

## WEST TISBURY ZONING BOARD OF APPEALS

Thursday, May 11, 2023

Meeting Minutes

Approved May 25, 2023

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

**Absent:** Jeffrey Kaye

**Also Present:** Kim Leaird (*Board Administrator*), Matthew Cramer, Bryan Collins, Phil Regan, Ben Zachs, Troy Stanfield, David Smith, Audrey Snare, Christian Donato, Harriet Bernstein

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**5:00 pm** – The meeting minutes of April 27th were approved 4-0-1. Deborah abstained. Casey arrived late.

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**5:15 pm** – A public hearing on an Application for a Special Permit from Sarah A. Turano on behalf of **Troy and Kimberly Stanfield** to alter the existing use of a pre-existing, non-conforming structure from a 1,440 sq. ft., 34 ft. high, non-habitable Horse Barn to a new 643 sq. ft., 18 ft. high Wellness Studio Barn under 11.1-3A of the Zoning Bylaws, at **140 Sarita Walker Rd., Map 38, Lot 7.1** in the RU district.

Larry read the hearing notice. Phil Regan and Matt Cramer from Hutker Architects presented the project. Also present was Bryan Collins from Sourati and Troy Stanfield. Phil showed the board pictures of the existing structure which is a dilapidated barn and brought slightly altered design plans (new exterior design and interior layout).

The existing barn sits at the junction of a couple of roads where Sarita Walker branches off into different driveways and easements. It is in rough shape and was used as a horse barn. It's one of the old red barns we used to see on the south shore. They are proposing to build a replica of the existing barn but at a much smaller scale; reducing the floor area from 1440sf to 643sf, as well as reducing the height from 34 ft. to 18 ft. The current structure is seated less than a foot from west property line, but they propose to pull away from the west border by 6 feet whereas now, it sits at one foot.

The nonconformance is really the west property line and to some extent the height, but it is a pretty large footprint and they will be improving the nonconformity. They will rebuild the interior with the trusses and swing through and pick up the roof above. A portion will be used as a yoga space and the other side will be a fitness space. The building is close to the guest house so a path down from the guest house would allow them to utilize this. He mentioned they would be back in the future for the main house which is sited down closer to the pond.

Andy asked about location of the pond and was told it is sited pretty far away from the barn. There is a described wetland on the plan but it's for a neighboring lot. Andy asked if they could repurpose the wood. Phil said they looked at it very closely, especially at the trusses, but there's been a lot of damage in part because the roof has been open [to the elements].

Larry read the bylaw and said it would be considered a non-habitable space and Phil agreed, although there is a plan for a half bath. Larry told the board that it is a nonconforming structure, but not a nonconforming use. In theory, they could apply to rebuild it exactly the shape and siting as is now. The

board needs to decide if the proposed alteration is substantially more detrimental than the existing use. If they approve the special permit, it would remain an accessory structure for the use of the residents of the property. It is a ‘wellness studio barn’ – it’s not a yoga barn where other people are going to come take classes, for example. Phil said it’s strictly for personal use.

*It was moved and seconded to close public hearing and open board meeting.*  
There was no more discussion.

*A motion was moved and seconded to Approve the Special Permit.*

*A roll call vote was taken with the following resulting votes. Motion passed 6-0. Passed unanimously*  
*L. Schubert-yes, J. Lowe-yes, D. Wells-yes, A. Zaikis-yes, Casey Decker-yes, P. Barrett-yes*

*Larry went over the 20-day appeal period and reminded applicant that once it expires, the decision must be recorded by applicant and a receipt brought back to the Building Inspector.*

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**5:35 pm** – *(Continued from April 27, 2023):* A public hearing on an Application for a Special Permit from **Casey Decker** to construct a 641.7 sq. ft. ground-mounted solar array requiring 40’ of rear yard setback relief under 4.2-2D4 of the Zoning Bylaws, at **625 Edgartown Rd., Map 31, Lot 28** in the RU district.

Larry read the hearing notice. Larry summarized the first hearing and the site visit the board attended the day before. Casey said they agreed to plant two to three 6-8 ft. trees in a few locations right behind Harriet’s planting bed, just north of her shed. Harriet discussed w/Katherine the types of trees she would like. Larry drew three circles on the plan to indicate approximately where they would be planted.

Harriet asked if they’re 8’ft tall wouldn’t they cast shade on the array from the west side. David Fuller said not really because they will be planted due west, and in late afternoon there is not really effective solar production. There are also dual access trackers whose job it is to capture that late solar. Andy asked if Harriet was comfortable with what was decided about the trees; she said yes.

Casey noted that they had not determined which tree species yet and he proposed that they discuss that privately [with Harriett). Larry agreed.

*It was moved and seconded to close public hearing and open board meeting.*

Larry proposed two conditions: 1) Plant two to three 6-8 ft. trees to screen array from neighboring lot (31-6) and 2) Maintain the integrity of the screening.

*It was moved and seconded to Approve the Special Permit as conditioned.*

*A roll call vote was taken with the following resulting votes. Motion passed 4-0.*

*L. Schubert-yes, J. Lowe-yes, A. Zaikis-yes, P. Barrett-yes*

*(\*Note, Deborah Wells was not present when hearing first opened on April 27 and so was ineligible to vote)*

*Larry went over the 20-day appeal period and reminded applicant that once it expires, the decision must be recorded by applicant and a receipt brought back to the Building Inspector.*

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## Informal Hearings

- **FFD Enterprises: Fine Fettle Dispensary, 510 State Rd. Map 16 Lot 101.** As per condition set out in Special Permit #2022-39, granted August 22, 2022, FFD Enterprises requests review of their daily and/or weekly walk-in traffic data and to re-visit allowing Sunday hours to start June 1, 2023.

Ben Zachs was present. Larry summarized the amended decision from August 2022. The amended conditions did not allow Sunday hours but required applicant to return in May 2023 with daily and/or weekly walk-in traffic data so they could determine whether Sunday hours might be allowed starting June 1, 2023. Ben said yes, last summer was appointment only and then they requested to change that to allow walk-ins. They would like to be open 12-6pm starting the Sunday after Memorial Day through the Sunday of Labor Day weekend. He supplied data for every transaction for every hour of every day since January 1, 2023.

Larry said just a cursory scan indicates that maybe the daily average is 43.5 customers per day? If they allowed Sunday hours, would they expect approximately the same number of customers as the rest of the week.

Ben said from the data they have with their off-island stores, Sunday is actually not their busiest day on an hourly basis. Generally, it is Thursday nights, Friday and Saturdays. Ben said on Sundays it could be potentially busy for the first hour. They do not expect to see a spike in numbers. Pat asked if they were allowed to be open on Sundays would they expect it to not be as busy as the rest of the week. Ben said he is not sure, thinks the better metric would be if they see the medical numbers shrinking.

After informally looking at the data, it appears that approximately 36 customers could be expected on Sundays if allowed. They do expect the hourly rate to be the same (i.e., more customers from noon-1pm, which is similar to other days of the week. Ben said 90% of their traffic are walk-ins.

Discussion followed about whether or not they must file an official application to amend the Special Permit to allow Sunday hours or if it could be handled administratively. It was determined that they must amend the special permit with an official application. There is available time on June 8, 2023 and an application will be submitted next week.

- **Stephen Hart: 6 Pine Lane, Map 10 Lot 53.** Request re: Special Permit #2016-04, granted March 17, 2016 and extended two times, to alter approved height / roof pitch of barn structure.

Stephen Hart was present to ask the board to approve a change in the roof pitch and height of his accessory structure (barn) that was approved in his special permit. He put in the foundation last summer and ordered all the stock and now that he is ready to start building he discovered that the shingle warranty will not stand on a 3-pitch but it will if he changes to a 4-pitch. It will bring the height up to 23'11" instead of 22'.

Larry confirmed that he is not changing footprint and said the board could determine this is a *de minimis* change. The board voted unanimously that this was a *de minimis* change.

The Meeting adjourned at 6:15 p.m.

Respectfully submitted,  
Kim Leaird, Board Administrator