

WEST TISBURY ZONING BOARD OF APPEALS
Minutes for Thursday, January 10, 2019 meeting
2nd Floor, West Tisbury Town Hall - @ 5:00 PM Approved on February 14, 2019

PRESENT: Nancy Cole-Chair, Toni Cohen, Bob Schwier, Julius Lowe and Tony Higgins

Absent: Larry Schubert-Vice Chair

Also Present: See attached list

Invoices: An Invoice from Blatman, Bobrowski & Haverty, LLC (\$975.00) invoice #1907 was approved and signed.

Minutes: The minutes from the meeting of November 15, 2018 were reviewed and approved.

5:15 pm: A hearing on an application from William Wing, agent for Shelyn Garcia and Luiz Oliveira for a Special Permit to alter and extend a pre-existing, non-conforming structure under Section 11.1-3 (A) of the Zoning Bylaws for the addition of a second story and front porch to the primary dwelling and to convert an existing storage shed into a detached bedroom in the Major Roads district, Map 16, Lot 61, 560 State Rd. West Tisbury, RU District.

Nancy read the notice. She also read the email from Omar Johnson, Board of Health Agent who verified that the property has a six bedroom septic design. Will described the project. He stated that the second story addition to the main dwelling will respect the 24' height restriction and the front porch will respect the 8' projection rule into the front setback. He added that the existing storage shed is over the eastern setback line by 6 inches, and is less than 400 square feet. He said that the footprint will not change. He verified that the proposed six bedrooms will be accommodated by the current septic system. Nancy asked for Public comment. Patti Lynn, direct abutter asked why they would need six bedrooms. Will said that they have the septic capacity and three children, and questioned the validity of the inquiry. Nancy read the email from Patti, requesting copies of past special permits granted and a site visit on the property,(see file). Nancy clarified that it is only the existing application that is before them. Nancy asked if there was correspondence from the other immediate abutter, (Mitch Gordon). Pam said that there was none. Julius verified that there were no proposed changes to the side of the property closest to Patti Lynn's. Nancy warned that the addition of a kitchen in the detached bedroom would constitute an issue with the town. The applicant stated that this is not their intention.

Julius moved and Toni seconded the motion to close the Public Hearing and open the Board Meeting

A motion was made to approve the application. The vote on the motion was unanimous.

Nancy explained the 20 day appeal period.

5:35 pm: A hearing on an application from South Mountain Company, agent for Tom and Christina Shropshire for a Special Permit to allow a 12'x24' swimming pool under section 8.5-4(C) of the Zoning Bylaws, Map 39, Lot 2.1, 147 Middle Rd. West Tisbury, RU District.

Nancy read the notice. She referenced the fact that there is another application scheduled to be heard by the Board on February 7th. Greg Milne from South Mountain Company described the current project. Nancy read an email from Ellen Sturgis, (abutter), regarding her concerns about the increase in the numbers of swimming pools and their impact on water quality of the Tisbury Great Pond, (see file). Nancy stated that there is a boiler plate set of conditions that reference all installations, filling and maintenance of pools. Greg stated that they are not planning on installing a fence but were going to have an automatic pool cover. The Pools bylaw was briefly discussed. Greg stated that he thought the ZBA had approved automatic pool covers before. The pros and cons were discussed. Julius stated his opinion that until the need for a fence is clarified in the bylaw, due to be updated at the next Annual Town Meeting, automatic pool covers should be allowed. It was verified that the pool equipment enclosure is not represented on the plan. Greg stated that the equipment would be housed either in the basement or in a shed. Nancy said that approval would be conditioned upon a new site plan showing the location of the pool equipment shed unless it is going to be in the basement. Greg said he would deliver this information to the office as soon as possible. Nancy went over lighting requirements and conditions regarding the pool installation and maintenance stating that they would be included in the Decision.

Julius moved and Tony seconded the motion to close the Public Hearing and open the Board Meeting.

A motion was made to approve the application with conditions. The vote on the motion was unanimous.

5:55 pm: A hearing on an application from John Cain for a Special Permit to amend a 1982 Special Permit under Section 9.3-3 of the Zoning Bylaws and to allow the construction of five rental cabins (without kitchens) under Section 11.1-3 (A) of the Zoning Bylaws thereby extending and altering a pre-existing, non-conforming use at The Lambert's Cove Inn, Map 7, Lot 99, 90 Manaquayak Rd. West Tisbury, RU District.

Nancy read the Hearing Notice. The correspondence was also read, (see file). John Cain presented his application. He described the family run business and sited his love and respect for the Island and community, stating that this is why they purchased the Inn. He described the five proposed cabins, under 400 square feet which he said are not within sight or hearing of abutters. He said they are one open bedroom and bathroom...no kitchen. He said that the community loves the Inn and that their goal as the owners is to put the Inn on solid financial footing so it may continue to serve the community. He stated his opinion that the addition of the cabins would not negatively impact the neighborhood. He explained that the Inn is rarely filled to capacity so guest count may not increase but the cabins would be rented at a higher rate, thus increasing the bottom line but not necessarily the amount of guests. He said they would be willing to decrease the number of seats in the restaurant from 70 to 65 to offset the additional rental capacity. He mentioned the supportive letters received and the fact that one of the supporters, Joe Capobianco is the manager of the Road Association. He opined that many of the people who wrote in opposition just don't want to see any change. He stated that the others are concerned with the road and the traffic. He stated that he has never witnessed the speeding mentioned in one letter attesting that the speeders could be year round residents or their guests. He mentioned that with all the walking trails on the island, walking on the road is a choice and possibly not a good one. He reminded the Board that they are property owners and that this is America. He asked that the Board look at the number of cabins and not the 33% increase that they represent. He stated that the trucks that service the Inn would not increase due to the cabins. He

stated that most of the residents of the Inn stay there enjoying the amenities it has to offer, thereby not necessarily adding to the traffic. He stated that the septic issue should not be a part of the Zoning Board application according to the engineer they have contracted to work on the project and that there will be ways to resolve septic issues at a later date.

Nancy stated that they would like to hear testimony from all who wish to offer it.

Ted Karalekas a direct abutter spoke in support of the project mentioning the efforts that the owner has made in getting the neighborhood together. He stated that in his opinion, the proposed cabins will not affect the traffic on the road or be detrimental to the neighborhood. He voiced his support for the new owners, citing how pleasant it is in the evening to enjoy a glass of wine in his hot tub, listening to the music emanating from the Inn during an event taking place there.

Another abutter, Julie Van Hall, who owns a property at the back of the Inn, stated that Joe Capobianco is a volunteer member of the road association. She made mention of the increase in weddings, and the noise generated at the Inn which is fully audible from her property. She said she agrees with all who wrote in opposition regarding traffic on the road. She said she feels the owner has to look internally for an increase in his bottom line as opposed to increasing the number of rental units. She mentioned that the inn is lovely but the neighborhood doesn't exist for the Inn.

Nicholas Puner, another abutter who wrote to oppose the application spoke to the fact that the arguments for and against this application are not personal in nature, but that the decision made will delineate the future of the Inn and the neighborhood. He stated his opinion that the request to extend this non-conforming use is not the purpose of the Zoning bylaw.

Tucker Hubbell who had submitted written correspondence opposing the application read a short letter to the room, (see attached).

Nancy suggested that the application be continued to a later date.

A motion was made and seconded to continue the hearing to February 7, 2019 at 5:55pm. and conduct a site visit at the Inn on February 5, 2019 at 4:30pm. The vote on the motion was unanimous.

6:15 pm: A hearing on an application from Up Island Automotive, Inc. for a Special Permit to amend existing Special Permit casefile # 2009-15 under Section 9.3-3 of the Zoning Bylaws in order to extend the length of a pre-existing, non-conforming 14'x24' shed by 8 feet under Section 11.1-3 (A) of the Zoning Bylaws, Map 32, Lot 79, 1074 State Rd. West Tisbury, VR District.

Nancy read the Hearing Notice. She read the two letters in support of the application, (see file). Patrick Jenkinson, owner and applicant presented the application.

A motion was made and seconded to approve the application. The vote on the motion was unanimous.

Nancy went over the 20 day appeal period.

The meeting adjourned at 7:20pm
Respectfully Submitted, Pam Thors, Board Administrator

Attachment #1 Also Present at the meeting

Shelyn Garcia
William Wing
Holly Pretsky-Vineyard Gazette
John Cain
Janice Pelletier
Beth Whitaker
Andrew Flake
Anne Redic
Patricia Lynn
Julia VanHall
Alesia Garcia
Rob Scherer
Bryan Costello
Theodore Karalekas
Christina Cain
John Abrams
Bill Veno-MV Commission
Nancy Dole

Attachment #2 Testimony by Tucker Hubbell (immediate Abutter)

I will let our letter and documentation stand as our detailed comment on the application. But I would like to make 2 quick observations if I may.

First I think we should all be reminded of the overarching aim of the writers of this set of zoning bylaws I hold in my hand, that was put in place 47 years ago by a group of people who had, what I can only call astounding foresight. They were tasked with the purpose of figuring out how best to keep the rural character of a town, as it prepared for unknown future development. The village center has no business district; what exists there is grandfathered uses. The mixed business district laid out in 1972 is the area where Cronigs is now which at that time was nothing but the up-island general store run by Joe Fereria. It has grown into what I would call a "benign strip of mixed use". And the new zoning also laid out a Light Industrial area by the West Tisbury dump and at the airport. Over the last 47 years of growth this remarkable plan has for the most part kept the iconic sense of rural America intact. These bylaws were amended many times and re-written completely in 2000 but the open fields, agricultural/residential and small business sense of zoning that was set forth in 1971 has not changed. On the very first page of these bylaws they set out 4 goals one of which says : "Offering opportunities for small businesses in appropriate locations throughout the Town, without changing the attractive rural, agricultural and residential character of the Town." Lodging facilities and restaurants are specifically not allowed in the RU district and that has been true since the beginning of zoning. The Inn is one of a number of grandfathered uses that continue in town, as they should, but they must all remain in the "small business" category to fulfill the main objective of a rural community.

Secondly this board in its past 5 decisions has done an excellent job of listening to the neighbors but also approving as the record shows all of these special permits because they enhanced the Inn without increasing the use. Since this application is for a substantial increase in use we ask that you deny the application.