

WEST TISBURY ZONING BOARD OF APPEALS

Thursday, February 23, 2023

Meeting Minutes

Approved March 16, 2023

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

Absent: Casey Decker

Also Present: Kim Leaird (*Board Administrator*), Nevette Previd, Marilyn Vukota, Andrea Rogers, Jennifer Pillsworth, Brian Ditchfield, Prudence Burt, Sandy Burt, Tara J. Whiting-Wells, Eunki Seonwoo, Thomas Humphrey

**

5:00 pm – The meeting minutes of February 16th were tabled until the next meeting.

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5:00 pm – (*Continued from February 16, 2023*) A public hearing on an Application for a Special Permit from the **Vineyard Preservation Trust** to allow the increase in the degree and intensity of the non-conforming use of the Grange Hall under sections 11.1-3A, 8.5-2, 8.5-3, and 3.1-1 of the Zoning Bylaws at **1067 State Rd., Map 32, Lot 66** in the VR District.

Larry read the hearing notice. Representing the Vineyard Preservation Trust (“The Trust”) were Nevette Previd and Attorney Marilyn Vukota. The board opened the hearing a week ago and continued to tonight so that the Preservation Trust could return with a policy document the board could review in order to discuss concerns about the impacts on the community – such as parking, lighting, and noise. At that hearing there was board consensus that the language in the RFP that led to the deed so long ago was clear.

Jeffrey asked to make a statement and said while he agreed about the language he thinks the board can and should regulate commercial activity, stating that in his opinion, town counsel’s 2011 legal opinion did not have any binding precedent to this hearing. He said he remains concerned what the commercial use will be and objected to the pending lawsuit and the Trust making the town the ‘bad guy’. He mentioned attending the public forum held by the Trust in October. He added that he read the 2022 audit of the Trust’s operations and noted the Taste of the Vineyard [Edgartown] brought in \$1.3 million. Weddings bring in a lot of revenue and the town sponsors the Grange and therefore, the town has the right to regulate what they do.

Larry said commercial use of the Grange would look like the Trust renting the space to a [for-profit] business, *not* renting the space to Cinema Circus as they are a nonprofit educational organization. He said he did not want the board to go down this rabbit hole.

Andy said let’s continue the hearing; Jeffrey [simply] made a statement.

Larry said the board would like to understand the policies in place regarding parking, noise and lighting. The Trust provided a draft Event Policy handout.

Deborah asked what the plan would be to roll out the policies once they are finalized in order to make sure they are adhered to.

Nevette said 99% of these policies are already in place with the renter's agreement. When a request comes in, we first asked if it follows the deeded uses. She estimated that 60% of the policies are in the contract to which the renter agrees and signs. She said their Event Manager liaisons with the renter and they go over details. The other 1-2% [policies] are addressed in moment [such as when] the neighbors complain about the timing of trash pickup or mowing at inconvenient hours, or a parking plan that adjusts for headlights in a neighbor's direction... that 2% will part of the agreement.

Pat asked about bullet 3 under Permits. Nevette said the events that private events may *not* require special permits because there are no "private event permits."

Nevette went over the Event Policy draft bullet by bullet (see below). She said the Trust has someone working at every single event to turn lights on and off and control the event. There is a vetting process done by the Trust's event manager. All of these questions [below] are asked and get answered before moving forward.

EVENT PROTOCOL

- *Consistent with the purpose and requirement of the Grange Hall use limitations contained in the deed vesting title in VPT and the Village Residential zoning district of the Town of West Tisbury.*
- *Events must be accessible to fire, police, and other emergency vehicles.*
- *All events shall comply with all applicable rules, regulations, and bylaws in the Town of West Tisbury.*
- *VPT shall use its best efforts to cause all maintenance at the property to occur on business days, Monday through Friday, between the hours of 8:00 am and 5:00 pm.*

Grange Hall Occupancy Limits

Inside Events are not permitted to exceed the capacity of the Grange Hall building.

- **First Floor** Standing 500 | Chairs only 356 | Tables & Chairs 167
- **Second Floor:** Chairs & Couches 182
- **Inside / Outside:** *Events that occur exclusively outside or both inside and outside the Grange Hall may exceed the occupancy limits set forth above. However, event organizers for events occurring inside and outside the Grange Hall shall require a monitor at the entrance to the Grange Hall to assure compliance with the occupancy limits set forth above.*

Nevette said the occupancy limits are taken from Joe's annual inspection and that while occupancy limits are up to 500 on the first floor, as an organization they would never go up to 500 people. She said they cap it at 250 in their renter's agreement. They have a building to protect and first job is historic preservation while the second is community use. She added that while the upstairs allows up to 182, Circuit Arts only offers 70 seats.

Hours of Operation: Events

All outside events must adhere to the Town of West Tisbury's noise bylaw, which requires no amplified music after 10 pm. The noise ordinance can be found [here](#).

- *Events may operate between 8:00 am - 10:00 pm; on rare occasions, an event may be authorized to occur outside of these hours provided that there is a particular need to do so and appropriate procedures are in place to limit any negative impact by noise, traffic, or light to neighbors.*
- *Renters must submit a plan for load in / load out of all materials that does not increase the burden on the property, disruption for abutting neighbors, or cause congestion in the VR District.*
- *Sales of alcohol must adhere to the Town of West Tisbury's Beer and Wine Policies and require a one-day license from The Board of Selectmen. Policies can be found [here](#).*

Music

Plans for music (band name, type of music, size, off-island/on-island talent) must be submitted to Vineyard Preservation Trust with a renter's application and are evaluated on the following criteria:

- compliance with applicable West Tisbury noise ordinances
- minimal impact on the abutting neighbors
- plan for load in, load out, and responsible operation of audio amplification equipment

Parking (see map)

Winter Lot A; Overflow in lots C and D facing the Town Hall* Except for the Circuit Arts Film Festival and Artisans Fair will use overflow in lot C.

Spring Lot A; Overflow in lots C and D facing the Town Hall

Summer Lots A,B,C,D
Overflow in lot E.

Fall Lot A,B; Overflow in lot C and D facing the Town Hall.

Nevette noted that the entire capacity of the lot is 375 cars. Lot A-24, Lot B-24, Lot C-63 (8 accessible spaces). Lot D and Lot E are for overflow parking.



Restroom Facilities

Four restroom facilities at Grange Hall can accommodate up to 200 guests. Port-o-potties may be required for events on the grounds that have over 200 guests. This will be evaluated on the following criteria:

- Type of event
- Number of guests
- Time of event

Accessibility

- The Grange Hall is fully accessible, with ramps at the front and back doors.
- Three restrooms are handicapped and wheelchair accessible.
- A lift for wheelchair access and pedestrians is available for access to the second floor.

Tents

All tents and tent layouts must be pre-approved by Vineyard Preservation Trust before the tents are set up.

- Tents outside for open-to-the-public nonprofit, educational, and community events are permitted on a case-by-case basis.
- Tents outside are not permitted to increase the capacity of the Grange Hall for Weddings and Wedding receptions.
- Tents must be set up/taken down by a professional, pre-approved company.
- Cook or kitchen tents are permitted for the caterer in lot C behind the Grange only.

Logistics and Staffing

- VPT coordinates all pre-approved vendors, deliveries, and removal of the rental equipment and any other items.
- A member of VPT staff will be on-site throughout the event: set-up, during, and break-down to ensure policies are upheld.

Permits

- All Public events that exceed 150 people on premises may require a 'Special Event Permit' issued by the Town of West Tisbury.
- A 'Special Event Permit' application typically must be filed at least 60 days before the event.
- All Public events that exceed 150 people on premises may, in consultation with the Town of West Tisbury Police, require traffic mitigation, including the event organizer hiring a police detail at their own expense.
- All Public events that sell alcohol require a one-day liquor license from the Town of West Tisbury Board of Selectmen at least 60 days before your event. Policies can be found here.

Larry said the town of West Tisbury issues event permits through the Town Administrator's office. There is no such thing as a 'Special Event Permit' and so the language should be changed so that it is not confusing. It should require 'an event permit from the town' or a completed 'Event sign-off form'.

Jeffrey said it seemed they were they asking the board to give the Trust the authority to issue all of these permits to renters, and that [this document] is to supervise your renters. He asked them if they were asking the board to give them [the Trust] the authority to issue all of these permits, what the Zoning board has the authority to do.

Atty. Vukota said she was not following his question.

Nevette said there are two issues: 1) the use of the hall and 2) the impact of the uses on the neighbors and the village. She thought the purpose of this policy [and tonight] is what they're doing to mitigate the effects of that use.

Andy explained to Jeffrey that the board put a charge in front of the Trust last week. While the board was not going to quantify or qualify the activities that take place [at the Grange], they were looking for specific procedures and policies that would govern all of the events with respect to concerns (parking, lights, noise) that would impact the surrounding neighborhood. He said this is a document we requested from them.

Jeffrey said he disagreed. He thought the board was asking them to define the usage. Other members of the board said that was not at all what they decided. Jeffrey said that the ZBA was empowered and obligated to monitor the usage – what if there are 100 weddings per summer? – so it does not become a function hall.

Nevette said they are working to have more communication with the town. There are outside permits and there is already a mechanism in the town for event permits.

Larry said a special permit is for when someone does not like another board's decision and they appeal it to us. Event permits are handled through the town. When the Artisans Fair schedules its 35 days it must get town signoff (police, fire, etc.) and go through the Town Administrator's office. He said it is his opinion that the board is here tonight to follow their review criteria and to make decisions based on the information placed in front of us.

Last week they determined that the language of the RFP and deed is clear. What we are discussing tonight is are these uses impacting the town in a negative way. The Trust will review events with their policies, the town will review it through the event permit sign off process. If the Preservation Trust were to expand the commercialization of the Grange in some way, they would be required to come back to the board. It is the zoning inspector's job to decide when something has expanded or changed. He did that [last year] and now we're here. He did not say there was usage that couldn't happen. Most of the things they do is what the town requested in its RFP and what is laid out in deed.

Andy said consistent with that, we are here because the zoning inspector looked at events taking place and thought they expanded their activities enough to warrant a special permit. He wasn't saying that they were doing things not covered by the deed or commercial in nature, just that the extent or number had grown and that now a special permit was required. This does not mean that the building inspector does not get to rule on anything again. If in the future there's additional expansion he could ask for another permit which then would come back here and we'd discuss commercialization.

Marilyn said there are already many checks and balances through the town. What we're doing here is not controlling the use, but coming up with policies about the [impact of] events that take place.

Julius said we are not telling them what they can and can't do. He asked how many private events do they hold? For example, how many weddings are booked this year. Nevette said zero and next year there is only 1 or 2. In order to have a wedding, the person needs to have a connection to the Grange so typically it is a local. There are other events being scheduled. We have our tenant upstairs and we can't have two events at the same time. There is a lot of mechanisms already in place against weddings. Yes, is it a money maker, but is it what they really do? No.

Julius said there is internal process and criteria that restricts who can marry there. He asked if there was any reason to articulate that. Marilyn said he did not think they could put that in there. It's a worthwhile thing to consider with a historic building.

Deborah said when they get back to may require a completed "*Event sign off form.*"

Events do not require a 'Special Event Permit' if the event complies with all of the following criteria:

- *It is for an educational, religious, or charitable purpose by a not-for-profit organization*
- *Alcohol is not sold at the event*
- *The Event organizer has consulted with West Tisbury police and fire and health officials as warranted by the event's size, purpose, and structure.*

Trash

- *Service and trash areas will be screened with wood structures or plantings.*
- *Trash will be picked up between 8 am - 10 pm.*

Public Comment

Tara J. Whiting-Wells asked about Event protocols, talking to Library and Field Gallery and would hope that they would discuss how to not overlap. She thought the board should say they can't have events before 8am or after 10pm. She also said how could weddings be classified as a private event instead of commercial event since they charge a fee.

Nevette said a private event is not open to the public and not charging people money.

Larry would say this is a little bit of a gray area without getting an argument about it. Before zoning the town allowed weddings there. The deed allows weddings and [weddings] are not the sole purpose of the Trust. And there is rent and then there is profit.

Tara said it's still a commercial event. She said she thought any time something happens in town, traffic is a hot mess. She thought there should be more signage about parking.

Jennifer Pillsworth, from the Field Gallery, pointed out that anybody who uses the building pays a rental fee for the use of the Grange. She said that now that the farmer's market is not at the Grange there's been a very big difference in town and she has seen a downplay in traffic and a downsize in numbers at the Field Gallery. The idea that everything is getting bigger and untenable? She said she feels it's gone in the opposite direction.

Jeffrey said we have an obligation to monitor commercial activity even though they market [events] as charitable and educational, although he has no problem with [charitable and educational]. He said he looks at the Preservation Trust as expansionists. He said he read [a past] audit and just one activity, the Taste of the Vineyard, was \$1.2 million. He's not saying that now the Grange is going to do that but he's concerned and thinks the board should take a stance now or even postpone [a vote] until we see what the Trust is going to do.

Nevette said that Taste of the Vineyard is the Trust's one for-profit fundraiser event each year. The money raised is for direct restoration to the building(s). \$1.3 million was raised and [spent]. \$365,000 of that went right back into the Grange Hall itself. She said if they don't do this, they will come to all of the towns asking for more money. That event is completely different than what we're talking about here.

Julius said if the Trust were to use it commercially, there are mechanisms at the town to get sign off. It's not as if they can have a Taste of the Vineyard at the Grange if we grant them a special permit.

Pat said before this came up with Joe, wasn't everything working okay [between Trust and town]? He said talk about audits, etc., is confusing.

Larry said the Building Inspector did not call out any one specific thing, instead he referred to the number and intensity of events. Once you make the Grange heated it becomes more of a year-round venue [allowing for] an increase in use. The charitable use and the Trust's mission is not the question here. The board's job is to look at the impact of the use on the town and review certain criteria.

Larry said their decision would include Findings, which are agreed-upon statements the Trust made and the board understood understood. The decision would also include Conditions that the board feels are

important. The number of events will be controlled by the Trust, their own internal procedures and policies, and with Event Permits.

Deborah said their focus is on mitigating the negative impacts. Larry said we're looking at the negative impacts, but we haven't even discussed the positive impacts.

Prudy Burt said it should say that *Only one event at a time is allowed* in the policy. She agreed with Tara and feels that they are at a tipping point in town. Before they could handle the number of events but believes with the increase in traffic, more traffic management, more detail is needed. She thought there were maybe 50 total parking spaces in town between Library and Howes House and street.

Julius said he's curious how we'd think the logistics of that would work out. The Artisans, for example, schedules out far in advance and if it's the same weekend the church wants to do the Strawberry Festival, who gives? Prudy said that's why she would say to the extent practicable. She'd like to see a calendar maybe posted in town hall.

Brian Ditchfield said what Prudy is asking for is something they are working on now. There is a meeting scheduled for late March where coordination with Jennifer, the church, [Cinema Arts] as well as the Ag Society will be discussed.

Nevette said [the island] has a tourist economy and there are eight weeks and there is a sensitivity to the push and pull of different organizations needing to have their events when the people are here. She said the Grange is all booked for 2023 and they are already looking at 2024. They know way ahead and can be more communicative with the town with their calendar outside of event permits.

Tara added that we also have zoning bylaws that say the center of town doesn't care for a tourist economy we don't allow commercialization and business. There's supposed to be nothing in the VR district, and until town meeting changes that on the meeting floor this is what we are.

Julius said we have to be careful to the reasonable extent practicable and thought there may be an occasion where there are two events that are complementary.

Jeffrey said his concern is that not all the renters may be responsible and thought the board should exercise some supervisory control over the process rather than giving a blanket yes, because he believes [activity] will escalate. He said maybe they could do that in the conditions. He said again he doesn't understand what they're asking for. They don't need a special permit, [yet] they applied for a special permit.

Atty. Vukota said from their perspective the Trust and Cinema Arts do *not* need a special permit. They do admit, however, that they are subject to site plan review. Normally that would be in front of the Planning Board but because of the size of the building, it is in front of the ZBA [as a special permit]. In their opinion, the criteria for site plan review is the criteria the ZBA reviews and ostensibly, that is this draft Event Policy document.

From West Tisbury Zoning Bylaws, Use Table

3.1-1 Use Table ... PR *Designates a use permitted by right subject only to Site Plan Review by the Planning Board ... provided that the proposed use contains **no more than 1,500 square feet of floor area in the RU and VR Districts, and 3,000 square feet in the MB and LI Districts. If the use involves structures with more floor area, a Special Permit must be obtained from the Zoning Board of Appeals (see Section 9.2).***

Jeffrey said it still does not make any sense to him. They applied for a special permit under certain bylaws and at the last meeting [Atty. McCarron] said they were submitting themselves to the jurisdiction of the Zoning Board of Appeals but they're really not. He asked again, so what do you want as a special permit?

Atty. Vukota said she has already answered that question. They don't really want a special permit at all, but in an attempt to resolve the litigation they understand there are certain matters subject to site plan review for the activities at the Grange, and as she said before, they address those in the Event policy and procedures.

Larry said the special permit will state that those policies are part of the special permit. The Findings section are agreements between the Trust and the board. Conditions are more specific and enforceable.

As for conditions, Larry said he realizes the past is pulled into the future and has put us in a tough spot. The Grange for nearly 145 years has had all of these uses. Without using the word 'grandfathered,' they're grandfathered. These are historical uses the town is okay with and have approved of in our community. The reason [the town] sold the Grange was so these [events] could continue-- not for it to be torn down because the town couldn't afford to run it.

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

The following findings, or mutually agreed-upon statements, were discussed.

- 1) The applicant has presented the [deeded uses] and the board has agreed with the statements produced in the [1996] Town Report, the RFP drafted for the sale, and the subsequent deed outlining uses, namely that they are permitted pre-existing uses of the hall.
- 2) The board and applicant have agreed that they will use best efforts to coordinate events with other entities in the center of town.
- 3) The Trust's representation of their Event Policies has addressed the board's concerns for lighting, traffic and noise and their impact on the surrounding neighborhood.
- 4) The Trust has represented they will conduct activities that fall in the purview of their mission.

Pat suggested including a finding that says the Trust will use its best efforts to never have two events happening at the same time.

Atty. Vukota said she understands the concern about two events at once, but what if one is only five people and another is larger. She said the board should control dual events via parking and lighting impacts on neighborhood as opposed to the events taking place.

Pat said that's why he said "best efforts". Deborah said she's concerned about including language that would trigger any [unwarranted] action by the Building Inspector.

Jeffrey made another statement that it has already been determined that there is excessive use and they should include a finding that the ZBA has the right to regulate it. Andy said there was no petition for excessive use. Larry said that is not a finding, that is Jeffrey's opinion.

The board moved on to a discussion about the hours. Larry asked if they ever have events on Sunday morning, as this board likes to keep Sundays less intrusive than other days of the week. The Artisans Fair does operate on Sundays, approximately 13 times a year.

The following conditions were proposed and discussed. Hours of Operation: The Grange Hall may operate seven (7) days a week, 8am to 10pm (not including setup hours).

Discussion followed about how best to incorporate the Event Policy and Procedures into the Special Permit. Atty. Vukota argued there are things the Trust may want to change around Event protocols and suggested ‘The Grange will continue to implement policies substantially similar to the ones proposed tonight.’

Deborah said the language needs to be careful so it does not trigger the Building Inspector.

Larry said he’d like to include the Event Policy as written and leave it at that. In the future, if it were to change significantly they could come back. Nevette said she’d be comfortable with that as the Event Policy was pretty all-encompassing.

- 1) The Grange Event Policy presented with the application (*with the minor edits agreed to tonight*) will become part of the Special Permit.

Jeffrey said he’s opposed to giving the Trust total authority to regulate this; he thinks the board should regulate the usage.

Larry said having sat on this board for over 20 years he feels the best thing is to sit together at the table to work it out and he believes the community wants them to do well. He called for the vote.

It was moved and seconded to Approve the Special Permit with the Findings and Conditions as stated.

*A roll call vote was taken with the following resulting votes. **Motion passed 4-1.** Jeffrey said while he admires the work they do, he believes this is a town issue and something for the Select Board to decide or town counsel to weigh in on, and because this is a rural environment and he’s not sure what the commercial aspect of the Grange will become, [he is voting no].*

L. Schubert-yes, J. Lowe-yes, D. Wells-yes, A. Zaikis-yes, J. Kaye-no

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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The Meeting adjourned at 6:45 p.m.

Respectfully submitted,

Kim Leaird, Board Administrator

Documents on file:

-The Trust’s draft Grange Hall Event Policy
(dated 2.23.23)