

WEST TISBURY ZONING BOARD OF APPEALS
Minutes for Thursday, September 16, 2021 meeting
Online meeting via ZOOM- @ 4:30 PM

Approved on Sept. 30, 2022

Present: Larry Schubert, Deborah Wells, John Rau and Casey Decker

Absent: Julius Lowe, Andy Zaikis and Jeffrey Kaye

Also Present: Pam Thors, Bd. Administrator, Scott and Charlotte Caskey, Josh Gothard, Ann Marie and Jim Eddy,

5:00 pm

Larry opened the meeting at 5:00 pm

He asked Pam to go over the change/clarification of ZBA policy for the board. Pam stated that she had been in conversation with Tara Whiting, the Town Clerk, regarding clarification of the policy related to her timestamping ZBA applications that come to her first. Pam had sent the ZBA the following documents, (see attached), related to this issue for their review:

1. A copy of the Town of Edgartown's policy of review by the ZBA administrator prior to time stamping by the Town Clerk, which starts the municipal clock.
2. An email to the ZBA from Town Counsel stating that the use of similar language by the West Tisbury ZBA is both legal and appropriate.
3. Copy of West Tisbury Board of Appeals – Rules and Regulations with changes/updates.
4. ZBA Application with changes/updates.
5. Excerpt from Ch 40A regarding changes/updates to Rules.

Larry asked if Pam had run everything by Tara and if so, does Tara agree with the changes being suggested.

Pam said that she gave Tara a copy, they had reviewed it together, and that Tara agrees with the changes.

Larry said that usually applications come to Pam and she would ascertain whether or not they are complete. He said that she would then either get it to Tara to be time stamped, or contact the applicant and let them know what is missing from the submitted file. He went on to say that under the new Rules and Regulations, Tara would accept applications but let the applicant know that it will not be time stamped until it has been reviewed for completeness by the ZBA Board Administrator.

John Rau moved and Deborah Wells seconded a motion to approve the changes to the policy outlined in the updated Rules and Regulations.

A rollcall vote was taken with the following resulting votes: L. Schubert-yes, D. Wells-yes, J. Rau-yes, C. Decker-yes.

Pam asked about the changes she had made to the application form.

The changes which, include a reference to compliance with bylaw Section 9.2-2 Review Criteria, were discussed.

Larry asked what would happen if an application clearly does not comply with 9.2-2. He asked if the board would still be able to approve it.

John suggested that if the application does not comply but mitigating circumstances are addressed in the conditions of the Decision, perhaps the ZBA could still approve such an application.

Deborah mentioned the use of the word “shall” in section 9.2-2 and whether that allows the board any leeway. She asked if it makes sense to get Town Counsel’s opinion on the language in the bylaw.

Larry said that Part A refers to the restrictions in general. John stated that Part A gives the ZBA leeway in deciding if an application may be approved, but that Part B is more specific.

Larry suggested that the board get back to this after the hearings.

5:15 pm A Public Hearing will be held online via ZOOM on an Application for a Special Permit from Scott and Charlotte Caskey to construct a Guest House with attached Garage on a lot located in the Inland Zone of the Coastal District under section 6.1-5B of the Zoning Bylaws at 65 Jennie Athearn Rd., Map 38 Lot 2, RU District.

The notice was read and Scott Caskey the owner/applicant and Josh Gothard the agent/architect introduced themselves and presented the project. Josh shared the site plan, pointing out the proposed garage/guest house. He also noted Jennie’s Cove on the right and the wetlands on the left.

Pam said that the Planning Board had reviewed the plan and referred it back to the ZBA.

The plans and elevations were reviewed. Josh noted that the ridge height is 15’.

Larry asked if this had come before the board for front yard setback relief due to the fact that the proposed garage is located in front of the main house.

Pam said that Joe advised that the garage is actually behind the main house because he has determined that the front of the lot is on the 100’ section of Jennie Athearn Rd. at the Northernmost tip of the lot.

Pam stated that although the lot is listed as having 4.5 acres, it has less because the road runs through the lot and the bylaw (section 4.2-2A3) requires that the sf. of the road is subtracted from the total. She said that although this is the case, the lot can still have a guest house because, if the lot was in existence prior to the change in the GH bylaw, 3 acres is the required sf. She said that Joe had verified this information.

Larry stated that the fact that the lot was in existence as of 1983, which is before the addition of section 4.2-2A3, may be the reason that a guest house is still allowed.

A discussion ensued as to if the date the lot was created affects whether current or past zoning laws prevail.

The topic generated much discussion. It was suggested that this hearing be continued until such time as the board has an opinion from Town Counsel or a clear determination from the Building Inspector.

Josh Gothard requested that the board take a “straw poll vote” on the application. John stated that this would not count and since more information is needed to go forward, that this would not be worthwhile.

J. Rau moved and C. Decker seconded a motion to continue this hearing until September 30th at 5:35 pm.

A rollcall vote was taken with the following resulting votes: L. Schubert-yes, D. Wells-yes, J. Rau-yes, C. Decker-yes.

5:35 pm

A (Continuation) of a Public Hearing will be held online via ZOOM on an Application for a Special Permit from James Eddy of Kaysky LLC and Big Sky Tent and Party Rental to amend Special Permit #2011-04 in order to place three (3), 8’x 20’ portable storage units for rental equipment at 90 Dr. Fisher Rd., Assessors’ Map 21, Lot 12 LI-1 District under Section 9.3-3 of the West Tisbury Zoning Bylaws.

Larry read the notice and introduced the board to Ann Marie Eddy the petitioner.

Larry stated that this application was referred to the Martha’s Vineyard Commission (MVC) and that it was recently decided by them in favor of the applicant. Pam said she had received an approval letter from the MVC.

Larry described the location which is in the parking area of the Fine Fettle MA Enterprises grow facility. Ann Marie said that the proposed location is actually not in the parking area but in the Southern corner of the lot. Pam shared the plot plan.

Larry brought up the condition of the original Special Permit requiring the petitioner to create an easement for Bizarro Brothers, a business located next to the lot, so that they would not have to use Pine Hill Rd. Jim Eddy explained that he had created the easement but that it was not being used by Bizarro Brothers. Larry noted that the condition was part of the Decision to lessen the use of Pine Hill Rd. which probably would have been a plus as far as abutters were concerned. He noted however, that the ZBA could not force Bizarro Brothers to use anything but their legal access to enter and exit their lot.

J. Rau moved and D. Wells seconded a motion to approve the application.

Pam read the approval letter from the MVC. Their decision conditions the approval on the applicants coming back to renew this modification after two years. It also prohibits the applicants from stacking the storage units.

Larry asked Ann Marie why the MVC wants them to reapply after two years, stating that he would not want them to have to come back to the ZBA. Ann Marie said that the MVC gave no reason for the two-year expiration of the modification.

Pam said that part of the ZBA conditions would be that the applicants comply with the conditions set forth in the MVC Decision. She said that the two-year expiration period need not be a ZBA requirement.

Larry confirmed that the only condition would be that the units not be stacked.

Larry called for a vote to approve the application with conditions.

A rollcall vote was taken with the following resulting votes: L. Schubert-yes, D. Wells-yes, J. Rau-yes, J. Kaye-yes.

Larry explained the twenty day appeal process, noting that when it had expired, the Decision would need to be recorded at the Dukes County Registry of Deeds in order for a Use Permit to be issued.

Larry asked if the board would like to address the changes to the ZBA application. The vote to approve the changes was postponed until the next meeting.

The board discussed the three letters received; one from the Hollinsheads and the Wheelers regarding the Foster property, and two from the Building Inspector to the Specht family regarding the Zoning violations on their property.

Pam asked the board if she could change her hours from 9:30am-4:30pm to 8:30am-3:30pm. All agreed that as long as it was okay with the Town Administrator, that they do not have a problem with the schedule change. Larry requested that Pam make all necessary changes to the website. Pam said she would take care of it and thanked the board

The Meeting adjourned at 6:25 pm.

Respectfully Submitted,

Pam Thors-Board Administrator