

**WEST TISBURY ZONING BOARD OF APPEALS**  
**Minutes for Thursday, January 24, 2019 meeting**  
**2<sup>nd</sup> Floor, West Tisbury Town Hall - @ 5:00 PM – Approved on February 14, 2019**

**PRESENT:** Nancy Cole-Chair, Larry Schubert-Vice Chair, Toni Cohen, Bob Schwier, Julius Lowe and Tony Higgins (5-6pm)

**Absent:** N/A

**Also Present:** Atty. Doug Sederholm, Leo DeSorcy, Reid Silva, Geoghan Coogan

**Invoices:** No invoices were approved.

**Minutes:** No minutes were approved.

**5:15 pm: A hearing on an application from Leo DeSorcy for a Special Permit to allow the extension of a pre-existing, non-conforming use and construction of a 30’x40’ structure ~~and green house~~, for the sale of agricultural products and construction goods and for employee housing under Section 11.1-3 (A) of the Zoning Bylaws. Map 8 Lot 18, 4 State Road, RU district.**

Nancy read the notice and Reid presented the new plans, which include the basement plan (passive storage/mechanical). He verified that all structures are represented on the plan. Nancy asked about the parking area represented on the plan. He said that the parking is on the driveway part of the road. She verified that the downstairs area has a bathroom and stairway to the second floor and basement. She asked about the second floor which is labeled “employee housing”, stating that they need details of the residential area of the structure. Reid stated that the residential portion of the building is the only part of the application which is already compliant and that they knew that it was going to be employee housing but did not have the layout done yet. He stated that they wanted to get the main parts of the building together and plan the second floor layout at a later date. Attorney Sederholm stated his understanding that the board may not allow use of the second story until the final plans were provided. Nancy said they would need to come back to the board to have the plan approved. Doug stated that the applicant is committed to doing that, reiterating that what they are looking for is a second story residential space, a basement to be used for passive storage and a showroom for Leo who is doing what his father and grandfather had already been doing there and an area for retail agricultural sales. Doug stated that the use is reflecting the use approved in the 1981 Special Permit, stating that they are not looking to do anything beyond what has been done there since 1981. He quoted the 1981 Special Permit stating that “there will be no retail or wholesale sale of goods”, and “no activities may be conducted on premises except activities of the nature previously conducted. He said that the letter from Ralph Packer, see file, is proof of what has been happening there.

Nancy said she would like to discuss whether the application should be referred to the Martha’s Vineyard Commission, (MVC). The issue of the parking area was discussed. Pam referred to the definition of “outdoor commercial space” in Attachment A of the MVC DRI checklist, (see file). Larry stated that this commercial property has been grandfathered for that use pre-zoning. He said that usually when this type of use is discussed, the property is in the mixed use district. He said this clouds the issues involved. He mentioned the Home Occupation option. Nancy stated that it is not a

home business, has always been a service business. Reid stated his opinion that the building is a mixed use structure. Bob said that the grandfathered aspect of the application has to do with the Town bylawss and not the MVC. Nancy said that granting an expansion of the business would increase the intensity of the commercial use of the property. She stated that the existing business is large and the application makes it even larger. Reid stated that the client base would remain the same, arguing that the use is not being increased. Doug Sederholm stated that in 1981, sales were done in the downtown office and that now since the office has been gone, sales have been conducted at 4 State Rd. He said that Leo is asking permission to sell what he has been selling there for decades. Larry asked what makes a retail space; a cash register, customers etc. He stated that in the past, that never happened here. Then, he said, the sales were conducted on this property. Nancy asked why then are they asking for retail space if nothing is changing? She said if they want to do a showroom and have clients come in to look at furniture, it's not as if you are inviting the public in to view and purchase products. She said that the word retail should not appear on the plan. Doug said he was not happy to see that on the plan either. She said the agricultural piece would warrant discussion because a farm stand is allowed, reiterating that she would not vote to allow retail sales of furniture because it is not allowed in the RU district. Doug asked how they would feel about a showroom which would be open by appointment only. It was agreed that this could be a possibility.

Whether or not a Special Permit is necessary for agricultural sales was discussed. Tony asked about the scale of the endeavor, suggesting it be somewhat minimal. Doug confirmed that Retail Sales of Agricultural products are only allowed by Special Permit. The question of signage came up. Nancy reiterated that the board is not authorized to grant a Special Permit for retail for anything but agricultural products. The contents of the application were discussed. Doug asked about wording for the narrative. Nancy expressed her concern about leaving anything too open to interpretation, in case the property is sold. Pam suggested that there be a new narrative and new plans showing exactly what the board will be reviewing at the next meeting. Tony asked if there is another office space in town for the business. Leo said that there is not. Nancy asked if the board is satisfied that the application should not be referred to the MVC, even though in her opinion it could be referred for a number of factors. Toni asked, and Nancy concurred that the residential floor plan would have to be approved by the ZBA. Bob said that the use doesn't seem to be increasing much. Larry stated that the applicant has tried to address all MVC issues and that the parking is not really being expanded because of the areas already used for parking there. He said that he doesn't see any issues large enough to involve the MVC. Doug stated his opinion that the application will not be detrimental to the neighborhood. Bob stated that there will be more traffic due to the agricultural use. It was agreed that on State Rd this would probably not be an issue. Nancy stated the need for a revised, concise but detailed narrative which includes all pertinent details involving the agricultural use, i.e.; hours of operation etc. and site and building plans that are correct with all aspects of the project represented.

*The Board voted unanimously to not refer the application to the Martha's Vineyard Commission.*

*The Board voted unanimously to continue the application to Feb. 7<sup>th</sup> at 5:00pm.*

Nancy informed the applicant that there is not a second egress on the second floor plan.

**5:35 pm: A hearing on an application from Michael and Donna Pieczek for a Special Permit to allow relief from various Outdoor Lighting Regulations under Section 8.6-2 of the Zoning Bylaws, Map 16, Lot 87, 48 Cardinal Way, RU District.**

Nancy read the notice and continued the hearing until Feb. 21<sup>st</sup> at 6:15 pm. No testimony was heard.

**5:55 pm: A hearing on an application from Michael Colaneri, Trustee of Roger's Path Realty Trust for a Special Permit to alter a pre-existing non-conforming structure under Section 11.1-3 (A) of the Zoning Bylaws to allow an existing barn to be converted to an accessory apartment under Section 4.4-3 (A) of the Zoning Bylaws, Map 22, Lot 10.1, 41 Rogers Path, RU District**

Nancy read the notice and Geoghan Coogan, representative for the applicant presented the project. Nancy read the correspondence from the Building Inspector which states that the total square footage of the accessory apartment is 824 sf. Nancy read the letter from John Lolley regarding engineering of the structure, (see file). It was noted that no abutter correspondence was received. Nancy read the narrative, (see file). Geoghan reiterated the applicant's apology for not coming to the board prior to construction. He stated that the engineer said that the interior square footage is 800 sf. Larry said that the Building Inspector determines the square footage and that if it is over what is allowable, will not issue a permit. Nancy identified that interior spaces can be reconfigured but that the Building Inspector needs to be satisfied that the apartment is only 800 sf. per his calculations.

Nancy Dole, immediate abutter to the property stated that she doesn't have a problem with the little houses that Michael builds. She did state her concern that the shed that became the apartment was actually much smaller. She expressed her disapproval of owners that develop a project prior to having a permit.

She stated her problem with the management of the property, citing her concern for misuse of the road and the trash that is on the property. A thorough discussion of the responsibilities of homeowners regarding road upkeep and maintenance of properties as far as trash goes took place. The history of the property and the construction taking place was reviewed at length. The board suggested that Nancy D. speak to the Planning Board regarding the rights of property owners as they relate to road maintenance and road associations etc. Nancy D. reiterated her standing that if someone is applying for a permit from the town that they address road maintenance and trash issues, taking them seriously. The plan and where each of the buildings stands was discussed. Pam stated that she had requested an updated site plan from Michael. Nancy D. mentioned the recent attempt by the applicant to improve the road having fill dropped off but not spreading it.

Geoghan stated that he was taking in all of the commentary, adding that he doesn't know if maintaining the road is within the purview of the ZBA. He said that he would certainly pass it on to his client. Nancy said that they could condition the accessory apartment Special Permit to require screening. Pam suggested that Nancy D. go to the Planning Board with her questions regarding road associations and road ownership. Larry said that when a road association is formed, anyone on the road could make him become a member and comply with the rules.

Nancy suggested that the issue before the board is the application for Special Permit and that she doesn't believe that the ZBA has the authority to make him maintain his property. She stated the need for an updated engineered site plan showing all buildings. Julius restated that the ZBA cannot condition anything except the proposed project represented by the application before them. Nancy

said that any screening can only relate to the accessory apartment. Screening from Nancy D.'s property was reviewed.

*The Board voted unanimously to continue the hearing to March 14, at 5:35pm.*

*The board agreed to make a site visit to the property on March 13<sup>th</sup> at 4:30pm.*

The reserve fund transfer necessary to cover the overage in the Legal Line Item was discussed.

*The board voted unanimously to approve the language for the ATM warrant article which updates the Pool bylaw, (section 8.5-4).*

All correspondence was reviewed.

**6:15 pm:** Informal Hearing from Mark Kiley-cancelled

The meeting adjourned at 7:05pm

Respectfully Submitted, Pam Thors, Board Administrator