

**WEST TISBURY ZONING BOARD OF APPEALS  
MINUTES MARCH 26, 2008  
TOWN HALL 6:30 PM**

**PRESENT:** Eric Whitman, Tucker Hubbell, Larry Schubert, Bob Schwier

**ABSENT:** Toni Cohen, Tony Higgins, Nancy Cole

**ALSO PRESENT for All or Part of the Meeting:** Kate Warner, Kevin Peters, Calvin Grimes Jr., Ed Charter, Joanne Scott, Geoghan Coogan, Hannah Beecher, Tom Wetherall, Bobby Hull, Gary Harcourt, Bob Breth, Gail Tipton, Kevin Johnson

**PRE-APPLICATION DISCUSSION**

Kate Warner re solar bread making and sales thereof in Village Residential District. Kate asked to be on the agenda to see if her proposal on her property would fall under home occupation. She also spoke with John Powers, Board of Health agent. She would like to do “living local” bread baking with a community aspect to it. She has talked with Doug formerly of Biga Bakery, who has warned her that it’s very hard to make enough money at it, and a lot of work. She would like to make bread combined with social change; perhaps community baking using a wood fired oven; perhaps a subscription service; perhaps 30 loaves a day 3 days a week. The Board said one could have a kitchen with retail sales, but not a coffee shop to go with it; she could apply for a home occupation.

**BUSINESS**

- The minutes of March 12 were approved.

**HEARINGS**

**7 PM An application by Calvin M Grimes Jr for a Special Permit** for 10’ of setback relief from the south bound for a deck. Section 4.2-2D4 of Zoning Bylaws; Map 29 Lot 48; 40 Waldron’s Bottom Rd; RU District. *Correspondence: 1) WT and S Knight, in favor; 2) David Finkelstein, in favor*

Calvin Grimes and his builder Ed Charter explained that the new guest house on his over 5 acre property made the 50’ setback, but the deck, which was added on, was built 39.8’ from the southern bound. This was noticed by the Building Inspector. At first Mr. Grimes tried to buy a small piece of land from the abutter, David Finkelstein, but this proved to be not a good move for Mr. Finkelstein. Mr. Grimes hoped the Board would grant him setback relief after the fact. David Finkelstein wrote that he was in favor of the grant. Finding that the deck being about 40’ from a lot line was not detrimental to the neighborhood, the ZBA unanimously granted the setback relief.

**7:15 PM An application by Malcolm and Judith Hall for a Special Permit** to alter and extend a pre-existing, non-conforming 1,152 sq ft subordinate dwelling: Additions of approx. 841 sq ft. Section 11.1-3 of Zoning Bylaws; Map 31 Lot 33; 591 Edgartown Rd; RU District.

*Correspondence so far: 1) Abutter Michael Rattney called from Qatar (Charge d’Affaires) to say that he opposes the granting of the Special Permit. Also subsequent email from Michael Rattney; 2) Planning Bd. considered question of whether the 2<sup>nd</sup> pre-existing house on lot could be expanded and thought not. 3) Ernie Mendenhall, says since both houses are comparable in size and pre-date zoning, the applicant should choose which house they want to add onto and ZBA should condition that the other house may not be enlarged.*

Correspondence was read. Julie Keefe (ZBA Admin) explained she was an abutter and had gone through the State Ethic Commission and the Selectmen in order to be cleared to work on the application. Kevin Peters and Atty Geoghan Coogan stated the following: That the Halls owned the property, Kevin lived on the property in the subject house and in exchange for doing work on the property had a vested interest in the place. Geoghan asserted that the house in question was not a guest house as it preceded zoning and the definition of guest house in the zoning bylaws and the dimensions (up to 800 sq ft) for guest houses. He said the ZBA's only question was to decide if the expansion of a pre-existing, non-conforming dwelling would be more detrimental to the neighborhood. The house meets required setbacks. It and the older and slightly larger other house on the lot were built before zoning was adopted in 1972. The 3.11 acre lot is a conforming, buildable lot. The development on the subject parcel is similar to development on neighboring acre and a half lots if you put two of them together. (Zoning changed from 1 ½ acres for a buildable lot to 3 acres in 1986.) The house would be subject to a Special Permit hearing for any further expansion. The lot is wooded and no one can see the house.

Geoghan said he disagreed with Ernie Mendenhall's suggestion that the front house be conditioned in the event of a granting of the Special Permit. He said that house would need to go to ZBA for a Special Permit for any expansion and could be turned down at that time. The ZBA countered that there could be a completely new Board by then, with no memory of these proceedings. Geoghan said this application has nothing to do with the front house.

Abutter to the rear Joanne Scott said she though the request was reasonable, but the lot is not that wooded; she can see the house. Barbara Hull introduced herself as a neighbor directly across the street. She stated that the Town had voted for zoning and granting this expansion would be going against it. They were asking to build a guest house on a lot to be twice as big as the 800 sq ft allowed in the zoning bylaws. She asked who the Halls were; where they fit in; were they developers? She understood they owned other Island properties. The Board told Mrs. Hull it didn't matter for their consideration. Kevin, Geoghan said, is going to buy the property from the Halls. Bobby Hull said that the place had been advertised as being sold as a condo. She asked the Board what this meant; she felt strongly that would go against zoning. Eric said the ZBA wouldn't speculate on that. Bobby Hull said she felt strongly that condoing property went against what zoning was meant to do.

Tucker said that under the zoning bylaws, the ZBA could designate one house as the large house and condition it for no further expansion. Geoghan refuted that, but Tucker said it was better to have it in writing than to assume the front house would never be permitted to expand. Larry pointed out that the old, front house is 33' from the front bound, so would need a special permit for expansion in any case. The other abutters in attendance asked Julie to say how she felt about the application. Geoghan Coogan told her to go ahead, and that she could remain in her seat at the table while she spoke. She said she felt the expansion asked for was reasonable and was in keeping with what else was in the immediate neighborhood, but stated she would not want the back house to be able to continue to expand again and again, and thought the front house could be conditioned. She can see both houses from her house, but the addition would probably not be seen on her side. She would like to see the lot and the buildings on it cleaned up and improved and if this is a step forward she would support it. She worried that another house to her rear put in a new septic near her rear lot line; the front house had a new septic on her side and now the back house was putting in a new septic on her side of the lot. Eric asked Kevin Peters what was where the new septic is planned to be. He stated it is open ground, where he has a vegetable garden and a small field.

The hearing was closed. Eric suggested that the ZBA could grant the permit for expansion, but that the front house must stay at 1,445 sq ft; that the front house could be renovated, but not made bigger. He thought the development was in keeping with the neighborhood. Bobby Hull asked how they could advertise the “guest house” as a separate house being sold? Geoghan explained that it was an option being considered by Peters/Hall and said condominiumizing was a perfectly established and legal thing to do. Tucker said it was a legal issue, not a zoning issue. Stating that the front house had been chosen as the house to not expand; that the proposed expansion was not substantially more detrimental to the neighborhood nor changed the character, the ZBA voted to approve the permit with the condition that the front house not be expanded.

**7:45 PM Continuation from March 12 of an application by Robert Breth for a special permit** to have a circular above ground pool, 24’ in diameter. Section 3.1 of Zoning Bylaws. Map 10; Lot 25.1; 11 Oak Lane; RU Zone. *Previous Correspondence: 1) Jim Sepanara; 2) Carol Marrama; 3) Skipper Manter (all abutters). New Correspondence: 1) James Sepanara;*

James Sepanara wrote further of his concerns for water quality in his neighborhood and the Town. He cited what he thought were ZBA errors in home business permitting on a (private) dirt road that did damage to water and air quality. Eric asked Bob Breth and his pool contractor Kevin Johnson, to speak to the concerns about what chemicals will be in the water. Kevin Johnson then spoke at some length about the intricacies of keeping pool water safe. He started out by saying that people put all sorts of harmful stuff into their septic systems that you never know about. What will end up in Breth’s pool is a knowable combination of chemicals that are not going to harm the environment. Amongst the ingredients would be calcium chloride, baking soda and di and tri-chlorides or bromides, which are not “scary” ones. The idea is to combine the two to reduce the chlorine content. He said that the electrolytic/ion process Gail Tipton asked to be used is not effective on its own. It too needs halogens to be effective. He said “salt water” pools are popular now. They too are now chlorine free.

Eric asked what the effects of draining this water a foot or so would be? Kevin explained the process, of drawing down a foot or so of water for over wintering; rain and snow add to the water content, a mesh cover with a pillow to control water level is often used. He then discussed the effects of temperature and sunlight on the chemicals in the pool, how one tests the water before adding more. He told the room that sand filters are no longer used, so no more silicosis. This pool will be using a cartridge filter; this uses less water. The pool equipment will be housed in a dog houses structure. In the world of pools, Kevin Johnson said, this pool will require a small amount of water, about 12,000 gallons.

Gail Tipton told the Board that we are considering our water supply and we should be as careful as possible. She is trying to instigate that the Board consider the effects of pools on the water supply and quality. Julie said she had been unable to download one of the 2 internet pieces Gail had sent the ZBA regarding the non-chlorine system of Campbell Environmental Systems. Gail was not very pleased that Julie had not let her know; Julie told her that what she had printed out and brought to the meeting with her was mostly testimonials and advertisements for this one company. She didn’t think that the ZBA could all of a sudden decide that this pool must use this particular system without studying it and adopting a policy. This pool alone would be singled out to use a particular system. Gail said that Chilmark doesn’t allow chlorine systems due to the Dunkel brothers (who sell bottled water). She said she’d re-email the articles. The Board said the Town

(i.e. the ZBA in conjunction with other Boards) should consider forming water policy in regard to pools.

The board formulated the following specific condition: Mature vegetative screening shall be planted on either side of the path at the head of the parking area, as discussed and outlined at the site visit of March 24, 2008. They voted unanimously to approve the Special Permit with conditions.

#### **PRE-APPLICATION DISCUSSION**

Gary Harcourt re a turbine needing setback relief in Long View (7-117); to be put on one lot owned by individual next to abutting lot owned by the same family; it would “fall” on this abutting lot. This Long View lot is steep and limited to where it could site a wind tower. After discussion, the ZBA suggested Gary apply for setback relief.

#### **OTHER CORRESPONDENCE**

Cont. of Pl. Bd. hearing for Jampel on March 31 at 7:30

The meeting was adjourned at 9 PM.

Respectfully submitted, Julie Keefe, Board Admin.