

## WEST TISBURY ZONING BOARD OF APPEALS

Thursday, December 15, 2022

Meeting Minutes

*Approved January 5, 2023*

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

**Absent:** Andy Zaikis

**Also Present:** Kim Leaird (*Board Administrator*), Brendan Crane, Chuck Monty, Joe Berini, Heather Rynd, Penny Hageanon, Joe Forte, John Hoff

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**5:00 pm** – The meeting minutes of December 1<sup>st</sup> were approved 4-0-2 with edits (Julius and Jeffrey abstained).

### Old Business

- The board reviewed and signed building and elevation plans for house, garage and accessory apartment for Brendan Crane at 154 Longview Rd., Map 7 Lot 150.6, provided as stipulated in special permit #2022-60 granted on December 1, 2022.

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**5:15 pm** – A public hearing on an Application for a Special Permit from **Heather C. Rynd**, to convert a 22'x28' pre-existing non-conforming studio to an accessory apartment under Sections 11.1-3A and 4.4-3A of the Zoning Bylaws, at **137 Otis Bassett Rd., Map 17, Lot 34** in the RU district.

Larry read the hearing notice. Heather Rynd gave a history of the property under her ownership since 1979. She built the 'studio' bunk house and occupied it while the main house was being built in 1981. Then she moved her private practice to the studio in 1985 and extended it with a bathroom and a sink. The studio [today] is pre-existing non-conforming (PENC). Since the pandemic, her needs have changed and she would like to convert the studio to a habitable space and as an affordable accessory apartment, with future plans to add an interior shower and kitchen.

Larry went over the accessory apartment bylaw. Every year she will sign an affidavit saying that it is being rented affordably to someone income-qualified, although when it's a family member that requirement is waived per the town's current policy. The bylaw is fairly flexible: sometimes people build them and rent their main house to their children and live in the affordable apartment themselves. However, at no time can both the main house and accessory apartment be rented at market rate but one could be.

The board reviewed the floor plans and the actual square footage is less than 616 sq. ft. Casey did the calculations and it came out to 536 sq. ft.

The Planning Board reviewed the project and believes the proper measurements should be added to the site plan.

Discussion followed about the current loft and its ladder access. Julius noted that when it becomes a habitable space, the access to the loft will need proper egress and meet building code with a staircase.

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

Larry went over the affordable housing bylaw requirements that will become part of the special permit.

*It was moved and seconded to Approve the Special Permit.*

*A roll call vote was taken with the following resulting votes. Motion passed 6-0.*

*L. Schubert-yes, J. Lowe-yes, D. Wells-yes, J. Kaye-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 for a USE PERMIT.*

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**5:35 pm** – A public hearing on an Application from **Joseph S. Forte**, to construct a two-car garage and a 720 sq. ft. studio above with a half bath requiring 30 ft. of side yard setback relief under Section 4.2-2D4 of the Zoning Bylaws, at **73 Stone Bridge Rd., Map 3, Lot 53** in the RU district.

Larry read the hearing notice and opened the hearing at 5:35 pm. Owner applicant Joe Forte presented his project.

Joe brought larger plans that show the lot dimensions through the woods, rising uphill then downhill to the wetlands. His property is a 3-acre lot shaped like a pizza slice and most of the property is uninhabitable. From the grading, there is only one flat area where a garage could be placed. When they bought the property, it did not have a four-season driveway, it was only a path.

The plans provided with the application were approved for the applicant in 2012 for the house. The garage was added to this approved plan by Barbara Lampson. Since older plans were signed in 2012, the board put them aside and reviewed the newer, larger plans provided at the meeting when reviewing the garage siting and setback relief requested.

Joe said the 30' of setback relief is from the nearest corner of the platform for the stairway on the second level.

There was correspondence in support from the abutters on the west side (Epstein). The abutters on the east side (Berini), were present and said they are also in support. The Planning Board had no comment.

Casey looked at the building plans submitted and said they seemed incomplete. If they were to vote to approve it would have to be built exactly as presented and there is a French door going out to nothing. Joe said the plans are the pre-fabricated plans and they indicate final size is to be determined. He took the pre-fab plan and sketched balcony and floor plan. The balcony creates an area outside and below as a covered area. Larry said a studio with a sink is not a habitable space. Joe said his ceramist wife needs the water for her ceramics.

Deborah asked what the supports would be for the balcony. Joe said it may be posts. Casey said the building inspector will require a full set of architectural plans that show decks and overhang. He said typically, we get a site plan that includes everything on it. While the staircase is there, the plan needs more.

Larry said it seems the plans and the description of the project do not match up. Larry read the definitions of a studio and a craft workshop.

*Studio/Craft Workshop: A non-habitable structure or portion of a structure used for hobbies or a home occupation. A studio/workshop may have a bathroom.*

In the past the addition of the craft sink has caused applications to be pushed to planning board for plan review. In this case, the planning board did send it back to us for the board's determination without comment.

Julius said that what is needed are the as-built plans; those should be reviewed and signed.

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

Conditions were discussed. It was determined that 1) Applicant must return with complete building and site plans for the garage/studio as it is intended to be built and that show balcony and the exact dimensions. The plans must reflect his testimony to the board, the existing site plan, dimensions, and setback relief requested; and 2) The special permit will not be released after the 20-day appeal period until the plans are reviewed and signed by the board.

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

*A roll call vote was taken with the following resulting votes. Motion passed 6-0.*

*L. Schubert-yes, J. Lowe-yes, D. Wells-yes, J. Kaye-yes, Casey Decker-yes, Pat Barrett-yes*

*Larry went over the 20-day appeal period and reminded applicant that once it expires, the decision will not be released after the 20-day appeal period until the plans are reviewed and signed by the board. It must then be recorded by applicant and a receipt brought back to the Building Inspector.*

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## Old Business

- **2024 Budget – Review and vote to approve.** The board discussed the budget numbers from last year and compared them to FY23 numbers already incurred between July 1-November 10, 2022. With the doubling of mailings required by Chapter 40A, the board decided to raise office supplies from \$125 to \$250. In addition, the number of applications acted upon in calendar year 2022 alone numbered 64 and each legal ad hearing averages \$110 (some are higher, some lower). The board decided that \$7,500 would be a more accurate figure to include for Communication-Notices/Ads. It was noted that Personal Services have decreased with the retirement of the former board administrator whose wages and longevity pay were higher. The board voted 6-0 to submit the budget with these two increases.
- The board discussed the merits of the town adopting the “Mullin Rule” M.G.L. c.39 section 23D that allows a board member to miss a single hearing and still be allowed to vote if they certify the missed hearing has been reviewed. This would help prevent past situations that forced an applicant to withdraw his application when the board experienced quorum issues. The board voted 6-0 to recommend moving forward with the town adopting the Mullin Rule.
- The board reviewed November invoice for legal services and approved.

The Meeting adjourned at 7:15 pm.

Respectfully submitted,

Kim Leaird, Board Administrator