



## OAK BLUFFS ZONING BOARD OF APPEALS

P.O. BOX 1327, OAK BLUFFS, MA 02557-1327

508 693 – 3554 x 120

### Zoning Board of Appeals Minutes of February 16, 2023 Meeting In-Person Meeting

Members present: Llewellyn Rogers (Chair), Jonathan Holter, Grace Guck, Doug Pease, and ZBA Administrator Robert Culbert.

Others in Attendance: Rose Cogliano, Bryan Cornock, Mark DePuchio, Lucas Donato, Patrick McCarthy, Flavio Paula, Olivia Saloparu, and Chuck Sullivan

Chair Rogers opened the meeting at 6:00pm.

**Minutes:** Lou Rogers had three corrections clarifying the draft minutes of the January 19 meeting: deleting the reference in the Rhoads appeal concerning ownership of the road, to correct the spelling of Sandra Lippins' name, and in the Hagerty appeal to state that the shed must be moved to meet all setbacks. Jonathan Holter moved to approve the corrected minutes, seconded by Doug Pease. All (Lou Rogers, Grace Guck, Doug Pease, and Jonathan Holter) voted in favor, so the motion passed unanimously (4-0).

**Next Meeting Date:** The ZBA agreed that next meeting will be an in-person meeting held on March 15, 2023. It was noted that all future meetings will be on the third Wednesday of the month, a change from the third Thursdays of the month.

**New Business:** There is no new business to report.

#### **RE: Donato Appeal**

Laiana Donato  
15 Old Schoolhouse Village  
**Map 50 Parcel 11**

The Oak Bluffs Zoning Board of Appeals opened a duly posted and continued In-Person Public Hearing on **Thursday, February 16, 2023 at 6:12pm** in the Oak Bluffs Town Hall Downstairs Meeting Room, 56 School Street, on the application of the referenced petitioners seeking:

***A Special Permit or Variance within Oak Bluffs Zoning Bylaws 3.5.5 and 4.4.2 or any action related thereto, to build a new detached two car garage with a second floor accessory apartment on a non-conforming lot in Residential Zone 3.***

Lucas Donato requested that the ZBA issue a decision on the farmer's porch addition to the house, which the ZBA informally approved at their December 15, 2022 meeting, leaving the garage portion of their appeal to a future meeting. The proposed porch is on the side of the house that is already non-conforming and the porch would decrease the



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side setback to 30 feet, which is reasonable. He also points out that the dormers they want to add to the house do not need a Special Permit as they are within the footprint of the existing and will not increase the height of the house.

Lou Rogers points out that it is possible to issue a partial decision concerning the porch while continuing the hearing concerning the garage/apartment.

Jonathan Holter asked if the porch was a structure. Lou Rogers and Lucas Donato replied that the proposed porch will have a roof, so yes, it is a structure.

There is no correspondence for this appeal, and there are no comments from the people in attendance.

**Grace Guck prepared the findings.** A Special Permit is requested under Zoning Bylaw Section 3.5.5 to construct a porch with a roof over it, the lot is zoned R3, Laiana Donato purchased the property in January 2022, the pre-existing lot is non-conforming because it is too small (16,130 sq. ft., 60,000 required) and does not have the required frontage (approximately 121 ft./ 150 required), the porch will have a setback of approximately 30 feet, there was no correspondence and no public comments, three members visited the site, and this project is not substantially more detrimental to the neighborhood because it is an aesthetic improvement and it is consistent with other setbacks in the neighborhood.

Doug Pease moves to issue a Special Permit under Section 3.5.5 to allow the construction of a farmer's Porch on one side of the existing house. Grace Guck seconds the motion. All (Lou Rogers, Grace Guck, Doug Pease, and Jonathan Holter) vote in favor, so the motion passed unanimously (4-0).

Doug Pease then moves to continue the hearing concerning the garage to Wednesday March 15, time to be determined. Grace Guck seconds the motion. All (Lou Rogers, Grace Guck, Doug Pease, and Jonathan Holter) vote in favor, so the motion passed unanimously (4-0).

### **RE: Paula Appeal**

**Flavio S. Paula and Luciana Paula  
11 Jessica Lane Map 49 Parcel 1-1**

The Oak Bluffs Zoning Board of Appeals opened a duly posted and continued In-Person Public Hearing on **Thursday, February 16, 2023 at 6:25pm** in the Oak Bluffs Town Hall Downstairs Meeting Room, 56 School Street, on the application of the referenced petitioners seeking:

***A Special Permit or Variance within Oak Bluffs Zoning Bylaws 3.5.5 and 4.4.2, or any action related thereto, to build a new detached two bedroom accessory apartment on a conforming lot in Residential Zone 3.***



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Flavio Paula presents his revised plans for the garage apartment in the same place as in the original application, so the setbacks meet the R3 zoning requirements of 50 feet. The only change to the plans is that there will be no internal door connecting the apartment to either the garage or the full basement under the garage.

Jonathan Holter points out that the relevant bylaw is Section 3.4.2 and 3.5.5, and that there is a list of conditions that must be satisfied as part of any approval.

One of the conditions is that the property must be owner occupied for five years, and this condition must be waived since the property was purchased in 2019. Another condition is that the property must be owner-occupied, and Flavio Paula says they will be living there. A third condition is that there must be 7,500 square feet of open space on the lot, which there is. The guest apartment must also be consistent with the architecture of the main house, which it is. The final requirement is that there must be enough space on the lot for another parking space, which there is.

Doug Pease makes the following findings.

A Special Permit under Zoning Sections 3.4.2 and 3.5.5 is requested to build a two bedroom accessory apartment, the lot is zoned R3, the property was purchased in 2019 the lot is conforming with 60,000 sq. and has the required frontage (approximately 200+ ft./ 150 required), the apartment will be no larger than 750 square feet, there will be no doorways between the garage and the accessory apartment, both of which will be on ground level, the setbacks for the apartment will be 51 feet for rear and side setbacks, no correspondence in favor or opposed, three members visited the site. And this project is not be substantially more detrimental to the neighborhood because it is a big lot and the proposal meets all setbacks.

Doug Pease moves to issue a Special Permit under Sections 3.4.2 and 3.5.5 to construct a garage and an accessory apartment. Jonathan Holter seconds the motion.

All (Lou Rogers, Grace Guck, Doug Pease, and Jonathan Holter) vote in favor, so the motion passed unanimously (4-0).

### **RE: Saloparu Appeal**

**Olivia F. Saloparu**

**8 Potato Farm Road Realty Trust**

**8 Potato Farm Road Map 11 Parcel 239-2**

The Oak Bluffs Zoning Board of Appeals will hold a duly posted In-Person Public Hearing on **Thursday, February 16, 2023 at 6:35PM** in the Oak Bluffs Town Hall Downstairs Meeting Room, 56 School Street, on the application of the referenced petitioners seeking:



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### ***A Special Permit within Oak Bluffs Zoning Bylaws 4.4.5, or any action related thereto, to construct a pool within the setbacks on a conforming lot in Residential Zone 1.***

Olivia Saloparu presents her plans to construct a pool on her property. There are only two other houses at the end of Potato Farm Road.

The pool meets the 20 foot setbacks on the sides but given the unusual road layout it has only a 4 foot front setback. The road layout sticking into her property is used as a driveway for parking, so if that parking area is included the setback would be approximately 30 feet.

Lou Rogers points out that by the plot plan, her fence is not all on her property.

Jonathan Holter points out that the ZBA can approve a pool within the setbacks by issuing a Special Permit.

Lou Rogers points out that the pool is very close to the house, and Olivia Saloparu says she does not mind that, and that moving the pool further back on the lot would put it in the shadow of the house.

Olivia Saloparu has lived on the property for nine years, renting it for five years and four years ago she bought the property. She has an existing above-ground pool but would like to replace it with an in-ground pool.

Doug Pease points out that the Board of Health has requirements for pools that she will have to meet. She agrees that she will need to go to that Board.

Susan Leigh, owner of 12 Potato Farm Road writes to oppose the pool, as they will be negatively impacted by this significant change in the tiny cul-de-sac that they share. The pool will lead to excessive noise, chemical smells from chlorine and algaecide, and land degradation from that would severely and negatively impact our land and the environment. The Leighs were not consulted about this request, and nor were they consulted before the existing fence was constructed; the fence has negatively affected the views that they have enjoyed for 20 years.

Olivia Saloparu says that she did contact each of her neighbors about the fence; she was shocked to learn that her neighbors did not like the fence. She did not contact her neighbors about the pool.

Lou Rogers points out that we have not received any complaints about the fence.

Nobody in the audience wished to speak concerning this application, so he closed the public comments section of the hearing.



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Grace Guck feels that the pool will increase the values of the property, and that the proposed salt water pool will be better than the existing above ground chlorine pool.

Jonathan Holter points out that there are no permits for the existing above ground pool. Bylaw 4.4.5 does not specify whether the pool is chlorine or salt water.

Doug Pease points out that the proposed pool is in the same location as the above ground pool, and that the existing fence is not an issue before the ZBA.

Grace Guck asks whether we should get clarification of whether an above ground pool needs a permit from the Town.

Lou Rogers has no problem allowing the pool in that location with a four foot setback from the actual property line.

Grace Guck makes the following findings.

- The existing 10,149 sq. ft. lot located in Residential Zone 1 is conforming. (Req.: 10,000 sq. ft.)
- The shortest side setback for the proposed pool is 20 feet from the nearest property line, meeting the setback requirement,
- Front setback for the proposed pool is 4 feet from her property line, less than the 20 feet zoning requires, and
- this project is not substantially more detrimental to the neighborhood because the proposed pool is more aesthetically pleasing and will have no smell as it is a salt water pool so there will be no chlorine, and that it will increase property values.

Doug Pease moves to approve the Special Permit under Sections 3.5.5 and 4.4.5 to construct an in ground pool with the Special Condition that a permit from the Board of Health is required before construction of the pool starts. Jonathan Holter seconds the motion.

All (Lou Rogers, Grace Guck, Doug Pease, and Jonathan Holter) vote in favor, so the motion passed unanimously (4-0).

### **RE: Lippins Appeal**

**Sandra Lippins**

**145 Vineyard Haven Edgartown Road Map 50 Parcel 1.1**

The Oak Bluffs Zoning Board of Appeals opened a duly posted and continued In-Person Public Hearing on **Thursday, February 16, 2023 at 7:05PM** in the Oak Bluffs Town Hall Downstairs Meeting Room, 56 School Street, on the application of the referenced petitioners seeking:



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***A Special Permit within Oak Bluffs Zoning Bylaws 3.4.2, 3.5.5, 4.4.4 and 9.1.B, or any action related thereto, to build a 3 bedroom detached bedroom or accessory apartment on a conforming lot in Residential Zone 3.***

Sandra Lippins was not present at the meeting.

Jonathan Holter moves to continue the hearing to Wednesday March 15, time to be determined. Grace Guck seconds the motion. All (Lou Rogers, Grace Guck, Doug Pease, and Jonathan Holter) vote in favor, so the motion passed unanimously (4-0).

### **RE: Hagerty Appeal**

Grace Hagerty

**2 Wing Road Map 17 Parcel 82**

The Oak Bluffs Zoning Board of Appeals opened a duly posted and continued In-Person Public Hearing on **Thursday, February 16, 2023 at 7:07PM** in the Oak Bluffs Town Hall Downstairs Meeting Room, 56 School Street, on the application of the referenced petitioners seeking:

***A Special Permit within Oak Bluffs Zoning Bylaws 3.4.2, 3.5.5, and 4.4.4, or any action related thereto, to have a detached finished living space on a conforming lot in Residential Zone 2.***

Patrick McCarthy says they are working on plans to convert the shed into a detached bedroom.

Doug Pease moves to continue the hearing to Wednesday March 15, time to be determined. Grace Guck seconds the motion. All (Lou Rogers, Grace Guck, Doug Pease, and Jonathan Holter) vote in favor, so the motion passed unanimously (4-0).

### **RE: Cogliano Appeal**

Rose Cogliano

**6 Pitch Pine Lane Map 28 Parcel 2-62**

The Oak Bluffs Zoning Board of Appeals will hold a duly posted In-Person Public Hearing on **Thursday, February 16, 2023 at 7:20PM** in the Oak Bluffs Town Hall Downstairs Meeting Room, 56 School Street, on the application of the referenced petitioners seeking:

***A Special Permit within Oak Bluffs Zoning Bylaws 3.4.2, or any action related thereto, to construct an 896 square foot garage and accessory apartment on a non-conforming lot in Residential Zone 3.***

Lou Rogers discloses that he is on the Vineyard Hills Homeowners Association's Board of Directors, but he feels that he can fairly and justly participate in the hearing with impartiality.



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Lou Rogers points out that this subdivision is zoned R3, but because the Planning Board approved the subdivision as an open space community, the properties in the subdivision must meet the R2 zoning requirements.

Brian Cornock and Rose Cogliano present their appeal. The proposal is to build an 849 square foot garage with an accessory apartment. When they learned that there was a 750 square foot cap on the size of the apartment they reconsidered but determined that that is really what they need.

The R2 required setbacks of 25 feet front, 20 feet side and 20 feet rear are met. The accessory apartment is designed to be 849 square feet. There is no interior door connecting the garage to the accessory apartment.

Lou Rogers points out that the ZBA does not permit an accessory apartment to be more than 750 square feet, and there is an inside set of stairs and a doorway at the bottom of the stairs connecting to the garage, which is not allowed. The reason for this is that that space then becomes part of the living area so it could be converted to bedrooms or other living space. The ZBA allows the washer/dryer to be inside the garage as proposed, but access to it must be from the outside.

Doug Pease suggests that the above means that the applicant must come back with plans that meet the requirements mentioned here.

Lou Rogers points out that if the accessory apartment is reduced to 750 square feet and the other changes mentioned in this hearing are made, then they will not have to return to the ZBA.

There are two letters in the file, but Jonathan Holter points out that they do not need to be read at this hearing as the ZBA is not ruling on the Special Permit today, the hearing will be continued to the next meeting. Nobody in the audience made any comments concerning this hearing.

Doug Pease moves to continue the hearing to Wednesday March 15, time to be determined. Grace Guck seconds the motion. All (Lou Rogers, Grace Guck, Doug Pease, and Jonathan Holter) vote in favor, so the motion passed unanimously (4-0).

### **RE: HMD 2011 375 Barnes Road LLC Appeal**

HMD 2011 375 Barnes Road LLC

375 Barnes Road **Map 27 Parcel 14**

The Oak Bluffs Zoning Board of Appeals will hold a duly posted In-Person Public Hearing on **Thursday, February 16, 2023 at 7:35PM** in the Oak Bluffs Town Hall Downstairs Meeting Room, 56 School Street, on the application of the referenced petitioners seeking:



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***A Special Permit within Oak Bluffs Zoning Bylaws 3.5.5 and 4.4.5, or any action related thereto, to remove an existing single family residence and construct a new single family residence and pool on a non-conforming lot in Residential Zone 3.***

Chuck Sullivan presents this appeal. The existing structure is pre-existing and non-conforming. This structure will be removed and replaced with a new structure further back on the lot from the coastal district. This project has been approved by the Conservation Commission although they need to return to that Board with a final landscaping plan. The setbacks match what is there now except for the chimney and the outdoor shower. The setbacks to the proposed chimney is 41 feet, to the proposed house is 44 feet, on the opposite side of the house the setback will be 50 feet, which meets zoning. Outside access to the basement will be 46 feet; the stairs will be open and uncovered and there will be a 36 inch high railing or fence around it so people cannot fall into it; this option was chosen as it is smaller than the conventional bulkhead.

Lou Rogers asks about the setbacks on the existing house. The existing setbacks are 43 feet side, and 58 feet on the other side. The proposed house is less non-conforming.

The garage on the plans is not part of this application, though if it is designed for the site shown will be less than 500 square feet.

There are three bedrooms proposed and the septic system is designed to handle them. The leaching field is already installed, but the Conservation Commission required that the septic tank be moved closer to the house and further away from the coastal bank.

There is no correspondence concerning this appeal.

Mark DePuchio has some questions. He asks how are there three bedrooms on a 43,000 square foot lot? That is determined by the Board of Health. Overall he thinks these plans are an improvement over the existing house, and this proposal will increase the value of his property.

Lou Rogers makes the following findings.

The lot is zoned R3, the lot has road frontage of 124 ft lot is non-conforming (150 ft. required), the existing 43,560 sq. ft. lot is non-conforming. (Req.: 60,000 sq. ft.), the existing non-conforming residence will be demolished, the proposed single family residence will be non-conforming with side setbacks of 41 and 46 feet side setbacks; front and rear setbacks are both greater than 50 feet (Req.: 50/50/50 setbacks), the proposed pool is non-conforming with setbacks of 44ft and 55ft (50 ft required), and three members visited the site.

Jonathan Holter moves to approve the Special Permit under Sections 3.5.5 and 4.4.5 for the removal of the existing single family residence and the construction of a new single family residence and the construction of a pool. This project will not be more detrimental





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to the neighborhood than the existing non-conforming structure because the non-conformities are virtually the same as the existing structure, and the pool looks like a nice addition to the neighborhood. **Two Special Conditions are that (1) the proposed stairway will not be more than 30 inches above grade, and (2) the proposed stairway remain flat, open-air, and unenclosed and uncovered (no roof, screening, etc.).**

Grace Guck seconds the motion. All (Lou Rogers, Grace Guck, Doug Pease, and Jonathan Holter) vote in favor, so the motion passed unanimously (4-0).

The following three appeals will be addressed together.

### **RE: Bradley Appeal**

**Melissa Bradley**

**Black Joy MVY**

**125 Seaview Avenue,**

**Map 10, Parcel 162**

The Oak Bluffs Zoning Board of Appeals opened a duly posted and continued Public Hearing on **Thursday, February 16, 2023 at 8:10** via an in-person meeting on the application of the referenced petitioners seeking: **a Special Permit from the Oak Bluffs Zoning Bylaws Sections 3.5.5 and 8.1.5 to build a free-standing deck platform in the backyard of a non-conforming lot zoned R2.**

### **RE: Chun & Kim Appeal**

**Eunu Chun and Lisa H. Kim**

**7 Arlington Avenue**

**Map 3 Parcel 15**

The Oak Bluffs Zoning Board of Appeals will open a duly posted and continued Public Hearing on **Thursday, February 16, 2023 at 8:12** via an in-person meeting on the application of the referenced petitioners seeking:

***a Special Permit within Zoning Sections 3.5.5 and 4.4.4, or any action related thereto, to renovate a pre-existing and non-conforming dwelling and to convert a pre-existing and non-conforming garage into a detached bedroom on a pre-existing and non-conforming lot in Residential Zone 2.***

### **RE: Island Elderly Housing, Inc. Appeal**

**Island Elderly Housing, Inc.**

**38 Wing Road Map 17 Parcel 105**

The Oak Bluffs Zoning Board of Appeals will hold a duly posted and continued in-person Public Hearing on **Thursday, February 16, 2023 at 7:54pm** via a Hybrid In-Person and



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Zoom meeting in the Oak Bluffs Library Meeting Room on the application of the referenced petitioners seeking:

***a Comprehensive Permit within MGL Chapter 40B, or any action related thereto, to allow the demolition of the existing structures and to construct a building containing five units of affordable housing on a conforming lot in Residential Zone 2.***

As all three of these hearings are not ready to be heard by the ZBA, Jonathan Holter moves to continue the hearing to Wednesday March 15, time to be determined. Grace Guck seconds the motion. All (Lou Rogers, Grace Guck, Doug Pease, and Jonathan Holter) vote in favor, so the motion passed unanimously (4-0).

**Adjournment.** At **8:10PM**, Grace Guck made a motion to adjourn the meeting, seconded by Doug Pease. All (Lou Rogers, Grace Guck, Doug Pease, and Jonathan Holter) vote in favor, so the motion passed unanimously (4-0).

*Respectfully Submitted,*  
*Robert Culbert*  
*ZBA Administrator*  
Approved March 22, 2023

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