



ZONING BOARD OF APPEALS

Town of Chilmark

MEETING MINUTES – FINAL

November 14, 2023

(Via ZOOM Meeting ID: 881 2501 3501)

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

Also in attendance were Adam Petkus – Building Inspector/Zoning Enforcement Officer (ZEO), Jay Bodnar, Joseph Dick and George Sourati.

Emily Josephs was not in attendance.

The meeting came to order at 9:00 AM.

ADMINISTRATION: Since all members did not have time to review draft minutes prior to the meeting, approval of minutes from the October 26, 2023 meeting will be voted on at the next meeting.

AGENDA ITEM #3: JAY BODNAR FOR MAGIC VINEYARD LLC

100 Beach Plum Lane (Map 21 Lot 78)/ *Discussion of Possible Change to Originally Submitted Plans*

Mr. Murphy opened a discussion requested by Jay Bodnar regarding the façade of a retaining wall at 100 Beach Plum Lane.

In the ZBA meeting on June 29th when the special permit for a pool was issued for this address, the applicant stated that the retaining wall facing the Oceanside would have a stone veneer. Mr. Bodnar requested a discussion to determine if using stucco as the finish instead would be an acceptable substitution.

Mr. Bodnar said that it is expected that ~3 feet of the retaining wall would be exposed, which was originally to have a stone finish. The Board offered that this retaining wall would be visible from Menemsha. It was mentioned that a stone finish would potentially look more natural than stucco and that vegetation could be used as a potential alternative to shield the retaining wall from public view. The Board requested that Mr. Bodnar return to the next meeting with a visual representation of the change, including a planting plan, to make a determination.

AGENDA ITEM #1: JOSEPH DICK FOR DENNIS J. and KIMBERLY M. BURNS

8 Gulls Way (Map 30 Lot 3)/ *Application for Special Permit under By-laws 4.2A1 and 6.11*

Mr. Murphy opened the public hearing at 9:28 AM and read a description of the project.

Ms. Kisselgof shared an aerial map of the lot and pointed out where the property bordered State Road. She mentioned that the project had been reviewed by the Site Review Committee at their 8/28/23 meeting and that the findings were that the project would not be detrimental to the South Road roadside district.

Mr. Dick, although present at the meeting, was non-responsive at this time. While waiting for Mr. Dick to start his presentation, Mr. Murphy moved on to the next agenda item: the continued public hearing at 9 Signal Hill.

Mr. Dick had called Ms. Kisselgof on the phone to let her know he was having technical difficulties. Ms. Kisselgof was able to help him and the public hearing for this project resumed at 9:33 AM.

Mr. Dick started his presentation by saying that he designed this accessory dwelling over 20 years ago with the plan to convert it to a guest house when allowable. He said that the plan was to add a kitchenette and a loft and dormer to the second story. Mr. Dick mentioned that the building footprint would not be changing.

The Board asked why the project included bylaw 6.11 if the footprint would not be changing. Mr. Dick was unclear and asked Ms. Kisselgof to explain. Ms. Kisselgof said that the main dwelling was built before bylaw 6.11 went into effect and has a square footage of 5030, which is already beyond what is allowable without special permit on the 3.83 acre lot. The proposed loft would add another 91 square feet to total livable area and therefore requires a special permit. The Board briefly discussed the size of the guest house. Mr. Dick mentioned that he had double checked the dimensions of the secondary dwelling with the addition of the loft and the actual final square footage would be 752 square feet.

Mr. Dick said that the Building Inspector had instructed him to remove a proposed internal stairway. The Building Inspector explained that this request was made because there was a possibility that the basement could be finished in the future, which would result in the guest house being larger than the maximum 800 square feet. There was discussion amongst the Board and the Building Inspector about this decision.

The hearing was opened to public comment at 9:48 AM. Mr. Khedouri spoke as a member of the public. He said that he found it worrisome that this secondary structure was originally permitted to be built when it essentially side-stepped the waiting period for a guest house. With no further comment offered, a motion was made to close the public hearing on the guest house portion of the application at 9:50 AM. The motion was seconded and passed unanimously.

A motion was made to accept the application for a guest house. The motion was seconded and passed by roll call vote with four out of five in favor (fifth member abstained from voting).

Mr. Murphy asked Mr. Dick to read the answers to the 13 criteria in bylaw 6.11, which he then did. The Board questioned the response to criteria 10, in which Mr. Dick indicated that the AC and mini-splits would use a renewable energy source. The Board asked if the owners were going to enroll in a green energy program or add a solar array to the residence. Mr. Dick was unsure if the owners had enrolled in a green energy program but did mention that the roof was ideal for solar collection and the owners were looking into the addition of solar. He explained that the response to criteria 10 was due to the fact that the house was designed in a passive manner so that it would have solar gain. There was a brief discussion about available green energy programs.

The hearing was opened to public comment. The Board asked Ms. Kisselgof if any letters were received. Ms. Kisselgof responded that none were received. With no public comment offered, a motion was made to close the public hearing on the application's request to exceed total living area. The motion was seconded and passed by unanimous roll call vote.

The Board further discussed green energy programs. A motion was made to accept the application as presented with the condition that the owner enroll in a green energy program until a solar array is operational on the property. The motion was seconded and passed by roll call vote with five out of five in favor.

AGENDA ITEM #2: 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*

Ms. Kisselgof said that she had received an email from Sourati Engineering Group requesting a further continuance of this public hearing until the December 14th ZBA meeting.

Building Inspector Petkus offered that he had spoken to an attorney for the applicant about the applicability of bylaw 12.4C1 to this project. He said that he had concluded that the exception in bylaw 12 does not apply to this project.

A motion was made to accept the request for a continuance until the December 14th meeting. The motion was seconded and passed by unanimous roll call vote.

FURTHER ADMINISTRATION: The Board discussed the letter from the Attorney General received in reply to the amended pool bylaw. The Attorney General had indicated that three portions of the bylaw that preempt the state building code and should be removed. The Board was unclear if there was an avenue to appeal or whether an appeal would be worth the effort or successful. The Board decided to further discuss this at the next meeting after there was more time to understand and research the Attorney General's comments. Ms. Kisselgof offered to send the portions of the building code mentioned in the Attorney General's letter out to members to aid in the discussion at the next meeting.

TOPICS NOT ANTICIPATED BY THE CHAIR: None.

DOCUMENTS:

Draft minutes from 10/26/23 Meeting

Findings for 11/14/23 ZBA Meeting

8 Gulls Way Site Plan

8 Gulls Answers to 13 Criteria in By-law 6.11 Section F

9 Signal Hill Lane Letter of Request for Continuance

Attorney General Letter regarding Pool Bylaw Amendment

Next Hearing: December 14, 2023 @ 9:00 AM.

With no further business to conduct, the meeting adjourned at 10:24 AM.

Respectfully submitted by Alison Kisselgof, Board Administrator.