

WEST TISBURY ZONING BOARD OF APPEALS

Minutes for Thursday, April 29, 2021 meeting

Online meeting via ZOOM- @ 5:00 PM

APPROVED ON MAY 13, 2021

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

Absent: N/A

Also Present: Pam Thors, Bd. Administrator, John Siffert and Goldie Alfasi-Siffert, Ken Hurd, Doug Best, Paul Adler, John Fuller, John Cain, John and Dan Scherlis.

Larry asked about the bill for legal services from Reynolds, Rappaport, Kaplan and Hackney, LLC. He questioned whether the bills for calls from Town Counsel to the Town Clerk should be the responsibility of the ZBA. Pam explained that questions arose regarding a letter received by the Town Clerk asking to appeal a ZBA decision. Nothing was filed with district court. She said that Tara asked her whether the letter constituted a valid appeal. She said that at the time she wasn't sure so Tara called Town Counsel to get an answer. She noted that she is now aware that if the appeal is not filed with the District Court, it is not valid.

The minutes of the April 8th meeting were reviewed and approved with corrections.

A rollcall vote was taken with the following resulting votes; L. Schubert-yes, J. Lowe-yes, D. Wells-yes, J. Rau-yes, A. Zaikis-yes, J. Kaye-yes, C. Decker-yes.

Jeffrey asked about updating the minutes to include information that was not available at the time of the meeting. Pam explained that the minutes may only reflect what was discussed at the meeting.

Larry stated that John Cain had sent a letter asking that John Rau recuse himself from the upcoming discussion of outdoor speaking events at the Lambert's Cove Inn due to a conflict of interest. John said that he is an officer of the Longview Road Association and therefore is fine with recusing himself from the discussion and any vote that may take place regarding the Inn. Larry said that going forward, John's recusing himself would ensure that John Cain could not find cause to cite a Conflict of Interest. He said that John may write a letter as a private citizen, voicing his opinion regarding activities at the Inn, if he chooses to.

5:15 pm - A Public Hearing on an Application for a Special Permit from Ken Hurd, agent for Goldie Alfasi-Siffert and John S. Siffert to construct an addition to a pre-existing, non-conforming garage requiring 28' of west side yard setback relief and 1' of rear side yard setback relief on a pre-existing, non-conforming lot located in the Historic District at 643 Edgartown Rd., Assessors Map 31, lot 25 RU district under sections 11.1-3(A) and 11.2-2 of the Zoning Bylaws.

Ken Hurd, agent for the applicant noted that the house is close to the road. He said they are proposing a 12 x 12' addition to the back of the pre-existing, non-conforming garage, built in 1991, that is located in the rear portion of the lot. Photographs of the garage were shown.

The site plan was reviewed. It was verified that the lot is three lots in from the outer boundary of the historical district. It was also verified that the proposed structure will be less than 676 sf so Section 11.2-2 is not applicable to this application.

Deborah clarified that there is no increase in the encroachment on the side setback (28 feet), and 1' of setback relief being sought on the rear setback.

Pam said that no correspondence had been received except the letter from the Planning Board which refers the application back to the ZBA with no opinion.

A. Zaikis moved and C. Decker seconded a motion to close the public hearing and open the board meeting.

Pam mentioned that the application will need to be reviewed by the Historic District Commission. Ken said that they are on the Historic District Commission's agenda.

A motion was made and seconded to approve the application.

A rollcall vote was taken with the following resulting votes; L. Schubert-yes, J. Lowe-yes, D. Wells-yes, J. Rau-yes, A. Zaikis-yes, J. Kaye-yes, C. Decker-yes.

Larry went over the 20-day appeal process.

5:35 pm- A Public Hearing on an Application for a Special Permit from Douglas Best III to amend Special Permit #2015-39 and to add a carport with a second story deck requiring 26' of east side yard setback relief to a pre-existing, non-conforming structure (workshop) located at 1201 State Rd, Assessors' Map 34, Lot 6, RU District under Sections 11.1-3(A), 4.3-3(D) and 9.3-3 of the Zoning Bylaws.

Casey said that he has a conflict of interest and will abstain from the discussion and the vote on this application.

The site plan was reviewed and Doug explained the location of the lot and the proposed addition. He stated that it is not very visible due to the amount of screening trees around it, except from Paul Buckley's driveway.

The building plans and elevations were reviewed. Doug said the carport will be located on an existing concrete pad and that the square footage will be 24 x 24', (576 sf). Doug mentioned that he would like the railing to be a stainless-steel cable railing with mahogany posts rather than the baluster railing shown on the elevations, noting that it will be less noticeable.

Jeffrey asked if there will be any commercial woodworking jobs done in the workshop and if the addition helps to expand that use. Doug said that there will be no commercial activity in the workshop and that the addition does not constitute an increase in the size of the workshop. He said that the proposal is for a carport for vehicle storage and a roof deck.

Pam read a letter in support of the application from the Buckleys, who are the immediate abutters to the property on the side where the workshop is located. She also read a letter from Paul Adler, an abutter concerned for any increase in commercial activity in the workshop. Paul was assured by the applicant that the workshop is not for commercial use and that the proposed addition does not include an increase in the size of the workshop. Paul reiterated that his only concern was that there be no commercial woodworking activity and that he is happy with everything else.

J. Lowe and J. Rau moved to close the public hearing and open the board meeting.

A motion was made and seconded to approve the application.

A rollcall vote was taken with the following resulting votes; L. Schubert-yes, J. Lowe-yes, D. Wells-yes, J. Rau-yes, A. Zaikis-yes, J. Kaye-yes, C. Decker-abstained

Larry went over the 20-day appeal process.

Fuller-Informal Hearing

John Fuller, representing the owners of 40 Norton Farm Rd., Map 1, Lot 26, stated that the owners would like to construct a garage and a pool house on the lot. Both structures, as proposed, would require about 35 feet of setback relief. He stated that the garage, although proposed to be located in front of the dwelling, is under 676 sf. so would not be required to be 100' from the lot line. He said that designs for the structure are not done but are just placeholders to get a feel from the board regarding the proposed setback relief.

He said the garage would house a tractor, one car, and allow for a small workbench on one end. He said that they would like the pool house to face south to allow sunbathing by the pool and help with sound attenuation of pool noise for the abutters on that side of the lot.

Deborah asked if the concern for orientation of the structures has to do with locating solar arrays on the roofs.

Larry noted that all of the pool house and all of the garage would be encroaching on the setback.

Julius said that a lot of it would come down to what abutters may have to say and that this is a “big ask”.

Andy asked how big the lot is. John F. said that it is 2.5 acres. Questions were asked about the adjacency to buildings on the abutting lot.

Deborah asked if other lots in the neighborhood have setback issues as well. John F. said that the Marshal house, which would be most affected by the setback relief, is several hundred feet away.

Jeffrey asked if the neighbors have been made aware of the proposal. John F. said that they have not but that this would be the next step in the process.

Andy asked if the adjacent property has structures on it. Deborah said that this information is necessary for the board to have going forward. She said that abutters and neighborhood concerns would be of interest to her, as well as knowing if there are many other setback relief issues in this area. John F. said that you cannot see other houses in the neighborhood as they are set back from the road and somewhat secluded.

Andy suggested that John F. report back that this is an aggressive request. He went on to say that given the size of the lot, there must be the possibility of compliance.

Larry reiterated that this is why John F. is before the board to get a read on where they might stand on such a request. He added that it is rare to get a request for 2 structures to be located entirely within the setback.

John F. noted that there is a stream and wetland on the other side of the lot that limits the use of that portion of the property. He said he will report the feelings of the board and convey that they probably cannot build the garage if they cannot get setback relief.

Pam suggested that John F. come back when she can share the google maps showing the locations of buildings in the area for the board’s review. She said she will put John F. on the May 13th agenda to be heard after the completion of the three scheduled hearings.

Larry commented that perhaps John F. will have gotten feedback from his clients by that time.

Casey no longer in attendance.

Lambert’s Cove Inn-discussion of review of “Outdoor Amplified Speaking Events”

Larry stated that in John Cain’s email to the board, he explains that the Inn did not host any, “Outdoor Amplified Speaking Events” last season so there is nothing for the board to review. Larry said he likes the suggestion to postpone the review until next year.

Deborah agreed that this sounds reasonable.

John C. clarified that condition #7 addresses “Outdoor Amplified Speaking Events but not weddings”. He stated that there are no such events last season and none scheduled for the upcoming season.

Larry asked if the members feel that it is within the board’s jurisdiction to call for a review after these types of events have been held. Jeffrey suggested that the ZBA claim this right. Larry said that he assumed that the review after one year is the only one required in the decision.

Pam said she wondered if the condition should have included outdoor events of any sort.

Dan Scherlis, an abutter, asked if the review could be deferred or the hearing could be redone.

Pam suggested reviewing the conditions of the decision but Larry said he would rather just put off the review sited in Condition #7 for another year.

John Scherlis agreed about deferring the review but also wondered if Larry or Pam could define, “review” as sited in the Conditions.

Larry said that it is an opportunity for John Cain to discuss how the events went and for abutters to express their opinions as to the outcome of the events.

Larry suggested a motion to defer the review for one year with the possibility of deferring for another year in the event that no “Outdoor Amplified Speaking Events” take place at the Inn this season.

A. Zaikis moved and J. Lowe seconded the motion to defer the review until 2022.

A rollcall vote was taken with the following resulting votes; L. Schubert-yes, J. Lowe-yes, D. Wells-yes, A. Zaikis-yes, J. Kaye-yes,

J. Rau-recused himself from the discussion and the vote.

The board discussed the letter, (citation), dated April 25, 2021, sent to Louis Oliveira from Building Inspector, Joe Tierney for allegedly violating the conditions of his Special Permit.

A motion was made and seconded to request a “Reserve Fund Transfer” of \$2,000.00 for the Legal Line item from the Finance Committee. Larry asked if Pam thinks they will have a problem with a request larger than what is currently needed to cover the outstanding bill from Town Counsel. Pam said that the Finance Committee will want the board to have enough money in this line item to make it through to the end of the Fiscal Year.

The Meeting adjourned at 6:30 pm.

Respectfully Submitted,

Pam Thors-Board Administrator