



ZONING BOARD OF APPEALS

Town of Chilmark

MEETING MINUTES - FINAL **July 22, 2021 (via ZOOM)**

Present for the Board of Appeals and attending the meeting on Zoom via a roll call attendance were Russell Maloney, Chairman, Frank Lo Russo, Vice Chairman, Wendy Weldon, Chris Murphy, Joan Malkin and Alison Kisselgof Administrator. Also in attendance were Douglas & Margot Rothmann, David Kloss, Kristen Reimann, Reid Silva, Priscilla Warner and Kris Horiuchi. Allison Burger and Joe Chapman did not attend.

The meeting came to order at 9:01 AM. Mr. Maloney appointed Ms. Malkin as voting member for the meeting.

AGENDA ITEM #1: REID SILVA FOR DOUGLAS AND MARGOT ROTHMANN ***69 Cape Higgon Way (Map 4 Lot 23.2) / Application for a pool under by-law 4.2A3***

Mr. Maloney opened the public hearing at 9:06 am.

Mr. Silva shared the aerial map of the property and then presented the VLSE site plan dated 5/18/21 and KRLA site plan dated 4/14/21. He indicated where a retaining wall and the enclosure to the pool would be located. Mr. Silva also pointed out the area of the house where the owners spend the most time and mentioned that this living space was where there was better visibility from the house to the pool. An artist rendering of the view of the pool from this room was presented.

The board discussed the site visit from the previous day and the poor line of sight from the house to the pool. The accuracy of the artist rendering presented was questioned. It was recommended that the application hearing be continued until the visibility of the pool from the house is improved. It was also mentioned that nothing should be planted between the house and the pool, as was pictured in the artist rendering, because it would further obstruct the line of sight to the pool. A suggestion was made that the board do a second site visit and ask the owners for access to the living room so that the line of sight could be viewed from inside.

The hearing was open to public comment at 9:20 am. No public comment was offered and the public hearing was closed.

After a brief discussion regarding the safety concerns, Mr. Silva asked for the hearing to be continued. Mr. Silva confirmed that a second site visit would be scheduled.

A motion was made and seconded to approve the continuation. The motion was passed unanimously via roll call.

AGENDA ITEM #2: REID SILVA FOR SJ GRAHAM TRUST 2017 ***4 Old North Road (Map 26 Lot 121) / Amendment of Application for guest house under by-law 4.2A1***

Mr. Maloney opened the hearing at 9:23 am.

Mr. Silva went over the history of the property, which has been sold since the special permit was originally issued. He presented the revised site VLSE site plan dated 3/19/21 in which the guest house was increased to 792 sf of livable space. Mr. Silva also shared the floor plan and indicated where the new bedroom, porch and deck would be located.

The board asked if there were any wetland issues to which Mr. Silva answered there were none. It was mentioned that the screen porch should never be allowed to be enclosed.

Mr. Maloney opened the hearing to public comment at 9:27 am. No public comment was offered and the public hearing was closed.

A motion was made to accept the application with the condition that the screen porch never be enclosed. The motion was seconded and passed unanimously via roll call.

AGENDA ITEM #3: REID SILVA FOR 22 AUSTIN PASTURE RE TRUST

22 Austin Pasture (Map 33 Lot 47) / Application for a pickleball court under by-law 4.2A3

This was a continued hearing on this application. Eligible voting members are Mr. Maloney, Ms. Malkin, Mr. Murphy and Mr. Lo Russo.

Mr. Maloney opened the hearing at 9:28 am.

Mr. Silva said that he was waiting for a legal opinion but has heard nothing since the last meeting in which the application was continued. Mr. Maloney explained that town counsel had a conflict of interest and could not opine. Mr. Maloney recounted a conversation with Town Administrator Tim Carroll in which Tim asked why the ZBA was reviewing the application at all since it was not filed under the correct by-law (by-law 4.2A3 only mentions tennis courts, not pickleball courts). The board briefly discussed how this project would be classified as a structure but not necessarily a project that needs to come before the ZBA. It was suggested to Mr. Silva that the application be withdrawn and resubmitted to the building department to decide if the project requires ZBA review and, if so, which by-law would apply.

Mr. Silva requested the application be withdrawn without prejudice. A motion to accept withdrawal without prejudice was made and seconded. The motion passed by unanimous vote by roll call.

AGENDA ITEM #4: CHRIS ALLEY FOR MAGNOLIA REALTY TRUST

17 Howell Lane (Map 27 Lot 3) / Amendment of Application for increase in livable area under by-law 6.11

Mr. Maloney opened the hearing at 9:37 am.

A special permit was issued on 8/28/19 to construct an 800 sq. ft. guesthouse under Article 4 Sec. 4.2A1; tear down and build a new single-family residence and build a pool house for the existing pool. Under Article 6 Section 6.11 the total living area for the new house is 4,443 sf; the guesthouse has 835 sf of living space and the pool house has 266 sf of living space for a total of 5,544 sf. The amount of living space requiring a special permit for 10 acres is 5,250 sf. The total maximum living area allowed with a Special Permit is 7,750 sf. Under Article 11 Section 11.6B, the project is replacing structures within 100 feet of a wetland draining into a coastal pond.

Mr. Alley presented a revised site plan dated 5/18/21 which includes an additional 48 sf of living space, bringing the living area to a total of 5,592 sf. The changes also include addition of 40 sf to the screened porch which is not included in the livable area total. Mr. Alley also presented the architectural drawings and indicated the changes proposed on the floor plan.

Since this application was made under bylaw 6.11, it was asked whether the answers to any of the 13 criteria for this by-law had changed. Mr. Alley read through the answers originally presented and approved by the board and indicated in each instance that the answer remained the same from the original special permit application.

Mr. Maloney opened the hearing to public comment at 9:49am. With no public comment offered, the public hearing was closed.

It was mentioned that there was concern from the board after the previous day's site visit that the pool enclosure on the property did not meet safety codes. Mr. Alley stated the fencing was 50 inches above grade and mesh opening was 1.5 inches squares. The board would like this issue investigated by the zoning enforcement officer. Ms. Kisselgof said that she had emailed Lenny Jason regarding the matter and would follow up.

After a brief discussion, the board made a motion was made to accept the amendment to the site plan with the condition that the screen porch should not be enclosed without further review before the board. The motion was seconded and passed by unanimous vote by roll call.

AGENDA ITEM #6: KRIS HORIUCHI FOR BEETLEBUNG ROAD LLC

33 Beetlebung Road (Map 20 Lot 34 &35) / Discussion of site plan changes to pool special permit issued

Ms. Horiuchi presented a revised site plan dated 6/21/21 in which the pool fence and heaters had been relocated. The original enclosure approved by the board used the house as a barrier and the revised version moves the fencing immediately around the pool, removing all buildings as barrier. The new site plan also moved the pool heaters inside the 50-foot setback. Ms. Horiuchi mentioned that the abutting property is also owned by Beetlebung Road LLC and would approve the relocation of the pool heaters.

After a brief discussion, the board offered that the fencing change was an improvement. A motion was made to accept the new fencing placement as not substantial enough of a change to require a new special permit and seconded. The vote passed unanimously via roll call (this vote did not include Mr. Murphy who had to leave the meeting at 10am).

The placement of the pool heaters within the setback was discussed. Although the neighboring property is also owned by Beetlebung Road LLC, the board decided that the placement of a structure within the 50-foot setback should require a new hearing under by-law 6.6. A motion was made to accept this decision and seconded. The vote passed by unanimous approval (again without Mr. Murphy present).

AGENDA ITEM #7: NELSON GIANNAKOPOULOS FOR HARVEST PRODUCTIONS TRUST

6 Church Pasture Way (Map 19 Lot 28) / Discussion of site plan changes to guest house special permit issued

Mr. Giannakopoulos presented a Sullivan + Associates site plan revised on 6/24/21 in which a 260 sf deck was added to the guest house site plan originally approved by a special permit on 1/28/21.

Since this change to the site plan did not add any livable space to the guest house, the board agreed this change was inconsequential and did not require an additional public hearing.

A motion was made to accept the revised site plan as inconsequential and does not require a new special permit. The motion was seconded and passed by unanimous vote by roll call.

ADMINISTRATION: The draft June 24, 2021 meeting minutes were reviewed. A motion was made to accept the minutes as written and seconded. The motion passed by unanimous roll call vote.

Next Hearing: August 26, 2021 @ 9:00am. Site visits August 25, 2021 @ 9:00 am.

With no further business to conduct the meeting adjourned at 10:17 AM by a unanimous roll call vote.

Respectfully submitted by Alison Kisselgof, board administrator.