

**Released Executive Session Minutes from January 10, 2023 at 5:00 PM Joint Meeting of Chilmark
Select Board & Zoning Board of Appeals on Zoom platform**

At 5:10 PM Chairperson Chris Murphy of the Zoning Board of Appeals called meeting to order on the zoom platform. Chairperson Murphy stated that Fred Khedouri is appointed to be an active member for this meeting.

Chairperson Murphy said we (ZBA) are now going to move into Executive Session with the Select Board and Town Counsel to discuss litigation strategy and not return to regular session. Zoning Board of Appeals roll call: Chris Murphy: Aye, Fred Khedouri: Aye, Joan Malkin: Aye, Russel Maloney: Aye. Members not present: Joe Chapman, Frank LoRusso, Allison Burger and Wendy Weldon.

Chairperson Rossi stated Chilmark Select Board are now going to move into Executive Session with the Select Board and Town Counsel to discuss litigation strategy and not return to regular session. Roll Call: Bill Rossi: AYE, Warren Doty: Aye and James Malkin: Aye. Others present: Town Administrator Tim Carroll, ZBA Administrator: Alison Kisselgof, Town legal counsel Ron Rappaport and assistant Diana DeBlase.

Ron Rappaport said the reason we are holding this joint Executive Session relates to special permit for Jim Hartley for Pool, the ZBA decision 3 favor 1 abstention. This failed to have a quorum approve. Mr. Rappaport said no one opposed. Hartley has filed a lawsuit against Chilmark. Mr. Rappaport asked do you want public funds to be spent when no members voted no. Mr. Rappaport stated it will be expensive to town. Reason stated no clear line of sight from house to swimming pool. The minutes state that pool can be seen through porch. Judge would likely say why are we here? Decisions need to be consistent with votes. Mr. Murphy said if choose not to defend what happens? Mr. Rappaport said Judge might remand back to board. Would want to know town's direction.

Mr. Khedouri asked if it is possible for ZBA to vacate determination and pullout and seek reconsideration. Mr. Rapaport said yes, if the court were to order a remand. Joan Malkin said I am person who abstained, don't disagree there was a direct line of sight. Ms. Malkin said I should have voted no. Ms. Malkin said she did not think it's worth defending. Mr. Maloney said don't think it's worth defending.

Select Board: Mr. Malkin supported ZBA decision to not defend. Mr. Doty said go with ZBA feelings here. Bill Rossi said he felt the same.

ZBA: Chris Murphy said he wants to implement what voted with conditions. Willing to live with what we voted. Mr. Rappaport said that he proposes a remand so that the Board can approve and impose the conditions outlined in the prior vote.

Select Board: Chairperson Rossi said as chair of ZBA years ago; chairperson would review decisions and conditions prior to recording. Mr. Rossi said years ago you (Ron Rapaport) came to ZBA and gave OML proceedings lesson that was very helpful. Mr. Malkin said all of our boards could use a refresher on this process. Mr. Rappaport said he would be glad to do it for free.

ZBA: Mr. Khedouri said it is very important the conditions don't get lost in the Hartley application. Mr. Rappaport said yes. And that he has direction and is duly authorized.

Select Board: Mr. Rossi asked for a motion to adjourn and to not return to regular session. Mr. Malkin moved, Mr. Doty seconded. Roll call: Rossi: Aye, Malkin: Aye, Doty: Aye.

ZBA: Mr. Murphy requested motion to adjourn and not to return to regular session. Ms. Malkin moved, Maloney seconded. Roll call: Murphy: Aye, Khedouri: Aye, Malkin: Aye, Maloney: Aye. ZBA Members not present: Joe Chapman, Frank LoRusso, Allison Burger and Wendy Weldon. At 5:38 PM joint meeting was adjourned.

Executive Session post review from Town Counsel minutes respectfully submitted by Diana DeBlase.

Approved 04/04/2023