

WEST TISBURY ZONING BOARD
MINUTES WEDNESDAY MARCH 12, 2008
TOWN HALL 6:15 PM

PRESENT: Eric Whitman, Tucker Hubbell, Nancy Cole, Bob Schwier, Larry Schubert

ABSENT: Toni Cohen, Tony Higgins

ALSO PRESENT for All or Part of the Meeting: Christine Flynn, Glenn Hearn, Gail Tipton, Robert Breth, Ken Edwards, Chuck Hodgkinson, Chris Scott, Bea Phear, Kent Healy, Rhonda Backus

BUSINESS

- The minutes of March 4 were approved.
- Question from Frank Flanders re camp on Joan Smith property at Cedar neck (Map 5 Lot 2.1): They'd like to move the small ell from the middle of the camp 7' to the east. Does the Board want the camp shifted 7' to the west to compensate; there will be no change to the setback to the bound. The affected property is also owned by Joan Smith. The ZBA agreed Frank Flanders did not have to shift the building.
- Chris Scott... re bike shop at Alleys: The bike shop guy will no longer be there and they propose to expand their store into these out back premises. The idea would be to use it primarily to sell vegetables and fruit. The question is, do they need a special permit, is this considered an expansion of a pre-existing, non-conforming use? The Board considered this question early in the meeting, and found that, yes the change in and expansion of use would need a special permit. The bike shop had been permitted by Special Permit. Julie explained she had told Chris it would be hard to get him on the agenda, but that she would ask the Board. He decided to attend the Town Hall hearing and to remain after to discuss the bike shop. Eric told Chris when he arrived that he would need a Special Permit. Chris was given an application and after a short while, he and Ms. Backus left.

HEARINGS

6:30 Continuation of a hearing from October 17, November 28 and January 30 to consider an Appeal by Robert and Kathy Harris of an August 15, 2007 decision of the West Tisbury Zoning Inspector. It was the Inspector's decision that according to the Zoning Bylaws he could not restrict the Harris's abutting neighbors' (Freund/Redick) right to have roosters and other fowl on their property. The Harris's maintain that the roosters and other fowl are in violation of the Zoning Bylaws by creating unacceptable noise and disturbance and ask for enforcement. The Freund's property is Map 7 Lot 143, 31 Millstone Lane; RU Dist. The right to appeal is under Sects 8 and 15 of MGL Ch. 40A. *The parties have been in mediation with Paddy Moore. Previous correspondence: 1) Abutters Bradford Voigt and William Burton; 2) Dale McClure, Pres. MV Ag. Society; 3) Copy of fax to Ernie from Reddick; 4) Jim and Vicki Nelson; 5) James and Debra Hendrickson; 6) Scott Jones and Kell Hicklin; 7) Kathy Harris on November 15, 07; 8) Copy letter from Ernie Mendenhall to Harris August 15, 07; 9) Copy letter Ron Rappaport to Ernie Mendenhall August 8, 07; 10) Acoustic consulting reports; 11) Initial Briefs from John Amabile; New Correspondence: 1) Kevin Kiernan, Senior Regional Counsel, MA DEP(Jan 31 rec'd)2) John Amabile March 12, 08*

Attorney John Amabile wrote advising the Board that the Harris case was settled and requesting to withdraw the appeal. The Board voted to approve the withdrawal and to thank Paddy Moore for assisting in mediation for the parties involved.

6:45 Continuation of a hearing from February 6 for an application by D&S Construction for Gary Rome and Claire Rush for Special Permits for 1) reconstruction of a house on a non-conforming (under 3 acre) lot; 2) height relief to build over 24' high in the Roadside District (along

Old County Rd). Sects. 11.1-3 and 6.2-3D of West Tisbury Zoning Bylaws. 7 Yellow Brick Rd; Map 10 Lot 17; RU and Roadside Dist. *Correspondence so far: 1) Abutter Wayne Greenwell; 2) Abutter R. Kirkham Safford; 3) Abutter James Paquette; 4) Abutter Carol Marrama; 5) Abutter Polly Bassett; 6) Abutter James Sepanara; 7) Letter from applicants*

Builder Randy Simon brought in revised building plans for the proposed house reconstruction showing the ridge height to be just under 24'. They no longer need to seek height relief due to being in the Roadside District (Houses may be built up to 30' high in most of West Tisbury, but if you're within 200' of most roads, you're regulated to be 24' high unless you get a Special Permit to go higher.) The house will be sited in the same place, but about twice as long: Existing is 24 by 24 and new will be 28 by 52, be low, and make setbacks. There'll be a 5 bedroom septic, 4 bedrooms are proposed. The new house will be modular, so talk turned to the least damaging way for the delivery truck, crane and other equipment to get on the lot. The ZBA voted unanimously to approve the Special Permit to reconstruct with the following conditions: *1. The applicants and their contractors must determine the best access for the trucks and equipment delivering the modular units, whether it's off Yellow Brick Road or Old County Road. The best access would be the one that does the least damage to the trees and vegetation and requires the least number of trees and vegetation to be removed.*
2. If the temporary access for delivery is from Old County Road, the track must be re-vegetated with mature shrubs.

7:15 An application by Robert Breth for a Special Permit to have a circular above ground pool, 24' in diameter. Section 3.1-1 of Zoning Bylaw. Map 10; Lot 25.1; 11 Oak Lane; RU Zone.
Correspondence: 1) Jim Sepanara; 2) Carol Marrama 3) Skipper Manter

Correspondence was read. The Marama and Sepanara letters spoke at length of concerns for their water supply and for the groundwater supply in general due to existing water use in their neighborhood being compounded by the filling and replenishing of the pool. They spoke also of worries for chemical pollution to the water supply, noise and unsightliness, wanting the pool sited away from their property at the head of Oak Lane. The Manter letter was in support of the pool. Correspondence is on file in ZBA office. Robert presented his application. Discussion at first centered around the letters. He said he sited it as far from Oak Lane as possible, 120' away. His pool person, Kevin Johnson, had suggested he use chlorine/baking soda sticks. He too does not want unnecessary or toxic chemicals in his pool or in his water supply; he cited that it would be his children in the pool. He plans to drain the pool a little in the fall, after the chlorine content has dissipated, and then cover the pool for the winter. In answer to what strength the chlorine would be, Bob said he chose to consult with Kevin Johnson for the answers as he was the professional in these matters.

In defense of statements made in some of the correspondence, Bob said he uses organic fertilizer on his lawn, that he feels he cares about the environment. He said his lot had been clear cut at the front before he bought it, he chose to build at the back, and chose to clear up the lot to have lawns; they tried to keep trees. Bob Schwierasked if there were any trees between the pool and the Sepanaras? He said there is about 30' of scrub at the bounds of Oak Lane. He was not in favor of putting up a row of trees and fence at his bound as asked in the letters. He wasn't against putting shrubs up by the pool. Eric felt the existing brush would give some screening, the pool is 120' away from Oak Lane; privacy is not an issue. Tucker said pools should be screened to some degree. Bob Breth said, I'm not having a pool party and I've chosen a neutral color for the pool. Eric did not think the pool would have an effect on Oak Lane and the neighbors across the street. He asked Bob if he'd be willing to put up arbor vitae if the pool should be approved and there were complaints down the line? Bob said he gets along with his neighbors, that he's the vice-president of the Oak Lane Road Association, and he'd like his neighbors to let him know if they had complaints. At this point abutter Gail Tipton asked to speak. She said the Breth basketball hoop was at the edge of the Breth property by Oak Lane and she could hear the kids

playing there and the pool would add to it. (She lives across Oak Lane, not far from, but not parallel with the Breth lot.) Arbor Vitae would help to screen noise. Bob Breth said he has a 6' fence in back of the basketball net for safety issues, which must screen some of the kids noise while they play ball. The pool would be 120' away from the bound of Oak Lane. Gail said she worked at home. She said she was one of the people who had put out the Blue Pages pamphlet on water issues. She had some chlorine free brochures for Bob. Julie said that many of their previous pool applications used a chlorine free purification system nicknamed a salt water pool. Gail said they were as bad as chlorine, but the system she looked up on the internet is the safest. She said no chlorine should be used, and the ZBA should mandate that Bob Breth use the system she espouses. Eric said it would be put in the record that she and the California Tech guy would like this system used.

At this point Bob Breth volunteered to put up Arbor Vitae. Eric said that "pools are a pain in the neck" because the neighbors come to hearings full of concerns. He asked Bob where he'd plant the shrubs. By the pool was the reply. There was discussion about the best place for screening and whether it was best to wait for the pool to be actually up before siting shrubbery. Julie pointed out that the Breth lot did have 3 acres and the Board had routinely approved pools on much smaller lots and had not previously had a policy of no chlorine, but instead asked that chlorine be out of the system before pools are partially drained. Gail Tipton said the ZBA and Bob should go to the Board of Health to discuss chlorine. The latest in non-chlorine technology should be used. At this point, Nancy suggested the hearing be continued and a site visit made. Eric agreed, telling Bob that the neighbors have raised issues, they should err on the side of caution. Bob Breth said a number of his abutters had asked should they come to the hearing to support him and he had said he didn't think it was necessary. He was surprised at the ZBA reaction. He thought he'd fulfilled all his requirements, how many more hoops would he have to jump through. Bob and Eric said they're hearing from the neighbors and considering what they're saying. A site visit was set for Monday March 24 at 4: 30 and the hearing was continued to March 26 at 7:45.

7:35 An application by Kenneth Edwards for a Special Permit for additions to a pre-existing, non-conforming house (by setbacks) on a non-conforming (less than 3 acre) lot: Approximately 1600 sq ft of additional space plus a dormer added to the existing 2nd floor. Section 11.1-3 of Zoning Bylaw. Map 17; Lot 15; 62 Otis Bassett Rd; RU Zone. *No Correspondence.*

Ken Edwards presented his plans. He is roughly doubling the size of the existing 2 story 1,496 sq ft house. The house was built when setbacks were at 40'. The current structure is 45' from a bound at the nearest point and would be 46' from a bound at the nearest point of the addition. After review of the plans, the ZBA found the new construction would not be more detrimental to the neighborhood and voted unanimously to grant the special permit.

8:00 An application by the Town Hall Renovation Committee for a Special Permit for an addition to a pre-existing, non-conforming building (by height) on a non-conforming (less than 3 acre) lot: A 33' by 24', 3-story addition. Section 11.1-3 of Zoning Bylaws. The proposal is subject to Town Meeting approval. Map 32; Lot 65; 1059 State Rd; Village Residential Zone. *Correspondence so far: 1) Planning Board, in favor*

The strong letter of support from the Planning Board was read. Beatrice Phear and Chuck Hodgkinson presented the Town Hall renovation plans to the ZBA. The current three story municipal facility was built around 1870, serves as the Town's sole Town Hall, and has a mansard roof. Zoning was adopted in West Tisbury in 1972. The height limit for this use in the Village Residential Zone is 30'; cupolas may exceed 30'. The ridge height of the existing structure is approximately 45'6" above grade. This height will be dropped 9 inches due to a new, replacement foundation. The addition will be slightly lower at approximately 42'5". A proposed elevator cupola in the addition will rise slightly above the

ridge heights, at approximately 46'. The addition will house the handicap features and the main entrance.

Tucker Hubbell asked why are you doing this (applying to ZBA) before Town Meeting? Bea and Chuck answered: 1) If the municipal Boards turn it down, they won't be going to Town Meeting with it; 2) As soon as Town Meeting is over and if it has been approved, the Committee would like to immediately start the processes of moving offices to temporary quarters and taking care of landscaping items such as excavating trees that are to be saved. 3) They felt it was important to have their ducks in a row before presenting the plans to Town Meeting; 4) On June 1 the new State Building Code hurricane window regulations will be in place and in order to be grandfathered under the older, much less expensive regs, a building permit must be in hand by that date; 5) Site preparation work should be started as quickly as possible.

Bea explained the features on the color coded site plan; parking, playground, trees remaining or going, light bollards, curbs etc and that the basketball court was going. Asked why, the reply was evidently it is hardly ever used any more and space needs. It was discussed that handicap ramps would be required for all entrances, finding this to be excessive; the Committee is working on the best placement of ramps. A public bathroom would be at the back of the addition. The thinking at the moment is that it would not be good policy to have the bathroom open through the night. The interior features were presented; green and recycled and energy efficient as much as possible under money restraints. There was discussion of what the ZBA would be approving or not. Tucker and Bob felt if they approved the special permit to alter and extend, they'd be endorsing the project and all its minutiae. They asked, what if there are sticking points and changes to the plans the ZBA approves? The answer from Bea, Chuck, Eric and Julie was that they could always return to the Board for approval of any changes and if substantive, could be heard again. For example, Bea and chuck said, the Park and Rec have \$65,000 to use to put in a legal, safe playground and what exact equipment will be there is not final yet; the Committee would come back when final. Tucker and Bob voiced reluctance. Nancy Cole said she feels this is a very important case as it's the last chance to get the renovations approved and to keep Town Hall where it is in it's historic site. Chuck said the matter ill need a 2/3 vote to pass and there will be a ballot question. He said if the building reverted to private use, the Town village center would die.

The Board unanimously voted to approve the special permit as the proposal would not be substantially more detrimental to the neighborhood. Eric said he did not share the trepidation that by voting yes it meant they were approving only this plan with every detail unable to change. The project needs the approval from the ZBA to go ahead as part of the permitting process. It's not up to the ZBA to say they don't like the number of parking spaces; and the Committee has worked long and hard on these issues. Bob said he was apprehensive about voting for the special permit as he didn't want it to appear as if it were a done deal. He, however, does not have a problem with the height and the height will actually be less. Tucker said it is a much improved plan from the first one, particularly the parking, playground, bus use. He appreciates the work the committee put in; realizes it may have to be tweaked and the Committee will return to Board with changes.

The meeting was adjourned at 9:30.

Respectfully submitted, Julie Keefe Board Admin