

WEST TISBURY ZONING BOARD OF APPEALS

Thursday, December 14, 2023

Meeting Minutes

Approved January 4, 2024 (6-0-1)

Present: Julius Lowe, Andy Zaikis, Jeffrey Kaye, Casey Decker, Pat Barrett

Absent: Larry Schubert, Deborah Wells

Also Present: Kim Leaird (*Board Administrator*), Phil Miller, David Sprague, Adam deBettencourt, Susan Cahill, Rob Hauck, Michael Kerr (Maik De Souza), Kristen Reimann, Manny Gulino, Kathy Gulino, Joseph Tierney

**

5:00 pm – Minutes of November 30, 2023 meeting were approved 5-0.

Other Business

The board reviewed and approved the FY25 budget 5-0.

**

5:15 pm – A public hearing on an Application for a Special Permit from **David Sprague** to construct a 1,147 sq. ft. 2.5 bay garage with a 444 sq. ft. storage loft requiring 17’ of left yard and 17’ of right yard setback relief under Sections 11.2-2 and 4.2-2D4 of the Zoning Bylaw at **32 Stoney Hill Lane, Map 10 Lot 138** in the RU district.

Julius read the hearing notice and opened the hearing at 5:15pm. David Sprague presented his application. Since he bought 19 years ago has wanted a garage. All the lots are very narrow and only 100 feet wide so everything requires a special permit. The garage placement is dead middle in his lot, 33 ft from both the left and right yard, so requesting 17 feet of relief on each side. Will be Hardwick post and beam, and very energy-efficient. Architecturally, it fits in with [neighborhood] and matches the house clapboards. While it shows a metal roof they will probably go with asphalt instead to match house. There will be a Nantucket dormer for light. There is also a storage loft planned.

Julius asked about the existing shed that is over the property line. Sprague explained that when they did the house addition they discovered that shed is over property line. So, per that special permit, the certificate of occupancy would not be granted until the shed is removed. While he has decided to dismantle it, he has no place for its contents so is hoping to get the garage constructed first. He does not know how the previous permit dovetails into this permit.

Discussion followed about quorum issues. Kim asked Jeffrey if he planned to recuse as he had indicated he might. Jeffrey said no, but he may abstain. Kim explained that an ‘Abstain’ vote would count as a ‘No’ vote.

The height of the garage is only 24 feet. It’s a 2.5 car garage. Will also hold bikes and kayaks, etc.

Julius read a letter from the Planning Board referring it back to the board. Attendees in support: Adam Debettencourt (from the neighborhood’s architectural review committee), Sue Cahill (Stoney Hill Farm Owners’ Trust), and neighbor Rob Hauck, all were in favor.

Board looked at architectural plans, there is no toilet or bathroom facility, just a utility sink.

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

There was no further discussion. Shed and the timing of the Special Permit he has for the addition. Julius explained that the board can't go in and change a condition from a previous permit.

It was moved and seconded to GRANT the Special Permit. Julius went over the 20-day appeal period.

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

J. Lowe-yes, A. Zaikis-yes, J. Kaye-yes, C. Decker-yes

**

5:35 pm – A public hearing on an Application for a Special Permit from **Maik Kerr De Souza and Kristine Petruityte** to finish an existing barn by adding a ½ bath for an office/studio for the operation of two service businesses (MV Landscaping Solutions and A1 MV Cleaning Services) under Sections 8.5-2, 3.1-1 and 14.2 of the Zoning Bylaw at **105 Stoney Hill Rd., Map 10 Lot 199.8** in the RU district.

Julius read the hearing notice and opened the hearing at 5:35pm. Maik Kerr De Souza presented his application. Homeowners with two established businesses want to build an office outside of the house with space to work and store cleaning supplies. They propose finishing a portion of existing barn by adding heat for their studio/office space and adding a ½ bath with sink addition in an open space currently under a roof overhang. In the future, they may request a washer/dryer.

Julius asked if they would have a work sink outside the bath enclosure. De Souza said the space is very small and doesn't think there's room. Julius said for Joe's purposes he may need to do a more detailed floor plan.

Casey said the site plan does not show the appropriate size building. Jeffrey asked if this was an expansion of business. Maik said no, they used to have the office inside and then moved it out to the shed. Julius said it would be restricted to a non-habitable structure.

Julius read a letter from Planning Board recommending hours be clear and with concerns about backup alarms on vehicles. Direct abutter Doug Ruskin sent a letter of support. The board clarified that there currently is a roof covering the whole area – there will be no change in footprint with the addition of the ½ bath that will go under a section that is already covered by roof overhang.

The applicant said that crew usually comes once a week to get keys and supplies. The office is visited by his supervisor more frequently. Realistic hours would begin 9 or 9:30 with the earliest being 8:00am. They have been operating for 20 years and there have been no complaints.

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. Julius went over the 20-day appeal period.

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

J. Lowe-yes, A. Zaikis-yes, J. Kaye-yes, C. Decker-yes

**

5:55 pm – A public hearing on an Application for a Special Permit from Philip Miller on behalf of **Dawn Porter** to construct a 20'x40' inground swimming pool under Section 8.5-4C of the Zoning Bylaw at **200 John Hoft Rd., Map 2 Lot 7.2** in the RU district.

Julius read the hearing notice and opened the hearing at 5:55pm. Philip Miller presented application. He said they have another permit pending for a guest house, but this application is for the pool. There will be a small shed but it is not in the right spot. If board votes to approve Applicant will need to provide a revised site plan with correct positioning.

Julius read a letter from the Planning Board referring it back to the board for its determination, however stressed requirement of four-foot fencing. There was also a letter from abutter Sharon Gamsby in support.

Andy asked how the pool will be heated as the town encourages applications to be as environmentally-friendly as possible. Miller said that it has not been decided. There are already issues with the transformer [but] the guest house has 700 sq. ft. of potential solar panel space on roof. He said he would encourage the Applicant to use an electric heater if it makes sense.

Julius said if approved, a new site plan with correct siting of shed will need to be submitted for review and approval and this would be a condition of the special permit. Julius also went over the standard pool conditions placed on every pool permit.

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. Julius went over the 20-day appeal period. The board signed the shed plans but not the existing site plan.

A roll call vote was taken with the following resulting votes. Motion passed 4-0.
J. Lowe-yes, A. Zaikis-yes, J. Kaye-yes, C. Decker-yes

**

6:15 pm – A public hearing on an Application for a Special Permit from Kristen Reimann on behalf of **H. Jan Rosenfeld** to construct a 9'x21' plunge pool and four accessory structures 120 sq. ft. or less requiring setback relief: 1) Concrete retaining wall (4'1" of relief); 2) Rinsing station (13'5" of relief); 3) Built-in grill (7 ft. of relief); and 4) Fireplace and chimney, 8-10ft. tall (10'2" of relief) under Sections 8.5-4C, 4.2-2D4 and 11.2-2 of the Zoning Bylaw at **243 Lamberts Cove Rd., Map 3 Lot 2** in the RU district.

Julius read the hearing notice and opened the hearing at 6:15pm. Kristen Reimann presented the application. This is a long narrow lot and nearly eight acres. It was one of three properties subdivided by the Goethals and there are conservation restrictions held by Sheriff's Meadow. The applicant would like to put in a very small "plunge" pool. Also, on the lot is an existing house being renovated.

There is an existing stone wall, most of what they are developing has been previously disturbed. It's a one-piece pool dropped into place. There is a steep embankment, the flat plunge pool will be at same elevation as nearby terrace and then there will be a concrete retaining wall that will hold the earth on lower side of wall.

There are three other “accessory structures”: rinsing station, built-in grill and a fireplace/chimney. The board looked at the proposed fencing that encircles all and extends to the far yard. The retaining wall is four feet high and will act as a safety “fence” in that section.

Julius read a letter from the Planning Board who referred it back to board. There was also a letter in support from the abutters most affected – Mary and Frank Sutula, who had walked the premises with Kristen Reimann and asked about screening. Applicant plans to heavily plant the area out. They are removing the “fake high point” which is an old berm. It will be flattened and re-planted with a mix of vegetation.

Andy asked how it would be heated. Kristen said with larger pool she always recommends to her clients they use an electric heat pump, but this is a very tiny pool and its primary function is as a hot tub and when you use an air source heat pump it’s very difficult to heat it, especially in shoulder seasons when it’s cooler and that heat pump can take a lot more energy than a propane heater.

Discussion followed about placement of equipment shed as there are two proposed locations on plan. For the plunge pool, the equipment is only 3x6. Casey suggested we ask Joe if he had an issue with two locations on the plan. Joe said it was fine if it’s okay with board. Julius said he thought the board should approve the “Proposed Location of Pool Equipment Enclosure” and if they went with the alternate location, she should return with a new plan for a de minimis change.

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

Julius went over the standard pool conditions part of every pool permit. Kristen said that the Sourati plans had not been delivered. She said she’d get them to us. The board said they would wait to sign the site plan until the board sees and approves them and this would be a condition of the special permit.

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

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

J. Lowe-yes, A. Zaikis-yes, J. Kaye-yes, C. Decker-yes,

**

6:35 pm – A public hearing on an application from **Emanuele Gulino** to APPEAL a November 15, 2023, ruling made by the Building Inspector that the planting of five (5) evergreens for screening purposes as required in Special Permit #2022-52, were not of sufficient height to provide screening as defined by both the definition of ‘Screen/Screening’ and ‘Visible/Visibility’ in the West Tisbury Zoning Bylaws at **193 Vineyard Meadow Farms Rd., Map 37 Lot 7** in the RU district. The Appeal is made under M.G.L. c.40A §8 and §15.

Julius read the hearing notice and opened the hearing at 6:37pm. Andy disclosed he is a neighbor and is president of the road association, and recused from the hearing. Manny Gulino presented his appeal, saying that he was never told during the building process that the height of the trees required by the special permit had to be a certain height. The only reason they are here is because his neighbor objected first to the accessory apartment then to the size of the trees he planted.

Julius read a letter from affected neighbor Valerie DeWitt with pictures of the plantings. Julius also read a letter from Michelle Spain supporting the appeal made by her father, feeling it unfair when they followed the directions of the special permit.

Julius also read into the record the letter from Building Inspector Joe Tierney dated November 15 determining that the five plantings do not meet the definition of screen/screening in the West Tisbury zoning bylaw. He further determined that they should be replaced with five trees at least 6 feet tall.

Casey asked if the minutes reflected any discussion about height. Kim pulled the minutes up and all the board determined was that “five evergreens such as cypress high enough to block headlights be planted...” Manny said they adjusted the house so headlights would not be seen.

The condition of Decision 2022-53 states: *“As offered, the Applicant has agreed to provide screening by planting a minimum of five (5) evergreens, such as cypress, between the proposed Accessory Apartment and the abutters at 199 Vineyard Meadow Farms Rd.”*

Joe Tierney said that the mature height of the trees planted is 65 feet tall and they are fast-growing. When the neighbor complained he looked in the bylaw for a definition of screening and came up with the approximate height they should have been.

Pat asked if there is a question about the spacing between trees and Joe said you have to space them to allow for their growth (both width and height). Discussion followed about the board stating the screening requirements and noted that in the last year, the board has done so. Casey thought it was the board’s fault for not stating the height. Julius agreed.

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

Kim said a concurring vote of all four board members would be required to overturn the Building Inspector’s determination.

Julius felt it would be a hardship for the Gulinos to remove plantings. Pat said he’d agree with Julius but also agrees with Joe’s letter that intent of the screening was to block the structure from the neighbor, not wait 2-3 years for there to be screening. Julius said he hears that but even if he had planted 6 ft trees, that would still not completely hide the building because they’d have to be planted closer together and encroach on property line.

Jeffrey said while he agrees with Pat, it was the board’s fault for not being clearer. Casey said that 5 trees would not block the building. Jeffrey asked if there was a compromise to be made. Julius said the Gulinos have already planted five trees and felt it wouldn’t be reasonable to say that he’d have to get them planted tomorrow – the board agreed he should have until June 2024 to get the five 6-foot trees planted.

A motion was made to either Uphold or Reverse the decision of the Building and Zoning Inspector.

A roll call vote was taken with the following resulting votes. Motion failed 2-2 – the Building Inspector’s determination was Upheld.

J. Lowe-reverse, J. Kaye-uphold, C. Decker-reverse, P. Barrett-uphold

The Meeting adjourned at 7:15 p.m.

Respectfully submitted,
Kim Leaird, Board Administrator