

**WEST TISBURY ZONING BOARD OF APPEALS
MINUTES SEPTEMBER 17, 2008
HOWES HOUSE AT 7 PM**

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

ABSENT: Bob Schwier

ALSO PRESENT for All or Part of the Meeting: Janice Sparks, Bob Andrews, Richard Knabel

BUSINESS

The minutes of July 17 and 23 were approved.

The Board voted to appoint Bob Schwier to do Julie Keefe's annual evaluation form.

HEARINGS

7:20 PM An application by Janice Sparks for a Special Permit to expand an existing bedroom by 18' by 22' to be 46' from the NE bound, requiring approximately 4' of setback relief. The existing house at its nearest point is 48.4' from the NE bound; Section 11.1-3A of Zoning Bylaws. Map 16, Lot 20; 49 Old Coach Rd; RU District. *No correspondence*

The Board looked at the plot plan and building plans submitted by Janice Sparks. They had read the detailed letter in which she explained why she wanted the addition and mitigating factors, plus the fact that she needed the 4' of setback relief as her house is not parallel to the lot lines. She explained she'd had the lot re-surveyed and was glad she did as the "as-built" differed from the original proposed site plan. The hearing was closed; finding the addition to be not detrimental to the neighborhood and the setback relief minimal, the ZBA voted to approve the application.

7:35 PM An application by Island Pools & Spas on behalf of Charles and Ginger Chavers for a Special Permit for a 10' by 50.5' in-ground pool with associated patio, equipment pad and fencing. Sects. 3.1-1, 8.5-4 of Zoning Bylaw; 15 Pond Rd; Map 30 Lot 2.82; RU Dist. *No correspondence.*

The ZBA looked at the site, pool, and modest pool house plans submitted by Bob Andrews of Island Pools and Spas for this lot in the Deep Bottom Rosbeck development. The Chavers property is 3 acres near the Edgartown Road and next to the development's tennis court. The pool does not require setback relief, the fencing is clearly shown, the doors will be alarmed. The proposed pool house is 325 sq ft and single story, and located in the "heart" of the property. Bob explained he was representing the permitting for the pool, not the pool house, as another contractor was building the pool house. However, since the ZBA consider all accessory structures for a pool within their review, he hoped the Board would approve the pool house at this hearing, rather than the Chavers having to come back to amend the special permit if granted. The Board agreed. The hearing was closed and the special permit granted with the usual pool conditions and one in regard to the pool house; that any changes to the submitted plans must be approved by the ZBA.

Bob Andrews next asked the Board to comment informally on a future application for a pool and pavilion on Map 30, Lot 2.54, also in the Rosbeck development. The project will need some setback relief; Bob asked the Board if there was a chance of approval; if not he wouldn't encourage the applicants. After discussion, the ZBA said they were comfortable in hearing the application as long as the setback relief was under 10 feet and had the neighborhood Architectural Review committee approval. It was suggested he contact the neighbors as well.

DISCUSSION

Richard Knabel asked to be on the agenda to talk to the Board re DAS and the Town's current Wireless Communication Facility zoning bylaws, as the Zoning Board is the permit granting authority for WCFs: The ZBA had been supplied with: 1) Jan 9 2008 letter from Simone DeSorcy; 2) Sept 1 memo from Tim Carroll of Chilmark to Up-Island Towns; 3) Chilmark's Nov 26, 2007 amendment to their WCF zoning bylaws; 4) MV Times article re West Tisbury and DAS, Oct 12, 2006; Chilmark's RFP for a DAS, Aug 15, 2008.

Richard explained that Chilmark, Aquinnah, and West Tisbury have a memorandum of understanding to get a DAS system built. He is a member of a 3 man committee which will expand to 6 when they get proposals. Their committee is seeking to understand what the permitting would be like in West Tisbury, as each Town's requirements and regs differ. Their committee realizes the permitting can't be merged into one process. He said the system would be most likely whip antennae on existing utility poles and new ones as needed, and a "hotel" (a 20' by 40' utility building) to be built on a site in one of the 3 towns; probably Chilmark as they have a good existing WCF site. There is discussion of other purposes being served such as the WIFI currently in the Library area, and "emergency zones".

Tucker said there are a lot of questions to be answered. Does our existing bylaw cover DAS, or is that a different species not accounted for in our regs? The bulk of the Bylaw concerns (ground mounted) Cell Towers. The less complicated permit (Special Permit #2) regards the modification of existing cell towers, such as adding new antennae, and side or roof mounted towers. Would we incorporate DAS into this; assume the phone poles are the existing towers? The Special Permit #2 says no repeaters can be located closer than 50' to a house. Are these repeaters? He said there are so many constrictions on where you can put any WCF. Larry said it would be "nutty" for the Board to try and pick out bits from our current, bulky WCF requirements that might apply to DAS.

Richard said that Comcast had no interest in participating in a fiber optic network underground. Existing poles are owned by Verizon and/or NStar. Having more questions than answers on the permitting of a DAS, it was decided to consult with Atty Mark Bobrowski, ZBA counsel who in the past has guided the Board through WCF applications. Or to consult on this topic with Dave Maxson of Broadcast Signal Lab, who has been advising the 3 towns on DAS as a whole, and has done consulting work for the WT ZBA. As to who'd pay for any consultation, Richard Knabel said the Town had appropriated \$2,500 for exploring the issue; these funds could be used for paying for consultation. The Board asked if the Selectmen needed to approve this use of the fund. Richard said no. The Board readily accepted the use of this fund citing their legal budget was small and that there would be no project review fee from an applicant to draw upon. The Board stressed the need for a public hearing no matter how DAS ends up being permitted. The RFP calls for a system to be in place by June of 09, not a probability according to Richard, but that is the way the RFP is written.

The meeting was adjourned at 8:30.