

**WEST TISBURY ZONING BOARD OF APPEALS
MINUTES MARCH 21, 2007
TOWN HALL 6:30 PM**

PRESENT: Eric Whitman, Tucker Hubbell, Toni Cohen, Tony Higgins, Bob Schwier, Nancy Cole, Larry Schubert

ABSENT: No one

ALSO PRESENT for All or Part of the Meeting: Charlie Green, Ginny Jones, Rose Willett, Robert Skydell, Glenn Hearn, Mark Yale, Linda McGwire, Mark Mazer, Prudy Burt, William Stewart, Ernie Mendenhall, Peter Welles, Ed O'Connell (observing for MVC re Expedited Permitting Law)

BUSINESS

- The Board voted unanimously to approve a budget reduction the Finance Committee asked for: To take \$3,000 off their legal line, leaving the sum of \$4,000 for fiscal year 08. The Board felt confident the FinCom would uphold their statement that they would grant reserve fund transfers should a 40B or unexpected suit exceed their available funds.
- The minutes of March 7 were approved.
- John Hoff change to plan...to extend addition 4' to the north....was approved.
- Re application from Nancy Dole to amend her special permits: The ZBA Fee Schedule states the fee to modify is \$100, not the usual \$200. To follow the schedule code, the Board voted that Nancy's fee, strictly speaking, should be \$100.
- Letter from the Gibbys post March 19 site visit: Does the Board need more information? Members agreed the elevations needed to be more clear, particularly the lack of windows and doors.

HEARINGS

6:45 Continuation from March 7: 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. *Previous Correspondence: 1) Mark Mazer; 2) Barbara Smith.* Toni Cohen and Bob Schwier recused themselves from this hearing, not having been present at previous hearing. Site visit on March 19 attended by Eric, Nancy, Tony, Tucker, Larry, Julie, Peter Huntington and William Stewart

To recap, this old camp style house built in the 30's or 40's sits on a small rocky peninsula on Seth's Pond. Mark joined the Board at the table. Eric began by saying he'd like to see the house shortened (in length), pulling one end away from the Stewarts; that a 2 story jog or ell could be built on the side away from the Stewarts, dug into the low bank there. He used the "big tree" at the rear of and next to the present house as a guide to where the house should be "pushed" to. Tucker said the ZBA didn't mind if it stays where it is, lose the east side, don't make it as long, a 2 story ell on the west side at the back. Nancy agreed, saying the topography there would support 2 stories dug into the rise. Tony Higgins agreed saying, lop off the existing little bedroom wing. In effect the ZBA had found the camp's existing site to be the best for the lot, given its topography, size, shape and proximity to the pond and to the Stewart house. ZBA told Mark they would need a new plan from him. Mark agreed that the footprint could be reduced, and said that the old site had been Sundry's (his client's) first choice.

Nancy asked Prudy Burt, ConCom Chair for her input. Prudy said she was sorry she couldn't make the site visit, but it sounded like some issues are being worked out. She said that the house as far as ConCom is concerned, is pre-existing non-conforming, so ConCom could not deny them a house, but would ask for mitigating conditions, such as conditions on what could be used on lawns and plants, protection for the pond edge, etc. Peter Wells of Vineyard Land Surveying is going to represent Sundy Smith with the ConCom application. Peter said the ZBA seems like the first step; to know what they approve before going to ConCom. Prudy was concerned of disturbance from putting in a foundation. Mark said he'd hope for a crawl space, but may end up with "piers with a skirt" (due to proximity to the pond). William Stewart said he'd spoken with Sundy Smith after the site visit. Her first choice was to use the same site; she'd said they'd pushed it back 21' on the plan assuming that's what ConCom would want. He too preferred the old site as it would not then be right next to his house. The pushing back would greatly affect him but would take the house only a few feet away from the pond. William submitted a building envelope and design concept of his own. Tucker moved to give a verbal OK to this design so that Mark can develop building and site plans accordingly to submit at a continued hearing. All approved and a continuation was set for 6:30 PM on April 4.

7:20 An application by Charlie Greene on behalf of Francesca Kelly for a Special Permit to alter and extend a pre-existing, non-conforming house by extending a sunroom 1' by 25' and adding a 5' by 14' 2nd floor deck/balcony on the west side; Sect. 11.1-3 of Zoning Bylaws; Map 7 Lot 17; 395 Lambert's Cove Rd; RU District. *No correspondence*

Builder Charlie Green joined ZBA at the table to represent Francesca Kelly. The existing dwelling is 30 feet from the north bound and 27' from the south bound and is pre-existing, non-conforming as side-yard setbacks are now 50 feet. The 1' bump-out for the sunroom will bring it in line with the rest of that side of the house. The added deck with covered deck above will be in a jog of the existing footprint. The changes do not increase the encroachment. It was submitted that interior changes as well as the exterior "facelift" would be taking place, including bedroom changes. The existing house has 4 bedrooms. After discussion, the Board voted to grant the special permit with the condition that the bedroom count met the Bd of Health's approval.

7:35 An application by Robert Skydell and Rose Willett for a Special Permit for a seasonal farm stand, including the sale of baked goods, packaged food items, cheeses, preserves and the like, at the former Hillside Market (Farmer Green's); Sect. 3.1-1 of Zoning Bylaws; Map 22 Lot 47; 632 State Rd; RU District. *Correspondence so far:* 1) Abutter Nancy Dole, in favor, see letter; 2) owner and abutter Donnie Mills & Kristen Kinser, in favor; 3) Phone call from abutter Frank Ferro, they have no objections, it's fine with them as long there are no ovens, as long as it's the same as the past farm stand use; 4) Linda Alley, wants it only produce market; 5) Phone call from Kathleen Kaempfert only in favor of produce, like what Donny sold, no restaurant or deli; 6) Paul Garcia, not in favor of use as producing prepared food, see letter

Robert Skydell and Rose Willett joined the ZBA for their hearing. Robert began by saying they were not trying to break new ground; they are trying to do what Neil Flynn did as evidenced by the special permit granted to him in 2001. They will not have any ovens; it's not possible to prepare food on the site according to MA law and code. They will not have a deli or a salad bar, will not prepare ready to eat food such as sandwiches. MA has restrictions regarding a public water source. Their core product line will consist of fresh produce, fruit, herbs and flowers.

Robert read from a list of products that Donnie Mills had sold when he ran the place as Hillside Farm. They plan to meet the (amended and more relaxed) MA zoning requirement that 25% of product sold must be produced on the property, and that 50% will be produced on farms in the state of MA. There is a field on which will be grown berries, beans, pumpkins and other vegetables. Eggs will be produced. Other areas will be used for growing plants, flowers and herbs. The greenhouses on the property cannot be used as they are not safe structures and not insured. Their aim is to support and sell local growers' products, local picklers, jam makers, vinegar makers, ice cream makers and more as submitted on their brief to the Board; e.g. Pam's Pesto, Neil Flynn's honey, Karen Colombo's ice cream. He would hope to "tie into" Farmers Market people. They have a list of MA growers. If they sell bacon, they propose to get it from small MA producers.

Would they be renovating? They will be adding a free-standing walk in cooler at the back of the building, screened. Will the cooler be noisy? Robert said it is was a quiet cooler, and that there are existing outside compressors there. He's sensitive to the neighbors. The applicants further stated: they think investing in a lot of inventory is what is needed for them to be successful; they believe there will be a market for locally produced and organic foods; at this time, they plan to be open from late May to Columbus Day, 7 days a week, 8 to 6; the owner of the property has a lease listing what can and cannot be done on the property under its terms; the lease allows businesses to be open from 6 AM to 8 PM.; if people come to "the Town" with issues about their business, they'll work with all to resolve them; he'll schedule his deliverers to come at reasonable hours.

Robert referred to the special permit granted Neil Flynn in 2001, and the items he was permitted to sell. His and Rose's place will be very similar. On the porch they will have displays of flowers and vegetables and there will be a 2-3 ft double sided chalkboard. They have no name yet...he favors "Middle Earth", but they're entertaining others, including "Farmer Greenes".

Across the street abutter Linda McGuire spoke: she was in favor of the store, all for it, and asked the Board, please don't put restrictions on it that it can only sell what it grows or produce only or local produce only; a farm stand can't make a buck, they need to be able to sell cheeses, sauces, etc. She's glad to have the building occupied. She added she wished someone would do something about the derelict greenhouses.

Mark Yale, Planning Board member spoke: he asked under what section this was being heard? Julie told him Use Table, section 3.1-1 and the wording was looked up. Julie gave Planning Board member Ginny Jones a copy of the old and the amended MGL Ch.40A Sect. 3, relating to agriculture. Ginny said the former wording made it difficult for farm stands.

Selectman Glenn Hearn said he'd come to hear the proposal and it sounded good to him; he'd like to see an active farm stand there.

Eric turned to the brief submitted and moved that a condition would be that the etceteras be removed from the lists of products planning to be sold in addition to the vegetables, fruit, herbs, flowers. He said it didn't mean they for example could only sell bread, muffins, scones as baked items, but it is a way of not giving them carte blanche and would help the Zoning Inspector should he feel the need for enforcement. Robert said he understood...some of the correspondents' concerns are because they're competitors, but don't worry I'm not going to be trying to add a pizza oven within a year.

Ginny Jones brought up parking and egresses. In short, the business has a parking area able to hold up to about 8 vehicles; workers would park elsewhere. The applicants are not proposing to increase

the parking area. There are 2 entrance/exits on the site. Exiting from the southerly exit is hazardous due to the site line; blocking that entrance is not a safe solution. The applicants have offered to make every effort to make entering and exiting safer. Mark Yale suggested angling the parking spaces so it would be obvious that the northerly drive was the exit.

Bob Schwier asked that a copy of Donnie's list of what he sold, the Flynn decision and the lease be included as part of the record for this application. Robert said, actually Bananas still holds the lease, they would be subletting.

The hearing was closed and the meeting resumed for the vote, which was unanimous in favor of granting the special permit, with conditions. Members cited that it was a good proposal, would fit 40A requirements, and would not be detrimental to the neighborhood. One member added that farm stands shouldn't just be for vegans, and several voted for the name "Farmer Greenes"!

OTHER CORRESPONDENCE

- Letter and attachments from Pl. Bd. to Ron Rappaport

The meeting was adjourned at 9:15.
Respectfully submitted,
Julie Keefe Bd. Admin.

Approved on April 4, 2007