

WEST TISBURY ZONING BOARD OF APPEALS

Thursday, June 22, 2023

Meeting Minutes

Approved July 6, 2023

Present: Larry Schubert, Julius Lowe, Jeffrey Kaye, Casey Decker, Pat Barrett

Absent: Deborah Wells, Andy Zaikis

Also Present: Kim Leaird (*Board Administrator*), Bob Scammell, Melissa Scammell, Reid Silva, Vera Cacique, Matthew Cacique, David Horwich, Martina Brueckner, Holly Wescott, Tom Wescott, Joe Tierney

**

5:00 pm – Minutes of June 8 meeting were pushed to next ZBA meeting on July 6, 2023.

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5:15 pm – A public hearing on an Application for a Special Permit from **Robert W. and Melissa H. Scammell** to construct a 24’x32’ non-habitable, detached accessory structure (garage and wood workshop space) with 31ft of side yard setback relief on a pre-existing, non-conforming lot under 4.2-2D4 and 11.2-2 of the Zoning Bylaws, at **219 Charles Neck Way, Map 36 Lot 37** in the RU district.

Larry read the hearing notice. The Scammell’s were in attendance, Reid Silva presented the project. Charles Neck Way is part of Vineyard Meadow Farms, and parallels Waldron Bottom. This is the last lot at the end of the street and it abuts a long strip of land that is owned by the Trustees that goes down to the Boyes property. There is a special way called Watcha Path, but no part of this lot is included on it.

The plan is for a garage and workshop – the downstairs has two bays and upstairs is space for a wood workshop space. The original plan submitted with the application did not show the special way. Reid provided an updated site plan with it clearly marked. Reid said this is an Essex plan and those did not indicate a bound that went to ownership of middle of way.

The board noted this is a 2-acre lot and it is non-conforming. Section 11.2-2 applies to structures larger than 676 sq. ft. The proposed structure is 768 sq. ft. Larry said they would have the ability to apply for an apartment at a later date should they wish to do so. Larry also noted that they are allowed an interior stairway because it’s a non-habitable structure – this would change should they decide to convert to an apartment in the future. Mr. Scammell said that is not their plan, they simply wanted to have the head room in the workshop space.

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 Special Permit.

A roll call vote was taken with the following resulting votes. Motion passed 5-0.
L. Schubert-yes, J. Lowe-yes, J. Kaye-yes, Casey Decker-yes, Pat Barrett-yes

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5:35 pm – A public hearing on an Application from **Vera Cacique** to operate a service business (carpentry, landscaping & house cleaning), with three (3) standard size pickup trucks and two (2) 14,000 lb. dump trucks under 8.5-2, 3.1-1, and 14.2 of the Zoning Bylaws, at **105 Charles Neck Way, Map 29 Lot 64** in the RU district.

Larry read the hearing notice. Present were Vera Cacique and her husband Matthew. Larry said about a week ago the building inspector told him he was not sure the Caciques are residents of West Tisbury. A letter dated today was received from Joe Tierney regarding the residency of the Caciques, noting that if they do not reside at this property, they are ineligible to apply for a service business.

The board discusses whether to continue this hearing in order for them to satisfy the residency requirements to the satisfaction of the building inspector.

Vera Cacique said they've owned the property since October 2022. While she does own a house in Tisbury, it is rented out to others. She also has her business office there but the plan is to relocate it to West Tisbury once they have built space for it. She stated she lives in West Tisbury and will register to vote in town.

The Planning Board letter reviewed the application and referred it back to the board recommending that reasonable days and hours be established and adhered to.

Larry read Vera's narrative into the record. The board reviewed site plans brought by the Caciques.

Discussion followed about the business and proposed hours, traffic and number of employees:\

- Hours planned are 7am to 8pm, Monday-Saturday (March 2-October 31).
- In winter hours are 7am to 6pm, Monday-Saturday (Nov 1 to Mar 1).
- Number of employees: 7 at this property.
- Reasonable number of roundtrips per day: 10 (they have 5 trucks, allowing for two per each).

The board addressed potential noise and said the property should be properly screened from the street. The Caciques said they are already fencing the property.

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

The board reviewed again the hours, trips and employees outlined above so that they could be included in the decision as conditions. Re: the two 14,000 lb. trucks – they noted that two is the limit. Should they want another, they will need to return to the board. The board also determined that in light of Joe's letter regarding residency, that another condition of the special permit is that they are residents and will register to vote in the town of West Tisbury.

It was moved and seconded to GRANT the Special Permit as conditioned.

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

L. Schubert-yes, J. Lowe-yes, J. Kaye-yes, Casey Decker-yes, Pat Barrett-yes

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5:55 pm – A public hearing on an Application for a Special Permit from **Vera Cacique** to construct a 36'x27' (1,944 sq. ft.) two-story garage for storing equipment requiring 15 feet of front yard setback relief under 11.2-2 and 4.2-2D3 of the Zoning Bylaws, at **105 Charles Neck Way, Map 29 Lot 64** in the RU district.

Larry read the hearing notice at 6:12pm. The applicant is no longer requesting front yard setback relief as it is now properly sited 100 sq. ft. from the street. The board reviewed the plans for the garage – an accessory structure with no habitable space. The space will be used for their business equipment (landscaping, carpentry, cleaning) and upstairs will be used for office space where there is a half bathroom. They also plan to eventually move cleaning business/supplies from Tisbury once it is built.

Larry told them that the board just approved the service business and if the cleaning business moves to West Tisbury and involves more employees and trips than approved, they will need to come back to board to amend their special permit.

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

There was no more discussion. The motion was to allow the non-habitable garage as presented, with no setback relief needed.

It was moved and seconded to GRANT the Special Permit as conditioned.

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

L. Schubert-yes, J. Lowe-yes, J. Kaye-yes, Casey Decker-yes, Pat Barrett-yes

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6:15 pm – An Application from **David Horwich** to APPEAL an April 10, 2023, Building Inspector determination to CEASE and DESIST all work at **126 Naushon Rd., Map 1 Lot 17** in the RU district, after finding that the demolition of an entire dwelling unit exceeded the building permit granted for an interior exploration demo only. The cease-and-desist order called for abiding by the requirements of Section 10.1-2D2 of the zoning bylaws. The Appeal is made under M.G.L. c.40A §8 and §15. In addition, the Applicant seeks a SPECIAL PERMIT to allow the temporary use of two RVs during the construction period, beyond the one year already granted by the Zoning Inspector, under section 8.7-3 and seeks a SPECIAL PERMIT to replace the non-conforming front entry steps by approx. 85 sq. ft. with 20 ft. of side yard setback relief under section 4.3-3D and 11.1-3A of the West Tisbury zoning bylaws.

Larry read the hearing notice at 6:25pm. David Horwich and Martina Brueckner were present. David said they had purchased this property knowing it needed work. In the process of doing the permitted interior demolition they discovered there were substantial structural issues, including gaps between primary sill plate and actual stem wall and a lot of dry rot. All of the subfloors were a half inch and most were dry-rotted as well.

As they pulled back the layers the goal was to keep as much of the [original] structure as possible. He said he did not take the liberty of doing this all on his own – he shared with Joe as they progressed. Never was it their intention to take down the whole structure and they want to build back fairly close to the preexisting home, conforming except for front entry.

The pre-existing front entryway was a staircase that occupies approximately the same footprint. There was a pressure treated deck that split off to two points. Now it is very dangerous and essentially a drop down and they would like to make it [instead] an entry hallway and walk out for both safety reasons and logical egress. David noted that windows, doors – everything ended up in the dumpster, however, the integrity of the foundation is intact.

Joe Tierney said Dave did speak to him about the issues and as a former caretaker for the property, Joe understood there were issues. Joe stated that in issuing the cease-and-desist order, he was not seeking to

penalize the Horwiches but is merely enforcing the bylaw. He is happy they left the foundation as this is in a sensitive area of the wetlands. Dave said they are here to ask the board to relieve them of the two-year waiting period and that they did not knowingly defy the bylaws.

Larry read two letters of support into the record from neighbors of the Horwiches: 1) Holly and Tom Wescott and 2) Deborah Gurewich, Nina Mayer and Akos Szilvasi.

The board decided to first take a vote on the Appeal.

It was moved and seconded to DENY the Appeal and UPHOLD the Building Inspector's decision. However, the board decided to reduce the penalty time from two years to 20 days.

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

Special Permit requests

Applicant seeks a SPECIAL PERMIT to allow the temporary use of two RVs during the construction period, beyond the one year already granted by the Zoning Inspector, under section 8.7-3
One RV has been there since demolition started. The bylaw allows an RV up to a year [only] and any longer requires a special permit. David said that because of very limited access, they need two smaller RVs as they can't fit a larger RV in from the road.

...and seeks a SPECIAL PERMIT to replace the non-conforming front entry steps by approx. 85 sq. ft. with 20 ft. of side yard setback relief under section 4.3-3D and 11.1-3A.

Discussion followed about the stairs and entryway and the board reviewed the plans.

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

Larry said the decision will encompass both the appeal and special permits for setback relief of the 85ft. structure and 2 RVs [beyond the one-year period].

It was moved and seconded to GRANT both Special Permits.

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

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Informal Hearings

- **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.

The board voted that this request was a de minimis change and approved it 4-0.

The Meeting adjourned at 7:00 p.m.

Respectfully submitted,
Kim Leaird, Board Administrator