

WEST TISBURY ZONING BOARD OF APPEALS
Minutes for Tuesday, July 11, 2019 meeting
2nd Floor, West Tisbury Town Hall - @ 5:00 PM
APPROVED ON AUGUST 22, 2019

PRESENT: Larry Schubert-Vice Chair, Tony Higgins, Julius Lowe, Toni Cohen and Deborah Wells

Also Present: Pam Thors, Board Administrator and members of the public, (see attach#1)

Absent: Nancy Cole

5:15 pm: A hearing on an application from Peter Rodegast, agent for Julia Humphreys for a Special Permit to construct an Accessory Apartment under Section 4.4-3 (A) of the Zoning Bylaws, on Map 10 Lot 11, 16 Briarwood Ln., RU district.

The notice was read and Peter presented the project. He stated that Julia's house has a carport that she would like to replace with a two car garage with an accessory apartment above. It will be 564 sq ft. for visiting relatives and a future caregiver for the owner. He said that two bedrooms in the main house will be combined so that the total septic allowance in place is compliant with the number of bedrooms. He stated that it is a little bit bigger than the existing carport but still within the required setbacks. Rosemary Stimola a close abutter to the property stated that she had seen the plans and found them to be impressive, smart and a forward thinking use of the space, wishing Julia well.

Findings:

- 1) The Accessory Apartment will have one bedroom and be 564 square feet.
- 2) The structure will conform to all setback requirements.
- 3) Two existing bedrooms in the main house will be combined into one to maintain current bedroom count allowed by existing septic system.
- 4) There was no abutter opposition to the project
- 5) The applicant is aware of and agrees to comply with the regulations regarding Accessory Apartments.

Toni Cohen moved and Julius Lowe seconded the motion to close the hearing and open the board meeting.

Larry went over the affordable housing requirements and process with Julia. She said she is aware of all of her responsibilities regarding the affordability aspect of her application.

Conditions:

- 1) Owner will comply with Sections 4.4-3 and 4.4-4 of the Zoning Bylaw.

A motion was made and seconded to GRANT with CONDITIONS, the application for an Accessory Apartment. The vote on the motion was in favor with one abstention (Julius Lowe). Vote by Associate member Deborah Wells was counted.

Larry explained the 20 day appeal period.

5:35 pm: A hearing on an application from William and Selena Roman for a Special Permit to construct a Guest House on a lot containing 4.42 acres under Section 4.4-1 (B) 2 of the Zoning Bylaws, Map 25 Lot 4, 20 Alberts Pond Ln., RU district.

The notice was read and the applicant, Walker Roman presented the proposal. Walker stated that they would like to construct a 960 sf guest house. He stated that the lot was subdivided and a large portion was donated to the MV Land Bank.

Larry asked if at one point the lot lines were changed. Mrs. Roman described the circumstances under which the lot was divided and purchased by them. She noted the transfer of land for Conservation purposes. She explained how she and Ann Nelson had divided the land. She said that the edge of the pond was used as a boundary. At the point that they did the final survey, they showed the lot to be less than the expected 4.5 acres.

Julius asked if the lot retained the original lot number. He said that if this was the case that the lot retained all rights that it had prior to subdivision. Larry brought up the recent request by Nate Morgan who wanted to build on 2.9 acres that since the original subdivision had undergone a lot line change. In this instance, Town Counsel's opinion was that once the lot lines have been changed, the lot loses its pre-existing, non-conforming status and the rights going along with it. He stated his opinion that the lot is presently not large enough to accommodate a Guest House. Larry asked if there was any possibility that the Romans' could obtain the acreage from abutting lots. Mrs. Roman stated that that is not an option. She said that allowing the guest house would not affect the density in the area.

Larry read the letter from the Planning Board which states that the lot is not big enough to allow a guest house. Pam asked when the land was subdivided last. Mrs. Roman said it was done in 2010. Pam asked if they had given the property to the Land Bank or if the original owner did. She stated that the land was given to the land bank "through" Ann Nelson. Pam brought up the bylaw which speaks to land which is part of a body of water saying that the acreage of the lot should be reduced from the total to calculate the acreage. Larry stated that the section of bylaw that Pam presented deals with "Open Space" properties and is not applicable to this application. Mr. Roman spoke to the "spirit" of the subdivision which he identified as Conservation.

The difference between a Guest House and an Accessory Apartment was discussed. An abutter asked where the driveway would be. Walker said that they would use the existing driveway. Mr. Walker talked about his wish to have a house for his children and grandchildren. Mrs. Walker stated the advantages of a Guest House; such as two bedrooms and 1.5 baths so that they could have a live-in at some point in time if necessary. Julius commented that any increase will affect density of the neighborhood. A member of the public mentioned the possibility of taking one acre of land for an affordable lot which could be used by the family. Many options were discussed.

It was clarified that the Romans already spoke to the Conservation Commission. They explained that the high water mark designates the property boundary along the pond. A member of the public stated that the high water mark, which delineates the lot in question, is measured by the vegetation growth. She noted that in ten years, the acreage certainly may have changed. Getting and registering a new

survey was suggested. Larry stated the different options available to the applicant going forward. The Romans requested the Board to allow them to withdraw the application, “without prejudice”, so they can resurvey the lot and look into all of their options .

A motion was made to allow the applicant to “Withdraw without Prejudice”. The vote on the motion was unanimous.

5:55 pm: A hearing for an appeal filed by Jay Theise, Esq., agent for Myron Garfinkle-Tr. of the MBG Realty Trust and Scott M. and Charlotte Caskey, of an April 4, 2019 decision by the West Tisbury Zoning Inspector to issue a building permit to construct a single family dwelling on Map 38, Lot 7.12, 118 Sarita Walker Rd, RU district. The appeal is filed under Sections 4.2 and 4.2-2 (A) 3 of the Zoning Bylaws and under MGL Ch40A, Sections 8 and 15 of the Zoning Act.

The board voted unanimously to allow Jay F. Theise and Associates to withdraw the application, “Without Prejudice”, per the applicant’s request.

Tom Taylor-

Rebecca Solway introduced herself and her father, Tom Taylor. They expressed their interest in building an Accessory Apartment for Tom and their wish to apply for setback relief to build in the “No Cut Zone” indicated on their case file plan number 327. They stated that their lot is unusually shaped, saying that it is curved on one corner. They were there to see if the Zoning Board of Appeals has the authority to grant them the setback relief. Tom asked specifically if it could be allowed via Special Permit. Tom said they would like to build a storage barn with the Accessory Apartment included. Julius compared this situation to that of another lot that had gotten a Special Permit for an accessory structure which was situated in front of the main dwelling, within 100 feet of the setback. Rebecca stated that the Road Association is not in great shape since the developer of the subdivision, Bernard Baumrin, who was also the owner of the road, has died. The problem is a legal one that the homeowners are in the process of sorting out. It was ascertained that the “No Cut Zone” is not mentioned in the plan referenced on the case file. Tom said that they would offer a lot of screening with Leland Spruces to block traffic noise and that there are only a few larger Oak trees that would have to come out. Tom said that building outside of the No Cut Zone would be beneficial as far as lot shape and existing sprinkler system are concerned. The size and specifics regarding construction of an Accessory Apartment were discussed.

Larry said that these are all things that can be discussed at a hearing. He said that as far as the “No Cut Zone” is concerned, the ZBA is authorized to grant setback relief.

Tom described the barn they would like to build which would provide boat and yard equipment storage as well as the Accessory Apartment. Rebecca stated that a Road Association exists, but until they are able to take collective ownership of the road, they cannot force payment of dues etc. She said it is listed as a Corporation by the State but doesn’t have ownership rights at this time.

It was suggested that they speak with Joe Tierney to ask his opinion of the “No Cut Zone”.

Tom mentioned that they would only need to take down 2-3 Oak Trees within the “No Cut Zone”. Larry asked specifically how much they would need to encroach upon the 100’ setback.

Larry went over some of the requirements for Accessory Apartments and Structures.

He said that the Zoning Board of Appeals would be able to issue a Special Permit to build into the “No Cut Zone”.

Travis Ritchie- Informal hearing for Fire Tower Rd

Travis Ritchie asked the ZBA about adding a roof deck to the Construction of the dwelling at 42 Fire Tower Rd. The railing height was discussed. Whether the railing is considered part of the construction was identified as the most important issue. Larry said he does not see this as a minimis change. The plans were reviewed. It was ascertained that the roof deck would only be accessed by an indoor stairway and does not increase the height of the overall structure. It also doesn’t interfere with the view from any vantage point. Larry clarified that the change would need to be advertised and heard as a change to the existing Special Permit.

The Garcia plans for construction at 560 State Rd were reviewed. The Board was in agreement that there needs to be a set of elevations for the main house so that the Board could review the front of the entire house as it is seen from the road. Pam said she would notify Shelyn and let her know that she needs to submit them before the Board can approve the change.

Larry read the letter from Joe Tierney to Elizabeth Specht owner of 17 Oak Knoll Rd who is according to the letter running Sisco Family Services from this lot.

He also reviewed the memo from Pam to the Board summarizing the conversation she had with Ron Rappaport regarding the Sobel saw mill. Pam said she wanted to keep the Board abreast of the continuing activity on the site and the advice of Town Counsel that the only recourse for abutters is for them to contact the Building Inspector’s office when Sobel is operating the mill. This is so that Joe can go out to hear the actual noise level to determine if there is a violation of the noise bylaw.

Larry introduced Faren Worthington who sat in on the meeting to see if she would like to serve on the ZBA. She said she would get back to the board at their next meeting.

**The meeting adjourned at 6:55 pm.
Pam Thors, Board Administrator**

**ZBA Meeting of July 11, 2019
Sign In Sheet**

Faren Worthington

Peter Rodegast

Walker Roman

Selena Roman

Danielle Mulcahy

Bill Roman

Rosemary Stimola

Ena Thulin

Rebecca Solway

Thomas Taylor

Travis Ritchie