

WEST TISBURY ZONING BOARD OF APPEALS

Thursday, October 19, 2023

Meeting Minutes

Approved November 2, 2023 (7-0)

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

Absent: Andy Zaikis, Pat Barrett

Also Present: Kim Leaird (*Board Administrator*), Chris Alley, Gil Silva, Courtney Sterry, Joann Frechette, Robert Nash, Tracey Smith, Philip and Wendy Forest, Emily Moehnke, Christa Fischer, Arnold Fischer

**

5:00 pm – The meeting minutes of October 5, 2023, were approved 5-0 with edits as noted.

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5:15 pm – A public hearing on an Application for a Special Permit from Schofield, Barbini & Hoehn Inc., on behalf of **Miss Ollie’s Beach Nominee Trust**, to allow the construction of a 15’x35’ below grade swimming pool with an 8 ft. square spa within same footprint, under 8.5-4C of the Zoning Bylaw at **139 Little Homer’s Pond Rd., Map 43 Lot 13** in the RU district and the Inland and Shore Zones of the Coastal district.

Larry read the hearing notice and opened the hearing at 5:15pm. Presenting for the applicant was Tracey Smith. She showed the aerial view of the site and said that everything has gone through the Conservation Commission (ConCom) and construction has started. They are here now for the pool.

Tracey pointed out on the plan where the old house and pool were located. The new house and pool are set further back [from shore line]. ConCom jurisdiction is 100 feet within the 100-year flood zone and the new house and pool are located outside the 100-foot limit from the 100-year flood zone.

The planned fencing is Core 10 steel and is made to look rustic. The board reviewed the highlighted plan [in orange] showing the fencing that spans the perimeter and to an existing detached wine cellar with a gate. Jeffrey asked why the fencing is so expansive. Chris said they have, and want, a large lawn. Larry said they must be compliant with the fencing, and went over the standard pool conditions. Pool equipment will be in a soundproof enclosure but whether heated by propane or electric was undecided. Discussion followed about the town encouraging more environmental-friendly options and applicant did not yet know if it would be an electric heat pump vs. a propane fire boiler.

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

Larry said the permit would contain the town’s boilerplate pool conditions. Jeffrey made a motion to require an [electric] heat pump that was seconded. A roll call vote was taken on the condition and it passed 4-0. Casey abstained.

It was moved and seconded to GRANT the Special Permit as conditioned. Larry went over the 20-day appeal period.

A roll call vote was taken with the following resulting votes. Motion passed 5-0.

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

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5:35 pm – (Continued from September 21, 2023) A public hearing on an Application for a Special Permit from Eastville Construction on behalf of **Robert S. Nash and Joann H. Frechette**, for the construction of an 800 sq. ft., 1.5-story Accessory Apartment requiring 23’8” of right yard setback relief, under 4.4-3A and 4.2-2D4 of the Zoning Bylaw at **36 Oak Lane, Map 10 Lot 30** in the RU district.

Larry read the hearing notice and opened the hearing at 5:36pm. Larry began by saying that the board did not have a voting quorum as member Andy Zaikis was absent tonight and he was one of the original four present at the initial hearing on September 21. Because the town has adopted the Mullin rule, the board can still take testimony tonight as long as Andy certifies he has reviewed tonight’s hearing and the board can vote at a future date.

The board had sent applicant back to try to refigure the siting of the accessory apartment. They moved it away from the side yard and are asking for 18 feet of relief instead of 26 feet, but now it is also pushed into the rear setbacks requiring 18 feet of relief as well.

Larry read a letter of support from the side yard abutter, Zachary Post. There was no other written correspondence.

Courtney explained that the septic plan limits where they can put the accessory structure. They need to abandon the old septic and install a new system. There are mature trees that would be compromised if the building were sited further away from the lot line. The new plan shows additional screening. Deborah asked about the height of the structure and it is 17’8” or 1.5 stories.

Larry asked affected abutters Phil and Wendy Forest if they had comment. Phil said he does not object, and thinks it will create high-quality affordable housing. Wendy said she supports them but wishes it would not be placed in the setback. She said, however, she can live with it.

Larry said at one point in time, the setbacks were 30 feet. Because the board does not have a voting quorum Larry proposed to continue the hearing, leaving the record open.

*It was moved and seconded to continue to **November 2 at 5:00 pm.***

*A roll call vote was taken with the following resulting votes. Motion passed 5-0.
L. Schubert-yes, J. Lowe-yes, D. Wells-yes, J. Kaye-yes, C. Decker-yes*

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5:55 pm – A public hearing on an Application for a Special Permit from **Emily and Perry Moehnke** to allow the construction of an 868 sq. ft. two-bedroom, one bath addition requiring 10 ft. of side yard setback relief, under 4.3-3D of the Zoning Bylaw at **87 Field View Lane, Map 11 Lot 73** in the RU district.

Larry read the hearing notice and opened the hearing at 5:55pm. Applicant Emily Moehnke was present. This property is on the road that goes to Chilmark Pottery.

Larry asked about the “dog leg” or breezeway between the rear of the house and the addition. Moehnke said this is where a bathroom will be located. Larry noted that if they had pushed [the addition] right up to the back they could meet the 50 ft. setback requirement. Emily said yes, it would be closer, the structure is 10’x10’, but there’s a back window on their bedroom, the propane comes in this side and the A/C condenser is also here.

Larry read a letter of support from abutter Pia Post. He read a letter from the Planning Board referring it back to board for review. Moehnke stated that her abutter to the right (Finkelstein) was in support and the other side where the relief is requested abuts a large field.

A motion was made and seconded to close the hearing and open the board meeting.
There was no further discussion.

It was moved and seconded to GRANT the Special Permit. Larry went over the 20-day appeal period.

A roll call vote was taken with the following resulting votes. Motion passed 5-0.
L. Schubert-yes, J. Lowe-yes, D. Wells-yes, J. Kaye-yes, C. Decker-yes

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6:15 pm – A public hearing on an Application for a Special Permit from **Christa Fischer** to allow the construction of a 20’x40’ inground swimming pool, under 8.5-4C of the Zoning Bylaw at **200 Road to Great Neck, Map 35 Lot 3.6** in the RU district.

Larry read the hearing notice and opened the hearing at 6:15pm. Presenting for the applicant were Christa and Arnie Fischer. Larry read their narrative – they plan a salt water pool with a concrete bluestone walkway. They have planned fencing and a structure for the pool equipment. Larry read a letter from the Planning Board who referred it back to the board for their review. He also read a letter of support from neighbor Jeanne O’Reilly. Larry went over the standard pool conditions that are part of every pool permit. He said that there were certain requirements for the shed that Joe would dictate.

A motion was made and seconded to close the hearing and open the board meeting.
There was no further discussion.

It was moved and seconded to GRANT the Special Permit. Larry went over the 20-day appeal period.

A roll call vote was taken with the following resulting votes. Motion passed 5-0.
L. Schubert-yes, J. Lowe-yes, D. Wells-yes, J. Kaye-yes, C. Decker-yes

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Informal Hearing

- **Gil Silva** – Discussion about adding a deck to an addition approved in Special Permit #2021-16 for property at 2 Pond View Farm Rd. (Map 31 Lot 67). Gil Silva brought a sketch of the planned addition of a deck. He needs an additional 2.5 ft. of setback relief from what was approved in 2021, which was 20 feet. Gil explained that when the special permit was approved it was owned by someone else. It was sold when the addition was half built. A motion was made and seconded to call the addition of deck with the need for 2.5 extra feet of setback relief a *de minimis* change. Kim will write a letter to Joe.

The Meeting adjourned at 6:40 p.m.

Respectfully submitted,
Kim Leaird, Board Administrator