

WEST TISBURY ZONING BOARD OF APPEALS
MINUTES THURSDAY, May 18, 2017
2ND FLOOR TOWN HALL AT 5:05 PM

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

ABSENT: Toni Cohen, Tony Higgins

Also Present: See attached attendance sheet

Old Business: James Eddy – Big Sky Tent & Party Rental (Map 21 Lot 12)

At the February 23, 2017, meeting of the Zoning Board of Appeals, the board voted to allow a ninety day extension of **special permit 2011-04**, to May 18, 2017, upon Town Counsel advice. The property is currently under review as a DRI with the MV Commission, on an application from Geoffrey Rose of Patient Centric of Martha's Vineyard. Mr. Eddy returned to the board to request an extension of this special permit which was originally granted in January 2011. He realizes that currently the property is subject to a separate project with Patient Centric of Martha's Vineyard. He does not want to lose the ability to act on this permit issued in 2011. He wants to keep this on a separate track, depending on the outcome of Mr. Rose's application currently with the MV Commission and the West Tisbury Zoning Board. The board explained to Jim that significant changes, including any change of use to the special permit on file, he would need to return to the ZBA to amend the application which would require a public hearing. A brief discussion ensued regarding the length of time the board could further extend the special permit issued in February 2011. Tucker moved to extend the special permit #2011-04, to February 22, 2018. Larry seconded, the vote was unanimous. This will be the final extension issued for this permit. A letter will be sent to Mr. Eddy with a copy to the building inspector.

Hearings:

5:35 pm – A hearing on an application from Peter Rodegast, agent for Sandra Bernat, for setback relief of 4 feet from the north property line to construct a 8' x 20' addition to an existing house under section 4.2-2E of the zoning bylaws. Map 15 Lot 70, 53 Christiantown Road, RU district.

NOTE: Nancy Cole (Chairman) recused herself from this hearing.

Larry Schubert (Vice-Chairman) opened the hearing; no correspondence was received regarding the application. Peter Rodegast, agent for Sandra Bernat, is requesting setback relief of 4 feet, to construct a 20' x 8' mudroom/porch addition on an existing dwelling, to be located 46 feet from the north property line. The board was in agreement that the setback relief requested of 4 feet was minimal. The construction was in harmony with the neighborhood. There was no input from the audience regarding this hearing. Julius moved to close the public hearing, Tucker seconded. The vote was unanimous. With no further discussion from board Tucker moved to approve the special permit to construct a 20' x 8' addition to be located 46 feet from the north property line with 4 feet of setback relief. Julius seconded, the vote was unanimous.

Correspondence:

- Email from Jennifer Rand (dated 5/12/2017) – regarding Selectmen's policy on merged lots.

Clare read from an email (see attached) from Jennifer Rand, town administrator, regarding a policy the Selectman adopted and voted on regarding merged lots. A question was raised by Joe Tierney, the building inspector, regarding merged lots. Town Counsel was contacted on this subject and informed the Town that it is a complicated subject and is very specific to each town. The selectmen voted unanimously that if there are questions regarding merged lots the applicant shall provide a letter, with supporting documentation from an attorney, to prove the lot's status as merged or not. This was brought to the attention of the board tonight because of an application on the agenda tonight from Chuck Wiley (16/235.2 & 16/235.3), for setback relief on two adjoining lots where this question may be relevant. Joe Tierney sent an email to the ZBA, stating his opinion on how setback relief is not required for this application, due to the merger of two lots.

A brief discussion ensued regarding the change in the prior zoning laws (post 1985); buildable lot size had been adjusted from one and half acres to three acres minimum. At the time of this change lots that are contiguous and titled in the same ownership had five years to utilize the lots as pre-existing, non-conforming (drawing a building permit). Any such lots after the five year period would be subject to being combined to meet the new zoning requirements (3ac). The question regarding the legal ownership of a lot was discussed. The board agreed with the Selectman's policy.

Hearing:

6:00 pm – A hearing 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.

Nancy opened the hearing. The following correspondence was received; Mr. King (Map15 Lot 31-6) requested a copy of the application and plan. Ms. Reekie (Map 16- Lot 235) reviewed the application.

Chuck Wiley, owner of Vineyard Gardens, told the board he needs housing for employees to run his business. A narrative and a plot plan showing the layout of the dormitory was presented to the board. He spoke of the lack of housing on the Island and every year it becomes harder to find adequate housing for his employees. He decided to build dormitory housing for his employees on his property which could assist his employees to find adequate, safe housing and also keep his valued employees. He has talked with D&G Modular Homes, which is more affordable then stick built housing. The board reviewed what is currently on the adjoining properties, shown on the plot plan he presented. Chuck told the board he purchased the three adjacent lots separately, which were in separate ownership.

Nancy explained to Chuck the policy the Selectmen have adopted regarding merged lots (a copy was given to applicant). Larry elaborated on the change in the state law (1986) and the five year window as pre-existing, non-conforming lots which are in contiguous ownership. Chuck and Christine Wiley were surprised to hear of this and stated this would cause a financial hardship for them. Larry explained the policy the selectman had set in place that puts the onus on the applicant for proof of the lots status. A discussion ensued on the status of the three lots and how they were listed on the deed when Chuck purchased them. The board suggested to Chuck that he research this through his attorney, which could answer the question if the three lots were in contiguous ownership or not. A brief discussion relative to this topic involving other properties ensued. The board made it clear to the applicant that the Zoning Board was just informed of the new "policy" adopted by the Selectmen. It would not be the Zoning Board's responsibility to make a determination on the status of these lots. The applicant would have to comply with the Selectman's policy. Nancy read the email from Joe Tierney, regarding the Wiley application. The building inspector stated that the Zoning Board of Appeals does not need to grant setback relief between the two lots because he considers them merged lots. The board reviewed the question of whether setback relief is needed in lieu of the email from Joe Tierney/Zoning Inspector. Chuck stated depending on the outcome regarding contiguous ownership of the two lots (235.2 & 235.3) it would have a huge financial implication.

The board reviewed the application regarding dormitory housing. Chuck reiterated the difficulty his employees have finding adequate housing. The narrative accompanying the application was reviewed. The building will be a modular unit 48' by 27'6"; the proposed dwelling meets the 50 foot setback along the north property line (Reekie Map 16 Lot 235). The floor plans show five bedrooms; Chuck clarified that the manager would be on the first floor with eight other employees housed on the second floor for a total of nine people. One bedroom will house the site manager. Three parking spaces will be provided; there is existing screening along the common border (Reekie). After speaking with the Reekie's, Chuck agreed to erect four sections of stockade fence 32 feet long, 8 feet high and plant additional trees to help eliminate the impact on the Reekie's sight line from their property. Chuck is aware that a special permit would be needed for the fence which is over eight feet. The Reekie's also requested the house be flipped. The front of the house is southern exposure and faces the greenhouses and not toward their property. Chuck was agreeable to this request. Chuck explained there is dwelling above a garage located on lot 235.3 for several years with no complaints regarding noise. Larry explained to Chuck that the parking area for the employees has to be shown on the plan including a handicapped space. The building inspector will enforce what is shown on the plan, which should include the proposed fence and any additional vegetation for screening. The board suggested the dormitory parking be included where currently the employee parking is. The board told Chuck if the special permit was granted, it would be contingent on a plot plan detailing the exact location of the fencing, parking and additional vegetation. Chuck clarified that the manager would be on the first floor with eight other employees housed on the second floor for a total of nine people. The board inquired as to what outdoor space would be available to the employees.

Chuck said there is a small lawn area near the apartment on (lot 235.3) where the employees could gather after work. The board made it clear to Chuck to avoid any area where noise could impact the neighbors. Chuck said he was not planning on putting a deck on the back of the building and the area in the back of the house would not be used by the employees.

The question remained regarding setback relief. The board may give setback relief of 45 feet from the original lot line if it's determined it is two separate lots. The discussion continued as to how the building department may interpret this in light of the policy by the selectman including the email from the building inspector. The board suggested to the Wileys that they could ask for a continuance of this hearing to seek guidance from their attorney. The process of the twenty day appeal period was explained. Upon filing for a building permit, the building/zoning inspector could deny the permit, and the Wiley's have the option to appeal the building inspector's decision to the Zoning Board. The board was in agreement that the ZBA should comply with the Selectman's policy regarding questions on cases of merged lots and request the applicant supply supporting documentation. Julius moved to continue the hearing to May 25, 2017, at 5:15 pm. Larry seconded, the vote was unanimous. Any documentation from the Wiley's attorney should be addressed directly to the Zoning Board.

With no further business at this time the meeting adjourned at 7:15 pm.

Respectfully submitted,

Clare A. Harrington
Administrator/ZBA