

**WEST TISBURY ZONING BOARD OF APPEALS**  
**Minutes for Thursday, August 27th, 2020 meeting**  
**Online meeting via ZOOM- @ 5:00 PM**

**APPROVED ON SEPTEMBER 10, 2020**

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

**Absent:**

**Also Present:** Pam Thors, Board Administrator, Jeffrey Kaye, Jon Hartzband, Skye Sonneborn, Reid Silva, Geoffrey Rose, Vickie and Hans Broscheit, Collins Heavener

**5:00 pm**

The minutes of the meeting held on July 23<sup>rd</sup> and July 30<sup>th</sup> were reviewed and approved with corrections.

**5:15 pm**

**A Public Hearing on an Application for a Special Permit from Jon Hartzband and Skye Sonneborn to construct a 14'x30' in ground pool requiring 21' of rear yard setback relief on a non-conforming lot under Sections 8.5-4 (C), 4.2-2 (D) 4 and 11.2-2 of the Zoning Bylaws at 619 Edgartown Rd., Assessor's Map 31, Lot 121.2, RU District.**

The notice was read and the applicants presented their project. Jon said that they are looking to construct a 14'x30' in ground swimming pool in their backyard which requires 21' of setback relief. They said that they have spoken to all of their neighbors who are all in support of their application. Jon explained that the reason they couldn't put the pool in the front yard is that they granted a utilities easement there to Island Housing Trust which prohibits any excavation there. They stated that they cannot even see the dwelling built on the Sidoti lot which is the lot which would be most affected by the setback relief they are requesting.

N. Cole asked about the pool equipment enclosure. Jon stated that the 6'x 6' structure is more than 150' from any neighboring dwelling. Nancy asked if the board members had any other questions.

L. Schubert asked if they had read the pool bylaw and the boiler plate restrictions on filling the pool and pumping away from wells etc. Jon said that they had.

J. Rau asked about correspondence. Pam said that there was none.

Harriett Bernstein, an abutter, mentioned that the pool will be a draw for many neighborhood children and expressed her concern for noise levels. She said she already hears quite a bit from the property. Jon stated that Skye is a teacher and will have a list of rules regarding pool usage. Harriett mentioned the bike path easement running along the edge of the property, asking how far the fence is from it. Jon stated that the fence will be 10' or 11' from the path.

N. Cole said that the fence does not encroach upon the path.

Harriett said that the applicants have been great stewards of the property and she is in support of their project while being hopeful that the additional noise will not be a problem. She asked if there is a limit on the number of pools that can be approved in any given neighborhood.

N. Cole said that there is no limit.

Harriett asked if this will eventually affect the water table. N. Cole said that it will not due to the restrictions on filling and emptying pools in West Tisbury.

Jevon Rego, the most affected abutter to the rear of the property, commented that they didn't think that the pool will have much impact on them and that the applicants have their full support.

Andy Zaikis asked Harriett if she is in support but is just concerned with noise. Harriett confirmed that this is the case.

*L. Schubert moved and Julius Lowe seconded the motion to close the public hearing and open the board meeting.*

*It was agreed that approval of the application should be contingent upon compliance with all pool bylaw restrictions.*

*A motion was made and seconded to approve the application with conditions. A rollcall vote was taken resulting in the following votes; N. Cole-Yes, Larry Schubert-yes, Julius Lowe-yes, Deborah Wells-yes, John Rau-yes, Andy Zaikis-yes.*

N. Cole went over the 20 day appeal period.

### **Informal Hearing-Farmers' Market extension of Special Permit**

Collins Heavener said that the market traditionally operates indoors but that they would like to extend the outdoor market at the Agriculture Society property until early fall due to COVID-19. He said they would like to have the schedule for Wednesdays go through September and the Saturday schedule be extended through October. He explained that he would like to see the vendors making money and see the community benefit from the market throughout the fall.

L. Schubert noted that the request is for Wednesday's market to be held in the evenings from 4-7 pm. Collins stated that they are requesting this change to accommodate the working people on the island who may not be able to come during the weekdays. L. Schubert asked if it will still be light enough. Collins said that they may have to cut the last two in September short depending on that.

L. Schubert said that he spoke to Joe Tierney, Building Inspector, who reported that the only complaint/comment on the outdoor market was from someone asking about vendors selling products that may or may not fall into the category of "Agricultural".

J. Rau asked if they expected there to be more people attending, mentioning that his only concern would be for abutter's complaints. Collins said that the outdoor market would be in lieu of an indoor one.

N. Cole said that traffic, (which would probably be the main concern of abutters), should be less considering the time of year. She also mentioned that the applicant is only looking to increase the schedule by a few weeks.

*L. Schubert moved that the request to extend the dates of the original Special Permit be considered de minimus and that the board vote to approve the Farmers Market outdoor operation at the Agricultural Society property to Wednesdays 4-7pm through September 30<sup>th</sup> and Saturdays 9-12noon through October 31<sup>st</sup>.*

*A rollcall vote was taken resulting in the following votes; N. Cole-Yes, Larry Schubert-yes, Julius Lowe-yes, Deborah Wells-yes, John Rau-yes, Andy Zaikis-yes.*

N. Cole went over the 20 day appeal process.

**5:35 pm A Public Hearing on an Application for a Special Permit from Vicki and Klaus Broscheit to build a garage with an accessory apartment above on a pre-existing, non-conforming lot under Sections 4.4-3 (A) and 11.2-2 of the Zoning Bylaws at 409 Lamberts Cove Rd., Assessor's Map 7, Lot 19, RU District.**

The notice was read and Hans stated their request to build a garage with an accessory apartment above it the property. He said that he had a very difficult time when looking for housing on the island and that the request was being made so that he would have housing and his parents could age in place, with a garage to keep vehicles out of the weather and provide all of them with more storage space. He stated that the property has a lot of vegetation already in place for screening and that he has contracted a local builder to construct a non-obtrusive garage with apartment above which would also allow him and his parents to "tidy up" the property.

Pam read the two letters in support of the application from abutters, (see file).

L. Schubert noted that there was not a second means of egress from the accessory apartment. All agreed that a vote to approve would be contingent upon board approval of plans showing the second egress, prior to the issuance of a building permit.

It was verified that the proposed apartment will be 783 sf.

Reid Silva stated that they had tried to locate the garage as far from the road as possible.

*L. Schubert moved and Julius Lowe seconded a motion to close the public hearing and open the board meeting.*

*A motion was made and seconded to approve the Special Permit with the Condition that a new plan showing the second means of egress from the accessory apartment be submitted for ZBA approval prior to the issuance of a building permit.*

*A rollcall vote was taken resulting in the following votes; N. Cole-Yes, Larry Schubert-yes, Julius Lowe-yes, Deborah Wells-yes, John Rau-yes, Andy Zaikis-yes.*

N. Cole stated that this application fulfills the original purpose of the accessory apartment bylaw which is to provide help for island families so that younger members may settle here and so that older members have the opportunity to age in place.

Nancy went over the 20 day appeal process.

**5:55 pm A (Continuation of) 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.**

Geoff Rose explained that the Martha's Vineyard Commission had acted on his application but that the Decision would probably not be delivered to the Town Hall until after Sept. 10<sup>th</sup>. He requested that the board continue the hearing until Sept. 24<sup>th</sup> at 5:55 pm.

*A motion was made and seconded to continue the hearing until Sept. 24<sup>th</sup> at 5:55 pm.*

*A rollcall vote was taken resulting in the following votes; N. Cole-Yes, Larry Schubert-yes, Julius Lowe-yes, Deborah Wells-yes, John Rau-yes, Andy Zaikis-yes.*

Jeffrey Kaye, volunteer for ZBA Associate Member told the board a little bit about himself and asked to be considered for the position. The board shared information about the ZBA process and welcomed his participation. Pam said she would email the appointment request to the Board of Selectmen and let Jeffrey know whether he would need to attend one of their meetings or not.

The letter from the Planning Board dated April 10, 2020 regarding Site Plan Review Referrals and Pam's email in response were discussed. Pam stated that she felt she had been "called out" by the Planning Board unnecessarily and was compelled to respond immediately to the letter. She explained that there had been applications earlier on that she had missed sending to the Planning Board in a timely manner but feels that recently all plans that needed Site Plan Review had been sent on time. She stated that the letter and the Zoning Bylaws are vague as to what types of plans should be referred to the Planning Board. She suggested that per the bylaw (9.2-1D), all site plans could be sent to them using the new computer system that is being implemented. They would then have the opportunity to decide which plans they need to review. Pam said that if they don't want to look at all of the Special Permit applications that she would like to have a specific and comprehensive list of all the types of plans requiring Site Plan Review. She noted that the bylaws should be updated by them to refer to the list. Pam said she would put together a letter for Nancy to review.

N. Cole state that she will be stepping down from the ZBA after the Patient Centric Application has been decided. ☺

The meeting adjourned at 6:45 pm.

Respectfully Submitted, Pam Thors-Board Administrator