

WEST TISBURY ZONING BOARD OF APPEALS
Minutes for Thursday, April 9, 2020 meeting
Online meeting via ZOOM- @ 5:00 PM
Approved on May 7, 2020

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

Absent: Julius Lowe

Also Present: Derek Avakian, Bob Avakian, Geoff Rose, Kevin Greene, Edilson De Meireles, Patrick Medeiros, John Powers, Eric Serpa, Kevin McKeon, Joe Tierney-Building Inspector, Dan Larkosh, Fred Fournier, Chris Alley and Pam Thors, Board Administrator.

The minutes of the meeting held on March 26th 2020 were approved.

The Board voted to approve payment of the following: Payroll-\$2,320.50 and MV Times \$429.57.

A motion was made and seconded to allow the Chair to sign, representing all voting members, the "Record of Vote" submitted with Decisions for filing with the Town Clerk until the "Stay at Home" ban is lifted and the Zoning Board of Appeals resumes regular Town Hall meetings.

The vote on the motion was unanimous.

A motion was made and seconded to suspend all Zoning Board of Appeals Public Hearings until after the "Stay at Home" ban is lifted, (May 4th unless extended).

The vote on the motion was unanimous.

Nancy asked Pam to make sure that in the future, the Meeting Agendas are posted on the ZBA page of the Town Website.

5:15 pm- A Continuance of a Public Hearing on an application for a Special Permit from Patient Centric of Martha's Vineyard, Ltd. to amend Special Permit #2017-19 to allow the operation of an Adult/Recreational Use Registered Marijuana Dispensary, along with the Registered Medical Marijuana Dispensary previously approved at this location under sections and 9.3-3 and 3.1-1 (Use Table) of the Zoning Bylaws, Map 16, Lot 101, 510 State Rd., MB District.

The Hearing Notice was read as well as the letter from the Martha's Vineyard Commission (MVC) regarding the cessation of their Public Hearings until the "Stay at Home" ban is lifted.

A motion was made and seconded to continue the Hearing until May 7, 2020 at 5:15 pm to allow the MVC Public Hearing and vote on this application to take place. The vote on the motion was unanimous.

5:17 pm- A Public Hearing on an Application for Special Permit from Edilson De Meireles to operate a service business/home occupation (Welding and Mechanical Work) under Sections 8.5-1 (B) and 8.5-2 of the Zoning Bylaws, Map 16 Lot 32, 36 Oak Knoll Rd., RU District.

The Notice was read and Patrick Medeiros who was present for the meeting along with Mr. De Meireles presented the application. He explained that Mr. De Meireles works for Bruno's Disposal Service full time so won't be working at the garage full time or using the space at the same level as the previous owner. Nancy asked how many jobs he sees as the norm. Patrick said that it is hard to say. Mr. De Mereiles said that he thinks that 2-3 jobs per week would be a good estimate. Nancy explained that this is the information they look for to be included in the Decision.

Nancy read 2 letters of correspondence in opposition to the application. They were from Eric Serpa and John McDonough, both abutters to the property, (see file). Both letters convey serious concerns regarding increased traffic on the dirt road and fumes emanating from the garage. Both expressed their view that the property was being used in ways not approved in the Special Permit granted to the previous owner, (Serusa) and asked that the Application be denied.

John Powers, another abutter who was present at the meeting cited traffic, noise, nighttime business activity and cars parked beyond the driveway. He stated that the business operated by the previous owner was not acceptable in a residential neighborhood. He said that he hopes that if the home occupation/service business license is granted, that conditions of approval will reflect a proper home occupation use.

Eric Serpa added that he thinks the home business has decreased his property value, stating his opinion that the business is not the right one for their neighborhood. He said that they have an art studio and a lawyer's office which are much more suitable.

Larry noted that the Narrative submitted is very limited, with little information regarding days/hours of operation, number of trucks passing in and out and storage of vehicles. He said that in the past, applicants with businesses involving these concerns would have conceived of and offered solutions to the issues.

Deborah agreed with Larry, stating that she would like to see more details represented in the Narrative, such as limits on hours and days of operation.

John Rau said that he would like to see more information on the number of jobs expected.

Nancy noted a few of the Conditions of Approval in the prior owner's Decision. Larry asked Mr. De Meireles if he had seen the Decision. Mr. Medeiros said that they had not. Larry suggested that they review that Decision to help in putting together a more complete Narrative for their application, keeping in mind that none of the effects of the business may emanate from the property boundaries. He suggested that the Board continue the hearing.

John Powers noted that over the years, there have been many complaints about odor, noise and traffic. He asked that the board pay close attention to the chemicals being used and the ventilation process in place.

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

A motion was made to continue the hearing until May 7th at 5:35 pm. The vote on the motion was unanimous.

5:35 pm- A Public Hearing on an Application for Special Permit from Derek and Brooke Avakian to construct a 20'x40' swimming pool and a 320 sf. pool cabana requiring 10' of setback relief at the southern lot line and to construct a 34'x28' garage with a 2 bedroom accessory apartment above requiring 10' of setback relief on both side lot lines on a non-conforming lot under Sections 8.5-4 (C), 4.3-3 (D), 4.4-3 (A) and 11.2-2 of the Zoning Bylaws, Map 37 Lot 21, 220 Vineyard Meadow Farms Rd., RU District.

The notice was read. Andy Zaikis who is a direct abutter to the property recused himself from the meeting. Derek presented the application. He explained that due to the initial negative feedback from the three closest abutters, regarding setback relief, he revised the plan. He stated that in the new plan, no setback relief for either the Accessory Apartment or Pool is required. He said that the only encroachment on the setback is for a set of stairs which is allowable within the Bylaws. He also noted that he removed the pool cabana from the new plan. Larry asked about the pool equipment enclosure and was told that it will be sound insulating.

Nancy read the two letters submitted by the abutters to the North, (Ouzanoff) and the abutters to the South, (Zilla) which address the new plan. Because the setback relief is not being sought, the two abutters wrote in support of the application provided that screening requirements are part of the Decision.

Bob Avakian spoke to the practicality of putting the landscape plan together with the neighbor's input after the construction so that screening can be decided upon with views from all sides considered.

Deborah asked if the driveway to the Accessory Apartment will run along the North side of the property. Derek said that it would.

John asked whether there is access into the garage from the Apartment. Derek said there is not.

Nancy stated that there must be a landscape plan amenable to neighbors and approved by the Board prior to the issuance of an occupancy permit.

Larry questioned whether the size of the lot and the proposed 6 bedroom septic complies with the 10,000 sf per bedroom requirement. Chris Alley from SB&H said that the lot is 61,005 sf. It was determined that the owner will need to comply with the requirements of the Pool Bylaw and the Accessory Apartment Bylaw.

Derek asked the Board to vote to remove the requests for setback relief.

A motion was made and seconded to remove Section 4.3-3 (D) from the application. The vote on the motion was unanimous.

The pool fencing was discussed. Larry said he had looked the plan over carefully and all looked to be compliant.

Pam stated that she had forwarded the new plan to the Planning Board for site plan review which will take place at their next meeting.

Larry stated, and the rest of the Board agreed, that the Avakians did a great job in considering the concerns of their neighbors and making amendments to the plan to resolve the issues that there were with the original application.

5:55 pm- A Public Hearing on an Application for Special Permit from Crown Castle for Sprint to amend a Special Permit granted on March 15, 2000, to allow the addition of three remote radio heads 10"x15.8" (non-antenna), and modify their existing tower under Sections 8.8-1, 3.1-1 and 9.3-3 of the Zoning Bylaws, Map 28 Lot 1, 71 Airport Rd., LI 2 District.

The Notice was read along with the letter from the MVC which permits the Town to act on this application, (see file). Timothy Greene representing Crowne Castle for Sprint, explained the changes being requested.

Nancy asked about periodic inspections of the tower and whether Crowne Castle presently has funding in the Town Hall coffers for this purpose. Tim said he is doesn't know but that if additional funding is required, Crowne Castle, not Sprint, would be responsible. The Board agreed that it should be a condition of approval that funding be made available to the Town for future periodic inspections of the tower.

A motion was made and seconded to approve the Application with Conditions.

The vote on the motion was unanimous.

6:15 pm- A Continuation of 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.

Pam made note of the error in the Notice which lists the District as RU when in fact, the property is in the Light Industrial 1 (LI1) District. The correction will be made in the Decision.

Nancy spoke to the suggestion made at the last meeting that she, Dan Larkosh and Joe Tierney, Bldg. Inspector meet at the site to review the conditions there. Dan said that he had emailed Joe that request but did not hear from him and later Joe went out to the site himself. Joe stated that he is not allowed to do site visits now due to the coronavirus but went to take pictures for the board's review, (see file).

A discussion ensued regarding the responsibility for the care of the lot. The Board stated that ordinarily, this is on the lot owner.

Dan said that he wants the hearing to be continued so that the site visit can take place. He stated that he cannot enforce the Town's bylaws as they relate to his tenants. He suggested that Joe write to his tenants and that it is unfair and misdirected and that he is entitled to operate a junkyard. Nancy said she would like to set a time for the site visit after May 4th. Joe asked Dan for copies of the tenants' leases suggesting they go to the Planning Board for site plan review.

Andy asked why Dan cannot speak to his tenants about complying with the Town's Bylaws. Joe said he has no problem with emailing the tenants. Dan said he had tried to evict the tenants and had even blocked the driveway.

A motion was made and seconded to continue the hearing until May 7th at 5:55pm. The vote on the motion was unanimous.

Informal Hearing: Zilla

Kevin McKeon presented the Zilla's request to change the pool fencing approved in their Special Permit. The new plan submitted showed the three types of fencing they would like to use and the locations of each, (see file). Derek Avakian, an immediate abutter to the property asked if there would need to be more clearing to accommodate the change. Kevin said that there would not be additional clearing. Derek said he is in favor of the taller, 7' fence along Vineyard Meadow Farms Rd.

Andy Zaikis asked if the fencing was all within the required setbacks. Kevin stated that it is. It was noted that the 7' fence along the road is 190' from the front setback. All agreed that plantings should be worked out with the abutting neighbors.

A motion was made and seconded to approve the changes to the pool fence approved in Special Permit # 2019-32 as di minimus. The vote on the motion was unanimous.

The Lambert's Cove Inn Entertainment License was discussed. It was agreed that the application to the Board of Selectmen matched what was approved in the Decision made by the ZBA on October 1, 2019 and that the Board was in favor of the Board of Selectmen issuing the license.

The discussion continued with focus on how to move along with the parking issue at the Inn since it was not listed as a Condition to the Special Permit issued in the fall, only as a Finding. All agreed that a letter should be sent to John Cain spelling out the details required in the parking plan. Larry suggested that Joe weigh in on the contents of the letter as well. Nancy asked Pam to draft a letter to the Board of Selectmen.

Correspondence: 2 letters from Building Inspector; Nixon and Williams - Reviewed

The meeting adjourned at 7:10 pm.

Respectfully Submitted, Pam Thors - Board Administrator