Draft

Wellfleet Zoning Board of Appeals

August 24, 2023, 7:00 pm

**In person and Zoom meeting held at the Adult Community Center**

**Board Attendees:** Chair Sharon Inger, Al Mueller, Trevor Pontbriand, Jan Morrissey, Wil Sullivan, Mick Lynch, Manny Heyliger, Andy Freeman

**Also in Attendance:** Attorney, Benjamin Zehnder, Jen Elsensohn, Committee Secretary, Pat and Kathy Mercer, Frank Corbin, Douglas and Elizabeth Ingrim, Marianne McCaffery.

**Sharon Inger called the Public Hearing to order at 7:00 pm. Tonight’s Executive Session has been cancelled. Regarding the REMAND hearing for Great White, one abutter was not notified. Therefore, the lawyers representing both sides have agreed to, and asked for a continuance for October 12, 2023.**

**21-13, 21-14, 21-15, 22-02, and 22-09, Great White Realty LLC, 1065 State Highway 6, Map 36, Parcel 184 REMAND.** Upon the Order of Remand issued by the Land Court in the matters of Great White, et al v. Wellfleet ZBA, et al., C.A. Nos.21 MISC 000255, 22 MISC 000087 and 22 MISC 000284  regarding the property located at 1065 State Highway in Wellfleet, MA, as shown on Assessors Map 36, Parcel 184,  the Wellfleet  Zoning Board of Appeals will hold a hybrid public hearing for the purpose of reconsidering their prior decisions in Case Nos. ZBA 21-13, 21-14, 21-15, 22-02, and 22-09  relative to zoning enforcement actions and prior denials of Special Permit Applications for Bulk Storage, Open and More than One Principal Use on a Lot.  The ZBA will reconsider whether and under what conditions Great White and/or its tenant may operate a contractor’s yard as of right at the Property, including the imposing of conditions thereto, and whether to grant a special permit for Bulk Storage, Open pursuant to Wellfleet Zoning Bylaw Section 235-8.4.B and More than One Principal Use on the Same Lot pursuant to Section 235-5.4(N).  The property is located in the Commercial zoning district.

**Sharon Inger set the board:** Sharon Inger, Trevor Pontbriand, Janet Morrissey, Manny Heyliger, and Wil Sullivan.

Trevor Pontbriand made a motion to continue the matter to Oct. 12. Manny Heyliger seconded, a roll call vote was taken, and the motion passed 5-0.

**7:02 pm**

**23-12 ReelTee LLC**, 2619 Route 6, Map 21, Parcel 40. Requesting a special permit pursuant to Wellfleet Zoning Bylaw s. 235-5.2, s.235-5.3.A, s.235-6.23, and s. 235-8.4.b for Service Trade Home Business use for flea and tick spray business with apartment.

**Sharon Inger set the Board**: Wil Sullivan, Jan Morrissey, Andy Freeman, Manny Heyliger, Trevor Pontbriand.

Ben Zehnder spoke on behalf of the owners. The property in question is in the Residential (R1) zoning district, and is a pre-existing, non-conforming use that has been abandoned for several years. The building is a commercial building across the street from the Commercial (C) zoning district. The owners and their sons, Patrick and Tim, are licensed and familiar with the product they will be using. Patrick will live on-site with another employee while working for the company. The two trucks that will be used in the business hold 300 gallons of fluid. They will be filled with water on site, and then be driven to customers’ properties where the water will have pest control additives (cedar oil and bifenthrin) incorporated. The chemical bottles will be rinsed out and disposed of as recyclable plastic at the work site. It would be a rare occurrence for customers to be on site at the business as most of the interactions are online, on the phone, and on the customers’ property. The trucks will be parked in the back of the property away from the sight of passers-by. The trucks are serviced in Springfield, so there will be no additional issues regarding that.

Members of the community were invited to speak at this time. They expressed concerns about the loss of pollinators, cancer resulting from the chemicals used (bifenthrin), that the chemicals will be in the truck tanks when they aren’t all used up, the fact that other residents have been held to the bylaws and this case seems to be skirting them, the non-conforming sign on the property (the Ingram’s offered to take responsibility for it if the Mercer’s agreed to take it down), and the owner said he’s willing to take it down as long as he can have some kind of a sign, and what might happen if the son who is to live there decides to move or leave the company. One of the residents shared that he had been in the pesticide business and developed two cancers as a result of his interaction with the chemicals that will be used in this business. Ben Zehnder said that of all the businesses that could move in here, this was, by far, the lowest impact. The plan will improve upon the currently abandoned and unsightly lot, it creates a much needed dwelling, returns the property to a commercial use, allows a family to work together—it is a family business—and will not harm the neighborhood.

The Board also offered shared concerns that this Service Trade Home Business would be located in a residential zone, and were in agreement that they would feel more comfortable if the son, Patrick, was made a co-owner of the business with documentation stating the fact, if the square footage of the business portion of the building was in line with the bylaw staying at 30% of the floor area rather than 45.2% which is currently the plan, that no more than two work vehicles are present, the fact that the parcel is badly zoned, and that this plan feels less organic and more like trying to fit something into a space it doesn’t belong. Board members made the distinction that this would “be” a Service Trade Home Business, not “similar” to one.

Ben Zehnder believes that the owner would be willing to meet the requirements of the Board to attain their approval.

Ben Zehnder asked for a continuance until September 14. Trevor Pontbriand made a motion to continue the case until September 14, Manny Heylinger seconded, a roll call vote was taken and the motion passed 5-0.

**Business:**

Approval of the minutes for July 13, 2023. Trevor Pontbriand made a motion to approve the minutes, seconded by Al Mueller. A roll call vote was taken, and the minutes were approved 5-0.

Chair, Sharon Inger, announced that the Habitat for Humanity has gotten its permit and was moving forward. Habitat will be receiving assistance and direction from Gerry Parent, for which Chair Inger is very grateful.

Trevor Pontbriand moved to adjourn at 7:50 pm; seconded by Jan Morrissey. A roll call vote was taken, and the motion was passed 5-0.

Respectfully submitted by,

Jennifer Elsensohn, Committee Secretary

**Documents:**

ReelTee LLC application and supporting documents

Minutes from July 13, 2023