

**WEST TISBURY ZONING BOARD OF APPEALS**  
**Minutes for Thursday, November 5th, 2020 meeting**  
**Online meeting via ZOOM- @ 5:00 PM**  
APPROVED ON NOV. 19, 2020

**Present:** Larry Schubert, Julius Lowe, Deborah Wells, John Rau

**Absent:** Andy Zaikis and Jeffrey Kaye

**Also Present:** Pam Thors-Board Administrator, Libby Soo Hoo, Edmund C. Cottle and Chuck Sullivan, architect

Larry opened the meeting at 5:00 pm. The invoices were reviewed. Larry asked that copies be emailed to him.

John asked if the ZBA needs another member now that Nancy has retired. Larry said that the board has 4 full members and 2 associate members. He said that Andy is next in line to become a full member. He noted that he has been speaking to someone who may be interested in serving on the board.

*Julius moved and Deborah seconded a motion to appoint Andy Zaikis as a full member of the board.*

*A rollcall vote was taken with the following results: Larry Schubert-yes, Julius Lowe-yes, Deborah Wells-yes and John Rau-yes.*

Pam read the letter written by Building Inspector, Joe Tierney to Nicole and Adrian Johnson proprietors of “Vintage Delicious”, a company looking to locate a commercial kitchen at 410 State Rd., owned by Elizabeth (Beth) Goodell, (see attached). The letter is a denial of their proposal, stating that the use is not allowed in the RU District.

*The minutes of 9/24/20, 10/08/29 and 10/22/20 were reviewed and approved with corrections.*

*A rollcall vote was taken with the following results: Larry Schubert-yes, Julius Lowe-yes, Deborah Wells-yes, John Rau-abstained.*

**5:30 pm - A Public Hearing on an Application for a Special Permit from Edmund C. Cottle for 9’ of West side yard setback relief for an existing shed on a pre-existing, non-conforming lot under Sections 11.2-2 and 11.1-3 (A) of the Zoning Bylaws on Map 3, Lot 71, 256 Lamberts Cove Rd., RU District.**

The hearing notice was read and Edmund Cottle presented the application. He said that it was assumed, since the older shed is closer to the lot line, that the new shed could be located where it is. He said that later they received a letter from Joe stating that it requires 9’ of setback relief. It was verified that the side yard setback for this pre-existing lot is 20’.

John asked why the existing shed, which is noted on the site plan; to have been located even closer to the lot line in the year 2000, was allowed. It was clarified that this shed is probably under 120 sf. and allowable under section 4.2-2 (D) 1b. All agreed that this must be why Joe Tierney did not include it in his citation.

Libby confirmed that in her discussions with Joe, he made it clear that he was only concerned with the new shed.

Larry asked about correspondence. Pam said that there was none.

John asked if the shed was built on site or whether it was pre-fabricated. Libby said it is stick built construction but it came as a kit. John asked if the shed could be moved. Ed said that it could be but that would create a dead space between the two sheds and materials would then be more visible and less contained.

John stated his concern that sometimes people build a non-compliant structure and then come to the ZBA for relief rather than checking on the zoning regulations beforehand. He said he is not comfortable supporting that practice.

Larry agreed but stated that in this case, the impact is negligible and in fact the lumber yard probably looks neater because the materials are more hidden from view.

Deborah agreed with John but noted that forcing compliance in this situation would call for too much work for all concerned.

Deborah suggested that there be an effort to reach out to provide information to the public about the Zoning bylaws and the need to research the requirements prior to putting together a building plan. Larry said that money would have to be put in the budget. Deborah said it could even be something added to the website. All agreed that this could be helpful and something to think about.

**5:35 pm - A Public Hearing on an Application for a Special Permit from David and Andrea Attisani to construct a 20'x40' in-ground swimming pool with cabana with kitchen and half bath under Section 8.5-4(C) of the Zoning Bylaws on Map 32, Lot 110.1, 30 Carl's Way, RU District.**

The Notice was read and Pam explained that the applicant needs to withdraw without prejudice and re-apply in order to address a setback issue. She said that since this oversight was hers that perhaps the board would agree to waive the next application fee, noting that the hearing has been re-advertised for November 19<sup>th</sup>.

Chuck Sullivan stated that he had interpreted the bylaw differently than Joe, believing that since the proposed accessory structure is not in front of the main dwelling but well off to the side of it, that it was not in violation of the bylaw. He said that he had spoken to Joe about the application a month or so ago but had not given him the site plan which may have clarified the issue earlier.

Larry said that since this application has already been re-advertised, Chuck should make a request to the board to withdraw without prejudice.

*Julius and Deborah moved and seconded a motion to allow the applicant to withdraw the application without prejudice and to waive the fee for the next application.*

*A rollcall vote was taken with the following results: Larry Schubert-yes, Julius Lowe-yes, Deborah Wells-yes, and John Rau-yes.*

**Informal hearing – Centerline AT&T** The Board reviewed information filed to request a vote to allow changes, (updates) to a cell tower located at 66 Old Courthouse Road, Assessors Map 22, Lot 7 as de minimus and not requiring a new ZBA hearing. Two correspondences in the file were read which support the application; the letter from the Martha's Vineyard Commission (MVC), dated October 2, 2020 (see attached), and the letter from the Planning Board dated October 20, 2020, (see attached).

Julius suggested that they had gone through this process for the recent SPRINT application for updates to their cell tower at the airport, wondering if it is necessary to go through the meeting process in this case.

After reviewing the approval letters and reviewing the changes noted in the narrative describing the AT&T modification project, the board agreed that the changes are de minimus. All agreed that the recent Act of Congress cited in the SPRINT hearing takes away the power of the board to deny this request.

*A motion was made to consider the changes requested by Centerline AT&T as de minimus and not requiring a new application to the ZBA.*

*A rollcall vote was taken with the following results: Larry Schubert-yes, Julius Lowe-yes, Deborah Wells-yes, and John Rau-yes.*

Larry asked if there is a monitoring agreement on this tower. Pam said she would look into it. Larry made note that there is money in the town's coffers to inspect the cell towers in town every three years or so. Pam said she had scheduled Dave Maxwell to come out in the spring to do these inspections but canceled due to the pandemic outbreak. She said she will look into rescheduling.

Larry asked Pam to write a letter to Joe letting him know of the board's determination, which he will review and sign.

The meeting adjourned at 6:00 pm.      Respectfully Submitted, Pam Thors-Board Administrator