

**Zoning Board of Appeals  
Minutes of Meeting 2/21/2019  
Oak Bluffs Council on Aging Building**

Members present: Andrea Rogers, Peter Yoars, Llewellyn Rogers, and Doug Pease

Members Absent: Jonathan Holter

Also present: Colleen Morris, Zoning Clerk

Chairman Rogers opened the meeting at 6:05 pm.

**\*Minutes** from January – Approved unanimously

**\*Next Meeting Date:** March 21, 2019 at 6 pm

**RE: Stanley Brown Appeal**

Dhaniany Almeida

138 Edgartown-Vineyard Haven Road, **Map 50 Parcel 34**

\*On February 21<sup>st</sup>, 2019 at 6:05 pm, Chairman A. Rogers opened a duly posted public hearing on the application of Map 50 Parcel 34 seeking:

*an Appeal to review the Building Inspector's lack of enforcement within Zoning Bylaws 3.2.4, 3.2.5, 10.2.2.3, M.G.L. C. 40A ss 8, 15 or any action related thereto, mandating the Building Inspector to issue a cease and desist order regarding the operation of a home-based business-light industrial construction and hardscape business on a property located in Residential Zone 3 and the Island Roads District without a permit.*

A quorum consisting of Chairman Andrea Rogers, Peter Yoars, Llewellyn Rogers, and Doug Pease was present. Dan Larkosh represented the applicant. Chairman Rogers suggested that the appeal be continued based on the fact that the applicant has appointment next week with the Board of Selectmen, who will make any determination regarding a special permit for a home based business is required. Mr. Larkosh felt he should be able to present his appeal. He showed photographs of the property in question. He asserts that Mr. Almeida is operating a home-based business-light industrial construction and hardscape business on a property located in Residential Zone 3 and the Island Roads District without a permit. He disagreed that zoning board could not act before the board of selectmen make a determination.

*The board and applicant agreed to continue to hearing to Thursday, March 21, 2019 at 6:05 p.m.*

**RE: Nineteen on the Bluff LLC Project**

Lynn and Sengal Selassie

19 Harrison Avenue, **Map 2 Parcel 46**

\*On February 21<sup>st</sup>, 2019 at 6:15 pm, Chairman A. Rogers opened a duly posted public hearing on the application of Map 2 Parcel 46 seeking:

*a Special Permit with Zoning Bylaws 3.5.5, or any action related thereto, to allow the construction of additions to a nonconforming single family dwelling and the demolition of a garage and construction of a nonconforming accessory building-garage/guest apartment.*

A quorum consisting of Chairman Andrea Rogers, Peter Yoars, Llewellyn Rogers, and Doug Pease was present. Chuck Sullivan represented the applicant. Lynn Selassie was present. Mr. Sullivan presented plans for a renovations and additions to a single family dwelling and reconstruction of a garage with guest apartment in Residential Zone 2. The existing (18,746 sf) lot located in Residential Zone 2 is nonconforming. The existing SFD is a nonconforming with side (9.7 ft.) and rear (16 ft.) setbacks. The proposed additions and screened porch (256 ft.) are conforming with all setbacks. The existing garage/guest apartment is nonconforming setbacks. The proposed two-car garage (800 sf) with second floor guest apartment (749 sf) is conforming with setbacks. The board granted a similar special permit in June 2017 for the previous owners (Simmons Appeal).

Chairman A. Rogers opened the floor to public comment. Two letters were received into the record. An abutter, Mr. Chapman was concerned about a blocked view by the screened porch addition. An abutter, Mr. Jeffers was concerned that the property would be a commercial rental property. Moira Fitzgerald and Candi Nichols, representing Mr. Chapman reviewed the plans and had no further objections. Mr. Sullivan addressed the issue of the ownership being an LLC. He stated that LLCs are used for a variety of reasons. Ms. Selassie stated that her intentions were not commercial but for her family. Chairman Rogers closed the floor to public comment. The board made the following findings and decision.

*Member Pease made a finding that the existing undersized (18,746 f.) lot located in Residential Zone 2 is conforming. (Req.: 20,000 sq. ft.)The board agreed unanimously.*

*Member Pease made a finding that the existing single family dwelling is nonconforming with side (9.7 ft.) and rear (16 ft.) setbacks. (Req.: 25/20/20 ft.) The board agreed unanimously.*

*Member Pease made a finding that the existing garage/guest apartment is nonconforming with side (4 feet) and rear (6 feet) setbacks. The board agreed unanimously.*

*Member Pease made a finding that the proposed renovations and additions to the existing single family dwelling were conforming. The board agreed unanimously.*

*Member Pease made a finding that the proposed demolition and reconstruction of a two-story, two-car garage with a second floor one-bedroom guest apartment is conforming. The board agreed unanimously.*

*Member Pease made a finding that the proposed renovations and construction of additions to the single family dwelling and the proposed garage with guest apartment are not substantially more detrimental to the neighborhood and do not overburden the lot. The board agreed unanimously.*

*Member Pease made a motion to approve a Special Permit with Zoning Bylaws 3.5.5 to allow the construction of additions to a nonconforming single family dwelling and the demolition of a garage/guest apartment and reconstruction of a conforming accessory building-garage/guest apartment and Member Yoars seconded it. The board voted 4 to 0 to approve a Special Permit.*

**RE: Links at Farm Neck LLC Project**

Links at Farm Neck LLC

1 Anthiers Lane, **Map 20 Parcel 151**

\*On February 21<sup>st</sup>, 2019 at 6:30 pm, Chairman A. Rogers opened a duly posted public hearing on the application of Map 20 Parcel 151 seeking:

***a Special Permit with Zoning Bylaws 3.5.5, or any action related thereto,  
to allow renovations and additions to an accessory structure –  
pre-existing, nonconforming equipment storage shed on a property-a golf course  
located in Residential Zone 3.***

A quorum consisting of Chairman Andrea Rogers, Peter Yoars, Llewellyn Rogers, and Doug Pease as present. Chuck Sullivan represented the applicant. Tim Sweet was present. Mr. Sullivan presented plans for renovations and the construction of an addition to a pre-existing, nonconforming accessory structure- an equipment storage shed located on lot used commercially as a golf course locate in Residential Zone 3. The existing lot (130,000 sf) located in Residential Zone 3 is conforming. (Req.: 60,000 sf) and the commercial use as a golf course is pre-existing, nonconforming. The existing accessory structure-storage shed and carport with rear setback (5.1 feet) is nonconforming. (Req.: 50 feet) The applicant proposes to construct an addition (1024 sf) storage shed with a nonconforming side setbacks (19 feet). (Req.: 50 feet)

Chairman A. Rogers opened the floor to public comment. No correspondence was received into the record. Chairman Rogers closed the floor to public comment. The board made the following findings and decision.

*Member Yoars made a finding that existing lot (130,000 sf) located in Residential Zone 3 is conforming. (Req.: 60,000 sf) The board agreed unanimously.*

*Member Yoars made a finding the commercial use as a golf course is pre-existing, nonconforming. The board agreed unanimously.*

*Member Yoars made a finding that the existing accessory structure-storage shed and carport with rear setbacks (5.1 feet) is nonconforming. (Req.: 50 feet)*

*Member Yoars made a finding that the proposed addition (1024 sf) storage shed with a nonconforming side setbacks (19 feet) was substantially more detrimental to the neighborhood.*

*Member Yoars made a motion to approve a Special Permit with Zoning Bylaws 3.5.5 to allow the renovations and construction of an addition to an accessory structure - equipment storage shed and Member Pease seconded it. The board voted 4 to 0 to approve a Special Permit.*

**RE: Hutton Project**

Peter R. and Constance C. Hutton

120 Munroe Avenue, **Map 2 Parcel 27**

\*On February 21<sup>st</sup>, 2019 at 6:45 pm, Chairman A. Rogers opened a duly posted public hearing on the application of Map 2 Parcel 27 seeking:

***a Special Permit with Zoning Bylaws 3.5.5, or any action related thereto,  
to allow renovations and additions to a pre-existing, nonconforming single family dwelling located  
on a nonconforming lot in Residential Zone2.***

A quorum consisting of Chairman Andrea Rogers, Peter Yoars, Llewellyn Rogers, and Doug Pease was present. Chuck Sullivan represented the applicant. Mr. Sullivan presented plans for renovations and additions to a pre-existing, nonconforming single family dwelling located in Residential Zone 2. The existing (10927 sf) lot located in Residential Zone 2 is nonconforming. (Req.: 20,000 sq. ft.) The existing single family dwelling is nonconforming with side (16 ft.) setbacks. (Req.: 25/20/20 feet) The proposed additions: first floor (12 sf.), second floor (2 sf.), and third floor (611sf.) are nonconforming with side (16 ft.) setbacks (Req.: 25/20/20 ft.).

Chairman A. Rogers opened the floor to public comment. No correspondence was received into the record. Chairman Rogers closed the floor to public comment. The board made the following findings and decision

*Member L. Rogers made a finding that the existing 10,927 sf. lot located in Residential Zone 2 is nonconforming. (Req.: 20, 000 sq. ft.)*

*Member L. Rogers made a finding that the existing single family dwelling is nonconforming with side (15.3 ft.) setbacks. (Req.: 25/20/20 feet)*

*Member L. Rogers made a finding that the proposed renovations and additions to the single family dwelling were nonconforming with side (15.3 ft.) setbacks. (Req.: 25/20/20 ft.)*

*Member L. Rogers made a finding that the proposed renovations and additions to the single family dwelling are not substantially more detrimental to the neighborhood and do not overburden the lot.*

*Member L. Rogers made a motion to approve a Special Permit with Zoning Bylaws 3.5.5 to allow renovations and the construction of additions to a nonconforming single family dwelling and Member Pease seconded it. The board voted 4 to 0 to approve a Special Permit.*

## **RE: Biggers Appeal**

Martha and Kelsey Biggers  
229 Sea View Avenue, **Map 19 Parcel 33**

\*On February 21<sup>st</sup>, 2019 at 7:00 pm, Chairman A. Rogers opened a duly posted public hearing on the application of Map 19 Parcel 33 seeking:

***an Appeal to Review the Building Inspector's action and enforcement within Zoning Bylaws 10.2.2.3, M.G.L. C. 40A ss 8, 15 or any action related thereto, mandating the Building Inspector to rescind the stop work order regarding a violation of the Zoning Board's Special Permit Conditions.***

A quorum consisting of Chairman Andrea Rogers, Peter Yoars, Llewellyn Rogers, and Doug Pease was present. Dan Perry, George Sourati, Bill Reagan and Chuck Sullivan represented the applicant. Sarah Biggers was present. Mr. Sullivan described in detail the applicant's appeal to the building inspector's stop work order dated December 28, 2018. The building official had received a complaint from an abutter regarding the demolition of the whole existing single family dwelling. The Special Permit allowed a partial demolition of the structure. The contractor explained why the structure was taken down and how the structure would be repurposed. Chairman Rogers stated that the entire structure had been taken down and it was not clear how the applicant would repurpose the materials. The board agreed that this process would be more specific in the future. Chairman Rogers spoke about the condition about preserving Mrs. Brown's view. The applicant stated that they have not been able to access the house to obtain the view to be preserved.

Chairman A. Rogers opened the floor to public comment. Dan Perry sent an appellate on behalf of the Biggers

Family. Chairman Rogers asked Mr. Brown if the applicant could gain access to the view. Mr. Brown stated that he provided photos of view to the applicant. Mr. Sullivan stated that it is unclear where the cross can be seen from that window. Member L. Rogers asked Mr. Brown if the applicant could access the home to obtain the view. Mr. Brown stated that he would think about it. Member L. Rogers stated that it would benefit for everyone if the applicant could access the view to ensure Mrs. Brown's view is preserved. Member Yoars stated that a picture from that window should be sufficient. Ms. Biggers showed pictures of the view. Mr. Brown stated that he would allow a ladder on the property with a transom in order to obtain the view. Chairman Rogers agreed that access to property using a ladder should be sufficient. Mr. Sullivan asked which window was Mrs. Brown's choice of views. Mr. Brown stated the middle window. Chairman Rogers closed the floor to public comment. The board made the following findings and decision.

Member A. Rogers made the following findings, and the board agreed unanimously.:

- The conforming (66,332 sf) lot located in Residential Zone 3, the AE Zone of the Flood Plain Overlay District, the Coastal District, and the Island Roads District. (Req.: 60,000 sf)*
- The existing single family dwelling is nonconforming with side (11 ft.) setbacks. (Req.: 50 feet)*
- The existing carport and garage with detached bedroom will be completely demolished and the existing single family dwelling had been demolished.*
- The proposed two-story single family dwelling- 1<sup>st</sup> FL (1612 sf), 2<sup>nd</sup> FL(1568 sf) with screened porch (256 sf) and deck (252 sf) with side (11ft.) setback and ridge height of 23.6 feet is nonconforming. (Req.: 50 feet) (Max.: 24 feet)*
- The proposed single family dwelling does not overburden the lot and is not substantially more detrimental to the neighborhood. The board agreed unanimously.*
- The proposed single family dwelling will not result in increased flood heights, pose any threats to the welfare of the public or occupants of use, and the special permit is minimum necessary to afford relief, considering the flood hazard. The board agreed unanimously.*

*Member A. Rogers made a motion to mandate the Building Inspector to rescind the stop work order regarding the violation of the Zoning Board's Special Permit and Member Yoars seconded it. The board voted 4 to 0 to mandate the Building Inspector to rescind the stop work order issued on December 28, 2018 with conditions.*

**The Following Condition(s) is Placed on the Permit:** *The board, applicant, and Mr. Brown agreed that access to confirm the view in question would be accessible by ladder on the Brown's property. The view of the Tabernacle cross from Mrs. Brown's center bedroom window must be preserved. The method of renovation chosen includes disassembling the existing structure to save and re-use as much of the existing structure as possible. The contractor has retained the majority of the useable timbers of the existing structure and ready for re-use in the reconstruction. Almost half of the existing exterior walls have been dismantled fully intact and also ready for rearrangement in the reconstruction. The method not only allows for the re-use of more materials but will also result in a final product that is more energy efficient.*

*Meeting adjourned at 7:30 p.m.*

*Respectfully Submitted,*

*Colleen Morris, Clerk/ZBA*