

WEST TISBURY ZONING BOARD OF APPEALS
Minutes for Thursday, March 10, 2022 meeting
Online meeting via ZOOM- @ 5:00 PM

Approved on April 7, 2022

Present: Larry Schubert, Julius Lowe, Deborah Wells, Andy Zaikis, Jeffrey Kaye and Casey Decker

Absent:

Also Present: Pam Thors, Bd. Administrator, Wayne George, Paul Connor, Dan Larkosh, Paul Hudson
Derek Avakian

5:00 pm

Derek Avakian made his request to extend his Special Permit #2020-09 for one year to April 17, 2023, to allow him to construct a pool, accessory pool equipment shed and Accessory Apartment. Derek cited COVID-19 and supply chain issues for the delay.

A roll call vote was taken to approve the extension of the Special Permit with the following resulting votes: L. Schubert-yes, J. Lowe-yes, D. Wells-yes, A. Zaikis-yes, J. Kaye-yes, Casey Decker-yes

Pam said she will notify Joe that the extension has been granted.

The minutes of February 24th were reviewed and approved with corrections. Casey Decker, absent on Feb. 24th, abstained from the vote.

The discussion of Section 9.2-2 continued.

Deborah said she thinks there are some yes or no answers to the questions posed in Section 9.2-2 (Review Criteria), but most of them are not easy to answer as to whether the application complies or not. She added that she feels that the decision should ultimately be made by the ZBA. She said that asking the applicant to weigh in on some of these more difficult to decipher issues is not appropriate.

Jeffrey said he disagrees, stating that some of the onus should be on the applicant to research whether the application is compliant in all areas. He added that the applicant knows more about their lot than the ZBA and should be asked to address some of these issues of compliance.

Deborah said she knows her property quite well and would struggle to decipher and come up with determinations on some of the questions. She added that the Section is not “operationally defined” enough for that.

Julius asked what the next step for the applicant would be.

Larry said the applicant would then state that they had reviewed 9.2-2 and cite whether the application complies or not.

Julius asked, “if this is not a legal document, why should the exercise should even take place?”.

All agreed to table this discussion until after the hearings.

5:15 pm A Public Hearing on an Application for a Special Permit from Wayne George to allow the construction of a storage barn /workshop for boat and tool storage which is in excess of 676 sf. (864 sf.) under section 11.2-2 of the West Tisbury Zoning Bylaws at 19 Lamberts Cove Rd., Assessors’ Map 1, Lot 59, RU District
Larry read the Hearing Notice. Mr. George presented his application for a multicar garage with boat storage and a personal use workshop at one end. He noted that this is why the proposed barn is larger than what is allowed by right. He said he had worked with the Conservation Commission on the wetland protection issues.

The site plan was reviewed. It was found that the structure is 105' from the wetland and complies with all Zoning setbacks. Mr. George stated that there will be no over digging for a foundation as the structure will be built slab on grade.

The building plans were reviewed. The structure is 24' high.

Pam stated that no correspondence had been received, but Leo DeSorcy an abutter present, voiced his support for the project.

Julius confirmed with Mr. George that the structure will be for his own personal use.

A motion was made and seconded to close the Public Hearing and open the Board Meeting.

A roll call vote was taken to approve the Special Permit with the following resulting votes;

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

A. Zaikis-abstained from the vote as he had joined late in the discussion.

Larry explained the 20-day appeal period.

The board took up the discussion on Bylaw Section 9.2-2 again.

Larry said that it is the individual responsibility of each board member to go through the section during hearings and that it was never the habit of the ZBA to go through it together point by point.

Jeffrey said he thinks it is the board's responsibility to go through it point by point. He proposed that the applicant make a general statement that the application complies or not with an accompanying explanation.

Larry said he is okay with asking the applicant if they have read it but asking them if they comply is too much.

He added that the onus should be on the ZBA to be familiar with 9.2-2 so that if something comes up during a presentation they know to refer to it.

Andy agreed with Larry's opinion on this, noting that pushing this responsibility onto the applicant doesn't take the responsibility off the ZBA. He said that he feels that stating that the applicant has reviewed the section is sufficient.

5:35 pm A Public Hearing will be held online via ZOOM on an Application for a Special Permit from Paul A. Connor to allow the construction of a pool requiring 1' of front yard setback relief and 3' of West side yard setback relief under sections 8.5-4C, 4.2-2D4 and 11.2-2 of the West Tisbury Zoning Bylaws at 124 Vineyard Meadow Farms Rd., Assessors' Map 29, Lot 25, RU District.

Larry read the Hearing Notice. Mr. Connor explained why he chose the locations of the fiberglass pool and pool shed, referencing the electrical line on the plan. He also mentioned that his firepit and septic system also played a part in choosing the location. He said he will have a heat pump and someday power it with solar.

Larry verified that the shed on the site plan is already there.

Pam clarified that the shed on the North part of the lot was allowed previously via Special Permit #2018-23 and that the pool equipment shed is under 120sf so does not require setback relief.

Andy asked if the fact that it is a pool shed makes a difference as far as being able to be encroaching on the setback by right.

Larry said he thinks this is up to the discretion of the board.

Andy verified that the shed is slab on grade.

Julius referred to section 8.5-4A4. The section states that the pool shed must be "at least the minimum required setback". He said he understands that the ZBA has leeway on that but that it is clear in the bylaw that setbacks must be adhered to.

Pam said that two abutters wrote in support of the application.

Deborah asked what the sf. of the pool is. Pam said it is 378 sf. Deborah asked Larry if the pool is supposed to be set back 100 feet from the road. It was clarified that only accessory structures over 600 sf. need to be set back twice the usual amount of square feet from the lot line.

Andy asked if pipes and conduits are already installed in concrete for the pool shed. He said that doing all of this and coming to the Board after the fact is not proper protocol. He noted that not only does the pool need setback relief but also the shed which normally has to comply with the setback requirements per section 8.5-4A4. Mr. Connor disagreed. Julius stated that you can put a 120-sf. shed within the setback by right, but not one used for pool equipment. Larry said that the shed is, for the most part, in the middle of the lot, but it is still only 27' from the street, not the required 50'. Mr. Connor explained that the automatic pool cover requires 8' from pool to shed, so it needed to be even closer to the road. Andy said that in an ideal world, you don't put in pipe conduits and a concrete pad and then come in to ask the board's permission. He noted that this application is asking for a substantial amount of setback relief for the shed. Mr. Connor explained that he got the okay from the Board of Health to get a Building Permit and then ordered the shed. He said his pool people never spoke to Joe Tierney and he apologized for the way things transpired.

Andy Zaikis moved and Julius Lowe seconded a motion to close the Public Hearing and open the Board Meeting.

Larry said that even though the Hearing Notice did not reflect a request for setback relief for the shed, he believes that in good faith, all abutters are aware of the application and if they had looked at the plans would have seen the location of the proposed shed. He said he feels that this oversight is de minimis in nature.

Andy said he feels differently, stating that the site plan doesn't make it clear that the shed is for pool equipment. He suggested that the application be re-advertisement for setback relief for the shed.

Julius said that placement of the shed would still be an issue but neighbors would be dealing with side yard setback relief instead of front yard setback relief. He said he feels that the outcome would be the same.

Pam apologized for missing the shed setback relief issue.

A roll call vote was taken to require that an application be submitted for setback relief for the shed, with the following resulting votes;

L. Schubert-No, J. Lowe-No, D. Wells-No, Andy Zaikis-Yes, J. Kaye-Yes, Casey Decker-No

A roll call vote was taken to approve the Special Permit as submitted, with the following resulting votes;

L. Schubert-yes, J. Lowe-yes, D. Wells-yes, A. Zaikis-yes, J. Kaye-yes, C. Decker-yes

Larry went over the 20 day appeal period.

5:55 pm A Public Hearing will be held online via ZOOM on an Application for a Special Permit from Paul Hudson, agent for Dan Larkosh, to allow construction of a 1,400 sf. garage with 35' of West side yard setback relief and 25' of rear setback relief under sections 4.3-3D of the West Tisbury Zoning Bylaws at 85 Dr. Fisher Rd., Assessors' Map 16, Lot 141, RU District.

Larry read the Hearing Notice. Paul Hudson, agent and general contractor for the project presented the application. The site plan was reviewed and Paul said that they are seeking setback relief for the 4 car garage. The garage will be used for automobile storage and charging stations and also for general personal storage. Dan Larkosh owns the abutting lot 12.2 as well and said he wants to make it easier to get in and out of the garage.

Larry asked why the structure needs to be so close to the road. Paul said there is a large stone patio extending from the front of the house and that Dan would like to reserve space for a possible future guest house between the proposed garage and septic system.

Larry said that Pine Hill Rd. was designated as a Special Way but that the designation only extends to the Pine Hill Road intersection with the Dr. Fisher Rd. Pam read the letter from the Planning Board which does not agree with this determination and which also opposes the amount of setback relief being requested and the addition of a third driveway. Dan said that he had taken part in the discussion about this section of the bylaws and noted that the road going further north is basically his driveway. Julius stated that the language is very specific; the Special Way designation ends at the corner of Dan's lot and is mostly a private access for his lots in that area.

Julius asked about the use and zoning of the lots across the road. Dan stated that those lots are zoned as Light Industrial, (LI). Julius noted the 20' setback requirement for the lots across the street which are zoned as LI.

Dan said that part of his reason for siting the garage in the proposed location is that it will screen noise and unsightliness of the LI district from his RU designated lot.

The building plans and elevations were reviewed. Dan explained that he chose a saltbox roof style to decrease the visual effect on his neighbors.

Deborah asked if they are considering solar panels. Dan said they would like to install solar panels at some point but this building does not have the best exposure for them.

Deborah Wells and Julius Lowe moved and seconded a motion to close the Public Hearing and open the Board Meeting.

Larry suggested that one of the findings in the decision be that the garage is for personal use only.

Julius moved and Deborah seconded a motion to close the Public Hearing and open the Board Meeting.

A roll call vote was taken to approve the Special Permit as submitted, with the following resulting votes; L. Schubert-yes, J. Lowe-yes, D. Wells-yes, A. Zaikis-yes, J. Kaye-yes, C. Decker-yes

Larry went over the 20 day appeal period.

Correspondence: The email from the Town Administrator giving boards and committees the go ahead for in person meetings was discussed. Pam stated that some boards are staying with the ZOOM procedure until in person meetings can be held with the ZOOM procedure as well...hybrid option. She said that the rules may be clarified in the future regarding hybrid meetings but the town has set a set up in the Select Board's meeting room that should be ready soon to accommodate them.

Concerns that were expressed were:

- 1) Removing the accessibility afforded by ZOOM and how that would affect attendance at meetings.
- 2) The added complication of holding hybrid meetings.
- 3) Does the ease of ZOOM override the benefits of in person meetings.

Pam said that the March 24th meeting was advertised as a ZOOM meeting, so needs to be held on ZOOM, but that any hearings thereafter can be advertised as in person meetings if the board chooses to go that route.

Larry asked if this leaves the applicants scheduled on April 14th enough time to plan to be here for the meeting. Pam said it seems like ample notice.

Deborah said she wished she knew the feelings of other boards in town, adding that allowing access and then taking it away seems like a step backwards. She said she likes there to be as much sunshine on the hearings as possible. Pam said she could reach out to the Town Administrator for information about how other boards are choosing to proceed. She also clarified that the mask policy has been abolished and that Town Hall employees were notified of this change earlier in the day.

A motion was made and seconded to go back to in person meetings without ZOOM access for the time being. A roll call vote was taken with the following resulting votes; L. Schubert-yes, J. Lowe-yes, , A. Zaikis-yes, J. Kaye-yes, C. Decker-yes D. Wells-abstained from the vote. The Meeting adjourned at 7:10 pm.