

WEST TISBURY ZONING BOARD OF APPEALS

Minutes for Thursday, July 12, 2018 meeting

2nd Floor, West Tisbury Town Hall - @ 5:00 PM

Approved on August 2, 2018

PRESENT: Larry Schubert (Vice-Chairman), Julius Lowe, Toni Cohen and Tony Higgins

Also Present: Bryn Mahoney, Tom McGrath, Todd Baylson, Mark Nicotera, Tom Tate, Atty. for Virginia Yans McLaughlin-Kathryn Sullivan

Minutes:

The minutes of the meeting on June 21, 2018 were approved unanimously.

Hearing:

5:15 pm A hearing on an application from Mark Nicotera, Trademark Services LLC, agent for Derek and Bryn Mahoney for a special permit for 9.7' front setback relief and 9' side setback relief to construct a 26'x26' detached garage under 4.2-2(D)3 and 11.2-2 of the zoning bylaws. Map 29 Lot 67, 123 Charles Neck Way, RU District.

Larry read the notice. Mark Nicotera of Trademark Services, LLC, agent, stated that the applicant would like to build a 26'x26' detached garage for two vehicles and storage. They would like the garage to be built at the edge of the existing driveway. The size of the building was discussed and found to be allowable by right as it is exactly 676 sq. ft. Joe Tierney indicated that the area over 676 sq. ft. (second story) is for storage; not counted in the total square footage. Larry read the only correspondence which was from Matthew Sudarsky, an abutter in support of the application, (see file). Larry stated that the notice contained a scrivener's error, indicating that the side setback relief requested is 9 feet when the actual relief required, according to the site plan is 9.7 feet. Larry ruled and the board concurred that the error is di minimis and that the hearing could go forward with the duly noted correction.

J. Lowe moved to close the Public Hearing and open the Board Meeting. Toni Cohen seconded the motion.

T. Higgins moved to approve the Special Permit. J. Lowe seconded the motion. The vote on the motion was unanimous.

Larry explained the twenty day appeal period.

The Board signed the updated plan for Katherine Walsh's application, (2018-18), which shows the correct size of the barn, (26'x48').

5:35 pm - A hearing on an application from Tate Builders, agent for 30 Beach Pebble Rd., LLC, to amend Special Permit #2015-22 under 9.3-3 of the zoning bylaws to allow a poolside shade structure. Map 1 Lot 50, 30 Beach Pebble Rd, RU District.

Larry read the notice. Two letters written by abutter Michael Baylson were also read into the record, (see file). Tom Tate of Tate Builders, agent for the owner explained the issues surrounding the berm which was part of the original application. He stated that the original berm discussed was deeper but no higher than the one that was eventually put in place. The change was required by the Conservation Commission, (ConCom) who determined that the deeper berm would impede the flow of water through the naturally occurring gully which runs down to the ocean. It was stated that the berm is not higher than the pool surround. An email from the ConCom dated May 31, 2018 (see file) and a letter to the owner of the property dated May 7, 2018 (see file) detail their findings. Tom explained that he applied to the Building Department for a permit for the shade structure, which

was requested by the new owners. Joe stated that he should have referred him to the Zoning Board of Appeals, (ZBA) to apply for this amendment at that time but judged the change to be di minimis and issued the building permit. It was stated that the area taken up by the shade structure could have been used for sound insulating plantings. Tom stated that they planted as many Clethra plants for screening as could be planted nine months prior to construction to give the plantings a head start. He stated that the owners ordered the louvered wall to further obstruct noise from the pool.

Todd Baylson, representing his father Michael Baylson, a direct abutter, expressed his concern that part of the planting area is now utilized by the shade structure that was never approved by the ZBA. He said that the family would not oppose the current application if Mr. Tate and the new owners would agree to meet and review the landscape plan and sound insulation tactics. Various solutions were discussed. Tom stated that the ConCom would not allow any more planting east of the pool fence. Larry stated that it is not the job or position of the ZBA to design the noise attenuation remedy. A meeting with Tom Tate, Mr. Baylson and the ConCom was suggested.

The Board voted unanimously to continue the hearing until 5:15pm on September 6, 2018.

Joe Tierney discussed the possibility of ZBA applications coming directly to him so that he can sign and date the referral to the ZBA and also list the section of the Zoning Bylaws that pertain to the application. Larry asked if the policy can be flexible in order to keep applications moving should the Building Inspector be out or unable to address an incoming application in a timely manner. Joe said that the policy could be flexible.

Joe Corbo, part owner of Map 16, Lot 232 requested an informal discussion to revisit the status of his property developed under a Special Permit Decision rendered on October 8, 1987. That application was approved with conditions, one of which stipulates the following; “the land is not to be disturbed beyond 250’ from the State Rd. except for utilities. This is specifically to protect the gully behind the proposed parking lot on the Indian Hill Rd. side of the property”. Joe C. stated that the condition is overly burdensome considering the fact that the conditions present at the time of the decision have changed. He said that much of the water draining into the gully now drains off on individual adjacent properties. Larry recommended and the Board concurred, that Joe C. should apply for an amendment to the Special Permit. Joe Tierney said that the site plan would have to include a plan for water drainage from his property as well.

Larry read the letter from Kathryn Sullivan, Attorney for Virginia Yans, (see file), abutter to property owned by Petr Valach whose Special Permit was approved by the ZBA on June 21, 2018. The letter suggested that the Board make changes to the decision which was filed with the Town Clerk on June 29th. Larry said that the board would take Kathryn’s letter under advisement.

Larry read the email from Stan Hersh regarding the fact that the pool enclosure he built is not big enough to house the heater. Pam was asked to tell Stan that the heater cannot remain outside the pool shed and that he should come before the board with a plan to enclose it.

Larry read the update to the Smith appeal sent by Atty. Mark Bobrowski, (see file), which states that he is waiting for action by the Smith Attorney’s office.

The meeting adjourned at 6:50pm.

Respectfully Submitted, Pam Thors, Administrator/ZBA