

WEST TISBURY ZONING BOARD OF APPEALS

Thursday, February 29, 2024
Meeting Minutes

Approved March 14, 2024 (5-0)

Present: Larry Schubert, Deborah Wells, Jeffrey Kaye, and Pat Barrett

Absent: Julius Lowe, Andy Zaikis, Casey Decker

Also Present: Kim Leaird (*Board Administrator*), Erik Blake, Catie Blake, Cody Coutinho, David Collier, JC Murphy, Michael Barclay, Bryan Collins

**

5:00 pm – Minutes of February 15, 2024 meeting were approved 4-0.

- **Cavanaro, 5 Stillpoint Meadows Rd., Map 22 Lot 4.1.** Request to extend Special Permit #2022-29 granted on June 23, 2022 and set to expire June 23, 2024. The board voted to grant the extension by one year to July 23, 2025.
- **Greenfield, 80 Oak Lane, Map 17 Lot 105.** Applicant seeks a de minimis change to Special Permit #2023-47, request to relocate the proposed pool equipment storage shed to the front yard. Cody Coutinho explained it's easier to trench from pool to new proposed location. The board determined this was not a minor change. If applicant wishes to move the shed to the front yard, they will need to apply for an amendment to the special permit. A motion was made and seconded that it was not de minimis change.

**

5:15 pm – (*Continued from February 1, 2024*) A public hearing on an Application for a Special Permit from **Erik and Catherine Blake** to operate a year-round service business known as Blitz Fitness (karate and fitness classes), in the basement of their home, seven days a week: Mon-Fri 6:30am to 10am and 4pm to 8:30pm; Sat 8:15-10:15am; and Sun 7-8:30am. Application is filed under Sections 8.2, 14.2-2 and 3.1-1 of the Zoning Bylaw at **18 Amos Ln., Map 16 Lot 240** in the RU district.

Larry read the hearing notice and opened the hearing at 5:15pm. Present were Erik and Catie Blake. This hearing was continued from February 1 after the initial plan submitted with the application would be a mandatory referral to the Martha's Vineyard Commission. Applicant asked to continue and speak with the Building Inspector as well as revise their plan.

Blitz Fitness is a children's martial arts program, currently (or until recently) in Vineyard Haven across from Eden where they have 3 parking spaces. They are losing their lease and would like to relocate to their basement. The average class size is 5-8 students, ages 3-14. There are several sibling pairs that take classes together. Wednesdays are the busiest day with 7-12 students. Erik said if it became an issue they would split the class up between Wed. and Thurs. Friday class has been as high as 7 students. Catie Blake has had a karate studio on the island for nearly 30 years.

Erik said he and his neighbors are all friendly. They plan to maintain the road from State Rd. to their property, which is 221 feet in. Everyone will be coming in off of State Rd. [not Indian Hill Rd.] and the neighbors who have concerns live further down Amos Lane.

Larry looked at the map and they spoke about surrounding neighbors. Their property is 221 feet in from State Rd. There is no one around that can see them from the road. They are willing to put up fencing. Joe was concerned about people dropping off and any potential turnaround difficulties.

Larry read correspondence from abutters – David Perzanowski has safety concerns around parking spaces and traffic in and off of State Rd. as Amos Lane is a one lane dirt road and there are several pedestrians who walk the road. There was a letter from Moira Perzanowski with questions about the parking and maintenance of Amos Lane.

Larry read letter from Joe dated this afternoon (Feb. 29):

- *8.2-1(A) indicates (2) parking spaces for each dwelling.*
- *Mr. Blake indicates, in Vineyard Haven, he has (3) spaces and rarely uses (4)*
- *Mr. Blake has proposed (5) spaces total.*
- *Peak clientele appears to be 7-12 students, depending on the day. 8.2-1C indicates parking should be sufficient for peak clientele.*
- *It would appear that 12 spaces would be the minimum required.*

Fyi- 8.2-1 indicates the Board can grant a waiver if the property owner can demonstrate that actual parking demand for the specific use will be less than required and/or that off-site, on-street, or shared parking can meet the need. The Board may also require a bike rack.

- *8.2-2 (D) indicates off-street parking areas for non-residential uses...shall be located behind or to the side of the principal structure to minimize visibility from existing streets.*
- *While the proposed location of the parking is to the side of the structure, it is at the front of the lot. It would be up to the Board to determine this location increases the visibility from existing streets, needs to be relocated or requires additional screening.*
- *Also, the turning radius for a 20' vehicle is 35' to 37'. It appears the turnaround space would require the use of the current way to complete a full U-turn. This may be difficult with others showing up to drop off, since this is a single lane private way. The parking may be too close to the private way to provide adequate turn around space.*

Larry said if they go by the letter of 8.2-1, applicant would need 12 parking spaces to meet the peak clientele, but the board can waive that if they demonstrate they need fewer.

Larry asked about basement floor plan and how it is accessed. Erik said they plan to elongate the bulkhead and put a dog house dormer on top. In addition, they have a 3x4 egress window in basement as well as egress/stairs up into house. Larry said you have to be able to get out to grade and that stairs into the house do not count as an egress.

Jeffrey said there is a real educational component to the application

Catie said they have been thinking about turning the five spaces that are currently perpendicular to Amos Lane so that they are instead parallel so that backing into Amos Lane would not be an issue. They do have space to clear further back into yard which would entail clearing brush and removing 2-3 trees.

Jeffrey asked about families who might stay to watch. Erik said that is a factor for classes on Wednesday nights – parents do stay, but most of these kids are sibling pairs.

Erik said pedestrians that walk down Amos Lane are mostly landscape people that walk to get to the bus to work. He also said there is a turn off of State that people do use to wait for oncoming traffic.

Deborah asked if the applicants' request was based on what they're doing now or what they want to do in the future. Catie said they have no plan to expand.

Pat said things can change, though, and asked if they have a plan should more people want to take classes and they need to expand.

Larry spoke about the DRI checklist being triggered. Initially, 3.1.h applied because original plan had ten (10) parking spaces. While they've reduced the number of spaces, 3.1.f may still apply for:

*f. a **Change of Use** (either partial or complete), or any **Change in Intensity of Use**, such that the new use on its own would trigger any threshold in this DRI checklist.*

The board discussed whether there is enough to trigger a change in the intensity of use. Jeffrey thought it fits within parameters of bylaws, it has an educational function and [only] West Tisbury should review it. Pat thought based on what Larry read, it should be referred. Deborah said they have allowed businesses in residential district before, but this feels a different than those, more intense. She does not see exactly what to do but can't think of anything remotely similar that has been permitted where the public comes TO the property.

Erik said as police chief he's been to meetings like this before and no one is complaining about them doing this other than having concerns about traffic and safety.

Larry said that while the definition of service business includes, among other things, "health club", it requires a special permit. He agreed that traditionally service businesses involve those residents who leave their property each morning and come back at night. He thinks the change in intensity might need a referral although it does not seem to have a real regional impact.

Discussion followed about having a site visit and continuing the hearing. A new plan will be needed that re-adjusts the parking by adding spaces to stay under 10. Larry said they should also draw up a screening plan that shows how it will look from State Rd. A fence would be considered screening.

*A motion was made and seconded to continue the hearing to **March 14, 2024, at 5:55pm**.*

*A site visit was scheduled for **March 12, 2024, at 4:30pm**.*

A roll call vote was taken with the following resulting votes. Motion passed 4-0.

L. Schubert-yes, D. Wells-yes, J. Kaye-yes, P. Barrett-yes

**

5:35 pm – A public hearing on an Application for a Special Permit from Harvest Sun Solar on behalf of **David Berlow** to install a ground-mounted solar array in front of a dwelling, requiring 25 ft. of side yard setback relief under Sections 8.10-4C and 4.2-2D4 of the Zoning Bylaw at **71 Red Pony Rd., Map 30 Lot 11.2** in the RU district.

Larry read the hearing notice at 6:01pm. David Collier was present for applicant. This property is near the airport and abuts town-owned land. They are proposing a solar ground mounted array. It is under seven (7) feet tall when fully raised at its fixed, highest position. It is not a tracker and not a pole.

Applicant chose the front yard because it is the most south facing spot and there is not much of a backyard (which would require tree clearing). Applicant would like to leave his melon field, also in front yard, untouched.

This is a 13.095kw system with a total of 27 panels between three small arrays – 102% of complete energy use.

David explained what a CIP (Critical Infrastructure Protection) review is: If you consume a large amount of electricity, Eversource has a cap on the residential inverter size you’re allowed to produce (i.e., you can’t be an electric company). However, recently, with stress on the grid, especially in summer, Eversource has incentivized residential battery storage – they will pull from your battery and pay you for it if needed. The applicant will have a battery backup in basement and this will aid his neighbors should there ever be issues, such as a brownout.

Harvest Solar has contracted with Vineyard Land Surveying to pin the property and produced an engineered site plan.

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

A special permit is required both for setbacks and because it is in front of the dwelling. This is more of a concern when on a public road; this is a private road. The board made a condition that decision will not be released until a plan showing arrays with setbacks is reviewed and approved by the Board at a future meeting.

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 4-0.

L. Schubert-yes, D. Wells-yes, J. Kaye-yes, P. Barrett-yes

**

5:55 pm – A public hearing on an Application for a Special Permit from Vineyard Land Surveying & Engineering Inc. on behalf of **Sylvia Hargrave, Trustee of the Silver Strand Trust Agreement**, to construct a (3) bedroom, (3) bathroom addition to a pre-existing, non-conforming dwelling requiring 10 feet of side yard setback relief under Sections 11.1-3A and 4.2-2D4 of the Zoning Bylaw at **57 Vineyard Meadow Farms Rd., Map 29 Lot 8** in the RU district.

Larry read the hearing notice at 6:13pm. Cody Coutinho was present for VLS&E on behalf of the applicant. There was an administrative error in noticing the hearing: while the project was described as a “3-bedroom, 3-bathroom addition” in the application narrative, it is in reality an increase of one bedroom once the renovation of the existing dwelling is combined with it (for a total of 4 bedrooms).

The board went over new dimensions and total square footage.

Existing dwelling:	Addition:	<i>Total sq. ft. proposed</i>
1 st floor – 716	1 st floor – 858	– 2,706 SF
2 nd floor – 680	2 nd floor – 452	
Total – 1,396 SF	Total – 1,310 SF	

The total square footage between renovation and addition does not get close to the ‘big house’ bylaw. The existing dwelling is slab on grade – there is no bulkhead and no staircase indicated. The relief being requested is 10 feet to the south side. There is an existing deck that will be removed and a new one will

be added. The upper level is pulled in so new deck is more of a wrap-around. On the existing side, the dwelling is 31 feet as it was built before setbacks changed to 50ft. Deborah noted that with the addition, the dwelling would be more “centered on the lot”.

Cody said it’s what he’d consider an upside-down house: the bedrooms are on the first floor. It was noted that the plan shows a “primary bedroom” then Bedroom 1, 2 and 3. Every bedroom has its own bathroom.

Larry read letters of concern into the record from Katherine Triantafillou and Robert Fox. Concerns were expressed about the proposed size, screening from the road, the 10 feet of setback relief being requested and the construction schedule with accompanying noise and dust. There was also a letter of support from David Foulser as well as a letter from Geoff Freeman, director of the MV Airport, to remind homeowners that the airport is very active in the summer season.

Discussion followed about whether a site visit is warranted. Larry did not think granting 10 feet of setback relief is significant and they are asking to add on to a nonconforming house. If they could fit what they want to do without the setback relief, they would not be in front of this board and could just do so. If board were to go out and look, they could propose screening. There already is a 6-bedroom septic in place.

Pat thought sometimes setback relief is not warranted and that concerns expressed by the abutters should be considered. Jeffrey was in favor of a site visit. The board determined the hearing should be continued and the applicant should be asked to address concerns from the abutters. Kim said she would let them know about the error in noticing.

*A motion was made and seconded to continue the hearing to **March 28, 2024 at 5:15pm**
A site visit was also scheduled for the same day, **March 28, 2024, at 4:00pm.***

*A roll call vote was taken with the following resulting votes. Motion passed 4-0.
L. Schubert-yes, D. Wells-yes, J. Kaye-yes, P. Barrett-yes*

**

6:15 pm – A public hearing on an Application from Sourati Engineering Group, LLC on behalf of **Middle Point Bend, LLC** to APPEAL a February 5, 2024, determination made by the Building Inspector that a proposed fireplace in a studio is not allowable based on the definition of a ‘Studio’ in section 14.2 of the West Tisbury Zoning Bylaw. The Appeal is made under M.G.L. c.40A §8 and §15 for property located at **208 & 216 Middle Point Rd., Map 39 Lot 7 and 8** in the Inland and Shore Zones of the Coastal District in the RU district.

Larry read the hearing notice at 6:40pm. Michael Barclay and Bryan Collins were present. When the special permit was issued (#2023-32), they removed a proposed fireplace from the detached bedroom per direction of the Building Inspector. They thought at the time that they would come back with plans to put it in the studio instead. Joe said the habitability of a non-habitable structure would be increased and denied it in the studio as well, based on the definition of a “Studio/Craft Workshop.”

Studio/Craft Workshop: A non-habitable structure or portion of a structure used for hobbies or a home occupation. A studio/workshop may have a bathroom.

The applicant stated its reasons for seeking an Appeal and asked that the board consider the following:

- Craft Workshops with fireplaces have previously been allowed in West Tisbury (such as Wiley pool house.)
- Studios have been allowed to have washing machines and driers.
- There are examples of pool houses (also non-habitable structures) with fireplaces.
- In the Definition of a Studio/Craft Workshop it is stated that a bathroom is allowed, however, no other features are listed (e.g. a television, washing machine or drier). We do not believe that the lack of mention of a fireplace is intended to prohibit its presence in a Studio. They believe that the reason a bathroom is specifically referenced is to provide a mechanism for a non-habitable structure with a bathroom to be considered a Studio, and not be counted as a bedroom.

When it's not allowed by omission [only], it is less clear. In addition to the Building Inspector's February 5th determination, Larry read a second letter from Joe that with his belief that the addition of a fireplace to the studio would increase the habitability of the non-habitable studio.

It was noted that the studio does not have a bathroom and is already heated. The board discussed the issue of habitability and thought a second heat source wouldn't increase it. They thought the applicant could return to amend its special permit with the addition of a fireplace in the studio.

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 Appeal and overturn the Building Inspector's determination, requiring the applicant to apply to amend its special permit.

A roll call vote was taken with the following resulting votes. Motion passed 4-0.
L. Schubert-yes, D. Wells-yes, J. Kaye-yes, P. Barrett-yes

**

The Meeting adjourned at 7:00 p.m.

Respectfully submitted,
Kim Leaird, Board Administrator