

WEST TISBURY ZONING BOARD OF APPEALS

Minutes for Thursday, March 26, 2020 meeting

Online meeting via ZOOM- @ 5:00 PM

Approved at the meeting on April 9, 2020

Present: Nancy Cole, John Rau, Julius Lowe, Larry Schubert, Deborah Wells and Andy Zaikis

Absent:

Also Present: John Guadagno, George Sourati, Dan Larkosh, Erik Hammarlund, Fausta Hammarlund, Peter Rodegast, Haddon Blair, Reid Silva, Skipper Manter and Pam Thors, Board Administrator.

The minutes of the meeting held on February 20, 2020 were approved with corrections.

The following invoices were reviewed and approved for signature-Payroll-\$2,320.50, MV Times 280.50

5:15 pm- A Public Hearing on an Application for a Special Permit from John Guadagno, South Mountain Company for Blue Heron LLC to construct a ground mounted solar array in front of a main dwelling requiring 93' of front setback relief under Sections 8.10-4 (C), 4.2-2 (D) 3 and 4.2-2 (D) 4 of the Zoning Bylaws, Map 35 Lot 1.9, 99 Pond View Rd. RU District.

The notice was read and John Guadagno, from South Mountain Company presented a revised plan. The new plan changes the setback relief being requested from 93' to 50'. John stated that they did a landscape plan which will provide optimum screening from the road with many screening evergreens already on site. He stated that this accessory use is noiseless and causes no neighborhood issues. He explained that the plantings put in on the South side will be varieties that grow to be only 8-10 feet high so as not to interfere with the sunlight exposure to the array but to provide adequate screening from the closest neighbor. Larry asked if the array will take care of the needs of the property. John said that it will provide for the owner's three season use of the house. It was explained that the array is recessed into the ground to be less visible.

Nancy asked for clarification of the setback relief being requested. John said that he urged the client to agree to the change in plan because he thought that 93' was an excessive amount of relief to be asking for. Nancy asked why they can't locate the array the required 100' from the property line. John said that they want to protect the view shed from the pond and since the lot slopes back from the pond, this location accomplishes that.

Skipper Manter, an abutter stated that he supports the 50' setback relief over the 93' initially requested.

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

Nancy stated that a Condition of Approval must be that the applicant will submit the Landscape Plan and revised Site Plan for the Board's approval prior to the issuance of a Building Permit.

A motion was made to approve the Special Permit with Conditions. The vote on the motion was unanimous.

Nancy explained the twenty day appeal process.

5:35 pm- A Public Hearing on an Application for a Special Permit from Kevin Cusack to construct a 2,493 sf. barn for garage storage and wood shop with a 1,232 sf. roof overhang to serve as an outdoor covered work area located on a non-conforming lot in the Major Roads Zone under Sections 11.2-2 and 3.3 of the Zoning Bylaws, Map 25 Lot 9, 22 Scotchman's Ln. RU District.

Nancy read the hearing notice and Reid Silva presented the project. Nancy asked if the open part, (roof overhang) is part of the structure. Larry read the definition of a structure citing his conversation with Joe Tierney who told him that the roof overhang is considered a structure. Larry brought up Section 9.2-2 (C) of the Zoning Bylaws which states that the Zoning Board must make a written finding to justify granting a Special

Permit to construct a building which exceeds the floor area thresholds for a building permitted by right with Site Plan review, rather than splitting the uses and building two smaller buildings.

The size of the covered roof area of the structure was discussed. Nancy voiced her concern for the excessive size of the barn on its own, let alone the additional square footage when considering the roof overhang.

Larry read Section 3.3 - Accessory Uses which allows for an exemption for agricultural uses referencing the applicant's description of the use of the roof overhang area as agricultural. He suggested that this should be listed as a finding in the Decision.

Finding 1; In reference to Section 9.2-2 (C) Review Criteria for Large Scale Structures, the shed part of the building is labeled and intended to be used agriculturally.

The following conditions were agreed upon;

- 1) The total height of the structure including the Cupola must not exceed 30'.
- 2) Revised plans showing the reduced height of the structure must be submitted and approved by the Board prior to the issuance of a Building Permit.

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

A motion was made to approve the Special Permit with Conditions. The vote on the motion was unanimous.

Nancy explained the twenty day appeal process.

5:55 pm- A Public Hearing on an Application from Daniel J. Larkosh to Appeal the decision of the Building Inspector to issue a Notice of Violation under Sections 10.2-2 (A), 3.2-2, 14.1, and 3.1 of the Zoning Bylaws. The appeal is filed under MGL Ch40A sections 8 and 15 of the Zoning Act, Map 21 Lot 12.2, 93 Dr. Fisher Rd. RU District.

The hearing notice was read. Nancy then read the letter from Joe Tierney, Building Inspector who had notified Dan Larkosh of Violations on his property which is in the Light Industrial District. Dan explained the reason behind his appeal. He stated that he did not know about the Notice of Violation until he read it in the newspaper. He stated that the matter was exceedingly embarrassing to him and his brother, who is part owner of the property. Nancy apologized for the way it was handled. Dan said that when he complained about this to Joe, that he had received an apology.

Dan stated that he has done more to screen his property from the road than any other of the owners along Dr. Fisher Rd. He said that in the past, the late Ernie Mendenhall, the prior Building Inspector, had issued violation notices to the tenants who were bound by the restrictions in the permits they were granted by the Town. A lengthy discussion took place regarding who is responsible for the upkeep of the property.

Dan said that Joe should have addressed the Notice of violation to the tenants.

Andy said that all the issues brought up in the letter were admittedly happening on the lot and that there is an inherent shared responsibility for adhering to Town bylaws.

Nancy said that Dan is ultimately responsible for his property and has been responsible, suggesting that he continue to work with his tenants and with Joe on clearing up the Violations on the lot. Deborah agreed that this should be the way the issue is resolved, questioning whether a continuance is necessary.

Nancy volunteered to conduct a site visit with Joe and Dan.

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

A motion was made to continue the hearing until April 9, 2020 at 6:15pm.

6:15 pm- A Public Hearing on an Application for a Special Permit from Nooni and Shira Hammarlund to construct a Single Family dwelling on a nonconforming lot requiring 15' of front setback relief and 24' of side setback relief under Sections 4.3-3 (D) and 11.1-3 (A) of the Zoning Bylaws, Map 3 Lot 49, 60 Stone Bridge Rd.

The Hearing Notice was read and George Sourati presented the application. George mentioned that many lots on the road are undersized with about 1.5 acres. He said that he was able to get approval from the Board of Health for a three bedroom septic in the form of a Variance due to the wetlands on the property. The Conservation Committee allowed them to build the house 55' from the wetland rather than the required 100'. George said that the height of the 2,240 sf. 3 bedroom house is 29 ½ feet. He explained that if the setback relief is not granted, the lot will be unbuildable.

The question was raised as to whether the lot had been merged with the abutting lot due to common ownership. George stated that there were no issues of this sort pertaining to the lot as the Hammarlunds bought the property from A. Green and B. Ceren in the year 2000, who had purchased the lot in 1979.

Larry stated that the lots in that area all have very small building envelopes due to the wetlands. Julius agreed, citing the flaw in the vision of the town in allowing this subdivision.

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

A motion was made to approve the Special Permit. The vote on the motion was unanimous.

Nancy explained the twenty day appeal period.

Informal Hearing: Haddon Blair

Haddon explained that when the engineers went to his lot to survey the plan, they went to the wrong spot to flag the locus. He said that when he was about to begin construction he noticed the area. He went back to Schofield and they redid the plan placing his shed in the right location. He asked the board if they would consider this a di minimus change so he would not need to reapply. The board reviewed the new plan which correctly shows the shed's location which is about 100' closer to the road than the original plan.

A motion was made to approve the change as di minimus, thereby not requiring a new hearing. The vote on the motion was unanimous.

Informal Hearing: Diane Luckey

Nancy recused herself from this hearing. Larry chaired the hearing. Peter Rodegast presented the application. He stated that the addition and Accessory Apartment were approved in January 2018. He stated that with the onset of illness in the family, the permit lapsed without construction being started. He explained that Diane would like to request the following;

- 1) To be granted a two year extension of the Special Permit until March 26, 2022.

2) To ask the board to vote that the changes are di minimus.

He stated that the new plan, (see file), is slightly smaller than the originally approved 741 sf.

A motion was made to extend the Special Permit for two years and to deem the changes to be di minimus, thereby not requiring a new hearing.

Correspondence: All were reviewed.

Email -Stephen Hart requesting extension of unexpired Special Permit-Extension granted until March 17, 2022

The meeting adjourned at 7:30 pm.

Respectfully Submitted, Pam Thors - Board Administrator