

WEST TISBURY ZONING BOARD OF APPEALS

Thursday, November 2, 2023
Meeting Minutes

Approved November 16, 2023 (5-0)

Present: Larry Schubert, Julius Lowe, Deborah Wells, Andy Zaikis, Jeffrey Kaye, Casey Decker, Pat Barrett
Absent: N/A

Also Present: Kim Leaird (*Board Administrator*), Phil and Wendy Forest, Courtney Sterry, Adam Moore, Peter Rodegast, Kristen Geagan, Chris Alley, Oliver Ireland, Michael Post, Martha Post, Bob Drogin, Kathie Skinne (sp), Laura Murphy, Michael Barclay, William Wing, Jesse Liotta

**

5:00 pm – (*Continued from September 21 and October 19, 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 5:01pm. Representing the applicant was architect Courtney Sterry. Larry went over the history of the application and how the board did not have a voting quorum at the October 19 hearing so continued. Since then, board members who missed one or the other of the two hearings have certified they reviewed the audio (*Mullin Rule*). We have a full board able to vote tonight.

Deborah confirmed that when they submitted the first plan they were not aware that they needed to replace the septic – this was new information. They are now asking for 18 feet of relief on both side and rear yard.

Andy asked why the applicant did not leave the first hearing and put the accessory apartment outside of the 50ft setback as he feels there is space to do so. Courtney said they are faced with several constraints: the current septic is behind the main house and needs to be replaced with a new septic system. In addition, there is a lot of landscaping and plantings the owners don’t want to undo and they also do not want the accessory apartment to be too close to the [main] house. Andy said it could go in front yard. Courtney said yes, but there is a lot of wooded area and this is not what the owners want. Casey pointed out it would need to be 100 feet from the front if it were in the front yard.

Andy said he is an advocate for accessory apartments but is also an advocate for honoring the setbacks and he did not feel they had put in much effort in adhering to setbacks.

Casey thought they had placed it appropriately considering all the constraints. Jeffrey said there was a letter from side yard abutter Zachary Post and he does not oppose the plan.

Wendy Forest, the direct abutter behind spoke and said the second version of their plan is now encroaching on their buffer and she said she has mixed feelings, but primarily wants to support her neighbor and son. She added that she would like to see someone be an advocate for the ecological benefit of having 100 feet of buffer.

Andy asked about the dotted line on the plan, indicating a 20 ft. bridle path/nature trail, and asked if it was an easement given by neighbors. Wendy Forest said it’s more theoretical, it is all wooded, there is no clearing. Andy said some time in the future it could be a bridle path and this speaks to his concern about the apartment being in the setback.

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

Larry asked Courtney if she had thought about the types of trees and heights they would propose for screening. She said the goal of the plan is to add [enough] to buffer between neighbors. Larry said there are 16 circles on the plan, and the definition of something that would be a screen would have a height of 5-6 feet when planted. While not designating the species, we could say a condition would be the planting of 12-16 evergreens (depending on diameter of trees), 5-6 feet tall.

Larry said if the board votes to approve, the permit will include conditions from the Affordable Accessory Apartment bylaw. The applicant will need to adhere to these conditions – filling out an affidavit to the town each year, etc.

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

A roll call vote was taken with the following resulting votes. In making their vote, Andy disagreed that setback relief should be granted when there are alternate, viable locations. Larry said the town suffers so much from the lack of affordable housing for its youth and he would support zoning amendments that would allow it without having to ask for special permission. *Motion passed 4-1.*

L. Schubert-yes, J. Lowe-yes, D. Wells-yes, A. Zaikis-no, J. Kaye-yes

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5:15 pm – (Continued from September 7 and October 5, 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.

Larry read the hearing notice and opened the hearing at 5:23pm. Presenting for the applicant was Adam Moore. Larry asked if the board had reviewed the correspondence. They had. Since the board’s last meeting, Sheriff’s Meadow Foundation (SMF) offered to give a Conservation Restriction (CR) to the Town of West Tisbury, the Land Bank or another conservation organization. They would put a line around the existing buildings and resolve not to build outside of it. Moore said they have some properties where the ConCom holds the CR, such as Nat’s Farm.

Sheriff’s Meadow also provided a spreadsheet showing the number of trips anticipated per day and the number of vehicles with their weights, etc. (*at right.*) They use office space Monday-Friday and rarely on weekends. They envision approximately 54 round trips per week (11 per day) and occasional, additional round trips for board and committee meetings.

Deborah said this shows routine, regular, expected activity, but like with any dwelling or office there are times when the unexpected happens and thought there should be a condition that addresses this. Larry said a traffic condition would include language to cover it. Pat thought the condition should also address board

Estimated Average SMF staff/volunteer vehicular use of Campbell Rd.		
Staff	Round Trip/Day	Round Trip/Week
Office	2	10
Office	2	10
Office	1	5
Office/Field	2	10
Office/Field	1.2	6
Field	1	5
Field	1	5
Contractor	0.4	2
Board	0.2	1
Total	10.8	54
SMF Vehicles	GVW	
Tacoma	5,600	
F150	7,300	
GMC 2500	8,600	
Honda Pilot	6,096	
RAM 5500 Dump Truck	19,500	
F350 Dump Truck	13,000	

meetings. Kristen Geagan said she took an estimated average to cover the highest possible number of attendees at board meetings.

Jeffrey asked again about SMF's commitment to affordable housing after he read an editorial in the Gazette about affordable housing vs. conservation. Moore said one of the attractions of this property is that it contains affordable housing in the form of a two-bedroom apartment already in place and they have staff that need affordable housing. They also have other staff housing on other properties including Cedar Tree Neck, etc. He said the SMF board is thinking about these issues too.

Julius thought we should read correspondence into the record as he is putting a lot of weight into what the neighbors who live on Campbell Rd. think. He does believe the types of investors who buy property like this would perhaps develop it [differently]. Casey said it seemed most of the letters represented a change of heart. Larry said there are several but noted that everyone who has a driveway off of Campbell Rd. still appear to have concerns. Moore noted that the Barrons are on Campbell Rd., and did write a supportive letter.

Jeffrey asked again if this creates precedent and the board reminded him that is a legal term and not applicable here. A special permit is unique to the application.

Letters of support were read into the record from Geraldine Brooks, Laura Murphy, Chris Murphy, Tom Hodgson, Edwin and Ellen Harley, and current neighbors near the Wakeman Center (Andy Storch and Marilyn Yaz). A letter of opposition from Oliver Ireland was also read into the record.

Chris Alley said Tom Hodgson's letter speaks to why people want to live on Martha's Vineyard. Jeffrey said he noticed that first he was opposed but then changed his mind. Casey asked if we had a list that summarized how many people are for and how many are against. Kim has not prepared that.

Discussion followed about who is still against and Michael Post said that they were, in addition to Oliver Ireland and Mr. Black.

Larry said he had questions about the buildings themselves and if they have basements. The buildings are slab on grade. The smaller garage building is built into a hillside and it is bermed in back, open on one side with a roof.

Larry said people who donate property are interested in conservation – protecting the “flowers and trees.” Sheriff's Meadow's mission is conservation. The existing buildings appear perfect for SMF's needs but Campbell Rd is not perfect. If someone offered them property on State Rd., it would be [better suited]. Jeffrey said he agreed.

Pat said he was concerned about potential development in five or more years.

Moore said Sheriff's Meadow is 64 years old and only have 7 employees – they are fairly small. The Campbell Rd. property has 5x the space they currently have – it is more than adequate for them and there is [already] plenty of room for them to grow. The garage space they use now is over at Murphy's Rd. and Middle Rd. Point is they will have more than adequate space for a long time and they will still use these spaces in addition to two storage areas at Cedar Tree Neck and are looking to have one in Edgartown at Sheriff's Meadow Sanctuary. Moore said he does not see them growing so rapidly that they will increase the burden on Campbell Rd. He added that when he first saw the property he thought it would be a good setup for the next 50 years.

Jeffrey said he doesn't understand how the CR works. Moore said they draw a line around existing buildings and paved area between them and a little bit more, but beyond that line there will be no more construction allowed. They would want the ability to build a future storage building but within the building envelope, and this would be defined in the CR which takes 6 months to a year to complete. Moore said they are willing to convey to a willing recipient and offered to share a current CR as a model. The state requires a certain template.

Peter Rodegast said it's a 7.5-acre parcel and the buildings are on about an acre. The CR would bind any new future owner and prevents subdivision. Moore thought this would help those neighbors who are worried about how the parcel would be developed in the future.

Public comment

Oliver Ireland said when he hears that they have more garage space than they need, what if there's an inclination to put in more vehicles – would it be worse than a build out. He is concerned about SMF growing and expressed concerns about how conditions are enforced. Larry said the Zoning Inspector is tasked with enforcement. Moore added that a CR is monitored annually. Oliver said his main concern is traffic and [still] thinks that's hard to monitor and enforce.

Bob Drogin spoke as a West Tisbury resident and offered his support. He said he thought Sheriff's Meadow's use of the land is the least intrusive way to use this one acre. When looking at the daily number of trips he does not see it as a great intrusion. There is already an acre of cement that will be used one way or the other and SMF is a reasonable organization and [they] couldn't ask for a better neighbor.

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

Larry said SMF letter of Oct. 5 speaks to their status as a charitable organization and allowed community use comes from our use table under 3.1. Normally they would just have plan review at Planning Board but because the buildings are over 1500sf they require a special permit from the Zoning Board. This application is not a DRI – he confirmed that with the Building Inspector.

In this letter, which will be incorporated into the special permit, SMF addresses traffic, road maintenance, and is willing to form a road association and maintain Campbell Rd. No public events or fundraisers will take place on site. Proposed hours of operation are 7am to 5pm, Monday-Friday with occasional weekends. Discussion followed about how to word the condition for a Conservation Restriction and board settle on *Within a year of the issuance of the special permit, Sheriff's Meadow will record a satisfactory CR*, town-counsel approved.

Deborah said conditions should include "if desired" because some of the offers made are not necessary or should be mandated if the neighbors don't want them. Julius said to be clear, the maintenance of the road, however, is a condition. Board agreed.

Larry said regarding the number of trips, it is hard to make it static in a condition and suggested adding "with a variance of 10% up or down". After further discussion, the board agreed to include "Once the building is occupied SMF will install a traffic counter and report numbers back to the board."

The letters from SMF dated October 5, October 25 and the vehicle trips and weights will be incorporated into the special permit.

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. In making his vote, Julius said while he supports the mission of SMF and appreciates all efforts they put forward for the neighbors, he doesn't feel this site is the right choice. Larry struggled with it being a residential road leading to this property but ultimately, if it gets sold without a CR it will be a horse farm and completely out of the board's control. He suggested they consider getting electric vehicles for employees. Motion passed 4-1 (6-1).

L. Schubert-yes, J. Lowe-no, D. Wells-yes, A. Zaikis-yes, J. Kaye-yes, C. Decker-yes, P. Barrett-yes

**

5:40 pm – A public hearing on an Application for a Special Permit from [Michael Barclay] on behalf of **Nancy B. Gardiner**, trustee of The CYS 130 Realty Trust, to allow the construction of a 366 sq. ft. addition to an existing 633 sq. ft. guest house as well as a 14'x24' detached shed under 6.1-5B of the Zoning Bylaw at **130 Plum Bush Point Rd., Map 35 Lot 6.12** in the Inland Zone of the Coastal District within the RU district.

Larry read the hearing notice and opened the hearing at 6:15pm. Michael Barclay was present for applicant. Larry asked if this was Plum Bush Point Rd. on Tiah's Cove. Barclay said yes, and it is the same owner as the abutting property. There is a main house that will be presented to the Conservation Commission, but they are in front of the Board because Joe determined that anything that is accessory in the inland zone of the coastal district now needs a special permit from the ZBA. The addition will bring the existing guest house up to 999 sq. ft. The shed is an unheated garage/storage/greenhouse separated by a deck. No setback relief needed. They are adding flat roofs to mimic former structure which was built in the 1980s.

Larry read a letter from the Planning Board referring it back to the ZBA. Andy asked how far back it is from the water line and was told 500 feet.

*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 7-0.*

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

**

6:00 pm – A public hearing on an Application for a Special Permit from Worth & Wing on behalf of **Jesse and Robin Liotta** to allow the construction of a 400 sq. ft. detached bedroom with bath requiring 16 ft. of setback relief under 11.1-3A of the Zoning Bylaw at **31 Millstone Lane, Map 7 Lot 143** in the RU district.

Larry read the hearing notice and opened the hearing at 6:25pm. Presenting was Will Wing and Jesse Liotta. Millstone Lane is at the top of Longview Rd. The existing dwelling is about 1,127 sq. ft. They are looking for 16 feet of setback relief to build 400 sq. ft. detached bedroom suite to the north of the property. They considered another option to the south but it was approaching the setback as well as the no-work zone of the wetlands. The site chosen is the least detrimental to the 1-acre property. The lot is significantly limited by the shape of the lot, the buffer zone to the wetlands, the topography and setbacks. The topography between them and their neighbor is very hilly (they are very high up).

Two letters of support were read into the record from neighbors Kealee L. Rainaud, Brad Voigt and Elliott Rebhun.

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

Larry said if the board votes to approve they are approving setback relief of 16 ft otherwise the detached bedroom is allowed by right. 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 7-0.

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

**

6:20 pm – A public hearing on an Application for a Special Permit from Chuck Wiley on behalf of **Jeffrey and Carolyn Carney** to replace an existing 18’x37’ inground swimming pool with an 18’x42’ swimming pool and a 7’x10’ hot tub, and to move the pool equipment from its current location on the property line to 35’10” away from the property line in an 18’x15’ (or 270sf) sound insulated pool/storage shed, under Sections 8.5-4C and 6.1-5B of the Zoning Bylaws, at **80 Plum Bush Point Rd., Map 35, Lot 6.7** in the Inland and Shore Zones of the Coastal District within the RU district. **Note: Applicant has asked to continue**

Larry read the hearing notice and opened the hearing at 6:24pm.

*It was moved and seconded to continue to **Nov. 16, at 6:15pm.***

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

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

**

Other Business

- Minutes of October 19, 2023 meeting were approved 7-0.

The Meeting adjourned at 6:45 p.m.

Respectfully submitted,
Kim Leaird, Board Administrator