

WEST TISBURY ZONING BOARD OF APPEALS

Thursday, December 1, 2022

Meeting Minutes

Approved December 15, 2022

Present: Larry Schubert, Deborah Wells, Andy Zaikis, Casey Decker, Pat Barrett

Absent: Julius Lowe, Jeffrey Kaye

Also Present: Kim Leaird (*Board Administrator*), Brendan Crane, Reid Silva, Sasha Robinson-White, David Smith

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5:00 pm – The meeting minutes of November 17th were approved 4-0-1 (Pat Barrett abstained).

Old Business

- The board briefly discussed the proposed pool bylaw changes Kate Warner presented at the November 17th meeting. Deborah thought alternative energy sources should be required in today's climate and that we [all] should be less fossil fuel dependent. Pools are not necessities. She also thought the word 'native' should be removed under the "Screening and landscaping" because it removes as an option a lot of accessible trees. If they are native and viable now, we don't know that they will be in 20-30 years. Larry said he had a conversation with Kate and the concern is amending bylaws that will not pass with the Attorney General's office. He suggested there be less in the bylaw and instead give the board latitude in the pool conditions. Kate is working on a re-draft.

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5:15 pm – A public hearing on an Application for a Special Permit from **Brendan Crane and Anna Apse**, to construct a 3,090 sq. ft. house and a 600 sq. ft. garage with a 600 sq. ft. accessory apartment above, on a pre-existing non-conforming lot under Sections 11.1-3A and 4.4-3A of the Zoning Bylaws, at **154 Longview Rd., Map 7, Lot 150.6** in the RU district.

Larry read the hearing notice. Reid Silva and owner Brendan Crane were present. The proposed project is located on a pre-existing, non-conforming (PENC) lot in Longview. A house was built on the property in the late 1980s but it was never lived in and the structure deteriorated to the point it was condemned by the West Tisbury building official. The house was demolished in 2020 and the lot was sold. The new owner is applying to build a 3,090 sq. ft. house in addition to a 600 sq. ft. garage with an apartment above.

The former house was conforming, a colonial and thought to have been 1,800-2,000 sq. ft. There are many PENC lots that have expanded and the criteria under 11.1-3A is *Does it fit the general size and shape of the neighborhood?* and they feel the answer is yes. While it is unusual to come in under 11.1-3A, the building official thought it would be the right path. Usually an applicant [already] has the PENC house and wants to renovate or add on to make it bigger but in this case, the building was never non-conforming; it is the lot itself that is non-conforming.

There was a letter from the Planning Board referring it back to board without comment and no other correspondence.

Deborah asked about the size of the previous house and said she recalled there was an abutter present at the last hearing before the application was withdrawn, who thought it had been large and they were there in support.

Andy said that he thought there should be plans for the accessory apartment and it's unusual to be voting on an accessory apartment without them. Reid said the exterior dimensions will not change and maybe it could be conditioned for them to return with the actual plans. Larry reminded them that there needs to be two means of egress and an internal staircase to the garage is not allowed.

Brendan did bring revised plans [for both house and garage] with him however, there is only one staircase and two are required. They will need to come back with plans that show both.

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

Larry said if they vote to approve tonight, it should be conditioned that they must return with plans showing the 600 sq. ft. apartment and elevations of the accessory apartment. Larry also went over the affordable housing bylaw requirements that will become part of the special permit.

It was noted that the plan for the apartment can be simpler than what was provided for the studio. Larry said once the decision is filed, they'd like to see and sign the actual plans before the 20-day appeal period is up.

It was moved and seconded to Approve the Special Permit allowing the 3,090 house and 600ft garage with accessory apartment above with the condition that Mr. Crane return with actual plans for the apartment.

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

L. Schubert-yes, D. Wells-yes, A. Zaikis-yes, Casey Decker-yes, Pat Barrett-yes

Larry went over the 20-day appeal period and reminded applicant that once it expires, the decision must be recorded by applicant and a receipt brought back to the Building Inspector.

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5:35 pm – A public hearing on an Application from **Patty B. and Scott M. Rocklage Trust**, to construct a 12'x32' in-ground swimming pool under Section 8.5-4C of the Zoning Bylaws, at **22 Bridge Lane, Map 3 Lot 76.1** in the RU district.

Larry read the hearing notice and opened the hearing at 5:41 pm. Present for the applicants was Sasha Anderson-White from Schofield, Barbini and Hoehn.

Sasha said the house renovations were completed a few years ago and tonight they are here for the pool. They passed through the Conservation Commission about a week ago. [The project] is within the 200' riverfront zone but the ConCom approved. The pool is sited on a hilltop on the only real place it can sit level and is within the 50' setbacks. The plan is to add a retaining wall and a small enclosure around the existing and extended terrace as well as a gate and alarm as required to meet code. The equipment will be in a soundproof shed under the screened porch. There are no neighbors; the property is all woodlands.

Deborah asked about the energy source planned. Sasha said it will be either electric or propane. Deborah said that the town has encouraged the use of alternative energy methods and perhaps the applicant could be encouraged to meet the town's stated goal of using a non-fossil fuel energy source. An electric heat pump would satisfy the town's push to decrease the use of fossil fuels. Larry said that an electric heat

pump under the house would be normally preferable to a propane furnace due to the noise generated and that the applicant would be encouraged to do so in the findings of the special permit.

Larry went over standard pool conditions as well as town bylaw requirement that there be a pool enclosure.

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 Approve the Special Permit.

A roll call vote was taken with the following resulting votes. Motion passed 5-0.
L. Schubert-yes, D. Wells-yes, A. Zaikis-yes, Casey Decker-yes, Pat Barrett-yes

Larry went over the 20-day appeal period and reminded applicant that once it expires, the decision must be recorded by applicant and a receipt brought back to the Building Inspector.

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5:55 pm – A public hearing on an Application for a Special Permit from Fullers Energy LLC on behalf of owners **John W. and Susan M. Poduska**, to construct a 2,065 sq. ft. ground mounted solar energy system in the front yard, with 29’ of side yard setback relief under Sections 4.2-2D4, 8.10-4A and 8.10-4C of the Zoning Bylaws, at **49 Hidden Village Rd., Map 11 Lot 4.1** in the RU district.

Larry opened the public hearing. David Smith from Fuller’s Energy presented the project. Discussion followed about the orientation of the house and if the project is technically the back yard or not as the front door is on the other side.

The house and pool sit atop a pretty steep hill and the solar array is planned to hug the contour of the slope so as not to be visible from the pool above. It’s a 40kw energy system and it is large because the Poduskas own two houses and the array is meant to serve both. They will be close to 100% efficiency.

The placement will be approximately two feet off of the ground allowing at least 18 inches for snow. The setback relief requested is from the property owners’ own abutting lot.

Larry read a letter from the planning board with concerns about the setback relief requested, referencing Section 8.10-4.2 that states setbacks shall be a minimum of 50 feet where the proposed site abuts the RU district. They interpret that to mean there shall be no relief applied and they asked the board to consider that in its review process. They also expressed concern about it being visible, noting that the property can be seen from several points across the island.

David Smith said they could try to move it over slightly but he would be very surprised if anyone could see [the proposed solar array] from anywhere on island as it’s below the tree line. He did acknowledge that yes, you can see the house as it sits at the highest point.

Deborah said even if it could be seen, it’s renewable energy, something the town wants to encourage.

Discussion followed about the solar bylaw and the board determined that under 8.10-4.1 *the Zoning Board of Appeals may waive any of these requirements or impose other conditions as necessary* and took that to include Dimensional and Density Requirements as stated under 8.10-4-2.

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

Larry said if the board votes to approve, he would suggest they also comment back to the Planning Board with the reasons for their determination.

It was moved and seconded to Approve the Special Permit.

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

L. Schubert-yes, D. Wells-yes, A. Zaikis-yes, Casey Decker-yes, Pat Barrett-yes

Larry went over the 20-day appeal period and reminded applicant that once it expires, the decision must be recorded by applicant and a receipt brought back to the Building Inspector.

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6:15 pm – A public hearing on an Application for Modifications to a Comprehensive Permit granted to John Abrams and South Mountain Company in 1998, for plans to subdivide Assessor’s Map 10, Lot 200 in order to create a 3.17-acre parcel that will have six (6) structures including four (4) housing units with a total of 11 bedrooms: one 2BR unit and two 2BR units (80-140% AMI) and one 3BR house to be sold to a West Tisbury family under M.G.L. Chapter 40B, Modifications to a Comprehensive Permit, at 0 Red Arrow Rd. (*20 Rock Pond Rd.*) in the RU district.

The applicant sent a letter dated December 1, 2022 requesting that the board extend to February 9, 2023, its requirement to open the hearing within 30 days. After looking at the calendar, the Applicant was scheduled for its **February 2, 2023** meeting at **6:15pm**.

Other Topics Not Reasonably Anticipated

- The board voted and reaffirmed that Andy Zaikis moved up to be a full board member on November 5, 2020 when Nancy Cole stepped down. In addition, Jeffrey Kaye moved up to the full board in February 2022 when John Rau stepped down.
- The board now has five board members: Larry Schubert, Julius Lowe, Deborah Wells, Andy Zaikis and Jeffrey Kaye. It also has two associate members: Casey Decker and Pat Barrett.

The Meeting adjourned at 6:30 pm.

Respectfully submitted,
Kim Leaird, Board Administrator