



# ZONING BOARD OF APPEALS

## Town of Chilmark

### MEETING MINUTES - APPROVED

March 29, 2024

(Via ZOOM Meeting ID: 871 3265 2731)

Present for the Zoning Board of Appeals (ZBA) were Chris Murphy - Chair, Allison Burger, Emily Josephs, Fred Khedouri, Joan Malkin, John Demers and Alison Kisselgof - Administrator.

Also in attendance were Adam Petkus – Building Inspector/Zoning Enforcement Officer (ZEO), Wendy Weldon, James Bohan, Reid Silva, Kris Horiuchi, Gabby Bretton, David Damroth, Drew Cathey, Esther Brandon, Bryan Collins and unknown person labeled “iPhone 2”.

Joe Chapman was not in attendance.

The meeting came to order at 9:00 AM. Since Mr. Chapman was not attending the meeting, Mr. Murphy assigned Ms. Josephs as a voting member for today’s applications.

**ADMINISTRATION:** Ms. Kisselgof informed the Board that the accessory apartment by-law biennial review was coming up. She asked that the ZBA members to begin to consider if the by-law needs amendment. The Board requested that Ms. Kisselgof compile a list of accessory apartment special permits issued to-date including data regarding lot size.

Ms. Kisselgof mentioned that a discussion about having applicants pay for advertising was also on the agenda. The Board requested that Ms. Kisselgof find out and share how the other island towns handle advertising costs.

### **AGENDA ITEM #3: SOURATI ENGINEERING GROUP LLC FOR DARK STAR RIDGE LLC**

#### **20 Tennis Lane (Map 3 Lot 27)/ *Determination of Significance for Change in Site Plan***

A special permit was issued for a garage to be constructed at 20 Tennis Lane within the setbacks at the 6/22/24 ZBA meeting. The applicant has requested to substitute a new site plan for the one approved in which the orientation of the garage is slightly rotated.

James Bohan was present at the meeting to discuss the changes. He explained that the original site of the garage would have placed a retaining wall through a garden area. The new orientation proposed would avoid the garden area, allows better use of the existing road, decreases the length of the retaining wall and increases the setback from the eastern lot line from 12 to 13 feet.

Ms. Kisselgof shared the new site plan on screen. She mentioned that new letters from the 3 abutters affected by the reduced setback were received, all of which consented to the site plan change.

The Board determined that the change was minimal. A motion was made to deem the change de minimus and consistent with the special permit granted. The motion was seconded and passed by unanimous roll call vote.

Another motion was made to approve the change itself and seconded. The motion was passed unanimously.

**AGENDA ITEM #1: VINEYARD LAND SURVEYING & ENGINEERING INC. FOR DECK VIEW NOM. TRUST**  
**18 Austin Pasture (Map 35 Lot 2)/ *Application for Special Permit under By-law 4.2A3***

Mr. Murphy opened up the public hearing at 9:07 AM.

Mr. Silva shared the site plan for the project on screen. He mentioned that a new main dwelling is currently under construction and briefly went over the history of the property. Mr. Silva said that the property is located within Zone D of the Squibnocket Pond District. He offered that there was only one logical place for pool due to the limited building envelope and the setback necessary from the wetlands. Mr. Silva then shared the landscape plan and mentioned that a fence is planned to enclose the pool and that a retaining wall would be needed because the pool would be built into a hill. He said that there would be a direct line of sight to the pool from both the main floor kitchen on the walkout basement level living area. Lastly, Mr. Silva mentioned that there is a hydrant location near the entrance of the driveway, the owner would enroll in a green energy program to offset power to heat the pool and that an automatic cover would be installed.

Ms. Kisselgof read the findings into the record.

Mr. Silva mentioned that Board of Health has not seen the final site plan and will still need to approve the septic location in the front of the house. He went on to say that the pool is not located within the wetland buffer zone but there is an isolated wetland that has previously been shown not to drain into Squibnocket Pond.

The Board asked about whether there was visibility of the pool from neighboring houses. Mr. Silva was unsure if the neighbors could see the pool from their house.

There was a discussion regarding how a pool can be permitted in this area without explicit mention in by-law 12. The consensus was that by-law 12.4D1 was the mechanism with which a pool special permit can be issued but there was concern amongst the Board members about fragile ecology of the pond. Mr. Silva offered that other pools have been permitted in the area. There was some conversation about which zone of Squibnocket Pond this project falls within. It was mentioned that the Conservation Commission may want a more recent delineation of the wetlands and that the special permit would be conditioned on their approval.

The Board asked if the pool would be visible from a public way. Mr. Silva said that the closest public way would be the pond and he did not believe that any portion of the pool or its equipment would be visible since it is largely below grade.

The hearing was opened to public comment at 9:43 AM.

Ms. Weldon offered some history of the property and said that the wetlands were delineated in 2021, which should be current enough.

Mr. Damroth said that he was attending to represent neighbor Barbara Lee. He offered that the last time a pool was approved for this lot, the owner worked with the neighbors on a landscaping plan to mitigate the sound from the pool. Mr. Damroth did not see a detailed landscape plan submitted with this application and asked if the same condition could be placed on this special permit.

Ms. Weldon added that there is a view shed agreement with the owners and that her family as well as Ms. Lee could see the pool from their houses. Ms. Weldon supported Mr. Damroth's request that the neighbors be consulted on a landscape plan. Ms. Weldon did not believe the pool would be visible from the pond.

The Board asked if the Site Review Committee or Squibnocket Pond District Advisory Committee (SPDAC) had any comments regarding the project. Ms. Kisselgof said that the Site Review Committee had questioned whether the project was located in Zone C of the Squibnocket Pond District. She also said that there was no visual impact expected from the pond. SPDAC had no comments beyond the Site Review Committee.

A motion was made to close the public hearing at 9:51 AM. The motion was seconded and passed by unanimous roll call vote.

After a brief conversation about the conditions that should be attached to the special permit, a motion was made to accept the application as presented subject to approval of a detailed landscape plan and Conservation Commission. The motion was seconded. The Board further discussed the fragile nature of the pond, the intent of the by-law and the disruption of the natural landscape created by all of the work at this property. After reaffirming the scope of the application was only the pool, a roll call vote was taken on the motion and passed by unanimous approval.

Mr. Silva was asked to return to a future ZBA meeting with a detailed landscape plan.

#### **AGENDA ITEM #2: VINEYARD LAND SURVEYING & ENGINEERING INC. FOR KNOLL LOT NOM. TRUST**

137 Quansoo Road (Map 22 Lot 8)/ *Application for Special Permit under By-laws 4.2A3 & 11.6A2d5*

Mr. Murphy opened the public hearing at 10:08 AM.

Mr. Silva shared the site plan and mentioned that this property was unique and had several limitations. He said that the owners wanted to install a small pool but the only location suitable due to the proximity to Tisbury Great Pond and Lower Coomes Pond was beyond the garage and out of the direct line of sight from the main dwelling. The owners have proposed instead the use of cameras, a pool sensor and an automatic safety cover. Mr. Silva mentioned the entire lot was in the flood zone and just above elevation 10. He said that the Conservation Commission has an open continued hearing on the application to see what the ZBA decides. Mr. Silva offered that the enclosure would consist of fencing directly around the pool. The pool was not expected to be visible from Tisbury Great Pond.

The Board asked about the Natural Heritage & Endangered Species Program (NHESP) habitat and whether the pool would adversely affect the area. Mr. Silva said that a no-take letter had been received from NHESP and therefore had been cleared of any habitat considerations. The Board mentioned that the by-law clearly states that cameras cannot be used for pool line of sight. Other possible locations for the pool were offered by the Board, each of which Mr. Silva explained were not possible due to coastal district restrictions or practical design. He said that if the language of the by-law doesn't permit the project as presented, then the owner would probably withdraw the application. The Board suggested that the owner return with a different pool location. Mr. Silva requested a continuance of the public hearing until the April 25<sup>th</sup> meeting.

A motion was made to approve the request for continuation. The motion was seconded and passed by unanimous approval.

**TOPICS NOT ANTICIPATED BY THE CHAIR:** None.

**DOCUMENTS:**

Findings for 3/29/24 ZBA Applications

20 Tennis Lane ~ Revised Site Plan dated 3/8/24

18 Austin Pasture ~ Site and Landscape Plans

137 Quansoo Road ~ Site Plan

Next Hearing: April 25, 2024 @ 9:00 AM.

With no further business to conduct, the meeting adjourned at 10:29 AM.

Respectfully submitted by Alison Kisselgof, Board Administrator.