

**WEST TISBURY ZONING BOARD OF APPEALS
MINUTES MARCH 7, 2007
TOWN HALL 7PM**

PRESENT: Eric Whitman, Tony Higgins, Nancy Cole, Larry Schubert, Tucker Hubbell

ABSENT: Bob Schwier, Toni Cohen

ALSO PRESENT for All or Part of the Meeting: Paul Gavin, Prudy Burt, William Stewart, John Hoff, Heather Hoff, Keith Estes, Peter Huntington

BUSINESS

- The minutes of February 7 were approved with grammatical corrections.
- Request for 9 months (and one week) extension of a Special Permit for Foley/Delli Bovi at Map 31 Lot 19, 716 Old County Rd, was granted.
- Hart Hardware in MB District: Eric attended the Martha's Vineyard Commission Land Use Planning Committee meeting on March 5.
- Paul Adler letter re notification: Concerned that his mail goes missing quite often, he asks that the ZBA use a tracking method to ensure abutters' notices have been received. He was concerned that he had not received notice for a hearing for the mudroom/deck extension addition of a neighbor. He had been sent a notice. After discussion, the ZBA asked that any notice to Paul Adler be sent by certified mail, but they would continue to use regular mail for now to notify in general as it costs \$4.64 per letter. The ZBA stopped using certified for notification in 1997/98.
- Letter from Ernie Mendenhall re Bananas at new location: They plan to move to a new location, at Nancy Dole's property next to the gas station, and it's Ernie's decision that retail use is no longer an allowed use there; that it should be resolved by the ZBA. The Board directed Julie to ask Ernie if in his letter he is referring to Sect. 11.1-6, in which the non-conforming use (retail) would not be permitted to resume after it has been abandoned for 3 years, or to Sect. 9.2-3 wherein the Special Permit use ceased for more than 24 consecutive months. Also, whether it would be ZBA or Planning Board who should hear the case since there is a condition on the location's special permit that called this into question.

HEARINGS

7:30 PM Continuation of an application by Cynthia and David Gibby for a Special Permit to extend a pre-existing, non-conforming (by setbacks) house: A two-story 24' by 32' addition with a 6' by 10' basement entry, to be 42' from the west bound. Section 11.1-3 of Zoning Bylaws; Map 11, Lot 26; 31 Dolphine Merry Rd; RU District; 2.10 acres. *Previous Correspondence:* 1) Tom Reynolds; 2) Lisa Fisher *New Correspondence:* 1) The Gibbys are asking for a continuation to April 4; 2) The Gibbys have agreed to suspend the toll periods. The Board voted to continue the hearing until April 4 at 7 PM. All correspondence on file in ZBA office.

7:35 PM An application by Keith Estes for a Special Permit to build a 14' by 20' one-story detached garage with 8' by 20' attached open-sided/latticed storage area, to need 10' of setback relief on the west bound and 7' on the north. Sect. 11.2-2 of Zoning Bylaw; Map 7 Lot 173; 71 Sumner Circle; RU Dist. *Correspondence:* 1) Keith Estes: Keith detailed the reasons why he felt the garage site was optimal and that the use would be for storage and screening of "the necessary junk of rural life". His plan is to convert the current garage under his house into a room for his children to use. All correspondence on file in ZBA office.

There were no abutters present and no correspondence. After discussion regarding abutting lots, topography, and the access to the garage, the ZBA voted to grant the special permit on the grounds it was a good site for the garage and would not be detrimental to the neighborhood. The Board granted an extra foot of setback relief for both bounds.

7:50 PM An application by Heather and John Hoff for a Special Permit to alter and extend a pre-existing, non-conforming house: A two-story 24' by 35' addition on the west side, at the nearest corner to be 44' from the west bound. Section 11.1-3 of Zoning Bylaws; Map 11, Lot 27; 43 Dolphine Merry Rd; RU District. *Correspondence: 1) Heather and John Hoff. All correspondence on file in ZBA office.*

The Hoff's letter detailed what they planned to build and why they could not make the setback at one corner; the house is not set squarely on the lot. The house currently meets required setbacks, but is pre-existing, non-conforming due to being on an under 3 acre lot. West Tisbury zoning requires a buildable lot to be 3 acres. The applicants originally requested 6' of setback relief, but a new survey showed the nearest corner of the addition to be 46' from the west bound, needing only 4' of relief. There was no abutter comment and no one present for the hearing. After further discussion, the Board voted to grant the Special Permit, citing that the structure applied for will not be substantially more detrimental to the neighborhood and Town. The Board accepted the applicants offer, as stated in their application letter, to transplant 8 cedars, as described, currently located between their house and garage to add to the screening on the west and north side of the house.

8:10 PM An application by Mark Mazer on behalf of Barbara Smith for 1) Special Permit to alter, extend, reconstruct a pre-existing, non-conforming 2 bedroom, single story cottage built in 1940's: To demolish it and rebuild 28' to the north; 2) Variance for setback relief; 3) Special Permit to build in the Inland Pond District; Sects. 11.1-3, 10.3-2, 6.3-5A of Zoning Bylaws; Map 7, Lot 170; 13 Scotty's Lane; RU and Inland Pond Districts. *Correspondence: 1) Mark Mazer; 2) Barbara Smith. On file in ZBA office.*

Barbara (Sundy) Smith wrote from Florida that she was unable to make the hearing and of how the property had long been in her family; that it was her goal to build a house safe for people and the environment, offering the best privacy for her neighbors and herself. Currently the single story, 2-bedroom camp, built in at least 1949, is in very bad shape and not livable. The .74 acre lot is on the north side of Seth's Pond and 75' wide at the widest point. The existing camp is on a little rocky promontory. Barbara would like to replace the approx 875 sq ft camp with one that has 1100 sq ft of living space and 240 sq ft of open deck. The site of the proposed camp has been moved back and angled in order to move it back from the wetlands and pond. A variance is needed for sideyard setbacks as the lot is so narrow. A Special Permit is required to build within 100' of Seth's Pond (overlay regulation for Special Places, Inland Ponds). Peter Huntington represented the application in builder Mark Mazer's absence. Long-time neighbor to the east, William Stewart was in attendance, as was Conservation Commission Chair Prudy Burt.

William Stewart said he did not object in principle, he was not adversarial, but he wanted the best design and placement for the environment. He said he was not convinced the current proposal was the optimal plan for the site. He asked that the ZBA keep the hearing open until the design had been fine-tuned. Eric asked if this property would be a summer rental? William, Peter Huntington and Julie Keefe all gave the opinion that they doubted that would be the case; that it would be for family use. William said he had spoken with Barbara Smith about reducing the footprint by making

it a 2-story house; making it less elongated than the proposed 58'. William clarified he didn't think the proposed house was "over the top". Larry felt an ell or jog would be a better design.

When asked, Peter explained that the septic system will be abandoned and a new one put in, with pump chambers. It was thought the Board of Health were having a hearing, but the ZBA weren't aware of when. Prudy Burt said the ConCom had yet to receive an application, though they were expecting one. Tucker asked if the ConCom could approve the site because an existing structure had been on the lot? Prudy said it would be considered to be new construction by the ConCom, and likened the site to a lot in Lambert's Cove that needed to install a composting toilet system. Both Prudy and William felt the reduction of the footprint on the resource area would be to the good. The ZBA voted to continue the hearing until March 21, with a site visit on March 19 at 5 PM. The proposed footprint will be staked.

OTHER CORRESPONDENCE

- MVC...Expedited permitting laws
- Paul Adler re notification
- MVC...Asking for response to new criteria
- Copy of Pl. Bd. letter to MVC Mar 5

The meeting was adjourned at 9:10 PM.
Respectfully submitted, Julie Keefe, Admin.

Approved on March 21, 2007