



ZONING BOARD OF APPEALS

Town of Chilmark

MEETING MINUTES -DRAFT

December 30, 2021 (via ZOOM)

Present for the Board of Appeals and attending the meeting on Zoom were Russell Maloney Chairman, Allison Burger, Wendy Weldon, Chris Murphy, Joan Malkin, Frank Lo Russo, Joe Chapman and Alison Kisselgof Administrator. Also in attendance were Caleb Nicholson, Mr. & Mrs. Christian Halby, Jonathan Fitch, Tim Carroll, Michele Sasso, Sig Van Raan, Justin Corbett, Matt Flanders, Erin Norrison, George Sourati, Blake Middleton, Kris Horiuchi, Chris Dunn, Amanda O'Malley, James Moffatt, Chris Alley, Tyler Smith, Ted Rosbeck, Fred Khedouri, Margi Robinson, Sarah Glazer Khedouri, Sally Solmssen, Leah Becker, Jane Wilkie, Joan Safford, Jaime Iglehart, Evan Becker, Patrick Hennessy, Johan Paulson, Reid Silva, Scott Rosenberg, Celeste Peterson, Heather Norton, Melissa Murphy and persons at phone numbers 508-693-2781, 860-883-8846 and 508-627-0146.

The meeting came to order at 9:02 AM.

AGENDA ITEM #1: GEORGE SOURATI FOR JAMES & JOAN HARLEY ***72 Cobbs Hill Road (Map 11 Lot 25.1) / Application for a pool under by-law 4.2A3***

This is a continued hearing from the November 23, 2021 meeting. Eligible voting members are Mr. Maloney, Ms. Burger, Mr. Murphy, Ms. Weldon & Ms. Malkin.

The public hearing opened at 9:05am.

Mr. Sourati starting his presentation by recounting issues that Board members had in the last meeting regarding the pool safety. A new plan addressing concerns was shared in which the pool elevation was lowered by 18 inches and removal of trees in the line of sight from the main dwelling. Mr. Sourati then shared a diagram depicting the line of sight from the porch of the main dwelling to the pool to show visibility. He described the retaining wall as smooth to prevent climbing and said it would act as fencing on the north side of the pool. Mr. Sourati shared a diagram of the pool garden and a cross section of the pool. He indicated that the fencing would be placed around and in close proximity to the pool, guesthouse and cabana and that alarms would be placed on doors and windows as required. He also pointed out where low vegetation is proposed along the top of the retaining wall. A diagram of the proposed fencing was shown and Mr. Sourati mentioned that the fence would be code compliant and that the vegetation around would be kept trimmed low. He lastly said that there was no way that the pool could be brought closer the house but felt the changes presented would improve safety issues.

The Board thanked Mr. Sourati for the improvements to the plans but were still concerned about the low plantings along the top of retaining wall. There was also a question as to why the fencing could not be just around the pool which the Board felt was safer. Mr. Sourati suggested dropping the retaining wall a foot lower than the pool to allow for the plantings without their impeding the line of the sight to the pool. The retaining wall height would remain 4 feet. The Board mentioned that there was still a risk of someone falling from the retaining wall.

Mr. Sourati asked for a further continuance so that he could share the Board's comments with his client. The Board summarize that the issues to address for the next meeting would be the fencing, location and vegetation.

A motion to continue was made and seconded. The motion passed by unanimous vote.

The public hearing was closed at 9:25am.

AGENDA ITEM #2: GEORGE SOURATI FOR JAMES & JOAN HARLEY

72 Cobbs Hill Road (Map 11 Lot 25.1) / Application under by-law 6.11

This is a continued hearing from the November 23, 2021 meeting. Eligible voting members are Mr. Maloney, Ms. Burger, Mr. Murphy, Ms. Weldon & Ms. Malkin.

The public hearing opened at 9:25am.

In light of the continuance of the previous application, Mr. Sourati also requested a continuance for this application.

A motion was made to continue the public hearing and seconded. The motion passed by unanimous vote.

The public hearing was closed at 9:26am.

AGENDA ITEM #3: CHRIS ALLEY FOR WMVP LLC

31 Black Point Road (Map 25 Lot 20.8) / Amended Application for a pool under by-law 4.2A3

The public hearing opened at 9:26am. All Board members were present for voting.

Mr. Alley explained that a special permit for a pool was issued earlier in the year, but the owners have since decided to move the location. Mr. Alley was advised by the Board chair that the changes were significant and that a new application would need to be filed.

Mr. Alley presented the revised site plan and indicated the new location of the pool. He recounted issues that the Board had with the previous location and noted this location was an improvement with respect to setbacks, line of sight and fencing. He mentioned that the size of the pool, the equipment shed, the pool cover, hydrant location and energy source are the same as they were in the previous application. Mr. Alley pointed out a large oak tree that is within the line of sight but indicated the branches are all above the line of sight and should not affect visibility. Mr. Alley indicated that the closest corner from the pool was 106 feet from closest point of the main house.

The Board felt that the changes to this project were a great improvement over the previous plan.

After a brief discussion, the hearing was opened to public comment at 9:35am. With no public comment offered, a motion was made to close the public hearing. The motion was seconded and passed by unanimous vote. The public hearing was closed at 9:36am.

A motion was made to approve the new location of the pool as presented and the motion was seconded. The motion passed unanimously.

AGENDA ITEM #4: JAMES MOFFATT FOR PATRICK & SHARON HENNESSY aka CSO, LLC

15 Doctor's Creek Path (Map 24 Lot 135) / Application under by-law 8.3

Mr. Maloney stated that there were a number of letters received by interested parties and that, in the interest of time, the letters would not be read aloud. All letters are available on the Board's website to read. If the authors of the letters were present at the meeting, they were invited to summarize their letter if they desired to. The public

hearing opened at 9:37 am.

Mr. Silva recounted the history of the project and described the septic system upgrades presented to the Board of Health. The Board of Health has approved the septic system proposed which has a 1 foot setback from the north lot line.

Mr. Moffatt shared the Greenwater Architects site plan revised on 11/29/21 and indicated portion of the current dwelling and proposed dwelling that would be within the setbacks. He went on the share the first floor plans of the house and stated that this proposal is 454 square feet less than the previously approved plan indicating the difference in square footage on the plans. Mr. Moffatt said that the new dwelling is no closer than 10 feet from the lot line on the west side. The exterior elevations plan was shared and Mr. Moffatt indicated the height has not changed from the March proposal – the height is still below 24 feet for pitched roof and 13 feet for flat roof. The materials proposed have also not changed – wood windows, doors and siding, asphalt shingles roof and glass railings.

The meeting was opened for public comment at 9:47am.

Fred Khedouri was nominated by the abutters who appealed the originally issued special permit to speak on their behalf. Mr. Khedouri recounted a cooperative relationship with the applicant and said the plan being presented is the result of the negotiations. He stated that parties involved in the appeal are in support of the current plans.

Seasonal renter Celeste Peterson felt the plans for the house are too big for the lot and mentioned that West Tisbury was looking at linking lot size to allowable living area. Mr. Maloney responded that the by-laws allow for this house on this lot. Ms. Peterson questioned whether this proposal would be more non-conforming than the original dwelling. Mr. Moffatt responded by saying the current non-conforming nature of the lot is the encroachment of the dwelling into the setback on the west side and that the new proposal is actually more conforming because it is further from the lot line. He went on to say that the house itself is designed to meet all other town by-laws. Ms. Peterson asked if there would be a generator added. Mr. Moffatt responded no. She also was concerned about the septic system being placed within one foot of the lot line.

Mr. & Mrs. Halby are the abutters on the west side of the lot and were concerned about noise from socializing on the deck. Mr. Hennessy addressed their concerns by saying that the TV is no longer planned for the deck and that the deck is not intended to be a big party deck.

Seasonal renter Johan Paulson was concerned over the size of the proposed house. He felt that the increase in livable space would translate to an increase in occupancy. Mr. Paulson also mentioned that it would be a judgement call by the Board to allow such a large house on a small property. He also offered that the owners could make the exterior conform to the style of neighboring houses.

Seasonal renter Evan Becker felt the new dwelling is very different than the current house on the property and would dramatically change the neighborhood in a negative way.

Mr. & Mrs. Halby agreed that the new structure would change the character of the neighborhood.

The Board acknowledged the comments about the changes to the neighborhood and stated the neighbors worked together to make the current plan. In looking at the allowable living space, the current proposal is well below the limit allowed on the lot. It was mentioned that the by-laws were written a while ago and don't necessarily address the concerns of today but residents can get involved in the process if they want to see changes.

Mr. Silva pointed out that the only reason a special permit is needed in this project has to do with the setback encroachment. He went on to say that this dwelling could have been proposed within the setbacks and would have been built without any consideration of the abutters and with no special permit needed.

Without further public comment, a motion was made to close the public hearing. The motion was seconded and passed unanimously.

A motion was made to accept the plans as presented and rescind the previous special permit issued. The motion was seconded. The motion was approved unanimously by roll call.

AGENDA ITEM #5: BLAKE MIDDLETON FOR THE YARD

7 The Yard (Map 26 Lot 91) / Discussion of Changes to Plans of Issued Special Permit

The Yard's board president Michele Sasso started the discussion by stating that the project scope is smaller and should have less of an impact to the surrounding area. She said that most significantly the barn theater is no longer proposed to be torn down and rebuilt in the new plans. Ms. Sasso introduced Blake Middleton who would be speaking in more detail about the changes.

Mr. Middleton shared the site plan and pointed out the barn theater and the left-hand L-shaped portion that is now being proposed to be rebuilt. He said the replacement structure would be a smaller footprint. He mentioned that the theater would maintain the same number of seating as it currently has (100 people) and that the square footage would be reduced by approximately 4000 square feet from the originally proposed plans. Mr. Middleton also said that the house closest to Middle Road would be rebuilt instead of renovated and that another structure is proposed to be built to the west of the theater.

The Board determined that the changes were significant enough to require another public hearing. It was discussed that the Marth's Vineyard Commission would also need to review the changes to the plans.

AGENDA ITEM #6: DISCUSSION OF BY-LAW 4.2A3 (POOL BY-LAW)

All the Board members did not have time to review the materials prior to the meeting and it was decided to push the topic until the next meeting.

DOCUMENTS:

72 Cobbs Hill Road Site Plan revised 12/29/21
72 Cobbs Hill Road Proposed Pool Location Diagram
72 Cobbs Hill Road Pool Sections
72 Cobbs Hill Road Fence Details
31 Black Point Road Site Plan revised
15 Doctor's Creek Path Site Plan by VLSE dated 11/24/21
15 Doctor's Creek Path Site Plan by Greenwater Architects revised 11/29/21
15 Doctor's Creek Path Exterior Elevations by Greenwater Architects revised 11/29/21
7 The Yard Existing Plan dated 12/7/21
7 The Yard Site Plan dated 12/7/21
7 The Yard Ground Plan dated 12/7/21
7 The Yard Existing Site Plan dated 12/7/21
7 The Yard Barn Elevation dated 12/7/21
Proposed FY23 Zoning Board of Appeals Budget

ADMINISTRATION: The draft September 23, 2021 and November 23, 2021 meeting minutes were discussed. A motion was made to accept the minutes as written and seconded. The motion passed by unanimous roll call vote.

Ms. Kisselgof mentioned that a biennial review of by-law 6.11 and by-law 6.12 are due this year. She will set up

a meeting with the Planning Board and get a summary to the Board prior to the meeting.

Ms. Kisselgof asked if the Board had any suggested revisions to the new decision template. Mr. Murphy asked that the pool standard conditions include a line stating that fences need to be child-proof. Ms. Kisselgof said that she would add a line stating this condition.

Lastly, Ms. Kisselgof presented the proposed FY2023 budget for the department. Ms. Kisselgof went over the changes from last year's budget. After a brief discussion about the advertising fees, it was decided that town counsel would be consulted about whether the applicants could be charged for the costs but not be responsible for the mailing. A motion was made to approve the budget conditionally with the possibility of the advertising costs being transferred to the applicants. The motion was seconded and a vote to approve was unanimous.

Next Hearing: January 27, 2022 @ 9:00am. Site visits January 26, 2022 @ 9:00 am.

With no further business to conduct the meeting adjourned at 10:32 AM.

Respectfully submitted by Alison Kisselgof, board administrator.