

**WEST TISBURY ZONING BOARD OF APPEALS**

**Minutes for Thursday, October 21, 2021 meeting**

**Online meeting via ZOOM- @ 5:00 PM**

**APPROVED ON NOVEMBER 18, 2021**

**Present:** Larry Schubert, Julius Lowe, Deborah Wells, John Rau, Jeffrey Kaye and Casey Decker

**Absent:** Andy Zaikis

**Also Present:** Pam Thors, Bd. Administrator, Reid Silva, John Ross and Simon Singel, Beth Folcarelli, Martha's Vineyard Community Services, Inc., Wiet and John Bacheller.

**5:00 pm** – The minutes of the October 7<sup>th</sup> meeting were approved as written.

The correspondence was reviewed:

\*Martha's Vineyard Commission-MVC approval of DRI 462-M4 extension request

\*Town of West Tisbury Select Board letter requesting climate/energy impact consideration for municipal projects. Deborah asked if this request applies to only municipal projects, or whether it includes any project before a permitting board. Pam said she would ask Jen and get back to the board.

\*DRI referral to Martha's Vineyard Commission...Larry said he had looked at the monopole and found it to be seemingly sound. He said the accoutrements (fake tree branches) were failing. Pam noted that this would be within the purview of the Building Inspector.

**5:15 pm - A Public Hearing will be held online via ZOOM on an Application for a Special Permit from John C. Ross to construct a 14' x 33' pool with a rinsing station under Section 8.5-4C of the Zoning Bylaws at 50 Pepperbush Way, Assessor's Map 11, Lot 109.2 RU District.**

Larry read the notice and Reid Silva presented the application. The Google map and Site Plan were reviewed. It was explained that a rinsing station is, in this case, an outdoor shower with a roof and more architectural detail.

Larry noted that the proposed fence goes around the entire pool, terminates at the dwelling, and is outside the 100' buffer zone for wetlands. The pool is 120' from the wetland. He noted that the pool equipment enclosure must be sound insulating. Simon Singel said that the shed will be fully enclosed and sound insulated.

Pam said that there was no correspondence from abutters.

*J. Rau moved and D. Wells seconded a motion to close the Public Hearing and open the Board Meeting.*

*Larry called for the vote to approve the application with conditions.*

*A rollcall vote was taken with the following resulting votes: L. Schubert-yes, Julius Lowe-yes, D. Wells-yes, J. Rau-yes, J. Kaye-yes, C. Decker-yes.*

*Larry went over the twenty-day appeal process.*

John asked about approving the amendments to the application that they had been considering. Larry asked to wait until after the hearings.

A discussion ensued regarding the use of Executive Session to discuss board policy and procedures. All agreed that in the interest of transparency and public knowledge, these discussions should take place during a Public Hearing. It was noted that Executive Session is normally used to discuss personnel issues and matters involving litigation.

**5:35 pm** – **A Public Hearing will be held online via ZOOM on an Application for a Special Permit from Martha's Vineyard Community Services, Inc. and John and Wiet Bacheller, Java Emporium, LLC, to allow the operation of an Employee Dormitory for 5 residents who will serve the Island Counseling**

**Center, under Section 4.4-5 & 4.4-4 of the Zoning Bylaws at 49 Old Courthouse Rd, Assessor's Map 22, Lot 17 RU District.**

Larry read the Hearing Notice and Pam read the Narrative submitted by Martha's Vineyard Community Services, (MVCS).

Larry stated that Jim Powell, the previous owner had been granted a Special Permit to operate an Assisted Living Facility. He read the sections of the bylaw, (4.4-4 & 4.4-5). He noted that the Narrative stated that MVCS will provide a manager but not one who lives on site.

The meaning and intent of the language regarding "resident manager", and the language in the bylaws was reviewed.

Beth Folcarelli, Chief Executive Officer of MVCS said that if there needs to be an adjustment to having a manager live at the residence; that could be discussed.

Jeffrey asked if this was going to be a sober house. Larry said no, explaining that interns working on their licensure to provide mental health counseling would be living there.

Beth added that the interns would be paid employees of MVCS, Island Counseling Center who had completed their Masters Degree in Mental Health. She went on to say that one of the barriers to having enough mental health clinicians on the Island has been the lack of housing.

Julius asked if the bylaw allows "seasonal employees", does it exclude year-round employees.

Larry noted that the bylaw does allow "seasonal residents", as long as the property has a resident manager.

Julius stated that the bylaw does not agree with the definition of "Employee Dormitory" in the definitions section of the bylaw. Jeffrey asked where this leaves the ZBA as far as acting on this application. Julius said that this discrepancy leaves the ZBA latitude in the decision-making process.

John said that the bylaw does not say that the resident manager couldn't be one of the employees living there.

The site plan was reviewed along with the project location relative to the new affordable housing units under construction.

It was determined that the dwelling is existing and that this application does not include construction or the addition of bedrooms or living space. Beth noted that the property has a septic plan approved by the Board of Health for 7 bedrooms but the dormitory will only have 5 bedrooms.

Pam said there was no correspondence from abutters.

Wiet Bacheller stated that the property was historically used as a Bed and Breakfast and occupied by many people. She said that each of the 5 bedrooms has its own bathroom and that they are only fortifying the existing structure and cleaning up the property. She added that she had a "meet and greet" recently that was attended by most of the neighbors. Larry said that informing the neighbors of what you are trying to do is very helpful and that often their concerns are centered around the use relative to noise and nighttime activity.

Wiet said that she and her husband would often be at the property caring for the landscaping etc.

*J. Lowe and D. Wells moved and seconded a motion to close the Public Hearing and open the Board Meeting.*

Larry suggested that if approved, a condition stating that there will be a resident appointed as manager, should be included in the decision.

It was verified that this will be an ongoing use.

Julius asked if the board had any opinion regarding the language in bylaw section 4.4-4 A2; specifically, that the occupant being a, "Person employed full-time on Martha's Vineyard during the summer season".

John said that this could be an issue but in the interest of following the intent of the bylaw...

Deborah added that the use of the word “may”, in place of the word “shall” indicates some latitude.

Jeffrey asked how the use will be monitored. Larry said that the Narrative describing the use of the property is a part of the application and can be referred back to at any point should there be a complaint of non-compliance, and that the onus is on the property owner to only residents in there who are authorized by the Narrative to be there.

Larry read the bylaw regarding change of ownership and occupancy restrictions. He said that the Bachellers will be required to sign an affidavit to that effect. He said that it is the Zoning Inspector’s job to monitor the situation; not the ZBA’s.

Wiet said that they specifically offered the property for use by MVCS, because they don’t want it to be housing for random workers. She stated that they are specifically interested in helping the community.

Larry registered his support of the application because of the importance of the project. He also noted that the applicant will need to notify the Board of Health.

*Larry called for the vote to approve the application with the following condition:*

*The dwelling will be managed by a resident employed by Martha’s Vineyard Community Services, Inc. who will monitor and enforce restrictions on noise, parking and other conditions.*

*A rollcall vote was taken with the following resulting votes: L. Schubert-yes, Julius Lowe-yes, D. Wells-yes, J. Rau-yes, J. Kaye-yes, C. Decker-yes.*

*Larry went over the twenty-day appeal process.*

Pam suggested that she type up the proposed changes to the application and email to each board member in advance of the next meeting on November 18th.

The Meeting adjourned at 6:30 pm.

Respectfully Submitted,

Pam Thors-Board Administrator