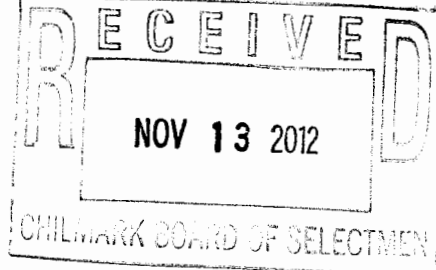




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November 6, 2012

BY ELECTRONIC AND FIRST CLASS MAIL

Katherine Lees Carroll, Chair
Town of Chilmark Board of Health
P.O. Box 119
401 Middle Road
Chilmark, MA 02535-0119

Trustees

Counselors at Law

Re: 18 Point Inner Way, Chilmark, MA

Dear Ms. Carroll and Members of the Board:

On behalf of my clients Kenneth and Jill Iscol, I appreciate your considering our letter of October 4, 2012 at your meeting tomorrow evening, November 7, 2012. While my clients recognize that given the current status of the property at 18 Point Inner Way, the Board of Health may have few options for action, my clients wish that at a minimum the Board consider the matter in order to have the public record and its minutes accurately reflect what went on during the permitting of the project.

When the project was considered before this Board in June 2010, this Board was particularly concerned about the size of the proposed "detached bedroom" accessory structure. The minutes reflect that what was proposed at the time was a 2,900-3,000 square foot building. The Board was concerned that the overall size and impact of all buildings at 18 Point Inner Way and considered referring the matter to the Martha's Vineyard Commission at that time.

The minutes reviewed by my clients (sent with my letter of October 4th) confirm that the Zoias, in response to the Board's concerns, agreed to a 50% reduction in the square footage of the proposed detached bedroom accessory structure which would result in a reduction in size to a structure no larger than 1,500 square feet. The Zoias agreed to this reduction in order to persuade the Board not to refer the matter to the Martha's Vineyard Commission, which the Board had been inclined to do given the overall scale and scope of the project. Mr. Iscol understands



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and the minutes show that Mr. Jason was present for the meeting and was aware of the commitment made by the Zoias. Mr. Iscol believes Mr. Jason ignored the wishes of the Board of Health and the Zoias failed to honor their commitment to that Board.

In a letter to the Zoning Board of Appeals dated July 24, 2012, counsel for the Zoias stated that the initial plan shown to the Board of Health showed the accessory building/detached bedroom as 4,684 square feet. The Zoias' counsel then referenced a second plan showing an accessory structure of approximately 3,000 square feet and state that the agreement with the Board was the accessory structure would be reduced to approximately 2,320 square feet or just under 50% of the square footage shown on the original plan. The notion that a 2,320 square foot building is "accessory" cannot be supported by any sane reading of the zoning bylaw. Moreover, the minutes we have reviewed confirm that the Board of Health believed that the maximum square footage of the building would be 1,500 square feet.

Although we recognize that there is little the Board of Health may do at this juncture, my clients believe it is important to have the Board's record accurately reflect what went on at the hearing. They are particularly concerned because they believe Mr. Jason, the Building Inspector, who was present during these hearings before the Board, should have flagged the issue for you and the Zoning Board of Appeals when the building permit application was filed. This Board decided not to refer the matter to the Martha's Vineyard Commission based on the agreement by the Zoias to reduce the footprint of the accessory structure. My clients ask that the record accurately reflect what the Board understood the Zoias' representation to be back in 2010 and also reflect the fact that the Zoias did not honor this commitment.

My clients believe this is important. A precedent that "accessory" structures of 2,500 square feet or more are permitted in the Town of Chilmark without transparent discretionary review and participation by affected neighbors does not reflect sound planning practices.



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My clients appreciate your consideration to this matter.

Sincerely,

Diane C. Tillotson

cc: Chris Murphy, Chilmark Zoning Board of Appeals
Chuck Hodgkinson
Leonard Jason
Kevin O'Flaherty, Esq.
Chilmark Board of Selectmen
Kenneth and Jill Iscol