

WEST TISBURY ZONING BOARD OF APPEALS

Thursday, March 30, 2023

Meeting Minutes

Approved April 6, 2023

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

Absent: N/A

Also Present: Kim Leaird (*Board Administrator*), Ivory Littlefield, Jeffrey Dubard, Amy Upton

**

5:00 pm – The meeting minutes of March 16th were approved 6-0-1 (Larry abstained). In addition, there was a discussion about appointing a new representative to the Affordable Housing Committee to replace Larry. Pat Barrett nominated Julius Lowe and Jeffrey Kaye seconded. The board was unanimously in favor.

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5:15 pm – (*Continued from August 25, October 6, November 17, 2022, January 5, 2023, and February 16, 2023*): A public hearing on an Application for a Special Permit from **Stillpoint Martha's Vineyard Inc.** to convert a barn/greenhouse, a pre-existing, non-conforming structure, to a Public Place of Assembly under sections 11.1-3A, 3.1-1, 8.5-2 and 8.5-3 of the Zoning Bylaws at **20 Stillpoint Meadows Rd., Assessor's Map 22, Lot 4.11** in the RU District. (**Note that project is still being reviewed at the MVC*).

Larry read the hearing notice.

*It was moved and seconded to continue the hearing until **April 27, 2023 at 5:15 p.m.***

A roll call vote was taken with the following resulting votes. Motion passed 7-0.

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

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5:20 pm – A public hearing on an Application for a Special Permit from Ivory Littlefield on behalf of **Peter Bostock Family Trust** to install a 5'8"L x 35"W x 30"H Japanese soaking tub and an 11'x11' deck with 28 ft. of side yard setback relief under 8.5-4C and 4.3-3D of the Zoning Bylaws, at **10 Edson Forest Rd., Map 25, Lot 4.2** in the RU district.

Larry read the hearing notice and opened the hearing at 5:20 p.m. Ivory Littlefield presented the project. The property is a 3-acre site across the street from Polly Hill. The proposed hot tub is being permitted under the pool bylaw.

Pat said he looked at maps in satellite view and doesn't understand why the tub needs to be so close to the setback line. Seems like there is a lot of room on the property.

Ivory said it is the homeowners' preference that it be sited there for two reasons: 1) Minimize visual impact as the yard is mostly all open field, and they did not want to see it when they drive up and park on the driveway; and 2) Privacy as it is really like a wooden bathtub and they feel they will have more privacy on the back side of the house. There is a standing line of trees but at the edge of the property.

Pat said he understands, but why have setback rules at all if you're going to give it away. Andy said he shares Pat's concern. If the applicant has 3 acres of land why propose a project in the buffer zone when they have several hundred feet to work with. And while he appreciates there's a standing row of trees that define the edge of property, concerns could be addressed by siting well within setbacks and mask it from the driveway with new vegetation and trees.

Ivory said their feeling is that it is a small project and only 3.5 feet tall and the deck, although 11'x11' is only 8 inches off the ground. Andy said he still doesn't think these are good reasons to be in setback lines.

Larry read the applicable 4.3-3D bylaw: Exceptions to lot frontage and setback requirements. The board does have latitude to allow it if it finds in its opinion such use *will not have a material detrimental effect upon the established and future character of the neighborhood in the town and provided, further that the board finds that other lots in the neighborhood have been previous non-conforming.*

Deborah asked if applicant could describe the seating depicted on diagram. Ivory said it is a simple teak settee, it's not built in. The soaking tub has a minimum visual impact as it sits 3.5 ft above the lawn. Deborah said she hears what Andy and Pat are saying and she'd tend to agree if this were a different sort of structure. She said in her mind it's pretty minimal.

Andy asked if the neighbor to the north was aware and if the petitioner had been in touch with him. Ivory said he had been and it's his understanding that he is fine with it although a letter was not submitted.

Julius said when the board looks at permitting pools, they usually think of the impact of pool parties, shade structures, noise, outdoor kitchens, etc., and thinks this is not like that as it is less than 4 feet above grade toward the edge of a forested area of the lot and very far away from the nearest neighbor's house.

Jeffrey said he understands if the request for relief from buffer zone were for privacy around the placement. He echoed Julius that this is not a big deal and if this is reason for setback relief he thinks it's okay.

Andy said it is still pretty close to what is currently an undeveloped lot and thought they should consider a future owner. Julius said the owner is the Land Bank and Mill Pond watershed.

Larry asked about the standing line of trees. Ivory said they are evergreens and you can't easily see through them but they are about 30 feet high.

Andy said he doesn't see why another line of trees can't be planted.

Pat said he'd be afraid of setting a precedent in the neighborhood as the section of the bylaw refers to whether or not similar relief has been given to other buildings in the area.

Deborah asked if any other existing or mature trees need to be moved to accommodate placement within setbacks. Ivory said probably not, but if they have to move it they would probably choose to put up some sort of shrubbery so it's not visible. They are really just trying to have privacy.

The Planning Board's comment was that that some sort of fence should surround it. Ivory said it has a cover but his understanding is if it's under a certain depth – which the tub is – then it doesn't require a fence like a regular swimming pool. It is all cedar except for the heat pump which you can't cover.

Kim mentioned that an abutter, Martha Flanders, had reached out requesting to look at the plans but did not follow up with any comments.

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

Larry said if they vote to approve he'd add a condition that says *a fence will be installed at the discretion of the zoning and building inspector*, so that Joe is making the determination, not this board.

Julius said before they go to vote, if they do not approve because of setbacks will it prevent them from coming back for two years. Larry said yes, unless the plan is substantially different.

Andy said if they vote to deny, the decision should state that it's because of incursion into the setbacks. If they return with a plan outside the setbacks, then that would clearly be a substantial difference. Jeffrey agreed. Larry noted that it is within the petitioner's rights to request setback relief.

It was moved and seconded to GRANT the Special Permit. A roll call vote was taken with the following resulting votes. Motion failed 3-2. A supermajority of 4 votes was needed for the motion to pass and the votes of Associate Members Decker and Barrett did not count.

L. Schubert-yes, J. Lowe-yes, D. Wells-yes, A. Zaikis-no, J. Kaye-no [Casey Decker-yes, Pat Barrett-no]
The applicant was invited to submit a new application with a plan that is substantially different.

Larry went over the 20-day appeal period.

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5:40 pm – *(Continued from February 2, 2023, and March 16, 2023):* A public hearing on an Application for a Special Permit from **Jeffrey and Carolyn Carney**, to construct a new 18'x42' inground swimming pool to replace an existing 18'x37' swimming pool with a new 8'x15' pool equipment shed to replace the existing shed under Section 8.5-4C and 6.1-5B of the Zoning Bylaws, at **80 Plum Bush Point Rd., Map 35, Lot 6.7** in the Inland and Shore Zones of the Coastal District within the RU district.

Larry read the hearing notice at 6:16 p.m. The Applicant was not present.

*It was moved and seconded to continue the hearing until **April 27, 2023 at 5:35 p.m.***

A roll call vote was taken with the following resulting votes. Motion passed 7-0.

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

**

Other Business

– Amy Upton extended an invitation board members to attend Monday's Planning Board meeting to discuss the bylaw amendments ahead of Town Meeting.

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The Meeting adjourned at 6:00 p.m.

Respectfully submitted,
Kim Leaird, Board Administrator