

WEST TISBURY ZONING BOARD OF APPEALS

Thursday, October 5, 2023

Meeting Minutes

Approved October 19, 2023 (5-0)

Present: Julius Lowe, Deborah Wells, Andy Zaikis, Jeffrey Kaye, Casey Decker, Pat Barrett

Absent: Larry Schubert

Also Present: Kim Leaird (*Board Administrator*), Oliver Ireland, Adam Moore, Chris Alley, Peter Rodegast, Kristen Geagan, Jeffrey DuBard, Laura Murphy, Scarlet Johnson

**

5:00 pm – The meeting minutes of September 21 were approved 5-0. Casey arrived after the vote.

Other Business:

- Review and discuss legal budget. Discuss and vote on warrant for Nov. 14 Special Town Meeting (STM): *“To see if the Town will vote to appropriate from free cash the sum of Twenty-Five Thousand Dollars (\$25,000) to the Zoning Board of Appeal’s Fiscal Year 2024 budget line 151-5305 Legal Services.”*

Board discussed August legal invoices, including one from outside counsel used by RRK&H to render the Stillpoint legal opinion. The board has already exhausted the \$5,000-line item for FY’24 and the \$10,000 transferred from the Reserve Fund. The board is over by \$731 and if the town approves the \$25K appropriation, we will have approximately \$24K to get through June 30, 2024 with one appeal currently in the court system. A motion was made and seconded to send this warrant language and request to STM. Motion passed 6- 0.

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5:15 pm – (*Continued from September 7, 2023*) A public hearing on an Application for a Special Permit from Sheriff’s Meadow Foundation, a 501(c)3 organization, to assume the buildings at **78 Campbell Rd., Map 32 Lot 5** in the RU district, for office space, staff housing, and storage of trucks, tractors and equipment – serving as a base for the island properties and trails it manages, under 3.1-1, 8.5-2 and 8.5-3 of the Zoning Bylaw.

Julius read the hearing notice and opened the hearing at 5:15pm. Presenting for the applicant were Adam Moore, Chris Alley, and Peter Rodegast.

Adam read into the record the letter he sent to the board dated Oct. 5 addressing concerns presented by the public at the Sept. 7 hearing. Those issues spoke to being a charitable organization; being in the Rural district and the alignment of Sheriff Meadow Foundation’s (SMF) mission; allowed community use; SMF’s need for the property and space; traffic and road maintenance; noise, lighting, and road safety issues; limited hours and no events planned; no public trailhead; planned installation of a de-nitrifying septic system; legal right-of-way to South Rd.; Tiasquam River protection; future buildings; and screening and appearance. (*Letter on file*)

The board also read into the record two additional letters of concern from Michael Black and Nancy Kirby.

Public comment

Scarlet Johnson said this is not a statement against Sheriff's Meadow, it is against the location they've chosen which is a property zoned for a single-family residence. Property owners should not have to give up their rights, it would have a significant impact on the neighborhood. Just because there are existing structures for what appears to be a landscaping business does not mean it is appropriate for a business location.

Oliver Ireland, abutter to Campbell Rd., off of State Rd., said he supports Sheriff's Meadow Foundation and what they do, and offered his observations on traffic on Campbell Rd. The biggest disturbance is dump trucks and landscape trailers – the empty or unloaded ones are the loudest because they bang around, are heavy and use diesel. He said he doesn't see a lot of foot traffic.

Chris Alley (from Sheriff's Meadow) said he wanted to address a few things brought up in the Kirby letter around traffic. There are only eight meetings a year where board members come to the site. There are committee meetings but those usually involve 2-3 people. In addition, there is no proposed [exterior] construction other than a porch roof (and interior construction). Staff housing will be similar to what's already happening at the site.

Deborah asked Adam Moore to expand on "attention to the siding" that was a part of his letter addressing concerns. Moore said it's not very attractive and they would probably shingle it and change a couple of windows, also replace garage doors with windows. Deborah asked about the 8:30-10:30 meeting times and if they would consider changing hours of those meetings to address needs of abutters. Moore said possibly and they would definitely be neighborly and talk to the abutters [if that were an issue].

Deborah asked if altering hours would apply to the entirety of operation to get into the same flow of the neighborhood and if they've thought about minimizing the numbers of trips with dump trucks and trailers or having them stored elsewhere? Moore said they would not get the trailers or dump trucks unless they're needed – one time per week is a good average. They are not used daily. Both are diesel and under the 10,000 GVW weight max. He said their home base would be on Campbell Rd.

Jeffrey said his issue is that they're sitting on \$150 million worth of property and why did they choose West Tisbury and not elsewhere or on property they already manage. It was his opinion that this would be a precedent for this board to allow a business use in the rural district and that any nonprofit could come in in the future and do the same. He said this is not an accessory use.

Moore said Sheriff's Meadow does have a lot of land across the island but it's all conservation land and if they were to build something new they would need to deal with a host of issues including donors who would ask they are building on conservation land that was given to be conserved forever. The Campbell Road property has existing buildings and it is centrally located. Jeffrey said he's more concerned about the precedent set.

Julius said it is not precedent-setting in the sense that the board would then have to grant similar to another entity – it is not a precedent the board must follow. Any future applicant would still need to come to the board for a special permit.

Jeffrey said he'd make a motion the board consult with town counsel about placing a business in a rural area. Casey said we do so all the time with an accessory use. Julius said Sheriff's Meadow is applying as a community use and the board does have the authority to provide exception to zoning district restrictions

if in fact it's a community, charitable use. Jeffrey said the use of the land is characterized as a charitable use [but] they are doing maintenance, projects, and business.

There was no second to Jeffrey's motion. Julius said the board would table the motion.

Pat brought up the site visit the board had taken the day before and thought SMF had addressed very thoroughly the concerns about the road in their 5-page letter. With the narrowness of the road, however, he didn't think that it would accommodate all of the road safety turnouts, speed bumps, and especially a pedestrian path. Moore said it may not be possible to do this, that is true, but they wanted to offer different things they could do to address the neighbors' wishes and concerns. He added they are not committed to doing so if the neighbors do not want these things.

Andy said he didn't think talking about a pedestrian path was a good use of the board's time as none of the neighbors were advocating for a pedestrian path there.

Julius said the letter was submitted late the night before and the neighbors most likely have not had the opportunity to read it and weigh in and it is difficult to provide assurances to neighbors if they have not. Deborah asked if applicant had the opportunity to speak to all of the abutters since the first hearing. Moore said he's reached out to everyone except Black, Ireland and David Murphy. Deborah noted that the board has not seen new letters removing previous objections and wondered if SMF had more time would they be able to reach out to them again. There are about 18 abutters within 300 ft. of the property.

Julius said everyone appreciates Sheriff's Meadow as an organization but under the criteria of 9.2-2 the board needs to find the proposed use is substantially non-detrimental and that can be a subjective thing. He said the correspondence received so far is not in favor because they believe it will be detrimental.

Deborah said the traffic requirement under 8.5-2 makes it hard, as it says: "Traffic generated shall not be more disruptive to the neighborhood than traffic normally resulting from agricultural or residential development..." Would it be any more disruptive or might it be less than agricultural use too. It is hard to know.

Chris Alley said there is other agricultural use in the RU district along Old County Rd. and State Rd. – people also live on State Rd. even if they are busier areas.

Peter Rodegast said another point of view is that Sheriff's Meadow currently operates in [another] residential zone in West Tisbury at the Wakeman Center along with three different organizations. The buildings are nestled near residential areas and they have never received complaints.

Jeffrey brought up precedent again and thought that putting a business in a rural district could be seen as spot zoning. He asked how West Tisbury would benefit and if there would be an affordable housing component. Moore said SMF takes care of all of the conservation land in West Tisbury and across the island and there is an affordable component that will immediately help two staff, however they are not proposing affordable housing on the rest of property.

Julius said SMF is applying under community use and they are not required to contribute to affordable housing as part of this application.

Discussion followed about hours and numbers of employees. They have seven (7) total employees – three (3) are daily [office] workers and the rest may be in the future. Office workers estimate 4 round-trips per

day. The other four (4) employees are field workers with an estimate of maybe 2 round-trips per day. The traffic varies seasonally and by project. They do envision expanding by 1-2 employees within five years. Altogether there could be up to 18 round-trips per day + eight (8) board meetings spread out over the year. Depending on time of year, half of those 32 board members might participate via zoom. Peter said if the board meetings are a hinge point, half could be at site and others could be potentially elsewhere.

Hours envisioned are 7:00am-5:30pm on weekdays and on weekends they typically do not work, although sometimes they have an event elsewhere and they might need to pick up something. The board thought a distinction could be made between truck/trailer and car traffic, limiting hours and no operation of trucks with backup beepers or trailers before 8am.

Jeffrey asked if the board might be interested in a conditional permit and Julius said no.

Julius said identifying these numbers and hours helps the neighbors who are most concerned about volume of work and traffic and would also be looking for the projected employees and use in 5 years and whether or not SMF would be willing to cap the numbers.

Moore said there is a trail open to the public crossing the property but at their current location they get maybe one person per week and that is more of a public facility. He does not believe there would be any public use of the new property.

The board thought it important that the abutters be able to review SMF's letter addressing their concerns and that continuing the hearing would also benefit Sheriff's Meadow – noting that it would be valuable if the board heard that some who live on road and objected came back to say they feel better about the application.

Andy said it's in the petitioner's best interest to approach the abutters to see if they've addressed their concerns and they may send a letter reversing complaint. Deborah added that it might be helpful to have the current neighbors vouch on what they are like as a current neighbor. Pat said he liked the idea of having half of meetings elsewhere although Julius didn't think that would necessarily tip the scales. Jeffrey said again he'd like a legal opinion. Julius said that question is not really in the board's purview.

*It was moved and seconded to continue to **November 2, at 5:15 pm.***

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

J. Lowe-yes, D. Wells-yes, A. Zaikis-yes, J. Kaye-yes, C. Decker-yes, P. Barrett-yes

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5:35 pm – A public hearing on an Application to Amend Special Permit #2019-55 from Gene Erez, on behalf of Mitch and Danielle Lee, to allow the construction of an 18'x42' inground swimming pool with a 7'x10' built-in spa, under 8.5-4C of the Zoning Bylaw at **120 Pond Rd., Map 30 Lot 2.15** in the RU district.

** NOTE Applicant has requested to postpone **

Julius read the hearing notice and opened the hearing at 5:46pm.

*It was moved and seconded to continue to **November 16, at 5:15 pm.***

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

J. Lowe-yes, D. Wells-yes, A. Zaikis-yes, J. Kaye-yes, C. Decker-yes, P. Barrett-yes

Informal Hearings

- **Gulino** – Review building plans for Accessory Apartment as stipulated in Condition No. 2 of Special Permit #2022-53, showing removal of indoor access to the proposed basement and accurately showing the new wall dimensions at 193 Vineyard Meadow Farms Rd. (Map 37 Lot 7). The board reviewed and signed the plans.
- **Vineyard Tennis Center, McHugh** – Owner wishes to sell to Airport Collaborative LLC. Returning per condition No. 1 of the Special Permit granted to Vineyard Tennis Center on April 3, 1996: *“...If the owners wish to change the use of this building or sell or lease it, [they] must come back to the Board of Appeals.”*

Julius referenced the panelized system storage / use that has been reported on by both papers, however noted that for now there is no planned change of use, per Jeffrey DuBard. There is no application or plan yet in front of the board for a changed use. Kim noted that the Airport had been in touch with the office about a request to sublet to a cleaning company. This may involve a plan review by the Planning Board depending on the total square footage the cleaning company would take up.

It was moved and seconded that the intent to sell the business was a de minimis change as there is no change of use.

A roll call vote was taken with the following resulting votes. Motion passed 5-1. Jeffrey said he didn't know enough about this to vote in favor.

J. Lowe-yes, D. Wells-yes, A. Zaikis-yes, J. Kaye-no (because he wanted to review the Airport lease), C. Decker-yes, P. Barrett-yes

The Meeting adjourned at 7:20 p.m.

Respectfully submitted,
Kim Leaird, Board Administrator