

**WEST TISBURY ZONING BOARD OF APPEALS**

**Minutes for Tuesday, October 24, 2019 meeting**

**2<sup>nd</sup> Floor, West Tisbury Town Hall - @ 5:00 PM**

**APPROVED ON NOVEMBER 7, 2019**

**PRESENT:** Larry Schubert-Co-Chair, Toni Cohen, Deborah Wells, John Rau

**Also Present:** Diana Gilmore, Beth Toomey, Leah Houghton, Nate Morgan, Tom Tate, Harriet Bernstein, Jason Gale, Greg Milne, Hadden Blair, Pam Thors-Board Administrator

The invoices were signed and the minutes of the meeting held on October 3, 2019 were approved with corrections.

Larry mentioned that he will not be able to attend the next meeting on Nov. 7<sup>th</sup>. The Lewis plans for an approved barn, (Case file 2019-49) were signed. Pam will ask Nancy to sign at the next meeting.

**5:15 pm:** A hearing on an application from Leah Houghton for a Special Permit for an Accessory Apartment under Section 4.4-3 (A) of the Zoning Bylaws, Map 16 Lot 247, 20 Hopps Farm Rd, RU district.

The notice and narrative were read and Leah presented the project. Larry stated that the regulations for occupancy of accessory apartments have been a topic of discussion recently. Pam noted that there is currently nothing in the bylaws that prohibits owners of accessory apartments from living in the apartment and renting the main house at market rate.

A letter from one abutter with concerns about the project was read, (see file). It states that the file was not complete when they came to review it prior to the meeting and also states their concerns regarding lighting at the second story height and how that would impact them. They suggested that the applicant construct the second story with no windows on the North side. The plans and elevations and the possible impact of the construction on abutters were discussed. Leah stated that the second story North and South sides would have four windows each. Larry stated that asking the applicant to put no windows on the North side was not a reasonable request.

Leah agreed to screen with evergreens. She said that the Pine Trees that she has planted on her property are great for screening and she stated that she would be happy to plant five more of those on the North side. Larry noted that the restrictions in the Accessory Apartment bylaw must be adhered to. The lighting bylaw was also reviewed.

It was noted that the second floor plan and the north elevation do not show the same number of windows. Leah confirmed that she would like to have 4 windows on that side and would produce the corrected plan as soon as possible.

*A motion was made to close the Public Hearing and open the Board Meeting*

*A motion was made to approve the Application for Special Permit contingent upon the applicant submitting plans showing four windows at the second floor height on the North side of the structure. The vote on the motion was unanimous.*

Larry explained the 20 day appeal period.

**5:35 pm:** A hearing on an application from Tom Tate, Tate Design for a Special Permit for a pool under Section 8.5-4 (C), setback relief of 1'10" from NE corner, 8'9" from NW corner and 8'8" from SW corner for roof overhang under Section 4.3-3 (D) and height relief of 1'5" above existing ridge, 9'4" above Mean Average Grade (footprint and garage) and 6'9" above Mean Average Grade (North Structure) under Section 6.1-6(A)3 of the Zoning Bylaws for a 5,130 SF dwelling in the Coastal District on Map 3 Lot 9.1, 60 Bartimus Luce Rd., RU district.

The notice was read and Tom presented the project. The plans were reviewed. The narrative was discussed point by point. Nate Morgan answered questions relating to the various heights and their relationship to the Mean Average Grade (MAG) and the setback relief sought for the roof overhangs. Tom stated that he had spoken to all the immediate abutters and all were in favor of the project. The MAG was discussed at length. Tom explained that the flat roof deck that they would like requires a guardrail which is where they are seeking height relief. He said that the flat roof is actually lower than the existing structure and the railing would be “Starfire glass”, which in his opinion will be hardly noticeable. He explained that the project does not presently require approval by the Conservation Commission.

The unusual rooftop pool was discussed. Tom explained that the roof deck is lower than the current ridge height. John stated that the house does not look obtrusively high because of the way it is located on the slope. Tom said that it is a visually low impact building. He said that not one abutting neighbor can see the house from their property. Larry verified that the section of bylaw allows for a 13 foot flat roof. Tom said that it seems that they are asking for a lot because most of the house is way below the allowed roof height due to the grade of the lot. Nate said that they don’t want to ask the town to truck 820 loads of fill off the site. They would rather ask for the height relief. The number of bedrooms they are asking for is 5 but they are going to install a 7 bedroom septic to allow for a possible future subordinate dwelling.

Larry read the letter from the Planning Board which supports ZBA height relief over removing fill from housing sites. Larry read the other two correspondences in the file which support the approval of the Special Permit. John asked about abutters to the property on the south side and whether they support the project. Tom said he had spoken to them and they expressed no opposition. Harriett Bernstein asked about the sound from the rooftop pool and whether it would be increased due to the height. Tom said he does not have an answer for that but stated that the pool equipment will be in a soundproof enclosure. Harriett said she was referring more to the noise from those using the pool. Tom reiterated that none of the neighbors can even see the house and that there are many trees on the lot which provide visual and noise attenuation.

Harriett asked about demolition of the existing house. Tom said that Habitat for Humanity came through the house and chose items that they will take. Harriett stated that it looks like a beautiful well thought out house but that she would like to go on record to say that, “A 5,000 sf house is no longer the way the Town of West Tisbury is going and that West Tisbury is trying to limit the size of houses. The high end properties are not moving at this point and that they very much want to reduce the size of houses in town”. She noted the size restrictions in other towns. Tom stated that this house will be constructed using the Biophilia Design, which produces more energy than it uses.

Larry asked if from the water, the entire width of the house will be viewable. He asked if ridge poles could be put up so that during a site visit the board would be able to see how high the ridge would actually be. Harriett verified that the Planning Board may make suggestions to those wanting to build a house over 3,000 sf but doesn’t have the authority to prohibit the construction. Tom showed the room pictures of other houses from the water indicating that this house would have less visual impact than the existing houses. Harriett suggested the use of solar shingles on new large projects. The lighting restrictions were discussed. Tom stated that all the windows will be made of the least reflective glass available. Larry stated that the project can be built whether approved by the ZBA or not and suggested that the choice to allow height relief is preferable to excavating the site to build the house that they want. John stated that he believes that the Town is in support of this concept. Deborah asked if they will be generating more power than it will take to support the dwelling and the pool. Tom said that it will. Harriett asked Tom if the approval for setback does not come through whether or not they would excavate to build the house. Tom said he wants to do what is best for the town.

Larry went over the Swimming Pool bylaw and the requirements that will be included in the Decision. He also went over the Lighting Bylaw. The height of the pool fence was discussed.

*A motion was made to close the Public Hearing and open the Board Meeting.*

*Finding-No letters or emails opposed to the project.*

*A motion was made to approve the Special Permit. The vote on the motion was unanimous.*

Larry went over the 20 day appeal process.

The members expressed their unilateral lack of support for such a large house.

**5:55 pm:** A hearing on an application from Hadden Blair for a Special Permit for 25 feet of setback relief for a 440 SF shed under Section 4.2-2 (D)4 of the Zoning Bylaws, Map 10 Lot 3, 115 Old County Rd, RU district.

The notice and narrative were read and Hadden presented his application.

Toni asked about correspondence. Larry read one letter which questions the need for setback relief on such a large lot. Hadden said that the location would allow him to leave the meadow on his property untouched and require no clearing. He said that the alternative would require him to do a lot of clearing of larger pitch pines. He pointed out that he left screening around the entire lot when he developed it and that the location he is requesting provides the best visual screening from abutters on both sides. Larry then read one letter of support. Hadden spoke to the amount of clearing he would have to do in the other locations available. John asked if the two immediate abutters have sheds as well and Hadden pointed them out on the map. John asked if there would be noise coming from the shed. Hadden said there would be noise only when he is starting up his tractor. Larry verified the height of the shed.

*A motion was made to close the Public Hearing and open the Board Meeting.*

Larry asked and Hadden clarified that there would be no windows in the shed.

*A motion was made to approve the Special Permit. The vote on the motion was unanimous.*

Larry went over the 20 day appeal process.

**6:15 pm:** A hearing on an application from Jason Gale for a Special Permit to amend Special Permit #2019-10 to construct a full second story over allowed addition under Section 9.3-3 of the Zoning Bylaws, Map 7 Lot 136, 14 Four Way, RU district.

Larry read the hearing notice. Jason explained that he would like to amend his Special Permit to be able to build a full second story on the house that was approved for setback relief. Originally the second story was over only half of the first story. Larry explained that when Jason came in earlier to see if he needed to reapply, the board deemed the change to be substantial enough to require another hearing.

*A motion was made to close the Public Hearing and open the Board Meeting.*

*A motion was made to approve the amendment to the original Special Permit allowing the second floor addition to extend over the entire area of the approved first floor addition.*

Greg Milne from South Mountain Company, Inc. stated his request that the board change a condition listed in the original Decision (2019-2 ---Shropshire), allowing a solar array over 1,500 sf in area. In the original Decision, Condition 1) states "The owner of the property will work with future owners of the Lewis property, Map 39, Lot 2.2 in regards to visual screening and noise attenuation if necessary". Greg explained that the Lewis' would like to have the screening of the array happen now rather than when the property sells because they are having a difficult time marketing the lot without it.

*A motion was made to approve amending the original Decision 2019-02 to include reference to screening the array but to remove any reference to doing the screening with the input of the future owners of the Lewis property.*

*The vote on the motion was unanimous.*

Larry stated that Pam can work on the details based on the board's vote to amend the Special Permit.

The meeting adjourned at 7:30 pm. Respectfully Submitted, Pam Thors, Board Administrator