw and regulations to consider a **Notice of Intent** filed by Vineyard Land Surveying & Engineering, Inc., on behalf of Lynley Projects LLC for a project at 63 Boghouse Way. The project consists of site work within 100 feet of a coastal bank to abandon and fill in several existing septic components, install a new septic tank and leach field, demolish and remove the existing structure in order to build a new house, restore landscaping, and perform associated site work.

A revised project plan dated June 30, 2020, minutes of the June 11, 2020 ZBA meeting, and the minutes of the June 15 Planning Board meeting were noted for the record.

The public hearing on this project was continued to allow the project to be heard by the ZBA and Planning Board. The ZBA continued its hearing to July 23 and the Planning Board approved the project with no conditions.

Travis Richie worked with the owners on a revised project design that would reduce the number of bedrooms from eight to five and move the house 13 feet further inland placing the new house 51 feet from the top of the coastal bank. The pool is now 93 feet from the inland wetland with 10 feet between the house and the pool. The leach field is 105 feet from the inland wetland. The new location will require 3 feet of zoning setback relief on the east side of the lot. Reid said the lot is constrained by zoning sideline setbacks, Board of Health setback requirements and setbacks to the inland wetland and coastal bank.

While the reduction in the number of bedrooms resulted in a smaller leach field, Reid explained that siting the septic system was difficult because of soil conditions and the required separation to groundwater. The proposed location allows for a conventional title 5 system rather than a

mounded system. In the original project design, the pool and the leach field were located outside the Buffer Zone. To accommodate the shift of the house, the pool and the leach field have been moved approximately 10 feet inland. The location of these structures meets the BOH set back of 20 feet between a pool and leach field and 30 feet off the lot line.

Travis attended the ZBA meeting on June 11. He said the ZBA had a lot of similar concerns that the Commission has raised, the details of which can be found in the minutes of the ZBA meeting.

Commissioner's Comments/Questions:

Geraldine asked what type of pool is proposed. Travis answered that it will be chemical free. Geraldine asked if they were using plants. Travis replied that it has not been decided, but the pool will be chemical free.

Tara said she appreciated the effort made to move the house back. However, because the house is being demolished she looks at this site as a vacant lot. If treated as a vacant lot, the design would be different. She sees the pool as a "want" and not a "need" and that the pool is constricting the house from moving further inland. If the pool was not part of the design, more could be done to protect the interests of the Act.

John said he walked under the wooden bulkhead yesterday and looks to him like there is more erosion than there was two weeks ago. The fact that there hasn't been a major storm recently means we are due to have one and all the science as it relates to climate change indicates that this is a very sensitive property. John also applauded the owner and the architect for the efforts made so far to move the house inland. If the pool is the negating factor in moving the house back, then he agreed with Tara. Geraldine concurred.

Peter said he appreciated that the number of bedrooms has been reduced thereby reducing the size of the septic system, and that the house has moved back 13 feet noting that it is still a sprawling footprint. He agreed with Tara that the notion of a pool on a water front property does make it more of a want than a need.

Peter asked what the dimensions of the pool are and whether the length could be shortened. Travis replied that the pool is 20' x 40' and can be shortened to stay out of the Buffer Zone.

Maria noted that the construction of a pool as an accessory residential structure is an exempt activity under the state regulations provided it is located more than 50 feet away from the resource area. It is not exempt under the local bylaw, but the Commission has the discretion to allow it to move inland and to condition the construction of the pool to provide for erosion control measures during construction.

Maria said that it would be reasonable for the Commission to ask the property owner to seek a variance from the BOH in order to reduce the distance between the pool and the leach field and to the side lot line rather than have the applicant ask for a variance to move the leach field closer to the inland wetland.

Reid said that there is no need for any of this work and that the existing house would be fine for many years to come. However, that is not what the owners want to do. He acknowledged that at some point the house will not be viable if the coastal bank fails and the Commission would have to address the removal or relocation of the house at that point. He pointed out that the project as proposed would not be allowed if this was a vacant lot and contends that the new design is an improvement.

John replied that this project was originally presented to the board as needing to have the foundation replaced, but not the house.

Reid reiterated that there is no need for a new foundation or a new house but that is not what the owners want to do. He argued that the project improves what is already on the site and there will be no impacts to the coastal bank.

John asked Reid how he could say that this project will not destabilize the bank. Reid said as an engineer with years of experience, he is confident that there will be no impacts to the coastal bank.

Maria asked Travis to clarify the existing condition of the foundation. Travis answered that the foundation is comprised of a little over 1,000 square feet of full walkout basement, 1,400 square feet of crawl space with dirt floor and 500 square feet of garage slab. The total footprint of the new foundation is 2,913 square feet of which there is 1,600 square feet of livable space. The balance will be a concrete slab.

Whit said the board has already approved lifting the house with cribbing that would be closer to the bank during construction.

Maria replied that the board wouldn't ask an applicant to demolish and rebuild a house when a renovation is being proposed, but now that they are asking to raze the house, it is appropriate to ask the applicant to move the house inland as much as possible.

Whit commented that if we get the storm of all storms and the house falls over the bank the resource hasn't really been impacted, whereas if the wetland behind the house is being polluted by a leach field that's an impact that is harder to mitigate.

Geraldine asked if the Commission asked for an enhanced system in the original project. Maria answered that the original design and the current design meet the current setback requirements from a wetland so the BOH would probably not ask for an enhanced system in this location.

Travis said the purchase of this property was predicated on being able to have a pool. The applicant sought all the necessary permits for the pool before the sale went through. The length of the pool can be changed, but if the pool is removed, his client will stay with the original plan which is an 8-bedroom house with a pool in the original approved location.

Peter proposed that the pool be scaled back so that its construction does not enter the Buffer Zone. He reiterated that it is good that the house has been moved and noted that the ZBA will have to weigh in on the sideline setback reduction on the east side of the property.

Geraldine concurred and said she wanted to see a true natural pool.

Michael asked about the surface around the pool. Travis said they are still working on the design of the area around the pool and the overall landscape plan. They are not looking to have a big patio.

Michael also said that there will be a big impact on the area because of the over-dig. Travis said he feels that what they are now proposing has less impact than what was originally approved.

Tara said that because of the demolition she looks at this lot as a virgin lot. Tara said it would be good if the pool is reduced in size and asked if the pool can be moved closer to the inland wetland and closer to the west property line.

Travis said that the abutter to the east might object to moving the house because he is building a huge project that is right on the 50-foot setback line and that the abutter to the west has already expressed concern about noise coming from the pool. Travis said he was concerned that if the house is moved closer to the west property line, the abutter will have an issue.

Whit confirmed that Travis thinks it is acceptable to his client to reduce the length of the pool by at least 7 feet to keep it outside the Buffer Zone.

Maria asked if the board is asking for the pool size to be reduced so that the house can be moved back a little more or to keep the pool out of the Buffer Zone.

Peter said that the reduction in the size of the pool should be enough to keep the construction disturbance and the footprint out of the Buffer Zone entirely.

Whit asked why the ZBA continued the hearing so far out. Peter replied that the ZBA is as concerned as this board is about how much they are trying to fit on this lot.

Geraldine then asked why the minutes of the ZBA meeting did not reflect any discussion about sending this project to town counsel. Maria explained that she was told this was going to happen before and after the ZBA meeting but that is now not the case. Geraldine asked if the Commission could ask town counsel for an opinion on demolition of a house in the Shore Zone. Maria replied that we would not be able to get guidance on a zoning issue.

Tara added that she was told that there is no definition of demolition in the zoning bylaw and therefore no reason to consult with town counsel.

Travis referred to a house on Beach Pebble Road that was completely demolished and rebuilt. Maria explained that the footprint of the original house was much smaller than this one and the expansion was 100 feet from the top of the bank. [The original house at Beach Pebble Road was

39.3 feet from the top of the bank. The new house was reoriented and moved back to be 71.5 feet from the top of the bank with a deck at 59.6 feet.]

Whit asked about holding a joint meeting with the ZBA. Maria explained that she would have to investigate the logistics of doing this. She suggested writing a letter to the ZBA or have a couple board members attend the July 23 ZBA meeting. Tara suggested that the Commission meet on July 14, continue to July 23, and do it as a joint meeting.

Whit said he is satisfied with an increase of 13 feet. He is looking for a reduction in the distance of the southern corner of the pool to the inland wetland.

Binnie said she is for maximizing the amount the house can be moved back and in favor of shortening the pool so, the house can be moved back further.

Whit replied that would require further reduction in the sideline set back on the east side of the house.

Travis said his clients do not want a house that sits back 30 to 40 feet from the bank. They bought a waterfront house. Maria asked Travis if it was not in his clients' best interest to consider the potential long-term impacts to the coastal bank from storms and climate change even if it takes 30-40 years for the bank to erode based on the current shoreline change data.

Reid said the board should give him a number of feet to move the house back. Reid assured the board the construction of a new foundation would not have any impact on the stability of the coastal bank. There will be an impact but not in the near future.

Peter said this is a difficult situation with a lot going on a small site. He acknowledged that the applicant has given up bedrooms allowing for a smaller septic system, moved the house back 10 feet but construction of the pool should be kept out of the Buffer Zone to the inland wetland.

Travis said the applicant would have to reapply to the ZBA for sideline setback relief on the east side from 14 feet to 11 feet.

John asked what the biggest concern is. If it is moving the house back from the coastal bank, how flexible will the ZBA on sideline setback relief.

Travis said he needs direction because originally the board was more concerned about the inland wetland and now they are more concerned about the coastal bank with members seeming to be split on which is more important to protect.

Public Comment:

Mrs. Fleischner addressed Tara's comments about the need versus the desire for a pool. The house will be used by multiple generations. She explained the importance of the pool to her family.

Mr. Fleischner said they are happy with the current proposed design and they are willing to reduce the size of the pool.

A motion was made and seconded to continue the public hearing on this application to July 14 at 5:10 PM. Roll call vote: Binnie – aye, Geraldine aye- John –aye, Peter – aye, Tara –aye, and Whit – aye. Michael is not eligible to vote on this project.

New Business:

Greenlands: In response to Tara’s question about e-bicycle activity at Greenlands at the last meeting, Maria reported she walked the paths at Greenlands and there is no evidence of any damage to or widening of any of the paths. The Land Bank recently did the annual trail maintenance. She suggested that perhaps the person who mentioned to Tara that the paths had been widened might have been talking about the trails in the state forest. She provided members with information about e-bicycles and guidelines for use on conservation properties. No action taken.

Administrative:

Orders of Condition: SE79-123 (1995) and SE79-138 (1997)

A motion was made and seconded to approve Certificates of Compliance for two landscaping projects for property at Map 35 Lot 6.6, 70 Plum Bush Point Road.

Roll Call Vote: Roll call vote: Binnie – aye, Geraldine aye- John –aye, Peter – aye, Tara -aye, and Whit – aye. Michael is not eligible to vote on this project.

Cedar Tree Neck Sanctuary: Maria updated the board on maintenance activities at Map 5 and 13, Lots 1, 4 and 4/SE79-309 and Map 13 Lot 4.5 and 6.1/SE79-362. No action taken.

Brian Beall informed by board via e-mail that he has decided not to be reappointed to the Commission or to the Mill Brook Watershed Committee.

Mill Brook Watershed Committee: A motion was made and seconded to recommend Donna to the Board of Selectmen for appointment as the Commission’s representative to this committee. Roll call vote: Binnie – aye, Geraldine aye- John –aye, Michal – aye, Peter – aye, Tara –aye, and Whit – aye.

Buffer Zone and view channel regulations: Maria submitted updated drafts based on comments received from Donna, Whit, John, and Tim Boland, Executive Director of Polly Hill Arboretum. Members will review. No action was taken.

Tisbury Great Pond: The payment of an invoice from the MVC for \$660 to cover the cost of testing samples taken on June 25 was approved.

Correspondence:

In:

Email from Brian Beall/ Resignation
Email dated June 23 from Kristina West/Ag Society/4H and Barn Buddies
Letter from Will Reich Shellfish Agent dated June 19, 2020
Map 3 Lot 85/ Murray/50 Blackwater Hollow Road: Request to install temporary
handicap ramp.
SE79-309/Letter from SMF dated June 22, 2020 regarding maintenance work
SE79- 362/Letter from SMF dated June 22, 2020 regarding maintenance work
Map 35 Lot 6.6 Requests for Certificates of Compliance
MVC/ Invoice for June 25 TGP sample test

There being no further business to conduct, the meeting adjourned at 6:40 PM.

Respectfully submitted,

Maria McFarland
Board Administrator
APPROVED
JULY 14, 2020