

WEST TISBURY ZONING BOARD OF APPEALS

Thursday, November 16, 2023

Meeting Minutes

Approved November 30, 2023 (6-0)

Present: Larry Schubert, Julius Lowe, Deborah Wells, Jeffrey Kaye, Pat Barrett

Absent: Andy Zaikis, Casey Decker

Also Present: Kim Leaird (*Board Administrator*), Joe Forte, Bob and Melissa Scammell, Gene Erez, Phil Pratt, Kathie Skinner, Reid Silva, Carolyn and Jeff Carney

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5:00 pm – Informal Hearings

- **Scammell** – *Requests change in siting of detached accessory structure as approved in Special Permit #2023-21 at 219 Charles Neck Way (Map 36 Lot 37)* – Mr. Scammell said as they were preparing for excavation they had the surveyors stake it as approved. Once it was staked they realized that relative to the existing driveway and turnaround it is not parallel. They would like to rotate the structure slightly so that it is more in line but doing so necessitates an additional 4 feet of setback relief which puts it 4 feet closer to Watcha Rd. The board determined the request de minimis and voted to approve, 5-0.
- **Forte** – *Interior alterations to approved plans as part of Special Permit #2022-64 at 73 Stone Bridge Rd. (Map 3 Lot 53)*. Mr. Forte said they had to put a mechanical room in the garage in order to allow heat for the plumbing upstairs and there is no heat in the garage. They switched around the interior layout to accommodate a sink in the potter's room with a sliding door. There is no change to the exterior footprint. The board determined the request de minimis and voted to approve, 5-0.

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5:15 pm – (*Continued from October 5, 2023*) A public hearing on an Application for a Special Permit 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.

Larry read the hearing notice and opened the hearing at 5:21pm. Gene Erez presented the application. Pat Barrett recused as he is on the neighborhood's architectural review board. The pool is sited behind the house on a 3-acre lot and is conforming to all setbacks. It has been approved by the Deep Bottom Architectural Review committee. They plan to put the pool equipment in a sound insulating enclosure at the back of the garage. There will be a code-compliant fence and alarm doors.

Deborah asked how it would be heated and was told with propane. Larry said the town encourages applicants to use an electric heat pump whenever possible. Discussion followed about trying to be more environmentally conscious and how sometimes it is not feasible to do so.

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

There was no further discussion. Larry went over the pool conditions required of our special permits.

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 4-0.
L. Schubert-yes, J. Lowe-yes, D. Wells-yes, J. Kaye-yes*

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5:35 pm – A public hearing on an Application for a Special Permit from **Philip Pratt and Kathie Skinner** to construct an addition consisting of a 494 sq. ft. first-floor bedroom, walk-in closet, bathroom and laundry closet as well as a 96 sq. ft. screen porch requiring 4 ft. of rear yard setback relief under Section 4.3-3D of the Zoning Bylaw, at **85 Oak Lane, Map 17, Lot 63** in the RU district.

Larry read the hearing notice and opened the hearing at 5:35pm. Julius disclosed that his company may be doing work for this applicant in the future but he does not have a financial stake as of today. Philip Pratt and Kathie Skinner presented their application. The house is not square to the lot line so without the setback relief it would not be possible to get the square footage they want to add. There was a letter from the Planning Board referring it back to the board's determination.

*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 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, P. Barrett-yes*

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5:55 pm – A public hearing on an Application for a Special Permit from **Matthew M. Greenfield and Laurence H. Dumortier**, co-trustees of the Greenfield/Dumortier Living Trust, to construct a 16'x52' in-ground swimming pool and 7'x16' spa under Sections 8.5-4C and 4.2-2D of the Zoning Bylaw, at **80 Oak Lane, Map 17, Lot 105** in the RU district.

Larry read the hearing notice and opened the hearing at 5:55pm. Reid Silva presented the application. This is a larger pool and relatively narrow. The pool equipment is planned to be just behind the existing dwelling. There will be tree clearing to allow for it but a swooping type of fence will encircle it. The application was advertised under 4.2-2D because it's in the front yard, however, they do not need setback relief as it is more than 100 feet back [from the front] so the bylaw is not applicable.

Larry read letters from the Planning Board and abutter Virginia Yans McLaughlin who had no concern about the application itself, only that the board be aware of the 20 ft. wide bridle path that runs at the rear of properties on both Oak Lane and Great Plains. She has concerns because development and clearing should not occur there [and has elsewhere].

Deborah asked if there would be a lot of tree clearing to the adjacent side yard (abutter Magan) to allow for the pool construction and fence? Reid said not necessarily as people often put fencing between the trees. In looking at the aerial overhead map, it was noted there is not much evergreen and Deborah asked if the applicant has a plan to plant back [if there is clearing]. Reid did not know the answer to that. Julius said if they did that much tree clearing it would create privacy concerns for themselves and he couldn't imagine that they would want to remove their own privacy buffer. Pat thought due to the vagueness in Reid's answer, the board should ask to find out what the landscaping plan will be before approving. Reid

suggested a condition requiring a landscaping plan before a use permit is issued. Jeffrey suggested the board do a site visit. Julius said this application didn't rise to that need for him because it's such a big lot and they are not asking for setback relief. Deborah said she's surprised that the abutter on the side [Magan] did not weigh in. Kim said they were noticed.

Deborah asked how it was to be heated and Reid was not sure. Larry explained that the town encourages applicants to be environmentally conscious and to use an electric heat pump whenever possible.

Attendee Chuck Wiley spoke to using a heat pump and said much like an air conditioner, in order to sustain and heat a pool of that size the unit would be running non-stop and there will be the noise of the compressor because it must be outside – it cannot be in an enclosed structure. The board concluded that encouraging a heat pump could be a finding.

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

Jeffrey made a motion to do a site visit first because he wanted to see the property. There was no second on the motion, and the motion failed. Larry went over the boilerplate pool conditions that would be included on the special permit along with requiring a landscaping plan be reviewed and approved before a use permit is issued. Deborah added the finding to ask the applicant to research the feasibility of heating the pool with a heat pump.

It was moved and seconded to GRANT the Special Permit as conditioned. A roll call vote was started with the following resulting votes. J. Lowe-yes, D. Wells-yes, P. Barrett-yes, J. Kaye-no. Before Larry voted, Kim said with Jeffrey's no vote the motion would fail as all four present full board member votes are required to approve the special permit. An associate member's vote, in this case Pat Barrett, may not stand in for Jeffrey's no vote UNLESS he had recused from the start of the hearing.

Discussion followed about whether or not Reid would like to request to remove the application and re-apply with a landscape plan because if denied, they would be unable to return for two years. Jeffrey said he would reconsider his vote first if he could do a site visit, as he was unsure that the abutter had been noticed. Kim said she had a certified abutter list and the neighbor was noticed. Jeffrey then said he'd change his vote to approve.

It was moved and seconded to GRANT the Special Permit as conditioned.

A roll call vote was taken with the following resulting votes. Motion passed 5-0 (4-0).

L. Schubert-yes, J. Lowe-yes, D. Wells-yes, J. Kaye-yes, P. Barrett-yes

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6:15 pm – (Continued from November 2, 2023) 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.

Larry read the hearing notice and opened the hearing at 6:20pm. He noted that all accessory structures in the Inland Zone of the Shore Zone come to the board for approval. Chuck Wiley presented the application. The board was reminded that the existing pool equipment is right on the property line in the

rhododendron hedge and the initial application (later withdrawn) came into trouble with the siting of the new pool equipment shed being too close to the side yard abutter.

With this new application, applicant has gone back and forth with the neighbors in order to reassure them about noise as this was their primary concern. Chuck took them to another property so they could listen to similar equipment of two propane heaters, one for the hot tub and one for the pool. He added that the intake vents and two exhaust fans will be facing away from the neighbor on the existing pool house. In addition, they mutually agreed to additional evergreen screening. The existing rhododendron hedges are very tall and each at least ten feet around – you can't see through the hedge at all – and applicant has agreed to supplement them with 27 additional rhododendrons, 4-5 feet in height.

Larry read a letter from the Planning Board whose only comment was the requirement of a pool fence. Chuck said the fence is existing and will be staying along with an upgraded section that will be code-compliant. Also read into the record were letters of support from neighbors Carol Kosse and Susan Feller. Finally, a letter stating their approval of the new and revised plans (dated November 13, 2023) from John and Judith Boynton was also read into the record.

Chuck added that after the back and forth with the Boyntons, the setback relief they are requesting is 35 feet from the side yard setback instead of 35'10". Larry said we will note this change in the findings.

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

Julius said they are making [the pool equipment shed] less non-conforming than it was previously and are limited in options in order to accommodate the neighbor's concerns. Deborah said she understands this but wondered if applicant was looking at other non-renewable sources such as solar panels. Chuck said they have not looked into that and Carolyn Carney said they would love to do so but their home has a lot of dormers and is not practical with the roof area available. The board discussed adding the condition that 27 rhododendrons, ranging 4-5 feet high, will be planted in the approximate areas indicated on the plan.

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 4-0.

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

Other Business

- The board decided that December 14 would be the only December meeting. Next scheduled would be Thursday, January 4, 2024
- Short-term rental bylaw discussion – The Planning Board has a meeting Monday 11/27 to discuss short-term rentals and has asked the public to attend. Larry thinks the board should provide input to clarify how this will differ from an Affordable Accessory Apartment permit. He thinks board members should plan to attend.
- Minutes of November 2, 2023 meeting were approved 5-0.

The Meeting adjourned at 7:00 p.m.

Respectfully submitted,
Kim Leaird, Board Administrator