

WEST TISBURY ZONING BOARD OF APPEALS
Minutes for Thursday, January 14, 2021 meeting
Online meeting via ZOOM- @ 5:00 PM

APPROVED ON January 28, 2021

Present: Larry Schubert, Deborah Wells, John Rau, Jeffrey Kaye, Julius Lowe and Andy Zaikis

Also Present: Pam Thors-Board Administrator, Debra Polucci, Liza Williamson, Henry J. McGurren, Reid Silva, Phil Silverman, Geoffrey Rose, Paul Karasik and Casey Decker

Larry opened the meeting at 5:00 pm. The payroll and invoices were reviewed and approved. The minutes of the December 17th meeting were reviewed and approved with corrections.

Pam explained the letter, (see file), from the Stoneyhill Farms Homeowners Trust. She urged Jeffrey who lives in the subdivision to chime in with any comments. She reiterated the conversation with Madeleine Coutts who wrote the letter regarding Map 10, Lot 196, 65 Trotters Lane whose owner Jose Carlos Ribeiro bought a landlocked 9.5 acre property next to the subdivision. Ms. Coutts was sending the letter to the town boards to make them aware that the owner agreed to comply with the covenants in the subdivision in order to get access to his property via Trotters Lane. The letter was also sent to the Planning Board and to the Building Department. Jeffrey advised that the Stoney Hill Farms subdivision was created via a DRI at the Martha's Vineyard Commission (MVC). Pam said she contacted Lucy Morrison at the MVC to see if there was a list of subdivisions created in this manner and was told that no such list exists. It was agreed that this is an issue that should be checked by all boards issuing permits.

The board discussed the letter to Juarez J. Oliveira from the Building Inspector, (see file). The letter which applies to Map 30, Lot 2.54, 229 Pond Rd. and adjoining lot 2.55 both owned by the Salem family. Pam said that the issue of merging the lots was being researched by the Building Department with the guidance of Town Council. It was suggested that Pam check to make sure that the Salem's had received a copy of the letter as well.

5:15 pm - A Public Hearing on an Application for a Special Permit from Songwind Nominee Trust to allow the construction of a 24' x 60' in-ground pool and a 2,300 sf. pool house with bar area and half bath in the Inland Zone of the Coastal District under Section 8.5-4(C) and 6.1-5(B) of the Zoning Bylaws on Map 6, Lot 2, 145 Obed Daggett Rd., RU District.

The notice and the letter from the Planning Board were read. The Planning Board voted to "take no action" on the application.

Reid Silva, agent for the applicant presented the project details. The site plan and floor plans and elevations were reviewed.

John asked if the Conservation Commission, (Concomm), had reviewed the project.

Reid said that they hadn't gone before the Concomm because the project was designed to avoid encroaching on the buffer zone of the wetlands. He explained that there are a lot of topography changes on this lot and that the pool and pool surround will be built into the side of the existing hill behind it.

Deborah asked if the road will be impacted. Reid said that it will so the owner will have to maintain it for the duration of the project. Deborah asked when construction is scheduled to begin. Reid said it will be started in the fall. It was noted that the lot is 10.8 acres.

Jeffrey suggested that a site visit take place.

Pam stated that she had spoken to Maria at Concomm who said that the only concern her board might have is that the excavation and construction are only a few feet from the buffer zone and that moving it back a few feet may be advised.

Reid said that complying with the Concomm is the owner's highest priority and that all possible safeguards will be in place for the duration of construction.

Larry asked if there was a landscape plan showing elevations of the pool construction.

Reid said that there will be no retaining walls for the pool and that the hill behind the pool house will be cut back and re-sloped so it is not up against that structure. He pointed out the fencing around the pool which will be partly made up of the raised elevation behind it.

John noted that there is no road directly to the pool house. Reid said that there will be adequate walkways to allow access to the pool and pool house for maintenance.

When asked how the pool would be drained, Reid said that seasonal pumping these days consists of only removing about 12" of water to separate the water level from the cover. He said they will not pump water toward the wetland. Larry stated that the boiler plate pool regulations prohibit this.

Pam mentioned that concerns about the Conservation Restriction, (CR) held by Sheriff's Meadow Foundation are unfounded as the restriction does not include this parcel, (see CR in file).

Jeffrey stated his concern for changes to the topography of the lot and their impact. Reid said that when the main house was built, minimizing disturbance to the lot was addressed at length by the owner. He stated that the owner is being hyper-vigilant in order to avoid conflicts regarding Concomm regulations.

The size of the pool house, (2,300 sf), was noted. Reid said that a redeeming quality is that the ridge height of the structure will be below the top of the hill behind it.

John asked which body of water the property fronts. Larry said it is on the North shore of the Sound. Reid stated that the structure is not readily visible from the water.

Two possible conditions relating to the construction were discussed.

- 1) The "limit of work" fence must be maintained for the duration of the project development.
- 2) Agent for the applicant will send a photo of the installed "limit of work" fence prior to the commencement of construction.

J. Rau and D. Wells moved and seconded a motion to close the public hearing and open the board meeting.

Julius stated that in the past, the board has placed a condition on the Special Permit stating that water must be pumped off the property. Larry said that seasonal pumping should not be a problem considering the size of the lot and the maintenance people should be able to distribute the water safely. He said that emptying the pool is addressed in the boiler plate pool regulations which require that water is pumped and trucked off the property. Julius agreed.

A motion was made and seconded to approve the application for Special Permit.

A rollcall vote was taken with the following resulting votes; L. Schubert-yes, J. Lowe-yes, D. Wells-yes, J. Rau-yes, A. Zaikis-yes, J. Kaye-yes

Larry went over the 20 day appeal process.

5:35 pm: A Public Hearing on an Application for a Special Permit from Debra Polucci to amend Special Permit Case 1997-34 to allow an existing, non-operational Day Care Center a.k.a. Island Montessori School to be utilized as an accessory apartment under Section 4.4-3(A) and 9.3-3 of the Zoning Bylaws on Map 31, Lot 69.1 10 Road to Great Neck, RU District.

The notice was read as well as the letter from the Planning Board, (see file). Larry asked to address the Planning Board letter before the applicant presented her application.

He noted that the ZBA allowed Debra to withdraw her first application to them without prejudice. This application sought to allow the school to become a guest house or, “Subordinate dwelling” which was prohibited in the Planning Board’s original Conditions of Approval of the Subdivision . To avoid the possibly lengthy and complicated process of applying to the Planning Board to remove this condition, Debra chose to apply to the ZBA for an accessory apartment instead. She also applied to the ZBA to amend Special Permit #1997-34 to remove the ZBA condition which prohibits the school from ever becoming a habitable structure.

Larry noted that it has been established after lengthy review by the ZBA, Planning Board and Building Department that accessory apartments may be granted despite the “no subordinate dwelling” ie: guest house, condition of approval required for some earlier subdivisions. He stated that he is unsure of why the Planning Board had this opinion on the issue. Pam agreed that the facts may not have been fully understood.

Pam stated that when she spoke to Joe Tierney, Building Inspector today, he agreed with this assessment of the issues before the board. She said that he also agreed that approving the amendment of the 1997 Special Permit to allow the school to become an accessory apartment and approving the application for the accessory apartment is a viable resolution.

Jeffrey asked if the MVC approved the subdivision, if the applicant needs to go before the MVC. Larry stated that the accessory apartment bylaw was not in existence at the time the subdivision was developed and is considered by the Section 4.4-3 A, to be “an accessory use to a single family dwelling on any sized lot,.....”

The site plan was reviewed and Debra confirmed that there will be no external changes to the building.

Henry J. McGurran, an abutter to the property, asked about restrictions on occupancy of accessory apartments and whether there will be a kitchen added. Larry explained that if the apartment is rented, it must be rented affordably and that there will be a kitchen added.

Debra stated that there will be no changes to curb cuts, paving or parking areas. Adding that the school accommodated parking for 20 families while it was operating so parking is more than adequate.

Larry stated that the apartment must be 800 sf. or less but may at a future date have exterior additions not accessible to the apartment that may serve as storage or other outdoor areas. He added that any change would require an application to the ZBA to amend the Special Permit.

Debra said she will live here in the apartment on a year round basis, hoping that this is a good solution for her and the community.

Henry clarified that the house and apartment may not be rented at the same time. Larry said that the Special Permit for an accessory apartment does not limit the use of the main dwelling but the apartment if rented must be rented affordably.

Henry asked about the number of occupants allowed. Larry said that the Town does not control this unless it becomes a Board of Health issue. Pam noted that renting affordably through the Dukes County Regional Housing Authority probably imposes some control over these types of issues.

When asked about septic capacity, Debra said that the school served 20 children so the septic system is more than adequate.

Jeffrey asked Debra if she has abandoned the concept of ever having a school there again. She said she has. Larry added that once the Special Permit is amended, the original use is no longer valid.

Paul Karasik voiced his support for the approval of the Special Permit.

J. Lowe and D. Wells moved and seconded a motion to close the public hearing and open the board meeting.

A motion was made and seconded to approve the amendment of Special Permit #1997-34 (removing Condition #4), to allow the granting of a Special Permit for an accessory apartment.

A rollcall vote was taken with the following resulting votes; L. Schubert-yes, J. Lowe-yes, D. Wells-yes, J. Rau-yes, A. Zaikis-yes, J. Kaye-yes

Larry went over the 20 day appeal process.

Patient Centric parking plan:

Larry read the letters dated 12/15/2020 from Joe Tierney, Building Inspector regarding his opinion of the parking/landscaping/lighting plan submitted by Patient Centric on 10/14/2020. He noted that the letters site a few unresolved issues such as;

- 1) Employee parking
- 2) Glare shields and wattage on parking lot lights
- 3) 3 year estimate for maturity of plantings such that they screen the parking lot effectively

The letter from the Planning Board was read as well. Their only suggestion was the installation of a bike rack.

Julius asked if the board can go ahead and approve the plan despite the comments made by Joe. He said that the employee parking seems like something that can move forward, adding that Patient Centric is going to have to make the parking work in order to run a successful business.

Geoffrey Rose and Phil Silverman said they don't have any problems with the few issues sited.

L. Schubert and J. Rau moved and seconded a motion to approve the parking/landscape/lighting plans.

A rollcall vote was taken with the following resulting votes; L. Schubert-yes, J. Lowe-yes, D. Wells-yes, J. Rau-yes, A. Zaikis-yes, J. Kaye-yes

Casey Decker was in attendance to view the meeting as a potential future associate member of the board. He is a civil engineer and after attending this meeting decided he would like to serve as an associate member.

The Board voted unanimously to ask the Board of Selectmen to appoint Casey Decker as the second associate member of the ZBA.

Pam was asked to request that this item be added to the next Selectmen's meeting agenda. Larry said he would get Casey's contact information and send it to her.

The meeting adjourned at 6:45 pm.

Respectfully Submitted, Pam Thors-Board Administrator