



# ZONING BOARD OF APPEALS

## Town of Chilmark

### MEETING MINUTES - FINAL

June 22, 2023

(Via ZOOM Meeting ID: 873 1676 8154)

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

Also in attendance were Gabby Bretton, Debra Ceden, Robbie Lee, Erica Widra, Hugh Weisman, Angie Francis, Cody Coutinho, Ryan Bushey and Tim Clark.

Frank Lo Russo was not present.

The meeting came to order at 9:00 AM. Since Mr. Lo Russo wasn't in attendance, Mr. Murphy assigned Mr. Chapman & Mr. Khedouri as alternating voting members, starting with Mr. Chapman on the first application. Ms. Kisselgof mentioned that the last public hearing is continued and both Mr. Chapman and Mr. Khedouri are voting members.

**ADMINISTRATION:** Ms. Kisselgof had sent the 3/23/23 minutes out to Board members in error. A vote was taken at the last meeting but was forgotten so the minutes were voted on a second time and approved.

There was a discussion about vice chairmanship. Ms. Kisselgof recounted the order in which members had been rotated to chair and vice chair positions previously and said that Ms. Burger would be next. Ms. Burger declined and Ms. Malkin was asked if she would like to be appointed vice chair. Ms. Malkin accepted. A motion was made to appoint Ms. Malkin as vice chair. The motion was seconded and, with no further discussion, passed by unanimous approval.

### **AGENDA ITEM #1: HUGH WEISMAN FOR 33 LAKE RD REALTY TRUST**

#### **33 Lake Road (Map 35 Lot 6)/ *Application for Special Permit under By-laws 6.6 and 8.3***

Mr. Weisman started by saying that existing dwelling is only 18 feet from one of the lot lines. He said that the owners would like to remove the wing of the house on this side and replace it with a one-story addition that would have a 13 foot setback. Mr. Weisman mentioned that the addition would have lower height than the main dwelling (11' 6" vs. 13' 6"). He shared the site plan and then a close-up drawing of the project, pointing out the existing dwelling and where addition would be located. Mr. Weisman then shared a floor plan and the elevations from the north and west. He said that the abutters were all notified and letters of consent to the project was received from the neighbors along the encroached lot line, which were shared.

The Board asked why the addition could not be placed on another side of the house where the setbacks could be met, rather than increase the non-conformity of the property. Mr. Murphy asked Ms. Kisselgof to read the findings she prepared for the meeting, which she did. Mr. Weisman answered the Board's question by saying that the south side of the house had a deck so the addition could not be put on that side. He said that the west lot line would put the addition closer to the road. Mr. Weisman said that the house is more compact with the

addition at the proposed location.

Mr. Silva noted that, if the application was applied for under by-law 6.6, then the detrimental effect portion of by-law 8.3 is irrelevant if the affected abutters consented to the project. The Board did not agree with Mr. Silva's comments and there was a discussion about the usage of by-laws 6.6 and 8.3.

The public hearing was opened to public comment at 9:26am. No comment was offered. A motion was made to close the public hearing, it was seconded and passed unanimously.

A motion was made to accept the application as presented with a condition that the applicant obtain Board of Health approval. The motion was seconded and passed by unanimous roll call vote.

**AGENDA ITEM #2: SOURATI ENGINEERING GROUP FOR DARK STAR RIDGE, LLC**  
**20 Tennis Lane (Map 3 Lot 27)/ *Application for Special Permit under By-law 6.6***

Mr. Khedouri was appointed as a voting member on this application.

Mr. Sourati started by introducing himself, Debra Ceden who is the architect for the project and also mentioned that the owner Eric Widra was present at the meeting as well. Mr. Sourati shared an aerial map of the neighborhood and pointed out the location of the dwelling and wetlands to the south. He mentioned that the owners want to install a 24' x 30' garage but the only location outside of the wetland is the currently proposed location which does not meet the setback. Mr. Sourati said that he received letters of consent in writing from the abutting neighbors along the lot line where the garage will not meet the setback. He read them to the Board. Mr. Sourati shared the architectural plans and described the garage as having room for 2 cars and no second floor. He said that the garage doors and a small window would be facing Tennis Lane. Lastly, Mr. Sourati mentioned that there is a right of way for the neighbor adjacent to the property but it is not used as a driveway.

Ms. Kisselgof read the findings to the Board for this application. The Board inquired about the width of the right of way that is adjacent to the lot line. Mr. Sourati answered that it was 20 feet. The Board wondered if the driveway to the proposed garage could be gravel. Mr. Sourati said that a concrete apron would be needed at the end but that gravel could be used for the rest of the driveway. The Board asked if the proposed plantings could be deer-resistant native plants. Mr. Sourati said he wasn't sure if there would be any flower beds but agreed the owners could plant deer-resistant native plants for screening. The Board suggested obtaining plants from Polly Hill Arboretum and Mr. Widra said that he would take a look at what was offered there.

Mr. Murphy opened the meeting to public comment at 9:36 AM. With no public comment offered, a motion was made to close the public hearing at 9:37 AM. The motion was seconded and passed unanimously.

A motion was made to approve the project as presented and was seconded. The Board asked if the project would need to go to the Conservation Commission. Mr. Sourati said that it was not necessary since the garage is outside of the wetlands. Ms. Kisselgof asked if there were any conditions on the special permit. The Board answered no. A roll call vote was taken and the motion passed unanimously.

**AGENDA ITEM #3: VINEYARD LAND SURVEYING & ENGINEERING INC. FOR GENE LIEBEL**  
**140 State Road (Map 33 Lot 17)/ *Application for Special Permit under By-law 11.6A2cia***

Mr. Chapman was appointed as a voting member on this application.

Mr. Silva introduced himself and said that he was working with South Mountain Company on this project. He mentioned that Ryan Bushey & Tim Clark were present from South Mountain. Mr. Silva shared an aerial map of the area and pointed out the house that is proposed to be removed and reconstructed. He then shared the site plan for the project and mentioned that the house was almost entirely located in the shore zone of the Coastal District. Mr. Silva said the project has been reviewed and approved by the Conservation Commission. He mentioned that the property was also within a Roadside District and the Site Review Committee did not find the project would be detrimental to either the Coastal or Roadside District. Mr. Silva went over the square footage of the house – existing living area is 1507 sf. The proposed house would be 1550 sf which is an increase of 43 sf of living area. Ms. Francis took over at this point to present architectural drawings. She shared plans on screen and offered that the lawn would be reduced and restored to a more natural pattern. Ms. Francis went over the elevations. She said that the new dwelling would not have a second floor and conform to height restrictions. The current dwelling does have a second floor with 2 bedrooms and does not conform to height restrictions. Ms. Francis mentioned that the finish floor level of the new house would be lower than the existing dwelling by 18 inches and the exterior would have only naturally weathering materials. She shared a rendering of the view of the current and proposed house from Stonewall Pond and from State Road to demonstrate the differences.

The Board asked about the driveway and if it would be kept as just dirt. Ms. Francis answered that the driveway material would not change but that a small pull-off area would be added a little closer to the house entry way. The Board inquired about a small building on the site plan. Ms. Francis answered that it was a detached bedroom, which was located outside the shore zone and was not part of the application as it was allowed by right. Ms. Francis mentioned that the septic system would not be changing. The Board asked how far the house was from State Road. Mr. Silva said that it was roughly 120 feet from State Road.

Mr. Murphy opened the hearing to public comment at 9:52 AM. Ms. Kisselgof first read the findings for the application and then a letter of support received. With no other public comment offered, a motion was made to close the public hearing at 9:53 AM. The motion was seconded and passed unanimously.

A motion was made to approve the plans as presented. There was no further discussion and no conditions were mentioned. The motion was seconded and passed by unanimous roll call vote.

**AGENDA ITEM #4: VINEYARD LAND SURVEYING & ENGINEERING INC. FOR LENOM**  
**HOUSE, LLC**

**138 State Road (Map 33 Lot 16)/ *Application for Special Permit under By-laws 4.2A3 & 6.11 and 11.6A2d***

This was a continued public hearing with voting members as follows: Mr. Murphy, Mr. Maloney, Mr. Khedouri, Mr. Chapman and Ms. Burger.

Mr. Silva shared a revised site plan and recounted the project to date. He said that the garage has been an issue for the ZBA members and the owner had agreed to remove it from the plans. Mr. Silva said the project still

included the pool and also the addition to the main dwelling that would exceed total living area (TLA). He went over the amount of living area allowed by right (3805 sf), the existing TLA (3321 sf) and total TLA of the proposed project (4045 sf). Mr. Silva mentioned that the request is only 50 feet more than what would be allowed when 5% is added, which the by-law permits without a special permit.

Ms. Kisselgof read the findings for the application, omitting any reference to the garage since it had been removed from the proposal. It was decided that the 11 criteria for by-law 6.11 did not need to be re-read since it was discussed at the last meeting and the impact was lessened by the removal of the garage. The Board inquired about whether the proposed solar array would produce enough energy to support heating the pool and the addition to the house. Mr. Silva recalled that the Conservation Commission had also asked about the solar production and there was analysis done to show the output as compared to usage. The Board asked if Mr. Silva could go over the height of the proposed addition. Mr. Silva said that the addition would be lower than the existing dwelling but was unsure of the exact measurement. Since the existing dwelling was at 18 feet, he said that the addition would be less the limit of 18 feet.

Mr. Murphy noted that two letters of objection were received and read at the last meeting. He asked if any other letters were received. Ms. Kisselgof answered no. The public hearing was then opened to public comment at 10:07 AM. With no public comment offered, a motion was made to close the public hearing at 10:08 AM. The motion was seconded and passed unanimously.

A motion was made to accept the application as presented today with a condition that the addition not be higher than 18 feet and that a final landscaping plan would be submitted with the garage omitted. The motion was seconded and passed by unanimous roll call vote.

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

**DOCUMENTS:**

Draft minutes from 3/23/23 meeting

Findings for June 22, 2023 ZBA meeting

33 Lake Road Site Plan

33 Lake Road Close-up Drawing

33 Lake Road Elevations

20 Tennis Lane Site Plan

20 Tennis Lane Letters of Consent

20 Tennis Lane Architectural Plan

140 State Road Site Plan

140 State Road Rendered Views from State Road and Stonewall Pond

140 State Road Architectural Drawings

140 State Road Letter of Support

138 State Road Revised Site Plan

138 State Road 11 Criteria for By-law 6.11

Next Hearing: June 29, 2023 @ 9:00 AM.

With no further business to conduct, the meeting adjourned at 10:12 AM.

Respectfully submitted by Alison Kisselgof, Board Administrator.