

WEST TISBURY ZONING BOARD OF APPEALS

Thursday, August 25, 2022
Meeting Minutes

Approved September 8, 2022

Present: Larry Schubert, Julius Lowe, Deborah Wells, Andy Zaikis, Jeffrey Kaye, Casey Decker

Absent: N/A

Also Present: Kim Leaird (*Board Administrator*), Judith Fisher, Thomas Bena, Marilyn Vukota, Josh Gothard, Eunki Seonwoo, Susan Wasserman, Linda Powers, Mike Sisco, Elizabeth Specht, Steve Bernier

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5:00 pm – The meeting minutes of August 11, 2022 were approved 5-0-1 (*J. Kaye not present*)

5:15 pm – A public hearing on an Application for a Special Permit from **Stillpoint Martha's Vineyard Inc.** to convert a barn/greenhouse, a pre-existing, non-conforming structure, to a Public Place of Assembly under sections 11.1-3A, 3.1-1, 8.5-2 and 8.5-3 of the Zoning Bylaws at 20 Stillpoint Meadows Rd., Assessor's **Map 22, Lot 4.11** RU District.

Larry read the hearing notice. Thomas Bena and Marilyn Vukota, attorney for Stillpoint, provided background information about the project. The original 52-acre parcel was owned by Claudia Miller who in order to sell, wanted assurances that the property remained mostly in conservation. To that end, the parcel was sold to five different parties: Martha's Vineyard Land Bank (MVLB) and the Land Protection Fund bought 26 acres, Stillpoint Martha's Vineyard bought 14 acres, and the two existing homes were sold to private families. As part of the sale, Stillpoint offered both parking and walking trail easements to MVLB as so that people can park on [Stillpoint's] property and visit MVLB land and trails.

The Applicant was referred to the Martha's Vineyard Commission (MVC) by the building inspector for a modification to an existing DRI (*DRI 279, "Priester's Pond Subdivision"*). Back in 1988, both the MVC and the Town of West Tisbury approved a 12-lot subdivision. A thirteenth lot was deeded to the Dukes County Regional Housing Authority (DCRHA) as a condition of the DRI, but the lot was subsequently sold by DCRHA without building affordable housing. Marilyn said the MVC has given them a release of this condition and it has been recorded. Two of the lots (A and B) have no-build restrictions.

They are in front of the ZBA to talk about the use of the barn [on Parcel 4.11] and request a special permit for an increase in intensity of use and the size of the barn. Planned uses of the existing barn/structure include gatherings for meditation, conversation and different educational activities.

Marilyn said they had a site plan review with the Planning Board and are a non-profit educational entity. They understand they need to first finish with the MVC before being able to secure a special permit for the barn, but wanted to get in front of the board sooner rather than later.

The Applicant shared the following:

- Events taking place at this site will be quiet ones.
- Maximum occupancy inside the approximately 3,200 sq. ft. barn is 100 people.
- In addition to the trailhead and walking trails along the south boundary, the original MVC decision allowed the public to fish Crocker and Priester's ponds with permission.

- There will be a septic and a nitrogen-limiting system.
- There is already solar, the footprint is minimal.

Larry said in theory unless the lots are restricted, that the four residential lots could be developed. Marilyn said that they would be placing a voluntary restriction on themselves that will allow only “off the grid” structures on three of the lots.

Larry read correspondence from the Planning Board and Polly Hill Arboretum. The Planning Board said it may request further review to determine the final plan regarding activities, events, hours and days of operation and a final parking plan after review of the MVC decision.

Polly Hill Arboretum appreciates that the land is being preserved by the collaboration of so many groups. However, they are concerned about the number events after 5:30 as they will have staff housing (to be completed by June 2023) in close proximity to their shared property lines. They are concerned about car lights shining in to their development for any events starting/finishing after dark as well as noise generated by outdoor events such as weddings or outdoor music.

Meeting attendee Susan Wasserman expressed concern for the Mill Brook watershed and the development impact on trees in addition to the comments made by Polly Hill about noise and peaceful enjoyment. She also had concerns about it being a dangerous egress on to State Road.

Thomas said they have cleared and widened the exit to make it safer but Polly Hill made a good point about shared property lines. He hoped if they [both] add screenings with the 150’ setbacks, that should help.

Discussion followed about timing while it is being reviewed at the MVC.

The MVC will be doing a site visit on September 7, a day before Stillpoint’s hearing scheduled for September 8. Larry said at some point the ZBA would also like to do a site visit.

*A motion to continue the hearing to October 6 at 5:35 pm was made and seconded. Motion passed 6-0.
L. Schubert-yes, J. Lowe-yes, D. Wells-yes, A. Zaikis-yes, J. Kaye-yes, C. Decker-yes*

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5:35 pm - A public hearing on an Application for a Special Permit from **Joshua and Grace Gothard** for an in-ground swimming pool with 10ft of rear yard setback relief for a 120sf equipment shed on a lot located in the Major Roads Zone under sections 8.5-4A, 4.2-2D and 6.2-3A of the Zoning Bylaws at 11 Music St., Assessor’s **Map 32, Lot 60** VR District.

Larry opened the hearing at 5:52 pm and read the hearing notice. Casey disclosed he stamped the septic plan but feels he can sit on this project.

Josh Gothard said they are requesting a special permit for a pool as his mother-in-law will be residing with them and has a disability helped by aquatic exercise. The rear setback relief requested is for the equipment shed. The area proposed for the pool is currently screened from the public way by an existing 6-foot fence and the pool equipment will be located in a soundproof enclosure which would also house the equipment for their proposed advanced septic blower. In addition, the fencing will be existing stockade facing the street, all gates through pool fencing will be self-closing and latching, an automatic pool cover will be installed, and the proposed pool location meets all required 20ft setbacks. Front setbacks in the VR district are 40 feet in front, 20 feet on sides and rear.

Right now, they have cesspools but they are voluntarily putting in an enhanced septic system which helps reduce nitrogen by aerating the tank. It will be a standard leaching field, the only thing that changes is what goes inside -- it's a two-chamber system. The shed, enclosing both the pool equipment and the advanced septic blower, will also be a buffer between him and his back neighbor.

They went to the Historical Commission and the tree removal was reviewed and approved. The Planning Board referred the application back to the ZBA without further comment.

Julius asked what is proposed for the fence addition. Josh said it will be a nondescript mesh fence woven into the landscape in order to not take away from the picket fence of the church. There needs to be an offset of about three (3) feet from fence to fence.

Larry said they will need to submit an amended plan that properly shows exactly where fence will go because right now it shows it *on* the property line.

Larry went over the pool conditions that are a standard part of every pool permit.

A motion was made and seconded to close the hearing and open the board meeting.

Josh asked how long the special permit is good for as it has been hard to find contractors. Larry said it is good for two years but he can return to the board to request an extension.

It was moved and seconded to Grant the Special Permit.

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

L. Schubert-yes, J. Lowe-yes, D. Wells-yes, A. Zaikis-yes, J. Kaye-yes

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

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5:55 pm – A public hearing on an Application for a Special Permit from **Terra Search for Crown Castle and T-Mobile/Sprint** to amend Special Permit #2020-10 granted on April 9, 2020, to allow the replacement of six antennas and the addition of three antennas; the replacement of six remote radio heads and the removal of six remote radio heads; the replacement of two cables and the removal of two cables; and the addition of associated antenna equipment, new fiber conduits and the removal of obsolete equipment under sections 8.8-1, 3.1-1 and 9.3-3 of the Zoning Bylaws Map 28 Lot 1.25, 0 Airport (Rear), LI2 District.

Larry opened the hearing at 6:07 pm and read the hearing notice. The Applicant is at the Martha's Vineyard Commission on September 12 and 15 and has requested the ZBA continue the hearing.

A motion to continue the hearing to October 6, 2022 at 5:55 pm was made and seconded.

Motion passed 5-0.

L. Schubert-yes, J. Lowe-yes, D. Wells-yes, J. Kaye-yes, A. Zaikis-yes, C. Decker-yes

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6:15 pm – A public hearing on an application for a Special Permit from **Michael Sisco, Sisco Family Services** to operate a Service Business (Landscaping/Odd Jobs/Trucking) under section 8.5-2 and 3.1-1 of the West Tisbury Zoning Bylaws at 17 Oak Knoll Rd., Assessors' **Map 16, Lot 55**, RU District.

Larry read the hearing notice and opened the hearing. He noted that the Applicant had provided an updated site plan (dated June 7, 2022) since the last time they discussed this project.

Michael Sisco said when the board did a site visit he was asked if he would be willing to block off the street side because it was an issue to one of the neighbors. He proposed bringing two small trees down to the pre-existing driveway which will screen the area completely instead of it being open. They have a lot of trucks and have been working 12 hours a day. For the last three months, he said they are mostly [away from property] and have tried to clean up their act.

Larry said 8.5-2 governs business uses. From the Use Table we get what is allowed and then the following required standards:

8.5-2 Non-Residential Uses in the RU and VR Districts

Non-residential uses allowed in the RU and VR Districts and referenced to this section on the Use Table shall comply with following standards:

- A. *There shall be no evidence of the use through persistent or excessive sound, vibration or odor at the boundaries of the premises. The applicant does not do his business at the site; he gets in his truck and drives away.*
- B. *Buildings housing the use and exterior storage of materials or equipment shall be screened from off-premises view by vegetation, grade or location. There is no exterior storage.*
- C. *Parking for the use shall be located off-street and screened as in Subsection 8.5-2(B) above, unless the Zoning Board of Appeals agrees to reasonable modifications.*
- D. *No more than two vehicles in excess of 10,000 pounds GVW shall be regularly parked on the premises. A personal vehicle is allowed.*
- E. *Traffic generated shall not be more disruptive to the neighborhood than traffic normally resulting from agricultural or residential development considering volume, type and hours, unless the Zoning Board of Appeals agrees that reasonable modifications are justified by the size and location of the lot. Larry asked what the proposed times of day he would be pulling in and out. Mike said essentially one truck leaves at 7:30 am and returns by 7:00 pm, Monday-Saturday; no Sundays.*
- F. *The use must not cause or contribute to any erosion of land or increase surface water drainage from the lot. Larry said you can't do anything that drains into the roadway or the neighbor's lot. Mike said that they have made it so it drains to their own back yard.*
- G. *The use shall not create hazards, unacceptable disturbances, unacceptable injury to the neighborhood, or unsightliness visible from any public way or neighboring property. Applicant will not be storing anything outside the enclosed area.*

Larry said that points A-G points of Zoning Bylaw 8.5-2 will be incorporated into the special permit.

Letters of support were read into the record from Cathlin Baker, Tim Hoyt, Rich Huffam, Robert Francis, and Daniel Sauer.

Letters of concern were read into the record from Peter and Patricia Accinno and Christine Napolitan whose concerns were around noise and comings and goings. Larry discussed the concerns raised in the letter from Christine Napolitan.

- Yes, someone can apply for a service business for a property they do not own.
- The noise and traffic concerns are being addressed by the special permit and by limiting the hours to 7:30am to 7:00pm, Monday through Saturday.

Mr. Sisco said that his family are also tenants and he can't restrict their comings and goings.

Julius said that he needs to understand that he has a history in the neighborhood and that the neighbors are bound to have concerns.

Meeting attendee Linda Powers said that the issues are the additional traffic and noise that affect direct abutters and that the letters of support are from people who do not live across the street. She said that at any time during the day there are 6-7 personal vehicles parked in the driveway and with the addition of dump trucks, it is a lot of traffic and it affects her and Christine [Napolitan] who are direct abutters. She said no one wants to put him out of business, they just want less noise and traffic. While he has made great strides, over the years there have been many cease-and-desist letters that went ignored. This [history] does not leave them with a great sense of confidence based on past experience. She asked if the board might do another site visit, there are still issues with the property line.

Larry said in order for Mike to get his use permit, the zoning official would inspect to make sure the bounds are adhered to as depicted in the new engineered site plan (dated June 7, 2022).

Mike said she's right, he is over the lot line. He also said the business is separate from his family and that traffic is not something for which he feels he should apologize. They have done really well in the last three months and the neighborhood is full of trucks; it seems unfair for a microscope to be on him.

Discussion followed about personal vehicles over 10,000 GVW as many pickups made today are larger than when the bylaw was written.

Mike said they have one dump truck and his pickup truck and Joe said his personal vehicle exempt.

Discussion followed about how best to allay the neighbor's concerns. The board contemplated a condition that would review the situation in a year. That idea was discarded because if there are violations of the special permit then the building official would get involved.

Jeffrey acknowledged that Mike has done a lot to improve and he knows what will happen if he violates the terms of the special permit.

Meeting attendee Daniel Sauer said in his opinion it has been quiet all summer. They are not directly across street but down it a bit and abut the street to State Rd. He's up very early in the morning (3:30-5:30am) and has not heard much.

A motion was made and seconded to close the hearing and open the board meeting.

Larry said the hours stated will be 7:30am -7pm, Monday-Saturday (no Sundays). The decision will incorporate the standards of 8.5-2. It will also include an explanation of who holds the special permit or the service business: the use permit goes with the individual or business.

This is a permit for Mike Sisco in his capacity as the owner of Sisco Family Services; it is not transferrable. Should he leave the property, the special permit does not go with him.

It was moved and seconded to Grant the Special Permit with conditions.

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

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

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Informal Hearing – Steve Bernier, 469 State Rd. (Map 16, Lot 84)

Steve Bernier said he is here to discuss the re-charging stations under the solar canopies. The cars get charged for free, but the power to them has nothing to do with solar canopies, it comes from the store and he pays Eversource.

Over the past year, the electric vehicle marketplace has changed and there are many more on island today. He provides a “trickle charge” now but people need and want more and also 24/7.

Julius said [it sounds like] they want charge points – a proper vendor-based charging point. Steven said he is just starting to research, but hears it is done via an app. He told the board that ten years at the Vineyard Haven store they used “Mobile Me” suite. But now you plug them in. He said for an example of the issue is that recently an Audi was in his lot [for a long time] and when he went to take it out of the car he could not because it was locked in.

Steve said that right now he is paying electricity for everyone. Larry asked about the original special permit and if it had conditions around the re-charging stations. Kim will pull the special permit decision and research what happened back when it was granted. It could simply be a modification of the special permit.

The board also discussed the need to address re-charging stations in the town bylaws.

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Informal Hearing – Katherine Wilson / Casey Decker, 625 Edgartown Rd. (Map 31, Lot 28)

Application was approved six months ago for a detached bedroom and operating a service business. Casey said he is back to ask if adding a sink in the bedroom area and requesting setback relief for a cantilevered awning would be considered de minimis.

Larry read from bylaw 4.2-2, Projections into Setbacks:

1. The following projections into required setback areas shall be permitted:
 - a. Steps and stairs: four feet into side or rear setbacks.
 - b. Awnings or movable canopies: six feet into any required setback.
 - c. Cornices, eaves, and other similar architectural features: 1.5 feet into any required setback.

Deborah asked for the dimensions. Casey said twelve inches from setback line and he is asking for two feet of setback relief.

As for the sink, Larry said when there is a studio, a wash sink must be reviewed by Planning Board. He asked if he got an opinion from Joe. Casey said Joe told him to go back to the ZBA.

Larry said the proper procedure would be for him to apply [for the sink], take testimony from abutters and then also take testimony from Casey so that the planned use of the sink is on the record.

Casey asked if he pulls the sink, could the setback relief requested for the awning be characterized as a *de minimis* change. The board agreed and a vote was taken. Motion passed 5-0. Kim will reflect the board's *de minimis* vote and send a letter to the building official.

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Old Business –

- The board reviewed, approved and signed a legal invoice related to the Fine Fettle application.
- The board voted to extend the time limit required to act on the Fine Fettle (grow facility) application to October 21, 2022.
- The board voted to appoint Larry to the zoning bylaws working group.

The Meeting adjourned at 7:30 pm.

Respectfully Submitted,
Kim Leaird, Board Administrator