

WEST TISBURY ZONING BOARD OF APPEALS

Thursday, July 6, 2023

Meeting Minutes

Approved August 3, 2023

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

Absent: Andy Zaikis

Also Present: Kim Leaird (*Board Administrator*), Rosemary Stimola, Michael Stimola, Katy Upson, Ryan Begley, Adriana Stimola Begley, Gabe Coogan, Thomas Humphrey, Judith Fisher, Dana Nunes, Prudy Burt, Chris Murphy, Ben Robinson, Amy Upton, Jeffrey DuBard, Jake Davis, Thomas Bena, Marilyn Vukota, Andrew Woodruff

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5:00 pm – Minutes of June 8 were approved 6-0. Minutes of June 22 were approved 5-0 (Deborah abstained).

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Old Business

- Review revised plans for proper egress, etc., per conditions of Special Permit #2023-19 for **Peter and Jenny Brody** to construct a 744 sq. ft. 2-car garage with a 594 sq. ft. Accessory Apartment above under 4.4-3A of the Zoning Bylaws, at **62 Ophelia Way, Map 11, Lot 44** in the RU district.

The board reviewed and signed new plans and confirmed second egress.

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5:15 pm – A public hearing on an Application for a Special Permit from **Ryan Begley** to operate a home occupation (custom tattoo studio) with a small (less than 24”) sign next to studio door under 8.5-1B of the Zoning Bylaws, at **140 Old Holmes Hole Rd., Map 16, Lot 3.5** in the RU district.

Larry read the hearing notice. Present was homeowner Ryan Begley who clarified his request is for a private studio not a tattoo shop. He does advertise via a web site, but does not list his address until an appointment is booked. Hours requested are Monday-Thursday, 10am-6pm.

Larry read a letter of support from Aubrey Ryan. Attendee Gabe Coogan objected to the application on behalf of the Coogans at 147 Old Holmes Hole Rd. and the Sullivans at 148 Old Holmes Hole Rd., nearby neighbors. He expressed concerns about changing the nature of their neighborhood and that there are small children who live here. They were also concerned that the board had already taken a stance that a 24”x24” sign is “small” and asked if additional signage would be placed on the road and was told no. Asked if there would be merchandising and was told no. He asked what recourse the neighbors would have if things don’t go well, and Larry told him that the Zoning Inspector receives complaints and enforces zoning.

Ryan said that there will only be tattooing and piercing and reiterated he’d have a maximum of two client appointments per day. The parking plan was discussed and the plan reviewed. There is no additional lighting needed or required and nothing will be visible from the road. The sign is simply to indicate studio door.

Attendee Adriana Stimola Begley spoke to clarify that this is not a tattoo shop, it is a private studio. Only people who make appointments are able to come. The studio is attached to their home and they also have

two small children who go to West Tisbury School. She said this isn't a "late night, after a bar, stumble into a tattoo shop [operation]," it is a craftsperson's studio. Ryan is an artist and this is [his occupation].

Larry said the language about the sign came from the applicant's narrative submitted with his application and any special permit they'd approve would state it could be no larger than 24" x 24".

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

Larry said the conditions that would apply would be business hours Monday-Thursday, 10am-6pm, by appointment only. One to two appointments per day. Sign no larger than 24" x 24" and no employees other than the homeowner.

It was moved and seconded to GRANT the Special Permit.

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

L. Schubert-yes, J. Lowe-yes, D. Wells-yes, J. Kaye-yes (Casey and Pat did not vote)

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5:35 pm – (Continued from February 2, March 16, March 30, April 27, and June 8, 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. Board discussed the numerous continuations and a no-show, and voted for Kim to write them a letter asking them to consider withdrawing their application until they are ready to move forward.

It was moved and seconded to continue the hearing until August 24, 2023 at 5:15 p.m.

A roll call vote was taken with the following resulting votes. Motion passed 6-0.

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

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5:55 pm – (Continued from August 25, October 6, November 17, 2022, January 5, February 16, March 30, April 27, and June 8, 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. He summarized the site visit the board took last Thursday, June 29, with the four Stillpoint representatives present tonight: Thomas Bena, Jake Davis, Ben Robinson and Marilyn Vukota. He said that during the site visit, they walked out to State Rd. and discussed the sight lines and traffic, and they took a small tour of the inside of the building.

An updated plan that includes parking spaces was submitted – it is the same plan except for a few additions to the entrance off of State Rd.

Jeffrey asked if there had been town counsel opinion yet. Larry said he did reach out but counsel could not have an opinion by tonight but could within two weeks' time.

Building Inspector Joe Tierney sent a letter to the board dated today. He had reviewed the parking plans and found certain issues that Larry read into the record. They include the number of parking spots, lack of bicycle racks and a pedestrian path, proximity to Polly Hill, and accessibility issues.

Ben Robinson said they had always assumed that the road itself would be how pedestrians travelled after parking. Thomas Bena thought maybe a path could meet up with the Land Bank's future path that goes around the perimeter.

Larry said that Joe is basically saying with this letter that it's a danger to walk in the road, it could be a safety hazard. Discussion followed about possible ways to address these issues including expanding the width of road with a section designated as a path, or connecting [just] the rear parking lots. Ultimately the applicant decided they would meet with Joe to come up with an acceptable approach.

The board had asked the applicant to speak to any state CMR codes or regulations that apply to the sight lines and that could support their project. Ben read a letter from engineers:

"...not aware of anything specific that relates to sight distance in the state CMR Regulations. Took a quick scroll through and again, didn't see anything specific. Typically, MassDOT requires that the minimums that are put forth in the Manual of Uniform Traffic Control Devices (MUTCD) are the criterial that they expect you to live up to. This is very common state to state as well. Within the sight distance realm there are two different criteria, Stopping Sight Distance (SSD) and Intersection Sight Distance. It is generally understood that SSD is the minimum that you have to meet for safe access, MassDOT support that ISD is desirable but not necessarily required. As you can see from the table from our traffic memo below, we exceed the SSD requirements and have made recommendations regarding ways to improve the ISD looking right of the sight driveway."

Location	Stopping Sight Distance (ft) ^a			Intersection Sight Distance (ft) ^a		
	Traveling	Required	Measured	Looking	Desired	Measured
State Road at Stillpoint	Northbound	290	360	Left	430	540
Meadows Road	Southbound	290	600	Right	430	300

^a Based on guidelines established in A Policy on the Geometric Design of Highways and Streets, Sixth Edition, American Association of State

Ben said they came to an agreement to remove a couple of small boulders along the edge at the entry to make more room and adding cobbles every 3-6 feet for demarcation of two lanes [entering and exiting], and clearing brush to improve sight distances. He noted they want to be incremental about the clearing and start smart.

Pat said he thought their presentation was great and feels that the concerns around lighting and noise mitigation, etc. are ones they can easily control, but after walking out to the road and seeing the amount of traffic and the speed they travel, then trying to envision 50+ vehicles, plus staff exiting and/or entering – said he does not see how this is possible. He went back to observe two additional times and not only are there many cars, but also the VTA, tractor trailers, and trucks.

Ben said the traffic study used a 39mph speed and included a multiplier. Pat pointed out that the traffic study looked at it on March 21 [the off season]. While the speed limit is 35mph, we all know traffic goes faster. He also thinks that sight lines are really a problem.

Ben said one way they could attempt to control traffic is limiting how many cars are exiting at a time by having someone who is releasing cars. Pat said he went back this morning and tried exiting in both directions and it is very difficult. In addition, he thinks 50 parked cars that are all backing out on the diagonal [after an event] and exiting at the same time will be really difficult. He imagined it would be a frustrating experience for people trying to leave and thought it very unrealistic.

Larry said he understood that Stillpoint would be consulting with the police department on traffic safety and if they felt their events were generating enough traffic to warrant a traffic detail, they would do that.

Ben said yes, but the police department put the number that would require a detail at 150 people or more [which does not apply to any of their planned events]. They are limited in the number of larger events they can hold per week (over 36 people; 3x/week), so there would not be this volume of traffic every day.

Larry said the board is concerned about public safety. Jake said the MVC had already addressed traffic in their decision and didn't think the ZBA needed to dictate anything [more], but Larry reminded him that this board is not bound by what the MVC conditioned, they could add further limits.

Thomas said they gave the maximum # of anticipated traffic for the traffic study and the MVC reduced their numbers. He also felt that after an event, not everyone will be exiting at the same time. Some people linger to talk, etc.

Deborah said in addition to thinking through these issues, Stillpoint could have a policies and procedures document that specifically addresses them.

Pat asked the maximum number of attendees they envision. Ben said 100, but this includes attendees and staff.

Marilyn said they did provide a traffic study with the maximum number allowed and [considered] safe and pointed out there is no dueling expert testimony against there study. Jeffrey said that maybe the board should get its own study.

Public comment re: Traffic issues

Bill Cavanaro said he lives there. It's a dangerous area and hard even to get the mail. He said their project has evolved from something simple and quiet to a much larger commercial enterprise. It's a safety concern but also a lifestyle concern for them as residents.

Judith Fisher lives directly across State Rd. from this property. She said it's a wild road, it's hard to exit her own driveway. She does not understand how this much traffic can be held in this area. In addition, every car leaving Stillpoint will have its headlights trained on her house. When Thomas first talked about it, it was going to be a quiet place of meditation with only 30 parking spaces but now it's ballooned. This is the RU district – what about the neighbors?

Katy Upson said she feels very uncomfortable about the whole project: the location, traffic, and it's her understanding that there is a second residence in addition to the Cavanaros. They have children and grandchildren and feels it's too much for this area.

Prudy Burt said traffic is driven by the use and thinks they should talk about the level of use [first]. She suggested a phased rollout of this project to first see how it goes. She thinks talking about traffic before use in this rural area is like putting the cart before the horse. The concerns are not about the quiet contemplative activities – it is the off-mission use that worries people in the community.

Jeffrey said Stillpoint is a 40-acre project and a great concept that he is not sure can be pulled off. What he sees happening in West Tisbury is big events. He was opposed to the Grange and still doesn't understand the execution and what [Stillpoint] events are proposed. He said he feels like there is nothing here [to review]. They claim Dover but 20% is off mission and he believes the board has the right to regulate it. He'd like to see a 3-year business plan. The articles of organization look more like a financial statement. He feels their project is just about money – what are they going to contribute to West Tisbury? There is no mention of affordable housing. He wants to know the specifics of what they plan to do here.

Larry said in looking at the MVC decision, they do have a requirement for Stillpoint to return after 12 months with a housing plan with number of employees, etc. It did not say anything about building housing. It would be nice to have documents that address these community concerns and what is permitted under their 501(c)(3) status. When the Preservation Trust and Grange came before the board, there were similar concerns after they were deemed to be going over the allowed use.

Jeffrey said the Planning Board had serious concerns and maybe the two boards should have a joint meeting because he doesn't know what Stillpoint [is planning to do]. Larry said the paperwork the board has does reference some of the uses planned – it has been available to review.

Ben said they did provide information on what a typical day would look like. He said he sits on both the Tisbury Planning Board and the MVC, and while the MVC can extract affordable housing from an applicant, he does not believe that West Tisbury has that ability in its bylaws. Stillpoint does not know how many staff they will have – it might just be Thomas and Jake who already have housing. He also pointed out that Dover is already included in the West Tisbury bylaws that allows educational, charitable in the RU district (8.5-3).

Jake told Jeffrey that what Stillpoint is contributing to the town and the island is a community space for classes and conversation and contemplation. This requires that they take in funds, mainly from donors, but in order to get donors they need to show they have a vital space. What they will do with those funds is funnel it back into classes, conversations and contemplation. He asked the board if there are things they do not want to see there.

Larry said in addition to the MVC conditions, the question is what event permits would the town like them to obtain. He had asked Jen Rand what requires an event permit and while we have a form that says what you do to *get* an event permit, it does not state the criteria. He said it would be nice to know, as it pertains to Stillpoint, what the Select Board considers to be an event.

Ben said he'd want to know what other groups are triggered to need an event permit – what does the library do, for example. Larry said that is something they should approach the Select Board about.

Atty. Vukota thinks that West Tisbury needs its own criteria and that it should not be an arbitrary decision left up to one person – it should be applied equally. There may be events that trigger the need for an event application. She also said that under Dover, an educational organization is not restricted to only educational activities. A legal decision came down on June 7 that says if you have incidental and ancillary activities that are intended to generate funds for your exempt purpose, then those are also pulled in and included under Dover. Every activity does not need to be educational. As the case said, if that was the standard then no one would qualify under Dover. The standard for Dover is not about digging down into use. She said she understands the board’s job is to look out for the town and make sure they don’t approve something that gets out of hand. But under Dover, the ZBA is authorized to adopt and apply reasonable regulations over matters that typically find expression in local zoning laws concerning bulk, dimensions, open space, and parking to land and structures. This is scope of review when a project falls under Dover – not the use.

Larry said this application also came to this board under 11.1-3A and this is a question for legal counsel, whether or not the board is allowed to use its standard review criteria under 9.2.

Jake said these are conversations that need to happen. How it’s going to happen in a lawful way is a West Tisbury question, not a Stillpoint one. He said they want to work with the town and the board.

Thomas said he wanted to apologize to members of audience who thought the project has changed since he first presented it to them. In his mind, the project has not changed – if anything the scope of project has reduced.

Larry said some of the questions and thoughts he has include:

- 1) Would the town require them to have event permits if they host outside groups?
- 2) The MVC asked for a record of events – traffic and water use, for example, for a period of two years—he would think it a good idea to keep records every year.
- 3) Use table – no retail sales are allowed in the RU district. In his opinion if they’re renting space they can’t then sell jewelry at a trunk show.
- 4) While they have a policy about who they’d rent to, what about fundraisers for other nonprofits? If you rent the barn to MV Museum for a fundraiser, would that be allowed?

Larry said it would nice if the Planning Board had the ability to weigh in on more on their concerns. In looking at the Planning Board application from June 2022, it seems as vague and loose then as it still is today. His concern is the 20% off mission and larger events up to 100 people. When the Planning Board writes a letter with significant concerns, they [should not be ignored].

Ben said no one from the Planning Board has attended these meeting except for Amy Upton.

Atty. Vukota said the letter from the Planning Board contained inaccuracies – it mentioned weddings which had already been removed and disallowed by the MVC.

Ben and Jake said they do not understand what “loose” means. Julius asked about a previous meeting where someone mentioned hosting the cribbage club—would this be off mission? For him, the looseness comes from not totally understanding what is happening there. Classes, conversation and contemplation is a very nebulous list of things.

Jake said it's really going to be defined about what the community wants to do. Ben said they will abide by West Tisbury ordinances and the additional ones imposed by the MVC. He thinks that what happens inside the building does not feel like critical information the board needs to know.

Julius said when they put so much on "community demand" they are asking the community and this board to take a lot on faith. Without defining it, that makes it difficult for everyone on the outside looking in [to understand].

Jake said he understands that, there are [other] concrete issues we should address – but it is his sense that it only comes down to traffic, lighting and noise. They supplied an exhaustive list to the MVC on sample activities and events and there was overwhelm there by the Commissioners.

Kim spoke and shared that the town administrator, when asked what would trigger an event permit, indicated it would be anything not covered in the special permit. Her opinion was that Stillpoint should request everything it wants to do so it's contained in the special permit. Based on this conversation with the town administrator, Kim said that it seemed at the board level, it should be a more exhaustive list [of planned events/activities]. Atty. Vukota disagreed.

Chris Murphy said he's here as a member of the [island] community and serves on the Chilmark planning board. He attended every MVC hearing on Stillpoint and thinks the role of government is to set the parameters and let the people do what they want to do. There are details that are irrelevant [in setting the parameters]. The question of affordable housing – this is a modification of a 50-acre subdivision [*DRI 279, Priester's Pond subdivision, dated June 23, 1988*] with 15 lots and the MVC, at the request of the town, required an affordable lot and it was given to DCRHA who subsequently sold it. [The previous owner] has already given one perfectly good buildable lot and it was not used. He thought asking more of Stillpoint is a punishment. MVC does have the right to tie in affordable housing.

Judith Fisher asked the board to consider the impact of 38,000 people dropped in to the neighborhood seven days a week, from 7am to 10pm. It would be nice to have a day of rest and reduction of hours.

Andrew Woodruff a 55-year resident of West Tisbury, said he feels that this board has limited purview and would like them to get legal counsel input. He does support the project with some reservations – he cares about groundwater, and about more oak trees coming down. He does not care so much about neighbors who build at the 50-foot limit of property line but does care about neighbors who are more impacted.

*It was moved and seconded to continue the hearing until **July 20, 2023 at 6:15 p.m.***

A roll call vote was taken with the following resulting votes. Motion passed 6-0.

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

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The Meeting adjourned at 7:45 p.m.

Respectfully submitted,
Kim Leaird, Board Administrator