

WEST TISBURY ZONING BOARD OF APPEALS

Thursday, June 8, 2023

Meeting Minutes

Approved July 6, 2023

Present: Larry Schubert, Deborah Wells, Andy Zaikis, Jeffrey Kaye, Casey Decker

Absent: Julius Lowe, Pat Barrett

Also Present: Kim Leaird (*Board Administrator*), Marilyn Vukota, Jake Davis, Thomas Bena, Amy Upton, Ben Robinson, Carole Vandal, Dana Nunes, Chris Murphy, Selena Roman, Prudence Burt, Tim Boland, Bradford Tucker, Ollie Becker, Andrew Woodruff, Josh Thomson, Thomas Humphrey, William H. Russell, David Ferguson, Larry Glick, Ben Durrell, Greg Rubick, Kathryn Sullivan

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5:00 pm – The meeting minutes of May 25th were approved 4-0. Casey arrived at 5:02 p.m. July meeting dates will be July 6 and July 20.

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5:15 pm – (*Continued from August 25, October 6, November 17, 2022, January 5, February 16, March 30, and April 27, 2023*): A public hearing on an Application for a Special Permit from **Stillpoint Martha's Vineyard Inc.** to convert a barn/greenhouse, a pre-existing, non-conforming structure, to a Public Place of Assembly under sections 11.1-3A, 3.1-1, 8.5-2 and 8.5-3 of the Zoning Bylaws at **20 Stillpoint Meadows Rd., Assessor's Map 22, Lot 4.11** in the RU District.

Larry read the hearing notice. Presenting were Jake Davis (Stillpoint assistant director), Thomas Bena and attorney Marilyn Vukota. Jake introduced the project with a slide show: "*A community space for classes, conversation and contemplation.*"

Presentation: Jake first said that this area could have been something completely different: 12 residential lots with all the entitlements: pools, tennis courts, etc. However, the work that Claudia Miller did with Thomas Bena and her decision to discount six of the lots for the MV Land Bank to purchase made that land still accessible to the public.

A Very Active Day*

<u>Category</u>	<u>Program</u>	<u>Time</u>	<u>Attendees</u>
Contemplation	Meditation	7-8am	8-12
Conversation	Inwards	9-11am	20-30
Off-Mission	Private Event	12-3pm	30-35
Community	Community Sing	4-6pm	20-30
Class	Lecture	7-9pm	90-100

more than 3x/week and 8-35 attendees up to 5x/day.

All of the events will be quiet, as restricted by the MVC with no amplified sound. They are allowed up

Jake described what a very active day at Stillpoint might look like and the number of attendees that could generate (*see table at left*). The Martha's Vineyard Commission (MVC) placed significant restrictions, allowing them up to 100 attendees no

***MVC restrictions:**

Programs 36-100 attendees, no more than 3 times per week

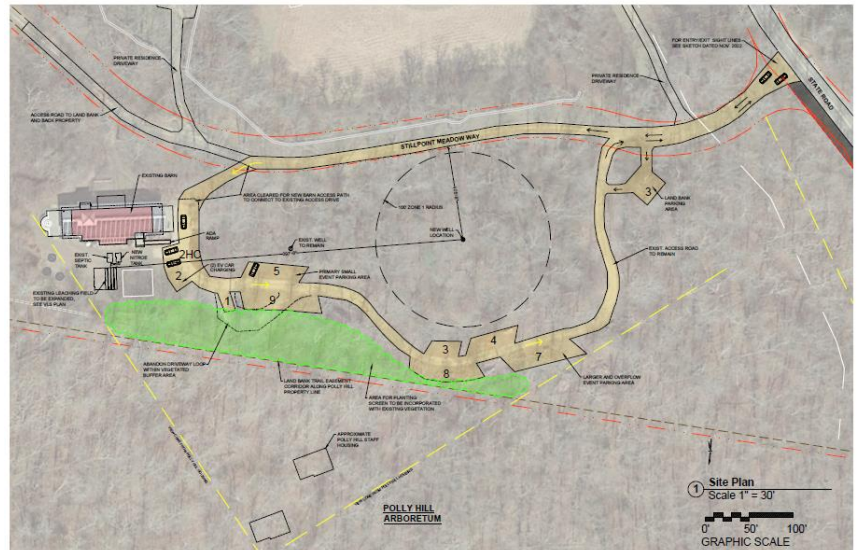
Programs 10-35 attendees, no more than 5 times per day

No more than 20% off-mission

Amplified sound restricted to 5dBa above ambient at the boundaries

No weddings

Additionally, Jake presented a copy of their policies and procedures that would apply to all events and off-mission events. They are using an existing building (the barn) and using existing parking. Jake quoted a statistic that says the national average for a single residence is 10 trips per day in and out [of a neighborhood]. If there were 12 residences instead, there would have been upwards of 120 trips per day [which is comparable]. Their traffic study looked at 43,000 annual attendees but noted the MVC restricted them to 38,000 attendees per year.



Larry read a letter from Atty. Vukota dated June 5, 2023, that stated because of the Dover Amendment, they do not need a special permit. Larry asked if it was their intention to withdraw their application

Larry said he believes the board and the community want to have an open conversation. There will be a lot of questions from the board and there is not enough presented yet for this board to review. If we leave [a special permit decision] loose then we get into a situation where the zoning inspector does not have a document he can rely upon [to enforce]. For example, if 45 parking spaces are envisioned, then they should be accurately numbered on the site plan and they are not right now.

Larry said the board does not want to have adversarial interactions with the Applicant. He said they have a document from the Commission that listed different types of events but did not have any information on off-mission events. If you're "off mission" and you're an educational organization – he asked what is acceptable for off mission.

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Andy said it's a problem of semantics, they should say 'fundraisers' instead. It's not productive to call them "off-mission" events. He also clarified with Atty. Vukota that what she meant by her letter is that if the barn were smaller than 1500 sq. ft. then they would have only been subjected to site plan review by the Planning Board. Atty. Vukota agreed.

Jeffrey said he would not consider it 'fundraising,' any funds realized from the 20% off-mission events is monetary and he is reluctant on granting a special permit without fully understanding this. He said he believes the board has the right to look at that. He has no idea who their planned vendors are or how much money they will raise to offset their nonprofit activities. He said he still does not have a sense of what the activities will be for 38,000 people.

Jake said it sounds like a lot of people but it is really not. The traffic study came back as having a minimal impact. He said they would need to compare it to what other organizations have done.

Casey asked about no beer and wine sales and if that also includes consumption of beer and wine. Larry said a beer and wine permit can be obtained as long as there is no admission fee, otherwise it would be classified as "selling" alcohol.

He asked Building Inspector Joe Tierney if he had seen anything in the DRI decision that was outside the box and would not be allowed in West Tisbury and if he had anything to say at the moment. Joe said at this time he is mostly concerned about parking and accessibility but may have more comments later.

Larry said Kim would keep notes and email them with items still needed, like needing the 45 spaces accurately portrayed on the plan. He thought their proposal is still too vague and needs more information.

Deborah asked the building inspector if his letter of June 2022 still stands – does Dover still apply. Joe said yes. She asked applicant about their plan to have sessions "driven by the community" – how do they plan to operationalize that? Would there be a community board or meetings? If their mission is to "pay as you go" with no set fees for attendees or teachers, with any shortfall hopefully being made up by donors, she asked how they came up with the 38,000 number. In other words, with the unknown with how much each attendee will contribute, how can they divide their projected total costs by this unknown and come up with 38,000 attendees.

Jake said that fundamentally [Stillpoint] will be driven by donations. In order to attract donors, you need a sense of vitality so people want to donate. He agreed there are unknowns: how much will come in depends on the community. Their pay-what-you-can model is primarily driven by donors.

Deborah said that given they want to be supported primarily through donations, she would like to see something that really lays out their development plan if they want to continue in perpetuity.

Thomas said when their project was reviewed by the MVC and they asked similar questions, they ultimately decided that it was impossible to really answer with the unknowns. Instead the MVC landed on restrictions. The MVC decided not to figure out how they were going to do what they want to do, but instead set some real limitations on them. He said they do have a 3-year business plan and noted that for any non-profit, a plan is as good as paper it's written on without the vitality needed. He noted that there has been enormous response to their project. He thinks the more productive thing to do [with application in front of the ZBA] is to just give a flavor of the type of events planned.

Deborah said a business plan is one thing, but for them to be able to continue with 20% fundraising activities, then part of that business plan has to be more than just that they've received a lot of response, but include things like – are you going to create an endowment?

Thomas said that's not the board's job, because this is up to them. The board should only be looking at parking, traffic and lighting and noise, etc., because this is a new organization, there has never been one here with this type of mission. He said he'd like them to put some faith into their mission knowing that the restrictions already imposed are tight enough.

Atty. Vukota said there is an application for people who want to use the space for anything not programmed by Stillpoint. Some of those [on-mission, educational applicants] will be paying. There will be income raised outside of the 20% fundraising off-mission events.

Deborah said she is not suggesting that they have not done this in-depth thinking, but hasn't seen evidence of that in the documents already provided. She said she has experience working at the state level and over the decades saw a lot of agencies with great ideas but the more thought out every aspect was, the more likely they were able to continue. This project doesn't feel like one that should be up and running and gone because it's not sustainable. If they have done this thinking, they know it but haven't shared it.

Deborah also questioned the numbers presented and noted that 156 days per year they are allowed up to 100 people 3x/week. 52 weeks x 3= 15,600 people. If you subtract from 38,000 you're saying that 22,400 are going to come with other smaller activities. Larry acknowledged her questions are in the weeds and that the board will need to get into the weeds so that a detailed decision is produced.

Public comment:

Larry first read a letter of concern from the Planning Board dated June 6, 2023, into the record. (*On file*)

Amy Upton addressed the letter, by saying that while her name is on the letter [as a planning board member] and it is the feeling of the board, it is not her personal opinion and a vote was not taken on [the letter]. Personally, she thinks they should give [Stillpoint] a chance, saying that Thomas Bena is a member of the island community and West Tisbury does not like things that push the envelope and balks at different. How about a trial period? Maybe just place restrictions on them, but not too many.

Tim Boland, director of Polly Hill Arboretum, said Stillpoint is in a rural corridor, and while the mission is great, the hybrid mix of events (80/20) muddies it. It's not fundraising – it's income-generating [activity]. They remain concerned about the parking spaces abutting their new staff housing. They would like to see a more concrete parking plan, as well as a sound and lighting mitigation plan that shows how they plan to block light coming in the parking lot driveway. The community wants to be assured that this corridor keeps the same quiet nature. He is also worried about the traffic plan.

Ben Robinson, Stillpoint project manager, asked if he could speak to the parking. He said he's been helping Thomas for years and explained the parking plan was designed in order to save several trees.

Larry said no one wants a big parking lot but at some point, they will need to find 45 official spots on the plan.

Andrew Woodruff said regarding parking concerns of Polly Hill, he would suggest building a berm with trees that create shade, looks natural and screens noise.

Bill Russell, member of the Stillpoint board and member of a cribbage club said he is in support and that “off mission” might include a meeting of the cribbage club.

Carole Vandal, Aquinnah resident, has worked with Jake and Thomas on the “Inwards” programming. She said that the island needs something like this.

Brad Tucker, said he was born and raised here and thinks Stillpoint reminds him of the 4H program (although that was more agriculturally focused). He sees this as very positive thing for the community and they have a wonderful team assembled.

Larry brought up project review fees and whether the board thought it might be a good idea to ask for funds for additional potential review. The board voted not to impose them at this time.

*It was moved and seconded to continue the hearing until **July 6, 2023 at 5:55 p.m.** A site visit for the board was scheduled for **Thursday, June 29, 2023 at 5 p.m.***

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

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5:55 pm – (Continued from February 2, March 16, March 30, and April 27, 2023): A public hearing on an Application for a Special Permit from **Jeffrey and Carolyn Carney**, to construct a new 18’x42’ inground swimming pool to replace an existing 18’x37’ swimming pool with a new 8’x15’ pool equipment shed to replace the existing shed under Section 8.5-4C and 6.1-5B of the Zoning Bylaws, at **80 Plum Bush Point Rd., Map 35, Lot 6.7** in the Inland and Shore Zones of the Coastal District within the RU district.

Larry read the hearing notice. *It was moved and seconded to continue the hearing until **July 6, 2023 at 5:35 p.m.***

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

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6:15 pm – A public hearing on an Application from **FFD Enterprises MA, Inc.** to AMEND Condition No. 4 of Special Permit #2022-39 to say: “*Applicant shall return to the Zoning Board of Appeals in June 2023 for a review of daily and/or weekly walk-in traffic data AND to re-visit allowing Sunday hours from 12:00 Noon to 6:00 p.m. starting, in 2023, upon approval of the requested modification and starting on June 1 and ending on October 1 in subsequent years thereafter,*” under 9.3-3 of the Zoning Bylaws, at **510 State Rd., Map 16, Lot 101** in the MB district.

Attorney Kathryn Sullivan and Greg Wicca (who runs the cultivation center) for FFD Enterprises were present. Fine Fettle appeared in front of the board on May 11. The board reviewed their compiled traffic data and decided that a formal amendment was required in order to allow the request for Sunday hours.

The board did not have any further questions for the applicant about the request for Sunday hours. There was no correspondence and no members of the public were present to give testimony.

Larry said if they vote the amendment, it will read exactly as advertised. June 1 to October 1 (ending close of business on October 1). No Sunday hours will be allowed the rest of the year (October 2 to May 31).

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

It was moved and seconded to GRANT the Amendment to the Special Permit.

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

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Informal Hearings

Watcha Club LLC, 100 Watcha Club Rd. Map 43 Lot 1. Requests to modify pool location and modify guest house size and location as approved in Special Permit #2022-44, granted September 8, 2022.

Reid Silva shared that the owners wanted to re-locate the pool closer to the main house and site the guest house further away. Doing this necessitates changing the shape/size of the guest house. Decided they wanted pool house closer to the house and the guest house further away. *It was moved and seconded that the requests constitute a de minimis change.*

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

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

- **Casey Decker, 625 Edgartown Rd. Map 31 Lot 28.** Requests to modify condition as stated in Special Permit #2023-18 re: the planting of trees, screening per mutual agreement with neighbor.

Jeffrey did not feel he could vote as he was not present at the site visit. Deborah could not vote as she was not present for the initial hearing. The discussion on the de minimis change request was postponed until the next board meeting.

The Meeting adjourned at 7:15 p.m.

Respectfully submitted,
Kim Leaird, Board Administrator