



ZONING BOARD OF APPEALS

Town of Chilmark

MEETING MINUTES - APPROVED

January 25, 2024

(Via ZOOM Meeting ID: 857 0845 6632)

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

Also in attendance were Adam Petkus – Building Inspector/Zoning Enforcement Officer (ZEO), Martin Gold, Sarah Turano-Flores, Tim Rich, Mark Tonn & George Sourati.

Emily Josephs was not in attendance.

The meeting came to order at 9:02 AM. ZBA member Frank Lo Russo tendered his resignation prior to this meeting so only four voting members would be available for the open public hearing.

ADMINISTRATION:

A motion was made to accept the minutes from the 12/14/23 meeting as presented and seconded. The motion passed by unanimous roll call vote.

AGENDA ITEM #1a: SOURATI ENGINEERING GROUP LLC FOR SANTIAGO REALTY TRUST 9 Signal Hill Lane (Map 34 Lot 1.3)/ Application for Special Permit under By-law 6.11

Prior to the meeting, Bryan Collins from the Sourati Engineering Group emailed to request a continuance of this continued public hearing. This request was in response to the resignation of Frank Lo Russo, a voting member on the continued public hearing, and also to a letter received from the Conservation Commission requesting that an expert determination of the project's zone in the Squibnocket Pond District.

Ms. Turano-Flores offered some background on the applications for this property to date and said that a report is being prepared in response to the Conservation Commission's letter. She went on to say that, since the Town of Chilmark has not adopted the Mullin Rule, that the application would not have the opportunity to have five members vote on it due to Mr. Lo Russo's resignation. Ms. Turano-Flores requested a withdrawal of this application without prejudice so that it could be refiled for the next meeting and have five voting members. She offered that the applicant would sign an extension agreement to allow the application to go beyond the legal timeframe for an application to be heard.

The Board discussed the possibility of an alternate being assigned to vote on the open public hearing. It was unclear if an alternate who had attended all the previous meeting could just step in as a voting member and Ms. Kisselgof was asked to check with legal counsel. Ms. Turano-Flores offered that she was unaware of any mechanism to add a voting member to an open hearing apart from the Mullin Rule and expressed the desire to avoid further delays.

A motion was made to accept the request to withdraw the special permit application without prejudice and seconded. With no further discussion offered, the motion passed by unanimous roll call vote from the four members who were assigned to vote on this application.

At this point in the meeting, Mr. Murphy assigned Mr. Khedouri as a voting member for the rest of the meeting.

AGENDA ITEM #1b & c: SOURATI ENGINEERING GROUP LLC FOR SANTIAGO REALTY TRUST

9 Signal Hill Lane (Map 34 Lot 1.3)/ Appeal of Zoning Enforcement Officer Decision under By-law 9.9 and Variance from By-law 12.4C1

A motion was made to accept the request for a continuance of both the appeal and variance applications until the February 22nd meeting and seconded. The motion passed by unanimous roll call vote.

AGENDA ITEM #2: MARTIN GOLD FOR JACQUELINE MEYER

12 Valley Lane (Map 3 Lot 48)/ Discussion of Possible Change to Originally Submitted Plans

Mr. Gold said that he was requesting an amendment to the special permit issued in October 2022 to remove the fencing around the pool since the pool is equipped with an automatic safety cover. This request is in light of the change to by-law 4.2A3, amended at the 2023 annual Town meeting and approved by the Attorney General in November 2023. Mr. Gold went on to request that the special permit also be amended to remove the condition that doors and windows leading into the pool area be alarmed.

Ms. Kisselgof shared a site plan on screen at the request of the Chair and indicated where the fencing was originally located. The Board discussed if there first needed to be a determination of whether the changes were inconsequential and, if so, whether that would require a new special permit. It was mentioned that there were no grounds to deny Mr. Gold's request even if the ZBA required a new special permit. Mr. Petkus offered that the by-law does now allow for the fencing to be removed if an automatic safety cover is installed and that it would be more efficient to approve the change without requiring reapplication. He also said that the pool would still need to pass an inspection of the automatic cover. Member expressed some safety concerns and strongly encourage that the fence remain. Mr. Gold said that he would consider a temporary fence if small children were going to present and mentioned the eliminating the permanent fencing was a huge savings that would offset the expense of the automatic safety cover. After some further discussion by the Board, a motion was made to accept the request to modify the special permit by removing the requirement for fencing and the alarms on doors and windows leading to the pool area. The motion was seconded. Before voting, there was some mention of a previous request to remove a fencing around a pool. In this instance, the applicant was asked to reapply for a special permit. It was offered that this request was made before the by-law change was in effect and therefore a different discussion was made by the Board at that time. There was talk about creating a standard form for this request of modification since it was expected that more recipients of pool special permits would ask for this change. Some members still expressed concern regarding the proper procedure if a change is requested and the change is deemed significant while others felt that the process was done correctly. It was mentioned that there is no blanket decision on these requests and each would be looked at on an individual basis in the future.

FURTHER ADMINISTRATION: Since the discussion of the pool by-law was incorporated into the request from Mr. Gold, there was nothing further to discuss on the matter.

Ms. Kisselgof had distributed a draft version of the 2023 ZBA annual report for review prior to the meeting.

Ms. Malkin suggested an additional paragraph to the report. Ms. Burger suggested removal of the column with the by-law number listed since it was confusing and could be mistaken for the number of applications received. After a brief discussion about suggested edits, a motion was made to approve the annual report with both edits. The motion was seconded and passed by unanimous roll call vote.

With no further business to discuss, a motion was made to adjourn the meeting, seconded and passed by unanimous approval.

TOPICS NOT ANTICIPATED BY THE CHAIR: None.

DOCUMENTS:

Draft minutes from 12/14/23 Meeting

1/22/24 Email from Sourati Engineering Group

Revised Site Plan for 12 Valley Lane

Draft 2023 Annual Report

Next Hearing: February 22, 2024 @ 9:00 AM.

With no further business to conduct, the meeting adjourned at 10:07 AM.

Respectfully submitted by Alison Kisselgof, Board Administrator.