

Case # 63-2021

Application Filed: 16 November 2021

DECISION OF THE ZONING BOARD OF APPEALS
ON THE REQUEST FOR A SPECIAL PERMIT

Owner/Applicant: 33 Watcha LLC d.b.a. Atlantic Pools

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At a meeting held remotely via Zoom on Wednesday, 3 August 2022, the Edgartown Zoning Board of Appeals voted unanimously (5-0) to grant a special permit under section 2.1 B 6 of the zoning bylaw to permit the operation of a small-scale business in the R-120 Residential District. The property is located at 33 Watcha Path, Assessor's Parcel 25-8, a 3-acre conforming lot in the R-120 District.

FACTS:

1. The board reviewed the application, the plans, photographs, correspondence, and all other materials and information submitted prior to the close of the public hearing. The board received and gave due consideration to the testimony given at the public hearing [See Record of Proceedings filed with this decision with the Town Clerk.]
2. The applicant received a building permit from the former Edgartown Building Inspector in November of 2018 to construct a large barn/storage shed and operate his business, Atlantic Pools, from those premises as of right.
3. According to the current Building Inspector, Reade Milne, who was present for those discussions, Mr. Goggins was transparent and above board regarding his plans to run a business from 33 Watcha Path and was given permission to do so from the Edgartown Building Department prior to purchasing the property.
4. As a result of traffic complaints from several neighbors on Watcha Path, the applicant - as well as two others operating businesses on Watcha Path, Carlos Teles and Christopher Miller - was instructed by the Building Inspector to apply for a Special Permit from the Zoning Board of Appeals.
5. The applicant filed an application for a special permit to operate a small-scale business in the R-120 District in November of 2021. To date, neither Mr. Teles nor Mr. Miller have applied for special permits and, according to the Building Inspector, were issued cease and desist orders.

6. There were no complaints from any abutters or neighbors regarding any noise, fumes, glare, or flashing lights generated by the business at 33 Watcha Path. There were no complaints about improper storage of materials or parking of commercial vehicles on the property. There were no significant concerns regarding pollution of the water or air, erosion or drainage issues as outlined in 10.2.A.2. The major concern raised during the public hearings had to do with increased commercial traffic on Watcha Path.

7. Several abutters were concerned that if one business was given a special permit to operate a small-scale business on Watcha Path, the Board would set a precedent that would ‘open the flood gates.’ The Board noted that each special permit request is reviewed on its own merits and decisions are made based on the unique characteristics of each individual property and proposal.

FINDINGS

1. The Board determined that, with the conditions proposed by the applicant and enumerated in his attorney’s letter dated 3 August 2022, the proposal has a reasonable expectation of complying with the conditions outlined in Section 10.2.A.2 of the Zoning Bylaw.

2. During the course of listening to testimony by the Building and Zoning Inspector and others, the Board believes that the bulk of the commercial traffic currently using Watcha Path is not generated by Atlantic Pools, but by other businesses on the road operating without permits.

3. The bulk of traffic complaints by neighbors have to do with large commercial vehicles, heavy equipment, and tractor-trailers. The applicant uses approximately six utility vans and one box truck for his business.

4. The Board understands that the applicant and his attorney were diligent in pursuing alternate access apart from Watcha Path, but were ultimately unsuccessful in obtaining the necessary easements over both public and private lands.

CONDITIONS:

The following conditions were placed on the permit:

1. The applicant will limit the total number of round trips on Watcha Path by vehicles registered to Atlantic Pools to a maximum of six per day.

2. The applicant will limit bulk deliveries from Cape Cod Express to two per month.

3. In order to further limit traffic, the applicant will continue to have his employees take their work vehicles home at night.

4. The applicant will provide the Zoning Board with a list of all vehicles registered to Atlantic Pools.

5. The applicant will keep a daily log of trips to and from 33 Watcha Path by all Atlantic Pool vehicles.
6. The applicant will pay for a minimum of ten shares (currently one-third of the total shares) of the annual road maintenance and up-keep costs to the Watcha Path Road Association. The applicant will also cover the costs to grade and repair the road on an as-needed basis to ensure the road remains in good condition year-round.
7. In the fall of 2023, the Board will schedule a public review for compliance with the above conditions and to reevaluate the traffic situation on Watcha Path.

This decision of the Board of Appeals and a record of proceedings are on file in the Zoning Board office and in the office of the Town Clerk, Town Hall under Case No: 63-2021.

Zoning Board of Appeals,

Lisa C. Morrison, Assistant

Note: This decision was filed in the office of the Town Clerk on 15 August 2022. Appeals, if any, should be made pursuant to Section 17 of Chapter 40A of the Massachusetts General Laws and should be filed within 20 days of the filing of this decision in the office of the Town Clerk.

_____2022

I hereby certify that no appeal has been filed in the twenty-day period following the date of filing this decision.

Attest: _____