

WEST TISBURY ZONING BOARD OF APPEALS

Minutes for Thursday, July 23, 2020 meeting

Online meeting via ZOOM- @ 5:00 PM

APPROVED AT THE MEETING OF AUGUST 27TH 2020

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

Absent: N/A

Also Present: Stoilka Sabeva, Gustavo Batista, Terrence Currier, Marc Rosenbaum, Val and Rick Estabrook, Travis Ritchie, Geoffrey Rose, Abby Rosenthal and Pam Thors, Board Administrator,

5:00 pm

The minutes of the meetings of July 2, and 9, 2020 were approved with corrections.

The Open Meeting Law Complaint filed by Peter Wells and Tara Whiting-Wells was discussed. It was agreed that the issue needs to be discussed at a separate meeting. Nancy stated that this would give the board members time to review the filed complaint and post an agenda specifying the board's intention to act on the issue. The hearing will be scheduled for July 30, 2020 at 5pm.

5:15 pm

A Public Hearing on an Application for a Special Permit from Stoilka Sabeva to construct an 18'x 36' in ground pool with an 8'x 8' spa, a 12'x 20' cabana with stove and sink and a 10' x 10' pool equipment shed requiring 30' of setback relief under Section 8.5-4 (C) and 4.2-2 (D) 4 and 11.2-2 of the Zoning Bylaws at 216 Oak Lane, Assessor's Map 17, Lot 96, RU District.

The Notice was read and Stoilka and Gustavo presented their project. Stoilka said she had spoken with abutter Marc Rosenbaum and liked his idea to put the pool equipment in another location which would not require setback relief. She said they plan to put the equipment in a sound insulated enclosure attached to the west side of the garage/accessory apartment. Gustavo mentioned that they might look into in-ground enclosures.

John Rau asked if a new site plan is necessary. Nancy said that they would require an updated plan but that as long as the location does not require setback relief, it could go anywhere on the lot. Pam said that the board could condition its approval on the applicant submitting a new plan showing the location prior to a use permit being issued.

A letter from Kathy Logue, an abutter, was read. The letter expounds on the noise generated by pool equipment and asks that the board implement all possible mitigating measures. Marc Rosenbaum stated that his concerns have been addressed for the most part by the change in location of the pool shed but that he is interested in knowing what the sound insulating enclosure will consist of. Gustavo said he spoke to the pool installer about the pool being a salt water pool but hadn't researched the equipment system. Stoilka said that they are open to suggestions about the pool equipment enclosure and just want to accommodate everyone's concerns. Marc Rosenbaum said that South Mountain consults a sound specialist in situations such as these. Stoilka said she would be happy to contact that person if Marc would email her the contact information. Pam reminded the room that the bylaw does not specify anything more than a sound insulating enclosure for the pool equipment. She also noted this is a bylaw requirement that the Building Inspector is well aware of.

Marc Rosenbaum said that he is appreciative of the fact that the applicants are taking care of the improvements they want to make on their property all at once rather than there being construction every summer. Terrence Currier said that his concerns have all been addressed. Val and Rick Estabrook, immediate abutters to the property expressed their full support for the applicants, stating that they have been excellent neighbors who always kept them apprised of what was happening on the property.

Larry moved and John seconded a motion to close the Public Hearing and open the Board Meeting.

Larry mentioned the “boiler plate” conditions that apply to all pool installations in West Tisbury. He described the filling, maintenance and emptying of the pool.

Pam asked if the updated site plan should be a condition of approval. Nancy said that it should be, also mentioning that any changes to the plan need to be reviewed by the ZBA.

A motion was made to approve the application with Conditions. A roll call vote was taken; Nancy Cole-yes, Larry Schubert-yes, Julius Lowe-yes, Deborah Wells-yes, John Rau-yes, Andy Zaikis-yes. The vote was unanimous.

Nancy reviewed the 20 day appeal process.

5:35 pm

A **Continuation** of a Public Hearing on an Application for Special Permit from Lynley Projects LLC to reconstruct, with alterations, a pre-existing, non-conforming structure in the Shore Zone of the Coastal District requiring 8’ of height relief for flat roof dormer under Sections 6.1-4 (B), 6.1-6 (A) 3 and 11.1-3 (A) of the Zoning Bylaws, 63 Boghouse Way, Map 3, Lot 7, RU District.

A request was made by the applicant to Withdraw this Application without Prejudice.

A motion was made and seconded to allow the Withdrawal without Prejudice. A rollcall vote was taken; Nancy Cole- yes, Larry Schubert-yes, Julius Lowe-yes, Deborah Wells-yes, John Rau-yes, Andy Zaikis-yes. The vote was unanimous.

A Public Hearing on an Application for a Special Permit from Lynley Projects LLC to reconstruct, with alterations, a pre-existing, non-conforming structure in the Shore Zone of the Coastal District requiring 8’ of height relief for a flat roof dormer at 20’-1” above mean average grade and 2’ of East side yard setback relief under Sections 4.3-3 (D), 6.1-4 (B), 6.1-6(A)3 and 11.1-3(A) of the Zoning Bylaws at 63 Boghouse Way, Assessor’s Map 3, Lot 7, RU District.

Pam noted the error on the agenda, stating that the applicant will be requesting a Withdrawal without Prejudice on the original application. She noted that the new hearing was advertised as required.

Larry asked about the Conservation Commission’s (ConComm) request for a joint meeting on the application. Nancy explained that the ConComm has already voted to approve the new application.

Travis explained that the lot is small and narrow with wetlands on the landward side and the coastal bluff on the ocean side. He said there are also two wells on the property, one which serves the abutting lot on the left. He said that the new owner had intended to add a pool to the property and lift the existing house to place a new

foundation beneath it prior to an interior renovation. He said that after a more thorough inspection of the house, it was determined that this option would be more disruptive to the environment than a total rebuild would be. He also cited the aged septic system and foundation. He said that the current plan is to move the house back 10' from the bluff and to make the pool smaller to keep it out of the wetland buffer zone. He said they had also reduced the septic capacity from 8 bedrooms to 5 bedrooms. He said that the size and narrow shape of the lot made moving the house landward tough. He stated that the plan is not perfect but that they tried to weigh all concerns with what the owners were willing to concede. He said that he is hopeful that the new plan satisfies all parties.

The new site plan was reviewed. John asked if only one corner of the garage will encroach upon the setback. Travis responded that the new plan increases the non-conformity of the garage by placing it two feet closer to the East side yard lot line. It was verified that bylaw section 11.1-3 (A) allows the extension/alteration of a non-conforming structure as long as the ZBA finds that it is not more detrimental to the neighborhood than the original non-conforming structure.

Travis went on to say that renovating the existing house would have been prohibitively expensive and possibly put more strain on the fragile coastal environment than a complete rebuild will. He noted that parts of the house will be located even more than an additional 10' from the bluff. Nancy said that throughout this process she has asked Concomm members here and there whether they were more concerned with the bluff than the wetlands and received differing opinions.

Pam brought up the issue of the plumbing facilities and on-site sanitary disposal facilities mentioned in bylaw section 6.1-4 (B) Shore Zone uses requiring Special Permit. She said that building inspector Joe Tierney had sent her a listing showing the numbers of various types of plumbing fixtures that must not be increased according to the bylaw. Pam asked Travis if the new plan increases the number of fixtures or whether it remains the same. Travis verified that Joe would find no increase in this number upon his inspection of the new structure.

The height relief being requested for the flat roof was discussed. Travis stated that the limit for any roof under a 3'pitch is 13'. Larry asked if this is to give more headroom on the upper floor. Travis said that it is but that it doesn't increase the overall height of the structure.

Pam read the letter from the Conservation Commission stating that they had approved the current application and the letter from Tim Doran, an abutter whose only concern is that the house may become visible from the beach. Travis verified that it will not.

Pam stated that she had spoken to Joe Tierney regarding the previously approved pool which ordinarily would come before the ZBA in a scheduled informal hearing. Joe assured Pam since the only change to the pool is a decrease in size, that he would not feel the need to refer this change to the ZBA but would approve as de minimis.

Larry said that he thought that the applicant worked hard with the other boards in town and did a good job making everything fit while remaining sensitive to all concerns.

A motion was made to approve the Application for Special Permit. A roll call vote was taken; Nancy Cole-yes, Larry Schubert-yes, Julius Lowe-yes, Deborah Wells-yes, John Rau-yes, Andy Zaikis-yes. The vote was unanimous.

Nancy explained the 20 day appeal period.

5:55 pm

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 Notice was read. Nancy stated that the application was referred to the Martha's Vineyard Commission (MVC) months ago and that the hearing was continued until such time as they rendered their decision. She noted that Geoffrey Rose has sent them a Memorandum of Understanding, (MOU) that he will be submitting to the MVC next Thursday. She stated that they had also received a letter from an abutter to the MVC addressing the MOU. She said that both are now part of the public record and the file and will be read at the hearing following a decision by the MVC. All members agreed that this action is appropriate.

A motion was made to continue this hearing until August 27, 2020 at 5:55 pm. A roll call vote was taken; Nancy Cole-yes, Larry Schubert-yes, Julius Lowe-yes, Deborah Wells-yes, John Rau-yes, Andy Zaikis-yes. The vote was unanimous.

Pam read the letter from Jeffrey Kaye who wrote asking to be considered as an applicant to serve on the board as an Associate Member. She was asked to invite Mr. Kaye to the meeting on August 27th.

The meeting adjourned at 6:35 pm.

Respectfully Submitted, Pam Thors-Board Administrator