



## 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 August 16, 2023 Meeting

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

Others in Attendance: Chris Alley, Sharon Cooke, George Crawford, Bernadette Crossland, Mark Crossland, Allan deBettencourt, Joseph deBettencourt, Casey Decker, Mark DePucchio, John J. Keenon, Matthew Kramer, Henry Kriegstein, Joan Kriegstein, Chris Lynch, Mark Puciel, Raynel Rodriguez, Robert Sawyer, and George Sourati,

Chair Rogers opened the meeting at 6:03pm.

**Minutes** Doug Pease moved to approve the minutes of the May 19, 2022 and July 25, 2023 meetings. Andrea Rogers seconded the motion. All (Lou Rogers, Andrea Rogers, Jonathan Holter, Doug Pease) vote in favor (Jonathan abstained from the May and June meeting minutes), so the motion passed unanimously (4-0).

The next meeting will be on September 20 at 6:00pm.

**Old Business** None.

**RE: H. Kriegstein Realty Trust Appeal  
Henry J. and Joan B. Kriegstein, Trustees  
20 Hubbard Lane  
Map 22 Parcel 11.1**

The Oak Bluffs Zoning Board of Appeals opened a duly posted in-person Public Hearing at 6:04PM on the application of the referenced petitioner(s) seeking: **A Special Permit within Oak Bluffs Zoning Bylaws 3.5.5 and XVIII.1.A.(6)(a)(i), or any action related thereto, to: remove the foundation of a single family residence consisting of a crawl space and basement garage and construct a new 1,351+/- square foot basement foundation to be finished into an art display space. The single family residence is located in the Shore Zone of the Coastal District.**

George Sourati is representing the Kriegsteins. He describes the project by saying that the Kriegsteins have decided to add a full basement underneath the existing house. The basement will be used to display their fossils. The house will be raised one foot to construct the basement, and then lowered back after the construction is completed. The elevation of the roofline will remain the same as it is currently.

George also points out that this is in the Shore Zone but has been approved by the Conservation Commission. The Board of Health has also approved it with a half bath in the new basement; if there were to be a full bathroom the Board of Health would have determined that the new basement would be a bedroom, increasing the septic flow.



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Jonathan Holter points out that this project is allowed in the Shore Zone if there will not be an increase in sewage flow. George Soutati points out that the half bath in the basement will not increase sewage flow, per the Board of Health.

In response to a question from Mark Puciel, George Sourati says the ceiling in the basement will be 10 feet tall. The existing house has a non-conforming roofline at 26 feet and that will be the height of the roofline after construction. The Building Inspector will enforce this roofline.

Mark Puciel is very supportive of this project.

There were no other people who wished to speak and the ZBA did not receive any written correspondence. Lou Rogers closed the public comments section of the hearing.

There being no further discussion amongst the ZBA, so Jonathan Holter made the following findings.

- The lot is zoned R-3 and is in the Shore Zone,
- The applicant is seeking a Special Permit under Zoning Bylaws 3.5.5 and XVIII.1.A.(6)(a)(i),
- The Conservation Commission has issued an Order of Conditions approving this project,
- The house is pre-existing and non-conforming and the project will stay within the existing footprint,
- Per the Board of Health, the project will not result in any increased sewage flow,
- The addition of a basement underneath the house will not increase the height of the existing non-conforming roofline (26 feet),
- Three members visited the site, and
- The project will not be more detrimental to the neighborhood because the footprint of the house will not be changing.

Jonathan Holter moved that the Board issue a Special Permit for this project under Zoning Bylaws 3.5.5 and XVIII.1.A(6)(a)(i). Doug Pease seconded the motion.

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

**RE: L+R Realty Trust Appeal**

**L+R Realty Trust**

20 Vineyard Avenue

Map 11 Parcel 232



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**The Oak Bluffs Zoning Board of Appeals opened a duly posted and continued In-Person Public Hearing on the application of the referenced petitioner(s) at 7:43, seeking a Special Permit within Oak Bluffs Zoning Bylaws 3.4.3; 3.5.5 and 7.1.1, or any action related thereto, to: waive the five year occupancy requirement for an accessory apartment; replace a pre-existing non-conforming structure; and convert a single family home to a duplex in the R1 district.**

Chris Alley is representing the L+R Realty Trust.

This project is to convert the existing residence into a duplex and to construct a garage with an attached accessory apartment. The plans have changed by reducing the curb cuts from three to two and to construct a garage rather than the previously proposed carport. The septic system will be moved to accommodate this change. The footprint of the main house and of the accessory apartment has not changed since the last hearing.

Andrea Rogers asks about the relationship between the buildings and the land. The lot is 11,607 square feet, the new garage will be 14x20 feet (280 square feet) and will look much like the apartment and the duplex. The existing house is 1,233 square feet and the proposed structures will total 2,982 square feet including both buildings. There is more than 8,000 square feet of open space on the lot. The duplex will be moved 2 feet further from Shawmut Avenue, all other setbacks for both buildings are more than 20 feet and so meet the requirements for R1 Zoning.

Because L&R Realty Trust has owned the property since 2020, they do not meet the 5 years required for an accessory apartment, but the property has been in the family for much longer. The Special Permit will be needed to waive that requirement.

The proposed deck is only 20 inches above grade and so the Board does not consider it to be part of the structure of the duplex.

The Board of Health has determined that the existing house has 4 bedrooms, the same as this proposal. The Board of Health has approved the construction of an advanced treatment septic system, and the Conservation Commission has approved it as the project is within the 100 foot buffer zone of the flood zone.

Mark Crossland (landscaper) reports that he has designed the landscaping on the corner of Vineyard and Shawmut Avenues, adding kousa dogwoods because they are present elsewhere in the neighborhood. Plans will be drawn up for landscaping around the accessory apartment.

The owners would like to complete this project at once rather than staging the construction. They wish to build the accessory apartment at the same time they are turning the existing house into a duplex.



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The accessory apartment will be 742 square feet, less than the maximum of 750 square feet. There is a parking space for the tenants.

There is no written correspondence relating to this project.

Matthew Kramer, an abutter across Vineyard Avenue, is concerned about the facades, as he would like them to match the neighborhood rather than reconstructing what is there now, which is not great. In response to his question, it was calculated that the height of the proposed roofline will be 29 feet, an increase of 5 feet above the existing roofline at 24 feet. This is still less than the maximum of 32 feet allowed by zoning. He concludes that he is okay with the plans as they are presented.

There being no further discussion, Jonathan Holter made the following findings.

- The lot is 11, 607 square feet (10,000 sq. ft. required in R1),
- There is more than 7,500 square feet of open space on the property,
- The lot was purchased on August 3, 2020, and so has not been owned for the required 5 years for an accessory apartment,
- The roofline of the proposed duplex will have a roofline at 29 feet, five feet higher than what is existing now but still less than the 32 foot maximum allowed by zoning,
- The proposal is less non-conforming as the duplex has been moved two feet further off Shawmut Avenue,
- The proposed accessory apartment will be 742 square feet, less than the maximum of 750 square feet,
- The property is within the 100 foot buffer zone of the flood zone,
- The Conservation Commission has approved this project,
- The Board of Health has approved this project, and
- The two bedroom unit in the duplex will be for workforce housing, and the two one bedroom units will be year-round residents,
- Three members have visited the site, and
- The project is not more detrimental to the neighborhood because it will provide much needed housing units and the same family has owned the property for a long time.

Doug Pease moved that the Board issue a Special Permit for this project under Zoning Bylaws 3.5.5 and XVIII.1.A(6)(a)(i) with **three Special Conditions: (1) the Board waives the five year residency requirement for the accessory apartment, (2) landscaping plans for around the accessory apartment and garage will be submitted in a week or so, and (3) Town Council will help draft language to guarantee that at least one of the units will be remain available to year-round residents, and affordable in perpetuity.** Jonathan Holter seconded the motion.



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

### RE: Flowerwood LLC Appeal

**Robert M. Sawyer**

**3 Uncas Avenue**

**Map 11 Parcel 156**

The Oak Bluffs Zoning Board of Appeals will hold a duly posted and continued in-person Public Hearing on the application of the referenced petitioner(s) seeking: **A Comprehensive Permit under Chapter 40B of the General Laws of the Commonwealth of Massachusetts.**

Lou Rogers announced that Robert Sawyer was notified on August 9 that the Town has been granted Safe Harbor status because of the ZBA previously approved the Southern Tier Chapter 40B project. The Safe Harbor status lasts for two years. This gives the Town more flexibility in regulating this project.

Robert Sawyer asked whether this meant that this 40B project would be put off for two years? Lou Rogers responded no, that this project will come back to the ZBA for review after the Martha's Vineyard Commission has approved their Development of Regional Impact review of this project. There is no additional information that the ZBA needs at this time.

There being nothing further to discuss, Jonathan Holter made a motion to continue the hearing to September 20, 2023.. Doug Pease seconded the motion.

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

### Appeal of Building Inspector's Decision

RE: MV Landscaper LLC Appeal

0 Beth Way

Map 56 Parcel 11-1

The Oak Bluffs Zoning Board of Appeals will hold a duly posted and continued In-Person Public Hearing on the application of the referenced petitioners seeking: Appeal of Building Inspector's Decision relating to: Storage or Parking of Commercial Landscape Equipment; Erosion Control; Site Plan Review; and Temporary Structures under Oak Bluffs Zoning By-Laws 3.2.3.5; 5.4.5; 10.4.1; and 11.0

Lou Rogers announced that the applicant has requested a continuance. The ZBA is waiting for the applicant to get in touch with the Building Inspector to discuss this property. Town Council agreed that the applicant is not to do anything with the property until the ZBA has made its decision.



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There being nothing further to discuss, Jonathan Holter made a motion to continue the hearing to September 20, 2023. Andrea Rogers seconded the motion.

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

The slate of remaining hearings on the agenda will be continued, and are as follows:

### **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 in-person Public Hearing on Wednesday, June 21, 2023 at 6:00 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 opened a duly posted and continued in-person Public Hearing on Wednesday, June 21, 2023 at 6:00 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 nonconforming 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 opened a duly posted and continued in-person Public Hearing on Wednesday, June 21, 2023 at 6:00 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**



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### **Eunu Chun and Lisa H. Kim**

**7 Arlington Avenue**

**Map 3 Parcel 15**

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Jonathan Holter made a motion to continue the above six hearings to September 20 2023. Andrea Rogers seconded the motion.

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

### **Adjournment.**

At 7:25PM, Jonathan Holter made a motion to adjourn the meeting, seconded by Doug Pease. All (Lou Rogers, Jonathan Holter, Doug Pease, and Andrea Rogers) vote in favor, so the motion carries unanimously (4-0).

*Respectfully Submitted,*

*Robert Culbert*

*ZBA Administrator*

Approved Sept. 20, 2023