

WEST TISBURY ZONING BOARD OF APPEALS
MINUTES –THURSDAY December 22, 2016
2ND FLOOR TOWN HALL AT 5:05 PM

PRESENT: Nancy Cole (Chairman), Tony Higgins, Toni Cohen, Larry Schubert, Julius Lowe, Roger Hubbell and Robert Schwier.

ALSO PRESENT: See attached attendance sheet.

ABSENT:

Hearing:

5:15 pm – An application from Trademark Services, agent for Luiz Oliveira, for setback relief and an accessory structure on a non-conforming pre-existing lot, under section 4.2-2D and 11.2-2 of the zoning bylaws. Map 16 Lot 61, 560 State Road, RU District.

Nancy opened the hearing. **Correspondence:** Attorney Eric Peters who represents Patricia Linn, owner of Map 16 Lot 16, was given copies of the application and a letter in opposition to the project was presented from Attorney Peters. A letter from Mitch Gordon (map 16 lot 64) with no objection to the project. An email from Joe Tierney (Building Inspector) documenting setback issues between Patricia Linn and Luiz Oliveira.

Marc Nicottera, agent for Mr. Oliveira, presented the plan and reviewed the narrative with the board. In May 12, 2016, an application for a hearing was held for Mr. Oliveira for setback relief to construct a storage building over 676 sq. for a home business. On June 23, 2016, at a public hearing the application was withdrawn without prejudice by Marc Nicottera, agent for the applicant, the ZBA voted unanimously to allow the application to be withdrawn (see minutes dated June 23, 2016). Marc presented a copy of a lease from Vineyard Self Storage, located at the MV Airport Business Park, where Mr. Oliveira stores fiber glass insulation and related chemicals for his Spray Foam Insulation business. No chemicals for his business are stored on the property. The barn/outbuilding is 28' x 41' (approximately 1,162 sq. ft.) will be used to store his construction trailer, dump truck, boat and various items for the maintenance of his property. The structure would include a bathroom and a small personal office, there will be no deliveries related to business activities to the barn. The proposed barn will be located 20 feet from the northeast property line which abuts the town landfill and twenty feet from the north property which abuts Mr. Gordon's property (M16 L64), who is in support of the project. The proposed barn is located in the back of the property away from the main road.

Nancy asked for public comment. Attorney Eric Peters, agent for Patricia Linn, read a letter dated December 22, 2016, into the record (see attached) also attached to the letter is a photo showing a delivery truck backing into the property. Mr. Peters claims that Mr. Oliveira is still operating his insulation business out of the property. What is shown on the site plan dated March 1, 2016 and what is on the property does not match. Several outbuildings shown on the plan are not there and new outbuildings are not indicated. Other issues are the keeping of animals without proper fencing. Regarding a small office he pointed out that Mr. Oliveira already has an office on the property, the addition of a second one with a bathroom is not necessary which would reduce the overall size of the building. Finally, Mr. Peters suggested if the Zoning Board should grant this special permit; clear and concise conditions should be put on the project and it should be reviewed for compliance after completion.

Marc stated again for the record that Mr. Oliveira will not be conducting his insulation business from the property. He told the board that there is history of conflict between Luiz and his neighbor Ms. Linn, and the police have been contacted from both sides and reports have been filed. Nancy asked Marc about the accuracy of the plot plan and the correct orientation of the buildings listed; how many sheds were on the property and what, if any, were removed? The discussion continued as to the current status of the outbuildings on the property and what are to be removed and the setbacks required for these outbuildings. Larry reiterated that the board will require an accurate plot plan showing what structures are on the property and showing the accurate distances from the lot lines regarding setbacks. If the project was to be approved the ZBA would sign a plan which has to be accurate. Marc apologized to the board for the confusion as to what is on the property and what is not reflected on the plot plan. A question about the amount of solvent (provided by the Material Safety Data Sheets-MSDS) that remains in the machinery which is stored on the trailer was discussed.

The board was in agreement that the applicant appears to be running a “service business” from the property. He employs three people who come to the property daily to pick up the truck and trailer necessary to conduct his insulation business. The board explained to the applicant the difference between a home occupation/business and a service business. Marc told the board he would like to discuss this further with Mr. Oliveira. Also, the board voiced their concern as to the amount of chemical residue which could be left in the machinery. Nancy stated she would ask the building inspector and the fire chief for a written opinion on the chemicals used in regards to this business. A brief discussion about continuing the hearing ensued. Julius moved at this time to close the public hearing Toni C. seconded. The vote was unanimous. Marc Nicottera, agent for Mr. Oliveria, asked to withdraw the application without prejudice. Julian moved to accept withdrawal of the application. Toni C. seconded, the vote was unanimous. Nancy suggested to Marc that if he was to apply for a new application an accurate plot plan of the property would have to be presented.

5:55 pm – A hearing on an application from Sail Martha’s Vineyard for a special permit for a recreation/educational business and employee dormitory, under zoning bylaws 4.4-5 and 8.5-3. Map 8 Lot 26.1, 79 Merry Farm Road, RU District.

Bob Schwier (associate member) recused himself from the hearing. Nancy opened the hearing; Correspondence was read into the record. Kirsten Scott; Merry Farm Road –opposed, Karl Frey; 79 Christmas Hill Lane, Tisbury-support, Frank Rapoza; (part owner of the property). Philip Lolyd and Frank Rapoza are joint owners of the property and have started discussions with Sail MV regarding the property. At this time **no purchase and sales agreement** has been signed.

Peggy Schwier, President of Sail MV, explained to the board that they were looking at this property that it could work on many different levels for the organization. Among some of the advantages are: dormitory housing; shop for storage, office space and a residence for a year-round program director. Nancy read the narrative provided dated December 4, 2016, into the record. The following is a brief synopsis of the narrative:

- 1) Residence for Program Director/serving as resident property manager w/family.
- 2) Nine weeks residence for summer staff.
- 3) Use of existing shop space for maintenance of equipment
- 4) Year round office space in the guest house; for two employees – hours 9:00 am to 5:00 pm.
- 5) Winter evening instructional space – hours 6:00 pm – 10:00 pm.
- 6) Winter placement of 6-10 small skiffs.

Photos were provided, but the plot plan attached to the application was not clear regarding lot lines and distances for the existing structures currently on the property. The board was in agreement that a plot plan showing and detailing what buildings are located on the property and the approximate distances from the neighbor’s property lines would be necessary. Also the parking areas for the vehicles should be delineated on the plot plan. An updated or expansion of a title five septic would be necessary for the project. The barn has an apartment in it which would house the program director and his family. The shop/barn area which is open space now would be converted for employee dormitory (eight people). The guest house would be used as office space for two employees. Two additional bathrooms with two sinks, one shower stall and toilet would be added. The classes would be held in the “shop” area, but this was not definite. They would most likely be “shop” type classes. A brief discussion ensued on how this application would be advertised; under recreational/educational business, but most of what the applicant is applying for is an accessory use in a residential neighborhood. The applicant was not sure at this time if they would move the office from Vineyard Haven to this location. It was explained that the special permit would not go with the property, but with the applicant and is reviewed on a case by case bases.

Nancy opened the hearing for public comment:

Brian Plunkett (Map 8 Lot 27.1) direct abutter presented a detailed letter for the record. One issue raised was the inappropriate location for an employee dormitory, that it could be too expansive for the area. The impact of traffic and noise in a rural and residential neighborhood is also an issue. The question was raised on whether the application meets the threshold under section 8.5-3 Educational, Religious or Child Care use. This is a business use in a residential neighborhood. If the board was to allow the application, the Plunket’s would want to request extensive landscaping between the properties.

Simmy Hulzer – supported the organization, but objected to the intense use of the property and the stress on the neighborhood. **Diane Gilmore** – asked about the use of the property for boat shop and was concerned about the number of people coming and going to the property with the increase of traffic. The discussion returned to the use of the property in Vineyard Haven as a shop. **Manny & Jessica Estrella** – Raised concerns about traffic and the effect on the road. A discussion ensued to consult town counsel as to the applicant applying under an educational component under the bylaw. **Melissa Moore and Peggy Schwier**– stated that classes and potential use of a shop would not necessarily have to be included in the application; the dormitory housing is important.

Nancy explained to the applicant that after speaking with counsel (M. Goldsmith) they concurred that Sail MV is not a school, so the applicant would not fall under the educational component.

Julius said that Sail MV would be applying as a recreational business in a residential neighborhood with dormitory/employee housing which would impact the neighborhood. Tucker pointed out that on Lamberts' Cove Road on 22 acres, Focus, a religious/educational camp has been operating for approximately 45 years as a summer camp. The project is only 3.42 acres which limits the amount of use and density on the property. The discussion continued as to the impact on the neighborhood, as it pertains to the office use and the supervision of the employees as it relates to traffic, noise and the impact on the road. A brief discussion ensued regarding what is the legal access to the property: Beaten Path or Merry Farm Road. The conversation continued as to the difference between the 8.5-2 (Non-Residential Uses in the RU and VR Districts) and 8.5-3 (Educational, Religious, Child Care Use). Jesse Burton said the classes which Sail MV conducts are held at the high school, the educational component is a small part of this application.

Other concerns raised by the neighbors were the potential growth of Sail MV and the strain on the neighborhood. The board told the applicant that detailed site plans, floor plans including elevations, have to be submitted with a clear narrative, addressing the neighbors' concerns raised at tonight's hearing. It was suggested to contact the building inspector's office to comply with 2017 building codes regarding housing. The board was in agreement that the applicant should review the bylaws and be specific as to what they are applying under; the application presented tonight was not complete.

With no further testimony, Julius moved to close the public hearing, Toni C. seconded. The vote was unanimous.

Peggy Schwier asked to withdraw the application without prejudice, Sail MV, will consider what they heard tonight from the neighbors. **Julius moved to allow Sail MV to withdraw the application without prejudice. Toni C. seconded, vote was unanimous.**

Minutes:

October 6, 2016- Larry moved to approve the minutes with corrections. Julius seconded, the vote was unanimous, one abstention; Tucker Hubbell (associate member).

December 8, 2016 – Toni C. moved to approve the minutes, Larry seconded. The vote was unanimous; one abstention-Tucker Hubbell.

Meeting adjourned 8:00 pm

Respectfully submitted,

Clare Harrington
ZBA/Board Administrator

