

WEST TISBURY ZONING BOARD OF APPEALS

Thursday, May 25, 2023

Meeting Minutes

Approved June 8, 2023

Present: Julius Lowe, Deborah Wells, Jeffrey Kaye, Casey Decker, Pat Barrett

Absent: Larry Schubert, Andy Zaikis

Also Present: Kim Leaird (*Board Administrator*), Betsy Carnie, Jenik Khelalfa, Sean Dougherty, Greg Ehrman, Reid Silva, Michael Holtham, Jessica Holtham

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5:00 pm – The meeting minutes of May 11th were approved 4-0 (Casey arrived late).

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5:15 pm – A public hearing on an Application for a Special Permit from **Peter and Jenny Brody** to construct a 744 sq. ft. 2-car garage with a 594 sq. ft. Accessory Apartment above under 4.4-3A of the Zoning Bylaws, at **62 Ophelia Way, Map 11, Lot 44** in the RU district.

Julius read the hearing notice. Presenting were Sean Dougherty and Greg Ehrman from Hutker Architects along with Reid Silva. Reid said the Brody's are not yet year-round residents and wanted to make sure that first, the Accessory Apartment bylaw would still be applicable. They rented this property for 20 years before purchasing it 12 years ago and plan to retire here full time. The intent for the accessory apartment is for their daughter.

Julius said there were once year-round occupancy requirements when the bylaw was originally written, but they have since been removed [so the bylaw applies].

Applicant has already been to the Planning Board for site plan review for a proposed main dwelling over 3000 sq. ft. In addition, they need to go to the Conservation Commission as half of the property (but not the garage/apartment) is near the pond.

The board confirmed that the other plans for the property do not play a role in their review of the garage with accessory apartment. The board looked at the floor plans and determined that there is only one means of egress shown and there must be two forms of egress. They could be interior accessible stairs, but walled off from the rest of the garage. Window egress does not count for an accessory dwelling (which is similar to a guest house in that regard).

Julius said that there will be an affidavit that is signed yearly attesting to how it's being utilized / rented, whether it's used by the family or not, etc. There was no correspondence from abutters. The Planning Board had reviewed the application and sent it back to the board for its consideration.

Julius said that if they approved the special permit, they could condition it so that the applicant would need to provide a plan that clearly shows the second form of egress, which could be approved administratively.

Greg said they will adjust design for the second egress set of stairs.

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

The board discussed a condition that a revised plan be submitted that shows a second form of egress that does not substantially change the footprint of the building. All of the restrictions associated with affordable housing will be part of, and incorporated into the special permit.

Deborah said that the special permit should not be released until the new plan is reviewed and approved by the board. Everyone agreed.

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

A roll call vote was taken with the following resulting votes. Motion passed 5-0. Passed unanimously. J. Lowe-yes, D. Wells-yes, J. Kaye-yes, Casey Decker-yes, P. Barrett-yes

Julius 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 – A public hearing on an Application for a Special Permit from **Jessica and Michael Holtham** to construct a 765 sq. ft. 2-car garage with a 740 sq. ft. Accessory Apartment above requiring 35 ft. of side yard setback relief under 4.4-3A, 4.2-2D4 and 11.2-2 of the Zoning Bylaws, at **575 Edgartown Rd., Map 31, Lot 34.1** in the RU district.

Julius read the hearing notice. Jessie and Michael Holtham were present. They said they originally wanted to do an 800 sq. ft. studio with full bath but felt pressured to switch to an Accessory Apartment as a studio of that size with a full bath would not have been allowed. The plans they have do not have a second egress or the required kitchen.

They want to site the garage structure in their current driveway because it is [already] well used and they would like to put an apartment above. They abut Scott's Grove where there already is density. The main push is for additional outdoor space, not so much the apartment as they don't have a reason to rent right now. Jessie asked to confirm that the setbacks are to the lean-to or overhang and was told yes.

There were several letters of support that Julius read into the record (*Richard and Hermine Hull, Jeremy Berlin, Jon Hartzband and Skye Sonneborn, and Hannah Keefe*). There was a letter from the Building Inspector saying the plans needed a second egress and kitchen.

Julius asked what was plan was for build-out. Jessie asked if it would be possible to move forward with just the garage. Discussion followed about whether or not it would make more sense to apply for a garage with storage above instead of an accessory apartment and then they could amend the permit as build-out progressed.

Applicant requested to withdraw their application without prejudice. The board agreed and also took a vote to waive the application fee should they decide to re-apply.

A roll call vote was taken with the following resulting votes. Motion passed 5-0. J. Lowe-yes, D. Wells-yes, J. Kaye-yes, Casey Decker-yes, P. Barrett-yes

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Informal Hearings

- **Charter School, 424 State Rd. Map 16 Lot 96.3.** Informal discussion around the use of the Charter School's commercial kitchen by other members of the community.

Jenik Khelalfa and kitchen manager Betsy Carnie were present. Betsy said during the summer the Charter School's kitchen sits empty and several members of the community have approached them about using it those months. North Tabor Farm was able to use the kitchen last summer after Joe determined there was also an agricultural component, but they would love to open it up to others – especially young people who are getting squeezed out due to the lack of kitchen space.

While there is an ongoing “commissary kitchen” (community kitchen) feasibility study led by Kate Putnam, there is still this interim need. The lack of space is driving people off the island. The Board of Health has cleared their kitchen but the location of the school is not zoned for commercial use, falling just outside the Mixed Business district. This means that while the school itself qualifies per the Dover Amendment (educational, agricultural use), others using the kitchen falls outside the zoned scope.

They are interested in renting it a very reasonable price, yes, but this is not a money-making proposal. The drive is to make it available to people who need it – something that is lying fallow when the school is closed.

Discussion followed about approaching the Select Board, perhaps alongside the West Tisbury School, because they have a much wider latitude to allow things in the town. In order to apply for a special permit, you must file under a bylaw and that is not something that currently exists within our bylaws. Joe indicated he would also review individual applications to determine if they could qualify under agricultural, but Betsy said that younger people who do not necessarily own farms need the kitchen space more.

- **Watcha Club LLC, 100 Watcha Club Rd. Map 43 Lot 1.** Requests to modify pool location and modify guest house size and location as approved in Special Permit #2022-44, granted September 8, 2022.

No one was in attendance, Kim will reach out to applicant.

The Meeting adjourned at 6:15 p.m.

Respectfully submitted,
Kim Leaird, Board Administrator