

WEST TISBURY ZONING BOARD OF APPEALS
Minutes for Thursday, Sept. 6, 2018 meeting
2nd Floor, West Tisbury Town Hall - @ 5:00 PM-Approved on Sept. 20, 2018

PRESENT: Nancy Cole-Chair, Larry Schubert, Tony Higgins, Toni Cohen and Bob Schweir

Also Present: Joe Tierney-Building Inspector, Thomas Wilson, Susan Seidman, Brenda Zilla Brown, Robert Brown, Douglas Dowling, Leo DeSorcy, Will Runyon, Pam Thors – Zoning Board Administrator

Minutes: The minutes of the meeting on August 2, 2018 were approved with corrections. Tony Higgins abstained.

Correspondence:

The letter from Joe Tierney to Rafael Louback, Map 29, Lot 42, who has a non-permitted tent was discussed. In the letter, Joe states that if there is no action taken by the owner, he will begin enforcement proceedings.

The email to Tucker Hubbell was discussed. Pam said she spoke to him about the 53G Projects which she will begin to work on.

Nancy reviewed the emails from Kathy Logue regarding the Board Administrator's leave schedule and signed the letter to the Personnel Board asking them to carry over 2.25 hours of vacation time for her.

The email from Matt Stedman was discussed. In the email, he asks to delay his hearing as he does not have his final site plan ready. Nancy stated that his hearing must be opened at the September 20th meeting (date advertised), and at that time, the board would vote to continue the hearing until October 25th at 5:15pm.

5:15 pm – A hearing on an application from Tate Builders, agent for 30 Beach Pebble Rd., LLC to amend a Special Permit #2015-22 under 9.3-3 and 11.2-2 of the zoning bylaws to allow a poolside shade structure requiring 2.6 feet of setback relief. Map 1 Lot 50, 30 Beach Pebble Rd, RU District.

Nancy opened the hearing and the Board voted to continue the application until the meeting on October 25th at 5:35pm per the applicant's request to postpone. It was noted that Larry should chair this meeting.

5:35 pm - A hearing on an appeal filed by Christopher Zilla and Kitty Cheung, on a July 13, 2018 decision of the West Tisbury Zoning Inspector, to deny a building permit to construct a subordinate dwelling under Section 4.4-1(B)1 of the Zoning Bylaws. The Appeal is filed under MGL Ch40A section 8 and section 15, of the Zoning Act. Map 37 Lot 20, 224 Vineyard Meadow Farms Rd, RU District.

Nancy read the hearing notice which appeals the decision of the Building Inspector to deny the Zillas' application for a building permit for a guest house on Map 37, Lot 20, 224 Vineyard Meadow Farms Rd. Doug Dowling from Smith and Dowling, agent for the applicant reviewed the history of the two lots in question, (Map 37 Lot 19 & 20). He focused on purchase dates of the properties in relation to changes and their intent, to the Zoning Bylaws.

Findings:

- 1) 1986 Zoning Bylaw change to require 3 acres to build a guest house. A 5 year grace period was allowed
- 2) April 28, 2000 - The Zillas purchased Map 37, Lot 20, (developed)
- 3) May 24, 2000 Zoning Bylaw change (section 4.4-1(B)1) to require 4.5 acres to build a guest house, addressing the density issue

- 4) September 16, 2014 - The Zillas purchased Map 37, Lot 19, (vacant). At the time of purchase, they were assured by their attorney that it was a buildable lot.
- 5) At the time of the Zoning change in 2000, the two lots combined would have supported the construction of a Guest House.

Doug clarified that the Zillas are asking to allow construction of a guest house on 3.24 acres.

Joe stated that he is in support of the appeal because both lots were created prior to the year 2000. He said that he would like the board to vote to uphold his decision but modify the determination to allow the construction of a guest house on the vacant lot to alleviate the hardship brought on by the misinformation given to the Zillas at the time they purchased the lot. He said that merging the lots would decrease tax revenues but that allowing the guest house would help to make up the shortfall.

Larry asked if a deed restriction stating that the guest house lot could never be sold separately would have to be recorded. Doug stated that recording a plan showing the two lots merged, would accomplish that.

Nancy said that she agrees with the general concept but wonders what statute gives the ZBA the power to approve the application. Doug continued to speak to the intent of the bylaw, citing his opinion that the focus of the bylaw change in the year 2000 was on controlling density in new subdivisions going forward.

Larry stated that the ZBA does not set precedent and asked if they have the procedural right to move forward on this. Joe reminded the board that they had approved a similar application in 2016 whereby his decision was being appealed and the board voted to uphold his decision but modify the determination.

Chris Zilla's parents expressed their appreciation to the board for considering their son's application.

Toni moved to close the public hearing and open the board meeting. Larry seconded the motion.

Nancy stated that the lots being merged "into perpetuity", so that the guest house could never be sold separately from the main house, is a very important aspect of the decision. Doug stated that if a "No New Lines Plan" were recorded, this would be the case.

A motion was made to vote on the following;

Motion to uphold the decision of the building inspector but modify the determination to allow for a guest house to be constructed on the lots, provided they are merged via a "No New Lines Plan", which shall be recorded at the Dukes County Registry of Deeds, further stipulating that plans will be submitted to the Zoning Board of Appeals for the proposed guest house which must comply with all height and setback requirements and a site plan indicating that both dwellings will be accessed by the existing curb cut on Vineyard Meadow Farms Rd.

The vote on the motion was unanimous in favor. Bob Schweir recused himself from the vote.

Toni Cohen left the meeting.

5:55 pm - A hearing on an application from Leo DeSorcy-Trustee, Chickamoo Farm Realty Trust to install an in-ground 24'x48' swimming pool under 8.5-4(C) of the Zoning Bylaws. Map 1 Lot 47, 30 Gay Head Avenue, RU District.

Travis Ritchie, agent for the applicant described the project. He said that the pool they are seeking to construct does not require setback relief. He also said that they would be applying for building permits for the secondary buildings shown on the site plan which are allowable by right. He also stated that the lighting would be code compliant.

Findings:

- 1) The pool requires no setback relief
- 2) The pool equipment will be housed in the basement of the secondary dwelling adjacent to the pool area
- 3) The pool applied for will not be more detrimental to the neighborhood and town and the construction is in harmony with similar developments in the neighborhood and town in scope, size and design.
- 4) The application met the Review Criteria of Section 9.2-2 of the West Tisbury Zoning Bylaws.

Larry went over the State and Local pool regulations.

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

A motion was made to approve the application. The vote on the motion was unanimous in favor.

Nancy went over the twenty day appeal process.

The meeting adjourned at 6:20pm.

Respectfully Submitted,
Pam Thors, Administrator/ZBA