



ZONING BOARD OF APPEALS

Town of Chilmark

MEETING MINUTES - FINAL

September 28, 2023

(Via ZOOM Meeting ID: 848 8734 3994)

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

Also in attendance were Chris Alley, Joan Safford, Phil Demers, Adam Petkus, Hugh Weisman, Douglas Sacks, Jerome Vascellaro, Bruce MacNelly, Robbie Lee, Kris Horiuchi, Sam Denitz, CFMG Team, Susan Scheuer, Gabby Bretton, Debra Ceden, Kristen Reimann, Mark Stein, Emily Gadd, Reid Silva, Bryan Collins, Sarah Turano-Flores, Brie Henderson, Tim Stewart and Patty Sacks.

The meeting came to order at 9:02 AM.

ADMINISTRATION: A motion was made to approve the draft minutes from 6/22/23 as presented and seconded. Mr. Lo Russo recused himself from voting because he was not present at the 6/22/23 meeting. The rest of the Board voted by roll call vote in approval of the motion.

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. Murphy opened the public hearing at 9:05 AM and Ms. Kisselgof read the description of the application. Mr. Weisman started by recounting that the project had been approved previously by the ZBA with a setback of 13 feet from the northern lot line. He shared a revised site plan and pointed out the changes from the approved plan: an outdoor shower was added, the entry porch is now screened in. Mr. Weisman offered that new letters were gathered from abutting neighbors which indicated their consent to the revised project. The elevations were then shared and Mr. Weisman pointed out where the changes to the project were located.

The hearing was opened to the public at 9:08 AM. No public comment was offered. A motion was made to close the public hearing at 9:09 AM, seconded and passed by unanimous approval.

After a brief discussion, a motion was made to accept the application as presented and seconded. Ms. Kisselgof read the findings for 33 Lake Road. The Board went over both by-law 6.6 and 8.3 to make sure that all points had been taken into account. A roll call vote was taken on the motion to approve and passed unanimously.

AGENDA ITEM #2: SCHOFIELD, BARBINI & HOEHN INC. FOR 239 STATE ROAD LLC

239 State Road (Map 33 Lot 49)/ *Application for Special Permit under By-law 4.2A3*

Mr. Alley introduced Mr. MacNelly at the architect on the project. Ms. Kisselgof then read the description of the application for a tennis court. Mr. Alley mentioned that the property owner, Jerome Vascellaro, was also present for the meeting. Mr. MacNelly said that the project had already been reviewed by the Conservation

Commission. Mr. Alley shared an aerial map of the area and pointed out the property for the application as well as the surrounding lots. He said that the lot was triangular in shape with State Road along the west side and Sheriff's Meadow property on the other side of State Road. The property to the east is owned by the same party and 2 lots to the north are owned by the Town. Mr. Alley went on to point out the location of the garage that is currently being constructed, the driveway that is being used to access the property and the location of the septic system. He mentioned that the tennis court would be 25 feet from the property line and that the size of the court was two feet shorter than a regulation court to make it fit in the space. Mr. Alley then shared the site plan and again identified the property features. He said that the tennis court would have a 10 foot fence around it but that most of the court would be below natural grade so that the fencing would be 8 feet above mean natural grade at its highest point. Mr. Alley offered that there was small portion of the top of the tennis court fence that would be visible from the road.

Ms. Kisselgof said that the Site Review Committee had reviewed the project and did not feel it would be detrimental to the Roadside District. She then read the findings for this application.

Mr. Murphy opened the hearing to public comment at 9:25 AM.

The Board expressed some concern that the tennis court was so close to State Road. There was mention that the court would be visible in the off-season from the road. Mr. MacNelly shared a depiction of the visibility of the corner of the tennis court from State Road. He mentioned that a landscape plan was proposed to shield the tennis court from the public way. Mr. MacNelly mentioned some plants and trees that could be used to hide the tennis court further.

A motion was made to close the public hearing at 9:31 AM and seconded. The motion passed unanimously by roll call vote.

A motion was made to accept the application as presented with the condition that the applicant return to the next ZBA meeting with a detailed landscaping plan that would shield the tennis court from any visibility from State Road. The motion was seconded and passed by unanimous roll call vote.

AGENDA ITEM #3: VINEYARD LAND SURVEYING & ENGINEERING INC. FOR CHAPPAQUOIT FOREVER LLC

11 Chappaquoit Road (Map 24 Lot 216)/ *Application for Special Permit under By-law 4.2A3*

Mr. Murphy opened the public hearing at 9:35 AM and Ms. Kisselgof read the description of the project into the record.

Mr. Silva started by mentioning that the owners had previously applied for a pool in 2008 and that this is a new plan. He shared an aerial map and pointed out the property and where the pool would be located. Mr. Silva then shared the site plan and mentioned that Kris Horiuchi is the landscape architect for the project. He indicated all the structures on the property and offered that the grade drops away from the house, which is why there is a proposed retaining wall at the end of the pool patio. Mr. Silva described the retaining wall as part of the pool barrier and said that it would be four feet in height and non-climbable. The rest of the barrier would be fencing right around the pool with termination at the retaining wall on both sides and three gates for entry. The pool equipment is proposed to be housed in a vault at the bottom of a hill and the standpipe at an existing cistern. Mr. Silva shared the landscape plan and said that the vegetation would not be disturbed and should

provide adequate screening from neighboring properties. He offered that the owner had reached out to his neighbors about the project and his office had received some environmental concerns including worries about well water usage, wastewater disposal and proximity of neighboring wells to the pool. Mr. Silva shared a map indicating the distance of the pool to abutters' wells and said that the nearest abutter's well is ~ 178 feet away (Lipnick's residence). He mentioned that the pool would initially be filled using offsite water as the by-law requires and any chlorine in the water would be off gassed for 2-3 weeks before water is disposed of into a storm water drainage system.

The Board asked if the owners had considered adding a solar array to offset the power of the pool. Mr. Silva said that the house's roof would not easily support a roof-mounted array. Ms. Horiuchi added that there was some concern about glare from the panels being visible from Chilmark Pond.

The hearing was opened to public comment at 9:48 AM.

Joan Safford was concerned about the noise from the pool. She felt that the length and design of the pool would create a stage effect and the acoustics would carry throughout the neighborhood. She was also concerned about the effect of wastewater disposal on the environment.

Jonathan Lipnick offered his appreciation that the owners reached out directly to him to discuss the project and mentioned that he had sent a letter to the ZBA with his concerns. He pointed out that the wastewater disposal system was closer to his well than the proposed pool and still had concerns about any effect there would be on his water supply. He also asked how noisy the pool equipment would be since the vault was proposed by his lot line. Mr. Lipnick reiterated Ms. Safford's concerns about noise echoing in the neighborhood. Lastly, he wondered if additional plantings would be needed to counteract soil erosion, referring to the language of zoning by-law1.

Ms. Kisselgof mentioned that a letter had been received from Emily Gadd who was present at the meeting. She asked Emily if she wanted to speak during the meeting to her concerns. Ms. Gadd did not wish to speak.

The Board asked if siltation barrier fencing could be used during construction to limit runoff down the slope of the property. Mr. Silva said that there would be construction fencing utilized to mitigate any disturbance to the landscape. Ms. Horiuchi offered that the length of the pool was due to its usage as a lap pool. She went on to say that this plan had taken into consideration concerns from neighbors about the previous design. Ms. Horiuchi said that the pool terrace was 30 inches above grade so the wastewater would not erode the hillside – Mr. Silva added that drains would be installed so the patio and plantings would not get flooded. The Board offered that it appeared there was good visibility from the main dwelling from the pool but asked which rooms specifically would have a direct line of sight. Ms. Horiuchi answered that the lower level family room would face the pool. There was a conversation about how saltwater systems work and it was mentioned that treated water would have little effect on the environment. There was a discussion about the pool equipment noise. Mr. Silva and Ms. Horiuchi went over the equipment that would be used. The Board wondered if the pool could be shorter and the equipment vault moved closer to the pool. Mr. Silva went over other locations for the vault and the issues with those sites and why the current site was ultimately chosen. Mr. Silva said that making the pool shorter would not really change its impact to the landscape but would make it less useful to the owner who wants to use it for laps.

A motion was made to close the public hearing at 10:34 AM. The motion was seconded and passed

unanimously.

The Board noted that the pool design was well thought out. It was mentioned that the usage of siltation fencing would make a positive impact on runoff. It was also noted that the equipment vault was closer to the applicant's house than any abutting neighbors and that the existing vegetation would help mitigate noise. The Board felt that the applicant had shown good management of drainage and it was clear that the saltwater system would cause no contamination. The Board found that the length of the pool was appropriate for its intended use. Lastly, it was noted that only the roofs of neighboring houses were visible from the pool area.

A motion was made to approve the application as presented and seconded. The motion passed unanimously by roll call vote.

AGENDA ITEM #4: SCHOFIELD, BARBINI & HOEHN INC. FOR MARK J. STEIN and LAURA CHAMBERLAIN

138 State Road (Map 11 Lot 54.5)/ *Application for Special Permit under By-laws By-law 6.11*

Mr. Murphy opened the public hearing at 10:39 AM. It was noted that this applicant has two applications to be heard today. Ms. Kisselgof read the first application's description.

Mr. Alley started by introducing Kristen Reimann as the landscape architect and Debra Cedeno as building architect on the project and said both were present at the meeting. He also mentioned the owner Mark Stein was in attendance.

Ms. Malkin mentioned that she needed to leave at 11 AM and Ms. Josephs was named as a voting member on these applications.

Mr. Alley shared an aerial map and pointed out the area. He said that the abutting vacant lot was owned by the same people. The site plan was then shared and went over the existing square footage and the extra being requested. He mentioned that the project will meet setbacks and that the septic upgrade had already been approved by the Board of Health. Mr. Alley said the property is restricted to 6 bedrooms. Ms. Cedeno added that the lot was also restricted from further subdivision. Ms. Cedeno went through the 13 criteria of by-law 6.11.

The hearing was opened to public comment at 10:56 AM. There was a brief conversation about subdivision by-law 1.03. A motion to close the public hearing was made at 10:59 AM. The motion was seconded and approved by unanimous vote.

A motion was made to approve the application as presented and seconded. The Board went over the findings for the application. Ms. Kisselgof recalled a letter of support received from an abutting neighbor and read it aloud. Ms. Kisselgof noted this neighbor would be the only one who would be able to see the proposed project.

There was further discussion about the subdivision by-law. It was noted that legal counsel thought the by-law needed revision and that the Planning Board had been consulted and submitted written approval of this project. Ms. Cedeno offered the covenant explicitly allows a secondary structure.

The motion to approve passed by unanimous roll call vote.

AGENDA ITEM #5: SCHOFIELD, BARBINI & HOEHN INC. FOR MARK J. STEIN and LAURA CHAMBERLAIN

138 State Road (Map 11 Lot 54.5)/ *Application for Special Permit under By-laws By-law 4.2a3*

The public hearing for the application for a pool opened at 11:11 AM. Mr. Alley re-shared the site plan. He said that the distance from the corner of the house to the pool is 88 feet. The pool and equipment would meet all setbacks and use a saltwater filtration system. Ms. Reimann offered that the pool dimensions were 18' x 45' and that the pool equipment would be housed in the back of the new secondary dwelling. She also mentioned that the fencing would go right around the pool and not connect to any structures.

The Board asked what kind of cover the pool would be equipped with. Ms. Reimann said the owners planned to have an off-season safety cover and not an automatic cover. Mr. Alley mentioned that there was visibility from the kitchen and dining area of the main dwelling to the pool. The Board asked if any vegetation would be removed. Mr. Alley answered that there was only a tree in the way and it had been limbed to not interfere with the line of sight. Ms. Reimann added there was no scrubby vegetation between the house and the pool.

There was a brief discussion about the 2 year waiting period since the main dwelling had recently been rebuilt. Mr. Alley offered that the owners lived in the previous house for several months before it was replaced. The Building Inspector confirmed that this would meet the requirement of the pool by-law. The Board asked if the applicant would consider moving the pool closer to the main house. Ms. Reimann answered that the applicant did not want the pool any closer to the main house. There was a discussion about line of sight, pool distances and visibility.

A motion to close the hearing was made at 11:31 AM and seconded. The motion passed unanimously.

A motion was made to deny the pool but no second was made. A motion was made to approve the pool as presented and seconded. After some discussion by the Board, the motion passed by roll call vote with four in favor and one against.

AGENDA ITEM #6: SOURATI ENGINEERING GROUP FOR SANTIAGO REALTY TRUST

9 Signal Hill Lane (Map 34 Lot 1.3)/ *Application for Special Permit under By-laws By-law 6.11*

Sarah Turano-Flores, an attorney for the applicant, said that her client would like a continuance. She went on to say that she had been speaking with town counsel about the project and it was his opinion that by-law 12 applied to this application. Ms. Turano-Flores offered that she would request a written determination from the Building Inspector whether by-law 12 is relevant. She requested the continuance be until the November ZBA meeting. After a brief discussion, it was decided the date of the meeting would be November 14th. It was also decided the December meeting would be December 14th.

A motion was made to accept the request for a continuance until the November 14th meeting. The motion was seconded and passed unanimously.

AGENDA ITEM #7: TRAVIS RITCHIE FOR JACQUELINE MEYER

12 Valley Lane (Map 3 Lot 48)/ *Determination if Changes to Site Plan are Inconsequential*

Mr. Ritchie requested a discussion with the Board about changes to the site plan approved for a special permit for a pool at 12 Valley Lane. He would like a determination of whether the changes are inconsequential or would require a new special permit. Mr. Ritchie shared the new site plan. He said that the pool had been rotated 90 degrees. The Board asked if the size of the pool and the distance to the house was the same. Mr. Ritchie answered that the pool size was the same and that the pool was 5 feet closer to the house than in the previous plan. The Board asked if the fencing was the same. Mr. Ritchie said yes.

A motion was made that the changes presented in the new site plan were inconsequential. The motion was seconded and passed by roll call vote.

ADMINISTRATION: The agenda had included a discussion about the subdivision by-law. Since it had already been discussed somewhat and legal counsel had suggested the by-law be rewritten, it was decided there was nothing left to discuss. Ms. Kisselgof mentioned that the Planning Board would be talking about amendments to this by-law and some zoning by-laws. She offered to send the Planning Board's meeting information out to members who were interested in attending.

TOPICS NOT ANTICIPATED BY THE CHAIR:

DOCUMENTS:

Draft minutes from 6/22/23 meeting

Findings for September 28, 2023 ZBA meeting

33 Lake Road Revised Site Plan

33 Lake Road Revised Elevations

239 State Road Site Plan (by Schofield, Barbini & Hoehn)

239 State Road Depiction of Tennis Court Visibility from State Road

239 State Road Site Plan 2 (by MacNelly Cohen Architects)

11 Chappaquoit Road Site Plan

11 Chappaquoit Road Landscape Plan

27 Oyster Lane Site Plan

12 Valley Lane Revised Site Plan

SubdIvision By-law 1.03

Next Hearing: October 26, 2023 @ 9:00 AM.

With no further business to conduct, the meeting adjourned at 11:52 AM.

Respectfully submitted by Alison Kisselgof, Board Administrator.