

WEST TISBURY ZONING BOARD OF APPEALS

Minutes for Thursday, December 6, 2018 meeting

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

Approved on February 14, 2019

PRESENT: Nancy Cole-Chair, Larry Schubert-Vice Chair, Julius Lowe and Bob Schwier

Absent: Toni Cohen and Tony Higgins

Also Present: Erich Mettler, Erin Blandini, Jason Blandini, Pamela Speir, Tucker Hubbell, John Cain, Christina Cain, Bryan Costello, Rob Scherer, Leo DeSorcy, Melissa Thomas, Reid Silva and Pam Thors – Zoning Board Administrator

An Invoice from Blatman, Bobrowski & Haverty LLC, (\$50.00) was approved and signed.

5:15 pm: A hearing on an application from Jason Blandini for a Special Permit to allow construction of an accessory apartment with 5 feet of setback relief from the northern property line under Sections 4.4-3 (A) and 4.3-3 (D) of the Zoning Bylaws. Map 10 Lot 59, 32 Pine Ln. RU district.

Nancy read the notice and Mr. Blandini explained the project. He stated that building a main house and an accessory apartment at the same time would allow him to join forces with his sister and build both dwellings at once to house his family and his extended family. The 5 feet of setback relief he is seeking was discussed. Nancy mentioned section 4.2-2 (D) 3 of the Zoning Bylaw which refers to accessory structures sited in front of the main house and the setback requirements. It was noted that the garage/accessory apartment is about 165 feet from the main road thereby fulfilling the 100 foot (from the road), setback requirement of 4.2-2 (D) 3. It was agreed that this should be listed as a finding in the Decision. Larry went over the Accessory Apartment use requirements. Jason agreed to adhere to them.

He explained that the main house interior plan may change slightly to allow a seventh bedroom on the lot. Larry outlined the process for adding a bedroom at a later date, explaining that once the parcel has a Special Permit, any change would require an application to the ZBA to amend the Special Permit. Jason said he will bring in the basement plan which shows the proposed downstairs bedroom. He stated his intention to make the project as natural looking as possible to blend in with the wooded area. The screen porch was discussed. Larry asked about the square footage of the screen porch and Jason said that in Joe's opinion, the porch does not count into the total square footage.

Nancy read a letter, (see file), of conditional support of the project from J. Rhymes, an immediate abutter who would like to see 4-5, 5-6' tall Leyland Cypress trees. Julius suggested and the board agreed, to condition approval on the planting of 4, 5-6' tall Leyland Cypress trees.

The board agreed on the following conditions:

- 1) The Accessory Apartment must **comply** with all requirements of Section 4.4-3(A) of the West Tisbury Zoning Bylaws. The owner **must** adhere to the occupancy restrictions and will sign an affidavit with the Building & Zoning Inspector attesting to their understanding of these restrictions and their intention to comply. The special permit granted for this accessory apartment is deed restricted.
- 2) The Building Permit for the Accessory Apartment will not be issued until the Building Permit for the Main House has been issued.

- 3) Any change in the building plans for the Main House must be presented to the Zoning Board of Appeals for their review and approval.
- 4) Before the issuance of an occupancy permit, the applicant will plant four 5-6' tall Leyland Cypress trees.

It was voted to close the Public Hearing and open the Board Meeting.

A motion was made and seconded to approve the application with conditions. The vote on the motion was unanimous.

Nancy went over the 20 day appeal period.

5:35 pm: Lambert's Cove Inn – Informal Hearing

John Cain introduced himself and his associates. He explained his history with the Lambert's Cove Inn. He stated that they would like to do two projects to improve their property. The first is to build a barn in order to move the outdoor weddings they currently host, indoors. The second is to build five studio style cabins on the property. He expounded on the benefit to the neighbors in moving the tent weddings inside. He stated his awareness that abutter's first concern would probably be noise and traffic. He cited that weddings in the barn would be capped at around 250 guests where the tents can hold 500 guests. He said that he understands that the bylaw allows a new structure of 2,000 square feet. Two questions he had regarding the barn are

- 1) Understanding what allowable square footage would be if they put employee housing on the second story of the barn
- 2) Understanding the weight of abutter opposition in the ZBA's decision on the application.

Nancy stated that the building may be up to 2000 sf. regardless of the use. She said that the neighbors may have issue with noise resulting from the barn and from employee housing, requiring conditions of approval. Larry mentioned the complications involved with building a mixed use structure. Nancy reiterated that neighbors would probably be concerned with the increased intensity of use. John stated that the noise factor would probably be less of an issue due to weddings being held inside instead of outside. Nancy stated that abutters' reactions would carry weight. Julius suggested that John garner written support by abutters. The informal hearing was suspended until the next scheduled formal hearing was finished.

5:55 pm – A hearing will be held on an application from Erich Mettler and Pam Boiros, for a Special Permit for 33.5 feet of sideline setback relief to replace and enlarge an existing deck attached to a pre-existing non-conforming single family dwelling under Sections 4.3-3(D) and 11.1-3 of the Zoning Bylaws. Map 37 Lot 9, 205 Vineyard Meadow Farms Rd, RU district.

Nancy read the notice and read the one correspondence in support of the application. She asked Erich to explain the project. The board reviewed the map and plans. He stated that they did not fully understand the setback requirements and their implications when they purchased the property, noting that the house was sited very off center on the lot thereby causing the need for setback relief for the proposed deck.

Erich asked about future expansion of the house. Nancy stated that they would have to come before the ZBA for any changes because of the non-conforming nature of the house. Larry reiterated that once a Special Permit is issued, any change will warrant an application to the ZBA to amend it. The construction of the deck and its

minimal impact was discussed. Erich noted that the part of the deck in the setback is only 6 inches from grade and not enclosed.

Julius moved and Larry seconded the motion to close the Public Hearing and open the Board Meeting. A motion was made and seconded to approve the application. The vote on the motion was unanimous.

Nancy went over the 20 day appeal period.

6:15 pm – Cont'd from November 15th - A hearing will be held on an application from Leo DeSorcy for a Special Permit to allow the extension of a pre-existing, non-conforming use and construction of a 30'x40' structure and green house, for the sale of agricultural products and construction goods and for employee housing under Section 11.1-3 (A) of the Zoning Bylaws. Map 8 Lot 18, 4 State Road, RU district.

Nancy read the notice and informed the room that Pam had talked to the Martha's Vineyard Commission regarding the referral made by the Building Department and that she would speak to Town Counsel regarding the application. She said that the applicant would have to withdraw the current application and re-file under section 11.1-3 (A) and section 9.3-3 "Amendment to a Special Permit". She asked Pam what she had learned from Paul Foley of the Martha's Vineyard Commission regarding items on the DRI checklist that had been discussed at the November 15th hearing. Pam said that Paul verified that the square footage, (sf.) of the greenhouse would count towards the total square footage of the project under checklist #3.1 (c) Dev. of Comm.-aux of 1,000 sf. It was also verified that adding retail use on the property would constitute a change of use under 3.1 (f) Dec. of Comm. – Change of Use. Pam stated that the MVC doesn't subtract agricultural use from any new construction square footage. Reid said that perhaps they would take the greenhouse out of the application. Nancy asked if the greenhouse proposed is a hoop house style structure. Melissa said that it is a permanent structure, not a hoop house. Reid said that they are still coming in to appeal the same section of bylaw whether it is an extension of an existing Special Permit or a new request for a Special Permit. Nancy stated that asking for a retail business is not something that the Board could approve in a residential neighborhood. Melissa asked if the property was used commercially prior to zoning and therefore grandfathered. Julius stated that the commercial use of the property did not include retail or wholesale. Nancy restated that the board does not have the ability to approve retail use in a residential neighborhood. Larry quoted the use table regarding retail which stipulates that in RU, retail uses are not allowed unless it is for agricultural uses. Reid asked that if they take retail out of the equation, would they still have to reapply under section 9.3-3. Nancy said that they would. She said the board has the authority to amend a Special Permit but the application must site this section of bylaw. The 1981 Special Permit was discussed, (see file). In that permit, the grandfathered use of the property is protected but the addition of retail and wholesale activity was specifically denied. Pam suggested that she scan the 1981 application and send it to Leo. Nancy suggested that the board contact legal counsel, (Mark Bobrowski) to ask if the applicant needs to file under 9.3-3, Amendment to a Special Permit. Reid stated that they would contact their attorney as well. The hearing was continued again until December 13, 2018 at 6:15 pm.

Lambert's Cove Inn – Informal Hearing

John thanked the board for staying to discuss their project. He stated their desire to build five cabins or fifteen rooms on the property. The plans were reviewed. John explained where they would like to site the cabins, establishing that they wouldn't encroach on the wetlands. He stated that they are not changing the use, suggesting that it is a modest expansion. John asked about the bylaw stating that a use may be not more detrimental to the neighborhood. Christina stated that they would like to have multibedroom units to accommodate families. Chris asked questions about the structures he would like to build. Larry suggested he speak to Joe about the many details regarding building specs for commercial structures. He said that Joe may

require detailed plans and elevations and representation by a third party. Brian asked what Sections of the bylaw the Inn would be coming to the ZBA for. Nancy said that she wasn't sure about that. She suggested that as the plans come together, that they speak to Joe. The issue of an addition rather than separate cabins was brought up. Nancy suggested that the Cain's go to Joe with their plan first and then to the ZBA because it is such a complicated property. Larry also stated that the engineer involved would be able to establish setbacks on the property and determine the location of wetlands, etc. Larry suggested strongly that John reach out to the neighbors for their feedback. John stated that it may be simpler to just do the project to build the five cabins.

The meeting adjourned at 7:00pm
Respectfully Submitted,
Pam Thors, Board Administrator