



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 April 19, 2023 Meeting In-Person Meeting

Members present: Llewellyn Rogers (Chair), Andrea Rogers, Doug Pease, Leah Brown, Jonathan Holter (absent for Southern Tier hearing), ZBA Administrator Robert Culbert, and Joe Peznola (advisor/consultant to ZBA).

Others in Attendance: Nan Bacon, Adrienne Boardman, Bryan Collins (Sourati Engineering Group), Ethan Genter (Vineyard Gazette), Philippe Jordi (Island Housing Trust), Tal Kaissor, E. Leonard (?), Mark Leonard, Sam Low (Harthaven Director), Arthur C. Nevin, Craig Nicholson (Applicant, Affirmative Investments), Deborah Potter (Oak Bluffs Town Administrator), Phil Regan (Hutker Architects), Audrey Snare (Hutker Architects), George Sourati (Sourati Engineering Group)

Chair Rogers opened the meeting at 5:15pm.

Minutes

Doug Pease moves to approve the minutes of March 22 as presented. Leah Brown seconds the motion. All (Lou Rogers, Andrea Rogers, Leah Brown, and Doug Pease) vote in favor, so the vote is unanimous (4-0).

Andrea Rogers moves to approve the minutes of April 12 as presented. Doug Pease seconds the motion. All (Lou Rogers, Andrea Rogers, Leah Brown, and Doug Pease) vote in favor, so the vote is unanimous (4-0).

RE: Southern Tier LLC

40B Application

Craig Nicholson/Affirmative Investments

85 Edgartown-Vineyard Haven Road Map 50 Parcel 31

The Oak Bluffs Zoning Board of Appeals will hold a duly posted and continued In-Person Public Hearing on Wednesday, April 12, 2023 at 5:00 pm in the Oak Bluffs Town Hall Downstairs Meeting Room, 56 School Street, on the application of the referenced petitioners seeking: **A Comprehensive Permit under Chapter 40B of the General Laws of the Commonwealth of Massachusetts**

Joe Peznola notes that a simple majority is needed to approve a Comprehensive Permit under Chapter 40B; since four members are sitting the Permit can be issued with a 3-1 vote in favor.

Craig Nicholson will discuss the draft decision with the ZBA. He states that he would prefer not to assign parking spaces as there may be some residents that do not have cars, so he would prefer to have it reworded to assign parking spaces if needed. The ZBA has no objections to that change.



OAK BLUFFS ZONING BOARD OF APPEALS

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

508 693 – 3554 x 120

Joe Peznola has nothing to add, he made the requested changes and is ready to answer questions.

Some concerns were raised about MVC condition 27, requiring changes to the plans be submitted to the MVC for consideration; those changes also need to be sent to the ZBA.

It was also suggested that to increase the noise mitigation by planting a row of evergreens between the Community House and the nearby abutters. Evergreens are much better at screening noise than are deciduous trees and shrubs. Craig points out that their construction goes right up to their limit of work and so that might not be possible without referring it back to MassWildlife and the Massachusetts Natural Heritage and Endangered Species Program for review. Lou Rogers points out that Mark Crossland has verbally offered (not in writing) to put in any trees that might help mitigate noise, even on abutters properties, in the future. There is already an MVC condition that requires them to plant a row of trees to protect the abutters, although that condition does not require them to be evergreen. Joe points out that there is already a condition for plantings along the edge of the access road near buildings 4 and 11 (the community house); they could be evergreens. Craig points out that those plantings may need to be removed if the town ever decides to create this road; he would prefer to modify the MVC condition by requiring their plantings be evergreen, as those trees would not be impacted by future development. Joe read a revised condition that all parties agreed to.

It was also noted that the draft decision says the legal notices were published in the Vineyard Gazette; they were published in the MV Times. Joe has made that change.

Leah Brown is concerned about the wastewater hookup; is there a condition that would require the development to hook up to the sewer even if they have already built their own treatment facility. Lou Rogers responds that the development will not be building their own sewer facility until the last minute, they will not build it if the expanded sewer is available at the time. If the development has already built their own sewer facility they will be allowed to use it through its useful life. He also points out that phase 2 of this project must be the Town sewer. Leah would like to see a caveat added that we get an assessment of how much nitrogen is being added; Lou points out that this system will be carefully monitored by the State. Craig also points out that they are required to report these data to the state for three years; if something is wrong with their facility in five years its useful life is over and they will have to hook up to the Town sewers.

Leah has a concern about scooters and their proposed ban. Lou clarified that it is rental mopeds that may be banned in town, not privately owned mopeds or the electrified scooters. The developers cannot ban either of these in this subdivision. Language was changed in the decision to reflect these distinctions.



OAK BLUFFS ZONING BOARD OF APPEALS

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

508 693 – 3554 x 120

Doug Pease then moved that we close the public hearing, Leah Brown seconds the motion. All (Lou Rogers, Andrea Rogers, Leah Brown, and Doug Pease) vote in favor, so the vote is unanimous (4-0).

Andrea Rogers moved to approve the decision as modified during this meeting. Doug Pease seconded the motion. All (Lou Rogers, Andrea Rogers, Leah Brown, and Doug Pease) vote in favor, so the vote is unanimous (4-0). This decision will be sent to Town Council for his review; minor changes are okay as suggested by Town Council. A normal process.

The meeting was then recessed at 5:45, until the next hearing starts at 6:05.

RE: EWS Support Trust Appeal

Eva W. Sullivan, Trustee
43 Farm Pond Rd.
Map 17 Parcel 115

The Oak Bluffs Zoning Board of Appeals will hold an In-Person Public Hearing on **Wednesday, April 19, 2023 at 6:05PM** in the Oak Bluffs Town Hall Downstairs Meeting Room, 56 School Street, on the application of the referenced petitioner(s) seeking: ***A Special Permit within Oak Bluffs Zoning Bylaws 3.5.5 and XV111.1.A.(7)(a), or any action related thereto, to demolish a pre-existing, non-conforming single-family residence and to construct a new single-family residence with associated utilities located in the inland zone of the Coastal District. Applicants are requesting a special permit to allow the ridge of the new residence to be 27.1' above mean natural grade instead of 24' (3.1' of height relief).***

Jonathan Holter will be sitting for remainder of the meeting.

George Sourati points out that the owners have lived in this house for 25 years. Now they want to make the house more comfortable by moving a master bedroom to the first floor. No additional bedrooms are proposed. The Conservation Commission has approved this project and the septic upgrade has not yet been approved by the Board of Health. The existing house is non-conforming due to setbacks less than the 50 foot required. One of the non-conformities has been reduced to 34 feet. The new house will not be higher than the existing house, though it has been moved slightly downhill. No roofline will be above 26.5 feet above grade.

All members have visited the site.

Phil Regan (Hutker Architects) presents the view of the site. They have assistive health at the house at all times, so the house needs to be renovated to accommodate that. The house will be renovated and moved closer to the pond, thereby improving the front setback



OAK BLUFFS ZONING BOARD OF APPEALS

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

508 693 – 3554 x 120

although the shape of the lot precludes improving other setbacks. They will eliminate the current parking area and retaining wall, and create a new parking area on the upper side of the house to improve accessibility issues.

The existing house is on a slope and there is a 12 foot difference in the elevations, which makes two floors challenging. They are moving the house closer to the pond so the bottom of the house will be 2.5 feet lower, making the proposed ridgeline 26.5 feet above sealevel; the ridgeline of the new house will be at the same height above sea level as the current house and will not look any different. The proposed roofline will not be higher than the adjacent trees. Only the double gable and cupola will be above the 24 foot height requirement. The abutters and neighbors are not concerned about the height of the proposed house. The first floor is flush with grade for easy accessibility. The new driveway will be gravel to maintain permeability and reduce runoff.

At the Sullivan's suggestion, a denitrifying septic system will be installed to protect Farm Pond.

Most of the neighboring houses are also non-confirming. They have presented these plans to the neighbors via Zoom and have met with neighbors and the Harthaven Association and their Architectural Review Committee..

The house will be less visible from across Farm Pond.

Chris Horiuchi addresses the landscaping. The Sullivans have agreed to restore 50 feet of their yard near the pond into a native plant meadow that will be mowed once per year. Initially a 25 foot restoration was proposed but the Conservation Commission requested the 50 foot restoration, up to the six foot contour.

Halstead Sullivan writes on behalf of this project; they are concerned about the environment and the health of the pond. The house is designed so his parents can easily have access to all of the first floor of the house. They are doing everything they can to reduce the impact on their neighborhood, including having places to mitigate the sounds of sawing lumber during construction. The proposal has the support of the neighbors.

Also writing in support of the project are: Charles Santoro, David and Cindy Harrison, Adam and Randy Markel, Carl Hagger, Peter Pease, Donna and Mark Warsofsky, Arthur Stafford, Shirley and Elliot Hall, John Dutton, and Christopher Birch and the Lehman Family, Points in these letters include that the project is more attractive and fits into Harthaven, they are including good landscaping and drainage, the applicants were helpful and responsive to our concerns, and the project protects Farm Ponds.

The Harthaven Architectural Review Committee writes to praise the openness and responsiveness of the applicants to the concerns of neighbors, and their interest in protecting Farm Pond. They object to the increased height of the house, as it does not



OAK BLUFFS ZONING BOARD OF APPEALS

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

508 693 – 3554 x 120

comply with the Town's height requirements. They do not object to the cupola exceeding the height limit as long as it is lowered accordingly and does not include any lighting. Phil Regan says there will be no light fixture although there may be some light since it is open to the room below.

Sam Low comments that the height of the house is 2.6 feet higher than the existing house, and that the cupola makes the overall structure 4.6 feet higher. The house is also 65% larger than the existing house. He adds that some neighbors will be impacted by light spillage. He praises how much the lawn area has been reduced. The applicant responds that this is reconstruction of an existing house that can be built with a Special Permit. The addition of porches will reduce the light spill, the area is already disturbed, the size of the existing building on the assessor's card is not accurate, and that they have reduced a non-conforming setback. The applicant states that the footprint is 15% larger, and 31% larger if the garage is included.

EL Edwards comments that she is concerned about the precedent of allowing increased height above the Town's height requirement. Lou Rogers explains that the ZBA looks at why the addition is desired and its impact on the neighborhood; since each case is different there really are no precedents set.

Nan Bacon is the only abutter that will see the 62 foot long roofline. She comments that the applicants set up a Zoom presentation to the neighbors to explain the project and seek feedback. Her concern is the height and length of this roofline. She presents her pictures of the proposed house and garage as she will see it, and points out that there are views other than water views, that trees and natural buffers are important, and this project will cut down lots of trees.

Andrew Moore points out that the house is 2.5 feet taller.

Stephanie Mashek points out that the front of the ridges are taller and will present a larger visual impact beyond the extra 2.5 feet. It would be possible to lower the roofline.

The applicants point out that due to the design nobody will be able to see all of both ridgelines at any one time or place. They also say that the roofline is 2.6 feet above the height restriction and with the cupola is 4.6 feet above the 24 maximum allowed.

Lou Rogers closed the public comments. The ZBA deliberated. Jonathan Holter says that the height of the house is the issue. Leah Brown points out that balance between increased height of ridgeline and reducing the non-conforming setback is needed. She asks if a lower roof angle could reduce the height of the ridgeline; Phil Regan responds that instead of that they reduced the height of the second floor ceiling to 7 feet.

Andrea Rogers asks whether there could be more screening, and the response is that the only trees to be removed will be to make the driveway.



OAK BLUFFS ZONING BOARD OF APPEALS

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

508 693 – 3554 x 120

Lou Rogers adds that the only problem is the cupola, although that does not change the roofline. He also says that there is a lot of support for this project from the abutters, that one of the setbacks will be less non-conforming, that they are installing a better septic system and restoring a natural meadow below the six foot contour near the pond.

Andrea Rogers asks whether a computer diagram comparing Ms. Bacon's current view to the proposed view. Phil Regan responds that they are expensive to produce and that the new roofline does not break the tree-line and that it will only be visible in the winter when there are no eaves on the trees.

Lou Rogers and Jonathan Holter made the following findings:

- The lot is zoned R3,
- The existing 46,174 square foot lot is non-conforming (60,000 square feet required),
- The existing lot has the necessary road frontage (approximately 225 feet, required 150 feet),
- The proposed building site falls within the Coastal District – Inland Zone,
- The height of the proposed building is 27.1 feet (24 foot restriction for a pitched roof in the Coastal District – Inland Zone),
- Size of the proposed residence is 2,858 square feet of living space; 384 square feet of screened porch; 456 square feet covered porch,
- All five members visited the site,
- The existing setbacks are 24/41/79 feet and the proposed setbacks will be 34/52/68 feet,
- This project was approved by the Conservation Commission,
- As the Conservation Commission requested, the applicants agreed to restore part of the lawn into a 50 foot wide reconstruction of a native meadow,
- They will be upgrading the septic system (not yet approved by the Board of Health), and
- The applicant is seeking a roofline of 26.6 feet (maximum 24 feet) and 28.6 feet for the cupola,

Jonathan Holter made a motion to approve the Special Permit as proposed after finding that the proposal will not be more detrimental to the neighborhood than the existing structure because it is visually appealing, the height increase is minimal, the proposal fits into this neighborhood, and the side setbacks are less non-conforming.

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



OAK BLUFFS ZONING BOARD OF APPEALS

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

508 693 – 3554 x 120

RE: Slaughter Appeal

Brenda Delaney Slaughter
61 Tuckernuck Avenue
Map 11 Parcel 71

The Oak Bluffs Zoning Board of Appeals will hold an In-Person Public Hearing on **April 19, 2023 at 6:20PM** in the Oak Bluffs Town Hall Downstairs Meeting Room, 56 School Street, on the application of the referenced petitioner(s) seeking: ***A Special Permit within Oak Bluffs Zoning Bylaws 3.5.5 and 4.2.7, or any action related thereto, to renovate a pre-existing, non-conforming single-family residence and to construct an addition with associated utilities in the R1 district.***

George Sourati presents this project, which is to renovate a house that is more than 100 years old. The historic portion of the house will be saved and the 50 year old addition to the house will be torn down. The porch in front of the house will be removed.

The rebuilt house is proposed to be 1,261 square feet, and the proposed roofline will be 3 feet higher than the existing roofline. (SETBACKS?)

There will be an open floor plan in the historic portion of the house, including the kitchen, dining, and living rooms. There will be two bedrooms, one on each floor. There is an unfinished basement under the house.

The house has been in the family for generations.

The Cottage City Historic District has approved the project. (COPELAND?)

Jonathan Holter made the following findings:

- The existing 3,316 square foot lot located in Zone R1 and is non-conforming (required 10,000 square feet),
- The lot, with 57 feet road frontage, is non-conforming (80 feet required),
- The existing residence is non-conforming as it appears to meet only one side setback (required 20/20/20 feet),
- Setbacks for the proposed house will be 2.8/9/10/18 feet,
- Four members visited the site, and
- The project has been approved by Cottage City Historic District and will be reviewed by Copeland District.

Doug Pease made a motion to approve the Applicant's Request for a Special Permit to renovate the house; the project will not be more detrimental to the neighborhood because the historic portion of the house will be maintained. There is a **Special Condition that the project must be approved by the Copeland District.**



OAK BLUFFS ZONING BOARD OF APPEALS

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

508 693 – 3554 x 120

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

RE: Kaissar Appeal

Tal and Tamar Kaissar
15 Wamsutta Avenue
Map 11 Parcel 165

The Oak Bluffs Zoning Board of Appeals will hold an In-Person Public Hearing on **Wednesday, April 19, 2023 at 6:35PM** in the Oak Bluffs Town Hall Downstairs Meeting Room, 56 School Street, on the application of the referenced petitioner(s) seeking: ***A Special Permit within Oak Bluffs Zoning Bylaws 3.4 and 3.5.5, or any action related thereto, to demolish an existing non-conforming guest house and construction of a new guest house in the R1 district.***

6:50 pm

Tal Kaissar bought the property on 2014 and had rented it before that. He wants to demolish the existing guest apartment (there are no guest houses in Town) and construct a new one. The apartment is winterized but two winters ago the pilot light went out and pipes burst; it was a swimming pool inside. He is proposing to build a new two story guest apartment on the same footprint. The new design will look more like the main house. The guest house is pre-existing and non-conforming, and on the existing footprint with a roofline that is 25 feet high.

The project was revised several times before it was approved by the Cottage City.

Lou Rogers asked Jonathan Holter to read through the requirements for a guest apartment in zoning bylaw 3.4.2. As the unit is pre-existing it can be a free-standing structure. The size of the proposed guest house is approximately 714 square feet (inside, 753 square feet outside dimensions not including the stairway) and the maximum allowed is 750 square feet. It also has to (and does) compliment the main house. And there are only 2 parking spots so there needs to be one for the guest house.

Jonathan Holter made the following findings:

- The existing 7,405 square foot lot located in zone R1 is non-conforming (10,000 square feet required),
- The existing residence is non-conforming with respect to all but one setback (Required 20/20/20 feet),
- The guest apartment is non-conforming with respect to one side setback (9 feet) and the rear setback (1 foot),
- The existing guest apartment is pre-existing non-conforming,
- Four of the members visited the site, and
- The proposed guest apartment will be 753 square feet.



OAK BLUFFS ZONING BOARD OF APPEALS

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

508 693 – 3554 x 120

Jonathan Holter made a motion to approve the Applicant's Request for a Special Permit to replace the existing guest apartment, as it will not be more detrimental to the neighborhood because it will be complimentary to the main house, will look better than the existing guest apartment, and both Copeland District and the Cottage City Historic District have approved it.

A Special Condition is that the applicant verify the square footage of the guest apartment based on the structures exterior dimensions minus the interior stairs.

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

The following five hearings will both be continued together as one motion.

RE: Bradley Appeal

Melissa Bradley
Black Joy MVY
125 Seaview Avenue,
Map 10 Parcel 162

The Oak Bluffs Zoning Board of Appeals will hold a duly posted and continued in-person Public Hearing on **Wednesday, April 19, 2023 at 6:50 pm** in the Oak Bluffs Town Hall Downstairs Meeting Room, 56 School Street, 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: Donato Appeal

Laiana Donato
15 Old Schoolhouse Village
Map 50 Parcel 11

The Oak Bluffs Zoning Board of Appeals will hold a duly posted and continued in-person Public Hearing on **Wednesday, April 19, 2023 at 6:52 pm** 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, 4.4.2 and 3.4.3, 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.***

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, April 19, 2023 at 6:54 pm** in the Oak Bluffs Town Hall Downstairs Meeting Room, 56 School Street, on the application of the referenced



OAK BLUFFS ZONING BOARD OF APPEALS

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

508 693 – 3554 x 120

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 in-person Public Hearing on **Wednesday, April 19, 2023 at 6:56 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 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 **Wednesday, April 19, 2023 at 6:58 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.***

Jonathan Holter makes a motion to continue the five above hearings to May 17, time to be determined. Andrea Rogers seconds the motion.

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

Adjournment.

At 8:45PM, Doug Pease made a motion to adjourn the meeting, seconded by Jonathan Holter. All (Andrea Rogers, Lou Rogers, Leah Brown, Jonathan Holter, and Doug Pease) vote in favor, so the motion passed unanimously (5-0).

Respectfully Submitted,
Robert Culbert
ZBA Administrator
Approved Sept. 20, 2023