



## 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 March 22, 2023 Meeting In-Person Meeting

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

Others in Attendance: David Dragus, Patrick McCarthy

Chair Rogers opened the meeting at 6:02pm.

**Minutes:** Doug Pease moved to approve the minutes for the February 16, 2023 minutes as submitted. Grace Guck seconds the motion. All members attending the meeting (Lou Rogers, Grace Guck, Doug Pease, and Jonathan Holter) vote in favor, so the motion passed unanimously (4-0).

**Next Meeting Date:** The Board agreed the next meeting will be an in-person meeting regarding the Southern Tier LLC 40B Application, to be held on April 12, 2023 at 5:00 p.m. The next regular meeting will be held on April 19, 2023 at 6:00 p.m.

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

#### **RE: MV Partner LLC Appeal**

Xi (Kevin) Yu

6 Circuit Ave.

**Map 9 Parcel 22**

The Oak Bluffs Zoning Board of Appeals opened a duly posted In-Person Public Hearing on **Wednesday, March 22, 2023 at 6:00PM** 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 Bylaw 5.3.10, or any action related thereto, to install a self-illuminating sign in the B1 district.***

Jonathan Holter recused himself from this hearing. Hearing this appeal will be Leah Brown, Andrea Rogers, Lou Rogers, Grace Guck, and Doug Pease

David Dragus presents this appeal on behalf of Xi (Kevin) Yu, who could not be present due to a medical emergency.

Mr. Dragus stated that he intends to mount three signs outdoors and one backlit illuminated sign indoors. The Chair stated it is his understanding that the only sign this Board will be addressing is the one that is self-illuminated, and says "open". The Chair directed the Board's attention to By-Law 5.3.10 for guidance. The other signs are under the purview of the Sign Committee.



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Mr. Dragus explained that the subject restaurant space is in a basement, and the idea is to use a bright sign to indicate that the restaurant is open during business hours. Leah Brown inquired as to the size of the sign and Mr. Dragus stated that the size is 9"x16.5". He further stated that the sign will not be flickering at any time; it will be posted inside behind the glass of the window. The Board accepted the sign as presented (with a size of 9"x16.5").

Doug Dragus added that there are similar signs at the MV Chowder Company and at Sharky's.

There is no written or verbal public correspondence.

Andrea Rogers made the following findings:

- The property is located within the B1 District;
- The property is located at 6 Circuit Avenue; Map 9 Lot 22; and
- The size of the sign as presented is 9"x16.5."

Andrea Rogers made a motion to approve the Applicant's Request for a Special Permit for a self-illuminating sign, as it will not be more detrimental to the neighborhood, and with the following special conditions:

- The sign should only be illuminated when the business is open; and
- The sign should be displayed indoors.

Leah Brown seconded the motion. All (Andrea Rogers, Lou Rogers, Grace Guck, Doug Pease, and Leah Brown) vote in favor, so the motion passed unanimously (5-0).

### **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 **Wednesday, March 22, 2023 at 6:20pm** 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.***

The applicants did not appear for this hearing.

Doug Pease moved to continue the Appeal to April 19, 2023 based on the fact that the applicant is not present. Jonathan Holter voted to second the motion.



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All (Andrea Rogers, Lou Rogers, Grace Guck, Doug Pease, and Jonathan Holter) vote in favor, so the motion passed unanimously (5-0).

### **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 **Wednesday, March 22, 2023 at 6:22PM** 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, 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.***

The Board received a letter dated March 22, 2023 from Michael Nania requesting that the Lippins application be withdrawn without prejudice. Robert Culbert, ZBA Administrator, read the letter into the record.

Doug Pease moved to withdraw the Lippins Appeal without prejudice. Jonathan Holter seconded the motion.

All (Andrea Rogers, Lou Rogers, Grace Guck, Doug Pease, and Jonathan Holter) voted in favor, so the motion passed unanimously (5-0).

### **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 **Wednesday, March 22, 2023 at 6:24PM** 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 presents this appeal. Mr. McCarthy presented new plans for the proposed detached bedroom. He stated that the structure is under 400 square feet, and includes a bed, bathroom, and closet. Doug Pease inquired as to whether the structure is all at ground level. Mr. McCarthy confirmed that it is just one floor at ground level, but that



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he is seeking to add an unfinished basement with access only from the outdoor bulkhead. There will be no access from inside the structure.

Mr. McCarthy inquired as to an additional existing foundation that was on the property when they purchased it. It does not meet setbacks, but he would like to know if they could make use of it due to the fact that it was pre-existing. He presented photos of the foundation site. Andrea Rogers inquired as to whether Mr. McCarthy had a plot plan indicating where on the property the foundation is situated. Since he did not, she suggested that he get the property surveyed. Mr. McCarthy did not know what was on that foundation as it was not used when they bought the property. The Chair suggested Mr. McCarthy speak to the Building Department regarding the foundation. Mr. McCarthy stated that he did not wish to pursue the additional foundation matter with the Board at this time.

The Chair inquired as to the shed that was previously identified on the property. Mr. McCarthy stated that there is an existing 20x10 structure on the property that did not meet the correct setbacks, but that he plans to move it to a new location with proper setbacks. The Chair indicated that he would like to impose a condition that no building permit be issued until the shed structure is removed or repositioned. Mr. McCarthy stated that he intends to reposition that structure and incorporate it into the new 400 square foot detached bedroom. The Chair stated that he would include a condition that would allow the Applicant to take the shed structure down as he is building the detached bedroom, but that if the shed structure is not being dismantled during the building of the detached bedroom, the building department should put a hold on the building permit. The Chair clarified that the Applicant may start pouring the foundation for the new 400 square foot structure before attempting to reposition and repurpose the shed structure, but that the process of moving the shed should be started prior to the building permit for the 400 square foot structure being issued.

Jonathan Holter asks that the Board review the conditions (Zoning Bylaw Sections 3.4.2 and 4.4.4) that must be met to build the detached bedroom. They have owned and lived on the property since 2016, a plot plan has been submitted and the location meets the zoning setbacks, the driveway will be expanded to accommodate another parking space, there is only a bedroom and a bathroom (no kitchen facilities), it is less than 400 square feet, bathroom plumbing only, there is 7,500 square feet of open space since the lot is 20,000 square feet, the appearance of the detached bedroom will match that of the house, and the Building Department will be allowed to inspect the property as construction proceeds.

There is no public correspondence and no public comments from the meeting.

Grace Guck makes the following findings. The lot is zoned R2, the property was purchased on Jan. 14, 2016, the lot is conforming with 20,038 sq. ft., (20,000 required) and is very close to the required frontage (114 ft./ 115 required), the structure is 400 square feet, the side setback is 20 feet and the rear setback is 20 feet, all others are much more



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than 50 feet, three members visited the site, and this project is not be substantially more detrimental to the neighborhood because it matches the house in appearance and no neighbors are opposed to this project.

Andrea Rogers moves to approve the Special Permit for the detached bedroom, with the Special Condition that the existing shed be moved prior to the issuance of an occupancy permit. Doug Pease seconds the motion.

All (Andrea Rogers, Lou Rogers, Grace Guck, Doug Pease, and Jonathan Holter) vote in favor, so the motion passed unanimously (5-0).

The following two hearings will both be continued, so at 6:41PM they are considered together.

### **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 and continued in-person Public Hearing on **Wednesday, March 22, 2023 at 6:26 pm** 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.***

### **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, January 19, 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.***

Doug Pease makes a motion to continue the hearing to April 22, time to be determined. Andrea Rogers seconds the motion.

All (Andrea Rogers, Lou Rogers, Grace Guck, Doug Pease, and Jonathan Holter) vote in favor, so the motion passed unanimously (5-0).



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As the following two hearings were not included in the previous motion, at 6:42PM they will be considered together here.

### **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, January 19, 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: 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 **Wednesday, March 22, 2023 at 6:32 pm** in the Oak Bluffs Town Hall Downstairs Meeting Room, 56 School Street, 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.***

Doug Pease makes a motion to continue the hearing to April 22, time to be determined. Andrea Rogers seconds the motion.

All (Andrea Rogers, Lou Rogers, Grace Guck, Doug Pease, and Jonathan Holter) vote in favor, so the motion passed unanimously (5-0).

### **Adjournment.**

At 6:43PM, Jonathan Holter made a motion to adjourn the meeting, seconded by Doug Pease. All (Andrea Rogers, Lou Rogers, Grace Guck, Doug Pease, and Jonathan Holter) vote in favor, so the motion passed unanimously (5-0).

*Respectfully Submitted,*

*Robert Culbert*

*ZBA Administrator*

Approved April 19, 2023