

West Tisbury Zoning Board of Appeals (ZBA)
Minutes May 19, 2016— 5:05 PM
Second Floor, Town Hall

PRESENT: Nancy Cole (Chairman), Larry Schubert, Tony Higgins, Julius Lowe and Bob Schwier

ABSENT: Tucker Hubbell and Toni Cohen

ALSO PRESENT: Attorney Eric Peters, Patricia Linn, Mark Nicotera, Luiz Oliveira, John Abrams, Jared Brissette, Mary Brissette, Chuck Sullivan, Christopher Lyons, Kristine Patnugot, Joe Van Nes, and Clare Harrington (Administrator).

Minutes: May 12, 2016

5:05 – Discussion

Imbrogno Property – Map 16 Lot 82 (SP 2014-11). The board had a brief discussion regarding the site visit to the Imbrogno property on May 18, 2016 at 4:45 PM. Dan Imbrogno had asked the board to review the work that he has completed regarding the landscape plan of his property. Clare reported to the board that the building inspector's office will forward his report on the status of the project when completed. The board agreed that Mr. Imbrogno had built a very attractive building. Clare will contact Paul Foley to see if the MV Commission will sign off on a modified version of the original plan (Hart approved plan) or if the WT Zoning Board has that authority.

Hearings:

5:15 PM- A hearing on an application from South Mountain Co., agent for Jarret Brissette, to amend the special permit #2015-17 for an 800 sq. ft. detached accessory apartment, under section 9.3-3 and 4.4-3A5 of the zoning bylaws, map 11 lot 57.1, 368 State Road, RU District.

Correspondence: Kevin Hearn (Map 11 Lot 22), Cynthia Gibby, (Map 11 Lot 26) and Nancy Gerstmar (Map 11 Lot 59). Abutters were given copies of the application.

John Abrams from South Mountain Co. presented an amended plan showing a 1992 sq. ft. contractor service business. An 800 sq. ft. detached owner-occupied one bedroom accessory apartment; the 384 sq. ft. garage will be eliminated. The original permit (2015-17) was approved for a 1944 sq. ft. service business, 768 sq. ft. owner occupied one bedroom apartment over a 384 sq. ft. garage. The applicant wants to take advantage of the change in the by-law which allows for a "detached accessory structure" rather than what was originally permitted; an attached accessory apartment in the garage. The electrical contractor service structure has been reduced by 50 sq. ft.

The office is to be located on the first floor. The second floor is attic only. The apartment/garage has been removed. The length of the building was 85 feet now it is 83 feet; the second floor space is gone. The overall height of the workshop structure has been reduced by approximately 2' – 6". The single story dwelling is 800 sq. ft. with a basement and an open porch design. With no further questions for the applicant, Larry moved to close the public hearing and open the board meeting. Julius seconded the vote was unanimous.

There was a brief discussion regarding the possible future use of this dwelling. This structure could become an accessory apartment if the applicant were to build another dwelling as their primary residence. The acreage also allows for a guest house. The 800 sq. ft. dwelling could be an accessory apartment and rented under the 4.4-4 of the zoning bylaw (occupancy restrictions on apartments). The discussion continued that the applicant is building an 800 sq. ft. house as his primary residence at this time, which does not need ZBA approval. The lot is an ample 7.1 acres. A provision of the original special permit states the electrical contractor business cannot operate until the applicant is in residence. With no further discussion, Julius moved to amend special permit #2015-17 to allow the applicant to reduce the size of the service business and relocate an 800 sq. ft. residence. Bob seconded, the vote was unanimous. Nancy explained the twenty day appeal period.

5:35 PM- A hearing on an application from Sullivan & Associates, agent for Ruth & Jennifer Barron for height relief. Under section 6.2-2 of the zoning bylaws, map 12 lot 36, 95 Christiantown Rd, RU District.

Nancy opened the hearing. Chuck Sullivan explained to the board the applicant is seeking permission to place a curb-cut on the property. They are scheduled to be on the Planning Board's agenda for May 23, 2016. The plans may be change depending on the outcome of the meeting with the Planning Board. Because of this he would like to request a continuance. Larry moved to continue the hearing to June 2, 2016 at 5:35 pm. Julius seconded, the vote was unanimous.

5:50 PM Discussion:

Joe Van Nes and Kristine Patnugot appeared before the board for an informal discussion on a "farm stand" to be located in their existing garage. The property is located at 366 Lamberts Cove Rd. They would like to sell pork which they raise (not on the property) and other items (herbs and apparel with their logo). The discussion on what constitutes a farm stand vs a home occupation was reviewed. In a home occupation specific guideline need to be met for a special permit to be granted; specifically the items for sale have to be produced on the premises. A brief discussion regarding the location of the property which could be problematic. The board suggested they speak with the Building Inspector to see if any permits from his departments are needed for a "farm stand". The question was raised if "farm stands" had gone to the Building Inspectors office for a permit to operate. The town's definition of a farm stand and how it may relate to the state's definition of a "farm" was discussed.

Clare will research this further and speak with counsel. Nancy reiterated to Mr. Van Nes and Ms. Patnugot that they have a right to apply for a home occupation to the board if they choose.

Correspondence:

Letter from Katy Upson was read into the record regarding the solar panels being installed by the MV Agricultural Society. A reply will be sent to Ms. Upson informing her that the special permit was granted with conditions and the appeal period has expired.

Hearing

6:00 PM – A continuation of a hearing on an application from Trademark Services agent for Luiz Oliveira for the construction of a 30' x 40' storage building, setback relief and a service business. Under section 11.2-2, 8.5-1(B) and 4.4-2D of the Zoning Bylaws, Map 16 Lot 61, 560 State Road, RU District.

Nancy re-opened the hearing which was continued from May 12th. The board had a site visit to the property on May 18, 2016, at 5:00 PM; the members in attendance were Tony Higgins, Larry Schubert, Bob Schwier and Nancy Cole. Also in attendance; Mark Nicotera, Luiz Oliveira, Attorney Peters and WT Board of Health agent, John Powers. Nancy explained to the applicant that the Material Safety Data Sheet (MSDS) which the applicant provided was given to the Board of Health who forwarded it to Chief Estrella at the WT Fire Department. The MSDS sheets will be reviewed by the State Fire Marshalls Office, once they review the documents a report will be sent back to the Board of Health and the Zoning Board.

Larry stated he read the MSDS specifically referring to the clean-up regulations as they apply to Federal, State and Local regulations. He asked John Powers at the Board of Health, to help the board with a list of requirements from the Federal, State and Local regulations as per the handling of these materials. Also, what was the policy of the MV Refuse District in accepting these barrels? Larry stated in his opinion that the board would need input from experts in the field as to the storage of these materials because the property is located in a residential neighborhood. The board agreed it was relative to the special permit application what will be stored in the building along with the setback relief requested.

Mark Nicotera presented a revisited plan of the storage building. The revised building plan is "barn" style in appearance and more in keeping with the residential neighborhood. The height of the building is approximately 22' - 7' to the top of the clear story. At the site visit the board also examined the site from Ms. Linn property (direct abutter). Larry was of the opinion that from Ms. Linn's property the building height could be an issue. Without the clear story the building is approximately 18' 7". The building would be a Board and Batten design. Attorney Peters requested a copy of the MSDS material.

The board was in agreement that the hearing should be continued until the report from the Chief Fire Marshall's office is obtained. Julius moved to continue the hearing till June 16, 2016 at 6:00 pm. Larry seconded, the vote was unanimous.

Meeting adjourned at 6:45 PM.

Respectfully submitted,
Clare A. Harrington
Board Administrator

