

West Tisbury Zoning Board of Appeals
Minutes – April 9, 2015
2nd Floor, Town Hall

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

ABSENT: Toni Cohen

ALSO PRESENT: Michael Reidbord, Michael Gately, Joel Kirschbaum, J. Simon Warren, Nate Morgan, James Moffatt, Andrew Moore, Gail Barmekian, Rosemarie Haigazian, Marjorie M. Yoars and Allen Moore.

Minutes:—**March 5, 2015** - Julius moved to approve the minutes and seconded by Nancy. The vote was unanimous, in favor with one abstention. **March 12, 2015** – Nancy moved to approve the minutes with correction and seconded by Toni C. The vote was unanimous.

Hearing

5:20 PM – An application for Michael Gately, to amend special permit #2013-16, under 9.3-3 of the Zoning bylaws. Map 1 Lot 23, 8 Norton Farm Road in the RU district.

Tucker opened the hearing. Correspondence: Email from Michael Reidbord (Map 1 Lot 39) his concern was the height of the proposed structure; he was not in favor of the application. An email from Carol MacMoran (Map 1 Lot 40), requesting information regarding the application. Tucker gave a brief history of the property and specifically the special permit (2013-16) obtained in June of 2013. The Board approved the application with conditions to alter and extend a non-conforming (setback relief) house, to demolish the house and construct a new one in the same existing footprint of the current setback. The board approved the building height up to 25 feet, with the understanding any changes to the height the applicant would need to return to the ZBA to amend the special permit. Tucker explained that the property is not located in the shore zone or does not fall under 6.1-6 (regulations and restrictions) regarding the height of structures. Mr. Gately presented a narrative and a plan to the board for their review. The minor changes are the following: the overall footprint is smaller than the previously proposed plan (total square footage is 1600 sq. ft.) and the setback from the road is five feet further away. The proposed ridge heights are 23' -4" for the lower ridge and 27' -6" for the higher ridge. The ridge height is below the natural tree line and falls within the bylaws of 30 feet maximum height in the RU district. Pictures were shown to the board relative to the view from the property as it relates to Mr. Reidbord and Ms. MacMoran property. It was explained that the neighbors view would not be obstructed by the house.

Mr. Reidbord asked for the definition between the different zones in the Town (ex: RU District), which is zoned for agricultural and residential height restriction in the RU district which is 30 feet. The size of the lot has no bearing on the height of the structure. Mr. Reidbord stated that Mr. Gately's proposed request could have an impact on the renting of his home for the summer season. He also presented pictures of the proposed house and the impact on the view. He contends this will block his view of the water. Further discussion ensued regarding the height of the structure and the

possible impact on the view from Mr. Reidbord's house. Mr. Reidbord asked the board if poles could be staked on the property to show where the house will be sited and to truly reflect the height of the structure. The board explained the plan in depth to Mr. Reidbord. Tucker explained that by right he is allowed to build a 30 foot tall house. Mr. Reidbord may see more house but it would not be blocking the entire view. There was continued discussion regarding the photos presented as to the height of the building and any potential impact on the view. The board was in agreement that Mr. Gately is amending his application with the condition that any alternations need to be approved by ZBA. Mr. Gately was also required to return with house plans. Julius moved to close the public hearing and open the board meeting which was seconded by Nancy. The vote was unanimous. With no further discussion, Bob moved to approve the application under 9.3-3 which was seconded by Nancy. The board was in agreement that it did not impact the view, the setback from the road was less non-conforming and it would be an improvement to the neighborhood. The vote was unanimous. Tucker explained the twenty day appeal period.

Hearing:

An application from Simon Warren & Elizabeth Dowd for a special permit to finish a basement, under section 9.3-3 of the Zoning Bylaws and relief from a Comprehensive Permit dated December 19, 2002; condition #9. On Map16 Lot 190, 14 Holly Lane, RU District.

Tucker opened the hearing. Mr. Warren came before the board to seek relief from a Comprehensive Permit specifically condition #9, which state... that no alteration, extension, or enlargement of such structure may be authorized without a permit from the Board of Appeals. A letter from the building inspector dated February 24, 2014, was sent to Ms. Warren and Mr. Simon addressing the finished basement and bathroom completed without a special permit being obtained. Mr. Warren presented a plan showing a finished basement which includes a children's playroom, computer area and a full bathroom, with a total of 856 sq. ft. Mr. Warren explained that the contractor has passed away, and he was under the impression the builder had pulled all the correct permits including the permit for the bathroom. The board was in agreement that the applicant could be allowed to finish the basement for the use described; playroom and a computer room for his children. It was agreed that the space should be deemed not a bedroom with no sleeping quarters allowed. There is an interior staircase and a bulkhead for access to the basement. Larry made a motion to close the public hearing and open the board meeting, Nancy seconded the motion. The vote was unanimous.

The board agreed that the applicant must remove the door located at the bottom of the stairs, shown on the submitted plan, to ensure the computer area cannot be used as a bedroom, the area is deemed not a bedroom with no sleeping quarters are allowed. The glass French doors showed are allowed. Nancy moved to approve the application with the above findings as outlined, Bob seconded the motion. The vote was unanimous. The board signed the plan submitted with the following additional language...must remove the door at the bottom of stairs to ensure that space can't be used as a bedroom. Tucker explained the twenty day appeal period.

Hearing

An application from Hutker Architects, agent for Anton Pil, for a proposed demolition of an existing structure, to construct a 5045 sq. ft. single family dwelling and a 560 sq. ft. accessory garage partially within the shore zone of the coastal district and the installation of an in-ground pool. Under section 6.1-4B, 6.1-6(A)3 & 8.5-4(C), Map 39, Lot 13, 245 Thumb Point Road, RU District. For more information and to see the application please contact or visit the Zoning Board of Appeals Office at the Town Hall.

Tucker opened the hearing. Correspondence: An email from Ellen Sturgis (Map 39 Lot 12) opposed to the project. Letters from Martha Moore (Map 39 Lot 13), Eliza Lewis (Map 39 Lot 13), and Andrew Moore (Map 39 Lot 13) opposed to the project. A letter from the WT Planning Board to Mr. Tierney (Building Inspector) re: site plan review. Correspondence forwarded from the Conservation Commission from the Natural Heritage & Endangered Species Program. Mr. Reid Silva, of Vineyard Land Surveying presented an updated plan to the board. The property has a pre-existing 2016 square foot building with 814 square feet in the shore zone. There is 1,969 square feet of deck of which 1,280 square feet are in the shore zone. The applicant plans to remove the existing structures and decks and build a new 4341 square foot home, 560 square foot accessory structure, and 2,476 square feet of deck. The top of the railing design is at elevation of 25.25', a height of 1'3" (26.5') above the 13' flat roof height restriction. The proposed structure is 199 square feet in the shore zone and the proposed deck is 256 square feet in the shore zone. The applicant is also applying under 8.5-4(C) for the installation of a 32' by 16' in ground swimming pool. The project is currently under review with the Conservation Commission as well as the Board of Health. Reid reported that the property has been surveyed and the property lines have been established. Regarding the issue of erosion in the area, this is being addressed through the Conservation Commission. The pool is located in the middle of the lot and outside the flood elevation zone, and will have salt water chlorination unit. The bottom of the pool would be above the pond ground area. There will be minimal disturbance of the existing vegetation.

There was a brief discussion regarding the bylaw 6.1-4. It was pointed out that this is "new construction" not an addition too. It was pointed out that the board may not be able to give any relief regarding the application without the proposed structure being moved completely out of the shore zone. A question for the board is; does this bylaw allow the board to give relief from any new construction restrictions in the shore zone. The deck is still 256 feet in the shore zone; a deck could be considered part of the structure and count as habitable space. The board was in agreement that this question would have to be addressed with counsel. Mr. Silvia felt that the board has given special permits in the past regarding relief from the shore zone restrictions. The board would need to review this further before a decision can be made.

The board opened the discussion to the public.

Andrew Moore had asked about lighting on the flat roof. It was explained that it would be a minimum of down shielded lighting. Ms. Marjory Lords voiced concerns about the lighting and noise and if the pool would have any effect on the water table. Mr. Alley Moore also shared concerns regarding the potential "light pollution", including the proposed parking area, which could be a potential eye sore and if screening could be planted to alleviate this potential problem.

Attorney Gail Barmakian and Attorney Rosemarie Haigazian were present representing their client, Ellen Sturgis. They stressed that the size of the project and the intensity of use could be problematic. They also questioned the septic system capacity for the location. The board explained those were questions for the BOH. Attorney Barmakian, questioned possible deed restrictions as it applied to the pool. The board asked for copies of the deeds in questions, and if necessary will have the Town counsel review the language. Attorney Barmakian also had general questions regarding pool regulations. The board explained that all pools fall under state and local regulations. Ms. Barmakian expressed the possibility of scaling down the project further and pulling the proposed structures out of the shore zone completely. Andrew Moore also expressed concerns about the pool equipment and noise; the board explained that under West Tisbury Zoning Bylaws pool regulations all equipment is housed in a sound proof structure.

The board returned to the Planning Board letter dated March 16, 2015, and the suggestions made regarding the proposed structure. The discussion returned to the flat roof and the designer's intention and what is to be located on the roof. The board was in agreement that at this time a site visit would be needed to address some of the concerns raised by the abutters in tonight's meeting. Also, to clearly get a perspective on the siting of the proposed new house and decks, as well as the pool location. A site visit will be held on Tuesday, April 28, 2015, at 4:30 pm. Julius moved to continue the hearing till April 30, 2015, at 6:00 pm it was seconded by Bob. The vote was unanimous.

Meeting adjourned 7:45 PM

Respectfully submitted,
Clare A. Harrington
Board Administrator.

