

WEST TISBURY ZONING BOARD OF APPEALS
MINUTES THURSDAY, June 29, 2017
2ND FLOOR TOWN HALL AT 5:05 PM

PRESENT: Nancy Cole (Chairman), Larry Schubert (Vice-Chairman), Tony Higgins, Toni Cohen, Julius Lowe, Bob Schwier and Tucker Hubbell.

ABSENT:

Also Present: Anne Reekie, Alan Reekie, Luiz Oliveira, Attorney Sederholm and Patricia Linn.

At 5:05 pm Nancy opened the Zoning Board of Appeals meeting.

Minutes:

December 22, 2016 – Larry moved to approve the minutes with corrections, Tucker seconded. The vote was unanimous.

April 27, 2016 – Larry moved to approve the minutes with corrections and changes. Tucker seconded, the vote was unanimous.

Hearing:

5:15 pm – A continuation of a hearing from April 27, 2017, on an application from Patient Centric of Martha's Vineyard LTD, to operate a Registered Marijuana Dispensary, under WT Zoning bylaws 3.1-1(use table). Map 21 Lot 12, 90 Dr. Fisher Road, LI District.

Nancy explained that the application is still being reviewed at the MV Commission as DRI #618-M2. Copies of the MV Commission staff report dated June 1, 2017, were distributed to the board for their review. Geoff Rose had submitted a revised application to the Commission to establish a Medical Marijuana cultivation operation only; the dispensary would occur elsewhere. The Board will continue the hearing till a decision by the MV Commission as to the DRI referral from February 23, 2017. Larry moved to continue the hearing to July 13, 2017. Julius seconded, the vote was unanimous, with two abstentions: Bob and Tucker.

New Business:

Appointment of Larry Schubert to the Affordable Housing Committee. Tucker moved to re-appoint Larry Schubert as the Zoning Boards representative to the Affordable Housing Committee. Bob seconded, the vote was unanimous. The Board wished to extend a heartfelt thanks to Larry and commended his hard work and dedication he brings to the Affordable Housing Committee. Clare will forward a letter to the Selectman and a copy to the Affordable Housing Committee.

Hearing:

5:35 pm - A hearing on an application from Attorney Douglas Sederholm, agent for Luiz Oliveira, for setback relief, to construct an accessory structure and to operate a service business, under the following zoning bylaws; 4.2-2D, 11.2-2 and 3.1-1 of the use table. Map 16 Lot 61, 560 State Road, RU district.

Nancy opened the hearing. Correspondence: A letter from Attorney Peters representing Patricia Linn, direct abutter (M 16 L16) was read into the record. Attorney Sederholm clarified that the Material Safety Data Sheets (MSDS) provided by his assistant were not the most current. The updated MSDS sheets along with a supplement to the application were given to the board by Attorney Sederholm. Mr. Sederholm explained the process by which the two components (An open cell & B closed cell) are combined to create the foam product for his insulation business. The only product that is on the property is a small amount attached to the mixing and application equipment in his trailer, the containers and equipment are a closed system. The cleaning of the spray foam equipment is done at jobsites, which is routine and needed during the foam application process. The tip of the spray foam gun is the only equipment part Mr. Oliveria's employees clean. The trailer will be garaged in a heated space rather than heat the trailer with an electric heater during the winter months. The MSDS sheets indicate both components A and B have a low flammability rating. It was stated that Mr. Oliveria is no longer using GacoOnePass, a component which did have a high flash point with potential risk of fire hazard. A lease was provided to the board showing Mr. Oliveria rents a facility at the Airport Business Park to store his products. The only product that will be at the property will be the material left at the end of the day on the equipment. The applicant stated sometimes the trailer could store 25-30 gallons of material when returned at the end of a job; the containers on the trailer are sealed because any moisture would damage the equipment.

The process is the foam goes from the pump to the heater then through the hose into the gun where it is sprayed. The equipment is never separated from the drums on the property; this takes place at the job site. Attorney Sederholm told the board that the material is very expensive and that if an accident should happen with spillage it would occur when changing drums or equipment on the job site not in the garage. The applicant is applying for the construction of a barn to store the material (left on the trailer) in a heated area. The barn would have a concrete floor; if an accident should occur it would not spill on dirt. Mr. Oliveira explained there is an absorbent material used to clean up a spill. This material is then transferred to the landfill. Attorney Sederholm explained that the main hazard with these materials is when it is being applied at the job site, but what he applies is not a fire hazard, but would welcome Chief Estrella's opinion. Bob asked if any empty barrels are kept on the property. All empty barrels are transferred from the jobsite directly to the landfill. An email from the Martha's Vineyard Refuse Disposal District confirmed this. Attorney Sederholm told the board that this application is not about the "sheds" on the property and if they are in violation of setbacks.

The proposed barn will have a 28' x 41'6" footprint (1162 sq.) and height of 18'4". The exterior will be wood board and batten with an asphalt shingle roof and a concrete slab floor. Mr. Oliveira wishes to locate the barn in the southeast (rear) corner of the property, 20 feet from the side lot line and 28 feet from rear line. Mitch Gordon (M16 L64) endorsed Mr. Oliveira's application (letter on file); the rear property line abuts the landfill. Mr. Oliveira would like an office with a half bath for his personal use. If the board found the 20 foot setback is an issue, Mr. Oliveira would be flexible in that regard. The proposed building is approximately 200 ft. from Ms. Linn's property. A discussion ensued regarding the difference of the building on the site plan and the building plans, this would have an effect on how much setback relief is requested and given, and this will need to be clarified. Attorney Sederholm said he would build what matches the site plan. The board explained that the plans will need to be accurate, correcting the site plan by moving it closer to State Road side. The applicant will submit a revised site plan showing the accurate setbacks to reflect the building footprint of 28' x 41'6", which will be no less than 28 feet from the rear property line. The revised site plan will also reflect all the "out" buildings on the property. Mr. Oliveira stated he has a caretaking business where he sub-contracts some painting jobs. Regarding the foam insulation business, he has three employees that come to the property in the morning go to the job and return in the evening. No deliveries come to the property. Employees arrive at 7:30 am and return no later than 5:00 pm, six days a week. Attorney Sederholm said the traffic is minimal and should not have any effect on State Road. Attorney Sederholm stated that Mr. Oliveira's equipment is now stored in a poly-house, the addition of the barn would allow him to safely store his equipment in an attractive building which would be more aesthetically pleasing to the neighborhood.

Nancy opened the hearing to the public. Attorney Peters, who represents Ms. Linn, asked about the "shed" on the property closest to Ms. Linn's property and if a building permit was obtained or was necessary. These are questions for the building department. Larry suggested that if the products used are changed the Fire Dept. and the Board of Health should be notified. Nancy suggested the board forward the updated MSDS to the Fire Chief, Board of Health and the Building Inspector, to weigh in regarding any concerns and/or comments their departments have regarding this application. Julius said the safety sheets address the safety protocol. Julius said the board could condition the special permit to address this specifically. Bob asked if the applicant could supply a safety plan related to the Fire Dept. addressing these concerns. Nancy raised her concerns relative to the 20 ft. setback relief request from Mr. Gordon's property line and suggested the applicant could take another look at this. Tucker raised his concerns regarding this type of service business in a residential area. The board was in agreement that the applicant review the concerns raised tonight and continue the hearing. Larry moved to continue the hearing till June 29th at 6:00 pm, Tucker seconded. The vote was unanimous. Nancy asked Clare to forward the MSDS sheets to the following departments; Fire Chief, Board of Health and the Building Inspector for their written comments, prior to the next meeting.

6:50 pm - A hearing on an application from Rex Jarrell, to construct a garage over 676 sq. ft., under zoning bylaw 11.2-2. Map 31 Lot 52, 69 New Lane, RU district.

Nancy recused herself from the hearing as an abutter within 300 feet of the property. Larry (Vice-Chairman) opened the hearing; no correspondence was received. Rex Jarrell presented a plan (Septic Plan dated 1/23/2007 prepared by Vineyard Land Surveying) showing the existing building on the property including the proposed location of the garage. The proposed garage is sited in the rear of the property and meets all setback requirements. It was determined after reviewing ZBA 6.2-3, the property lies outside the Major Roads District. Rex is proposing to build a 2 story garage totaling 1,596 sq. ft. and 28 feet in height. The second floor will be deemed non-habitable space, personal storage only. The office space was discussed, Rex said the office is for personal use only; the building will have no power or water hook-up.

Larry explained electric and water is allowed in a garage, but the building inspector would address the questions regarding code. The board would make such determination whether the changes are minor or a new application would be required.

Rex explained he may want to include a dormer on the building. The board said this would be a major change to the plan presented tonight, because the dormer would change the square footage of the structure. If the board should approve the special permit plan approved and signed tonight it would be specific as to the dimensions of the garage and stated in the decision. The board explained the dormer has to be on the plan and the building has to equal 1,596 sq. ft. The full dormer could change the use of the second floor and increase the square footage of the building. Larry explained it would be prudent to continue the hearing with an accurate plan presented to the board. Julius moved to continue this hearing till June 29, 2017 at 5:00 pm. Bob seconded, the vote was unanimous, with one abstention. The applicant will supply the exact plan he is proposing to build.

7:10 pm – A continuation of a hearing from May 25, 2017, on an application from Chuck Wiley for setback relief to erect dormitory housing, under 4.4-5 and 4.2-2D of the zoning bylaws. Map 16 Lot 235.2, 32 Old Stage Road, RU district.

A quorum not being present on May 25th, the application was continued to June 8, 2017. New correspondence: Nancy read into the record an email from Peggy Tudek (Map 15 Lot 31.3), opposed to the application. Chuck told the board he has the documentation, tax bill, several building permits, showing they have been treated as three different lots. Unfortunately, when he purchased the lots he was not made aware of the state law regarding the determination that the lots merged. The state bylaw was triggered in 1991; they purchased the three lots in 2000, and were not made aware of this by their attorney. Chuck explained that for seventeen years he has paid taxes on three different lots. The discussion continued as to the number of building permits pulled on these lots, Chuck confirmed he has pulled several different permits for lots 235.2, 235.3 and 235.1. Over that period of time when these permits were pulled: the town never explained these were three different lots. The board suggested that Chuck get copies of the permits pulled on these lots for documentation purposes. In the email of May 18th from the building inspector it was stated he considers these two lots merged, and setback relief is not required. The board agreed that with the proper documentation presented by the applicant to the ZBA showing the lots are separate, the zoning board could give set back relief regarding the dormitory part the application.

The discussion continued regarding the dormitory portion of the application. Nancy opened the hearing to the public. Mr. Reekie presented to the board a copy of the LUPC minutes of 1/31/2005 from the MVC, which refers to questions raised about the limiting of the nitrogen levels and the impact on Tisbury Great Pond as outlined in the MVC water quality policy. They suggested a de-nitrification unit or composting system. The board will review the DRI check-list to see if this application meets the threshold to refer it or not. Patti Linn asked if the building could be located in a different location, to cut back on any potential noise. Chuck said this was the most suitable location for the building. It was explained that the board reviewed this question at a previous hearing and it was agreed that this was the best location. Chuck told Ms. Linn, he would be happy to meet her on the property and explain why this is the best location for the dormitory. The board told Chuck to have an updated plan showing the changes discussed regarding the siting of the building, including the fence he will construct, including new planting along the lot line. It was agreed that the hearing should continue to verify the question of the three lots for setback relief requested in the application. Larry moved to continue the hearing to July 6th at 5:15, Bob seconded. The vote was unanimous. The applicant will supply documentation to the board, verifying the question regarding the status of the three different lots.

With no further business, the meeting adjourned at 8:10 pm.

Respectfully submitted,
Clare Harrington
ZBA/Board Administrator