

WEST TISBURY ZONING BOARD OF APPEALS

Thursday, January 4, 2024

Meeting Minutes

Approved January 18, 2024 (6-0)

Present: Larry Schubert, Julius Lowe, Deborah Wells, Andy Zaikis, Jeffrey Kaye, Casey Decker, Pat Barrett
Absent:

Also Present: Kim Leaird (*Board Administrator*), Stever Aubrey, Jim Irwin, Lynn Buckmaster-Irwin, Tristan Atwood, Bennie Wiley, Frances Fisher Copeland, Eric Peters, Laura Grahame, John Pasquarello, John Andrade, Quezia Da Silva, Ronaldo Andrade, Pedro Andrade, Donald Ward

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5:00 pm – Minutes of December 14, 2023 meeting were approved 5-0-1, Deborah Wells abstained.

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5:15 pm – A public hearing on an Application for a Special Permit from **Stever and Elsie Aubrey** to locate a 576 sq. ft. open lean-to shed seven (7) ft. into the front yard setback under Section 4.2-2D4 of the Zoning Bylaw at **161 Indian Hill Rd., Map 15 Lot 8.1** in the RU district.

Larry read the hearing notice and opened the hearing at 5:15pm. Stever Aubrey was present for his application. The 24'x24' square shed is already built and in the setback. The building inspector sent him to the ZBA for setback relief after visiting the property to inspect solar panels. The board looked at the site plan and noted that the plan depicts the shed as a rectangle instead of a square. In attendance were abutters most impacted and Lynn Buckmaster-Irwin said they have no objection to the shed in the setback.

A motion was made and seconded to close the hearing and open the board meeting.
There was no further discussion.

It was moved and seconded to GRANT the Special Permit. Larry went over the 20-day appeal period.

A roll call vote was taken with the following resulting votes. Motion passed 5-0.
L. Schubert-yes, J. Lowe-yes, A. Zaikis-yes, D. Wells-yes, J. Kaye-yes

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5:35 pm – (*Continued from November 30, 2023*) A public hearing on an Application for a Special Permit from **Keith Bassett**, to rent five (5) bedrooms (known as the West Tisbury Inn) under Section 8.5-7 of the Zoning Bylaw, at **1070 State Rd., Map 32, Lot 90** in the VR district.

Larry read the hearing notice and opened the hearing at 5:35pm. Applicant called Kim yesterday and said he could not be present and requested a continuance until after March 1, 2024. Kim sent him and Extension of Time to Act as the board's time to act on the application will expire on Feb. 28. The form was not returned.

*A motion was made and seconded to continue the hearing to **February 15, 2024, at 5:15pm***

A roll call vote was taken with the following resulting votes. Motion passed 7-0.

L. Schubert-yes, J. Lowe-yes, A. Zaikis-yes, D. Wells-yes, J. Kaye-yes, C. Decker-yes, P. Barrett-yes

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5:55 pm – A public hearing on an Application for a Special Permit Martha’s Vineyard Engineering & Design on behalf of **Fletcher and Benaree Wiley** to amend Special Permit #2008-13 and construct a 196 sq. ft. addition to an existing 840 sq. ft. pool house under Sections 9.3-3 and 11.2-2 of the Zoning Bylaw at **130 Pond Rd., Map 30 Lot 2.16** in the RU district.

Larry read the hearing notice and opened the hearing at 5:55pm. Casey Decker recused and Pat Barrett disclosed he lives on Pond Rd. but stated there is no conflict and he has no issue with being fair and impartial. Tristan Atwood was present for the application.

Larry first read a letter from the Building and Zoning Inspector that concluded there are no additional accessory structures on the property and therefore, [the addition] will not require review under the big house bylaw with the Planning Board.

The original special permit granted in 2008 was for an accessory structure over 676 sq. ft. on a non-conforming lot. Now the applicant wishes to add a 14’x14’ addition to the accessory structure for use as a private office and working space. The addition is conforming to setbacks.

It was pointed out that there was a clerical issue with version of the old plans that called the structure a ‘guest house’ instead of pool house.

Larry said he spoke with Joe about what constitutes a habitable dwelling and it’s Joe’s opinion that a stove would push it over. Larry said if they vote to approve, they should state that it is not a dwelling unit, it is not for sleeping or cooking.

Jeffrey thought they should condition it to defer to the Homeowners’ Association (HOA) approval. Julius disagreed because it would make the board’s decision subservient to the HOA. Pat noted that the HOA is already okay with it.

A motion was made and seconded to close the hearing and open the board meeting.

Conditions were revisited to simply include this is not a dwelling unit.

It was moved and seconded to GRANT the Special Permit as conditioned. Larry went over the 20-day appeal period.

A roll call vote was taken with the following resulting votes. Motion passed 5-0.

L. Schubert-yes, J. Lowe-yes, A. Zaikis-yes, D. Wells-yes, J. Kaye-yes

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6:15 pm – (Continued from November 30, 2023) A public hearing on an Application for a Special Permit from **Ronaldo Andrade and Quezia da Silva** to construct a 60’x40’ garage and operate a service business (seasonal landscaping, tree and stone work) to include the storage/parking of five (5) trucks: (2) over 10,000 GVW and (3) under 10,000 GVW, under Sections 8.5-2, 3.1-1 and 14.2 of the Zoning Bylaw at **364 State Rd., Map 11 Lot 57** in the RU district.

Larry read the hearing notice and opened the hearing at 6:15pm. Present were Quezia da Silva and Ronaldo Andrade along with attorney Eric Peters. Larry said they conducted a site visit two days before (Larry, Jeff, Casey) to see where the barn and dwelling unit were proposed and Brissette's property line. It is a heavily wooded lot and not much is visible from road.

Atty. Peters discussed the Brissette road and said when the Fishers sold that lot to him, they thought they had retained the right in the road and would be able to use it. However, when they went to subdivide there was no clarifying language in the deed and Brissette does not want to share the road. He went through the questions Larry had posed to applicant after the November 30 hearing. There was a subsequent question about details of the windows and doors. There are 9 windows (3x4), 2 overhead doors (16x16) and 3 entrance doors made of metal. The garage bays face parking area.

1. Can you be more specific on estimated traffic, where one trip = one in and out. So if you have an employee arrive at the property to pick up a truck, returning it at the end of the day, that would = TWO trips (employee in and out, truck in and out). We have 3 employee cars in the morning and out at the end of the day. We have 3 trucks out in the morning and in at the end of the day.
2. What materials (other than mowers, bobcats and leaf blowers) do you envision storing both in the garage and outside of it. Excavator, wood chipper (no wood chipping onsite), hydro seeder, and trailers. These are generally stored outside and inside in the winter. Inside storage of leaf blowers, weed whackers, chainsaws, etc. We generally have one pallet of fertilizer (50 bags) delivered to our site and to be stored in the barn and the bags are taken to customers with a matter of days. Rock for landscape work is not delivered to our site but directly to our customers. Rock is expensive and we order only what we need. Rarely is there any rock left over, but if there was, it would be brought back to our site for future use and stored outside.
3. Would there be storage of any type of hazardous material? NO
4. What kind of maintenance would take place in the garage or outside of it? Cleaning and grease. If we grease outside, we put cardboard under the equipment. Other repair is generally inside.
5. How many tractors will you have and how they will be used as part of your business on the property? 1 bobcat, 1 excavator, 1 small forklift, no tractors. There is a bucket truck and a truck for heavy weight things, both used infrequently (these are the 2 over 10,000 GVW).
6. Do all of your vehicles have back up alarms? YES
7. Would you be loading and unloading equipment and materials from the barn or would they stay on the trucks. If yes – could you estimate how many times per week. Mowers will be loading and unloading 3 times per week and hand machines every day. Materials are delivered once a month or as needed and brought to customer sites in a matter of days.
8. Could you please describe a typical business day. Employees come in the morning to pick things up and return at the end of the day. It's very rare for them to return during the business day to do something. Only if they left something behind or have an emergency. They generally show up at 7:30 a.m. and head out to work by 8 a.m. Generally, April and May and September to December they return around 4:30 p.m. June, July, and August they generally return by 6 or 7 p.m. We do not operate the business January through March.

Julius asked if the sheeting was going to remain steel? Ronaldo said yes, and showed pictures of windows and doors and said there would be fiberglass insulation. He said he could choose thicker insulation to further cut down on noise. Larry asked if they planned to heat the garage and if they did they'd need to take it up with the Building Inspector re: energy code.

They operate six days a week, Monday-Saturday, April-December. In winter months, usually return around 4:30pm. In the summer months, June-July-August, they return closer to 6pm sometimes 7pm.

Deborah asked about how extra rock is handled and removed from the truck. Ronaldo said it depends on the type of rock. Some are transported on a pallet and others, like blue stone, would be removed one piece at a time. They do not simply dump it.

Jeffrey asked again about granting a special permit for a service business without a dwelling and creating precedent. Julius said it was discussed at the last hearing and that the service business won't be able to operate until there is a dwelling and they are residing there. There is no precedent set.

Julius said it is a heavily wooded lot and he wondered if they were planning to clear cut and then do plantings. There are a lot of trees – white ash and a lot of oak, beech and pitch pines. Ronaldo said they are not planning to clear cut, only take down what's needed for building.

Larry said that once we drill down more we will take a clean site plan and look where screening should go, including number of trees and height [if that is the direction they go].

Jeffrey asked if there was any other way to ameliorate the noise other than with trees. Larry said they do make sound-attenuating fence barriers – although they are not very aesthetically pleasing. Discussion followed about trees vs. fence being more effective in blocking sound and which would be more economical. There is a fence along part of Brissette's property.

Larry read the new correspondence into the record: continued concern from Heather and Vincent Maciel, Roberta Hearn, and Bronwen Buckley and Jesse Sonneborn; along with support from Jarret Bisette, Reid Silva, and Teresa and Jeffrey Kominers. In addition, there was a letter from the Planning Board in support however it was their opinion that a shingled structure vs. steel would be more in keeping with the RU district.

Larry said he thought they should discuss a sound barrier wall and suggested taking another look at the planned driveway – maybe it could be re-routed so it goes up parallel to Brissette's road but keep the same curb cut due to noise. Atty. Peters noted that the concerns about noise came from neighbors furthest from the property and thought then it would be more visible from State Rd. Julius said once the future dwelling is built, the barn will be behind it. Pat asked Ronaldo if he had agreed to put trees on three sides of property, and he said yes but they think a fence is best but would also put a few trees.

Larry read from 8.5-2 Non-Residential Uses in the RU and VR Districts: Non-residential uses allowed in the RU and VR Districts and referenced to this section on the Use Table shall comply with following standards:

- A. There shall be no evidence of the use through persistent or excessive sound, vibration or odor at the boundaries of the premises.
- B. Buildings housing the use and exterior storage of materials or equipment shall be screened from off-premises view by vegetation, grade or location.
- C. Parking for the use shall be located off-street and screened as in Subsection 8.5-2(B) above, unless the Zoning Board of Appeals agrees to reasonable modifications.
- D. No more than two vehicles in excess of 10,000 pounds GVW shall be regularly parked on the premises.

- E. Traffic generated shall not be more disruptive to the neighborhood than traffic normally resulting from agricultural or residential development considering volume, type and hours, unless the Zoning Board of Appeals agrees that reasonable modifications are justified by the size and location of the lot.
- F. The use must not cause or contribute to any erosion of land or increase surface water drainage from the lot.
- G. The use shall not create hazards, unacceptable disturbances, unacceptable injury to the neighborhood, or unsightliness visible from any public way or neighboring property.

It was determined that discussion should center around screening and sound attenuating for the back of the lot and in specific areas around the barn, not the other things applicant wants to do on his property.

Public comment

Frances Fisher Copeland asked why Jarret Brissette requested screening on the east side and why that would affect him. She said she would like to see a variety of trees.

Donald Ward spoke in support and noted that the Andrades have been willing to accommodate everyone.

Atty. Peters said direct abutter, Jarret Brissette, was allowed a maximum of 10 vehicles and 2 trailers and granted four special permits for his service business. Those in attendance spoke to the condition of Brissette road piled with junk. Atty. Peters added that you really can't see anything through this heavily wooded area. Casey agreed that none of the houses were visible [at site visit] and thought if screening were added in specific areas, it would be fine.

Issues the board discussed included:

- Wall vs. trees for screening and whether the neighbors might prefer vegetation.
- First time board is suggesting a wall for screening.
- Best place to put a wall would be on the property line, near barn and backup vehicles.
- Whether or not a special permit would be required for a fence over 6 feet.
- Designing a circular driveway / loop to eliminate the need for backing up at all.
- Backing up at end of day vs. the morning so that trucks are ready to head straight out next day.
- Traffic speed.

Larry said the screening should be specific with number and height of trees. To the Planning Board's concern about the look of a steel building, Larry asked about the planned color of the bldg. The Andrades said they had chosen gray and board agreed that would look more like a shingled house.

Discussion followed about conditions and findings. Applicant has indicated that structure will be a gray metal building as depicted in pictures provided.

Julius said the back portion of lot, maybe 15 trees between turnoff of driveway to back of property might be reasonable. By his estimation they'd need 50-60 trees. Larry said screening along the back with Brissette is already partially screened with his fence. Need fewer trees on back and maybe err with 20 trees faced evenly from the back 100 feet and 20 trees the from the back on other side.

Larry suggested they ask the applicant to design a plan with the proper number of trees and the spacing. The board will condition the special permit on the review and approval of a landscape plan showing what they will plant.

Ronaldo said in his opinion they should extend the Brissette fence and connect [to it] and put up some evergreens, but the fencing is inside Brissette's yard, not on the property line. Atty. Peters said if the board decides that some of this could be solved with fencing they would go back and look. Quezia said there is a lot of natural buffer and thinks extending the fence would be the best thing to do.

The board continued discussion about screening and Julius said the applicant could come back and say the number of trees they could do at reasonable expense. It was noted that when trees are required for screening purposes, it is a minimum of 5-6 feet. Casey said they could plant 2-3ft. trees this year and by the time their service business is up and running, they would be 5-6 feet.

Larry suggested they continue discussing other details and that they could condition a special permit on the review and approval of a landscape/screening plan.

Discussion followed about hours of operation: They are closed from January through March. Business runs from April to December, six days a week: Monday-Saturday hours are 7:30am to 7:00pm. No Sunday hours. There are six trips per day for employees (three in and out; three trucks out and in). Commercial deliveries of materials are limited to 2x/day, this does not include third-party delivery services not controlled by applicant.

The findings will include that the structure will be a gray metal building as depicted in pictures provided by the applicant; also that they offered to insulate the building with sound-proofing. The board briefly discussed whether to vote tonight or to condition the special permit on the approval of a landscape plan and decided on the latter.

A motion was made and seconded to close the hearing and open the board meeting.
There was no further discussion.

It was moved and seconded to GRANT the Special Permit as conditioned. Larry went over the 20-day appeal period.

A roll call vote was taken with the following resulting votes. Motion passed 5-0.
L. Schubert-yes, J. Lowe-yes, A. Zaikis-yes, D. Wells-yes, J. Kaye-yes

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Other Business

- The board reviewed and signed the site plan for Rosenfeld special permit granted December 14, 2023 for a pool – final engineered plan. (243 Lamberts Cove Rd., Map 3 Lot 2)
- The board reviewed and signed the site plan for Porter special permit granted December 14, 2023 for a pool – to show proper siting of pool equipment shed. (200 John Hoft Rd., Map 2 Lot 7.2)

The Meeting adjourned at 7:50 p.m.

Respectfully submitted,
Kim Leaird, Board Administrator