

**WEST TISBURY ZONING BOARD OF APPEALS
MINUTES THURSDAY DECEMBER 2, 2010
2ND FLOOR TOWN HALL AT 5 PM**

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

ABSENT: Eric Whitman

ALSO PRESENT for All or Part of Meeting: Mitch Gordon, Janice Manter, Kim Cottrill, Eben Armer, Elizabeth____, Deborah Pigeon, Peter Breese, Liane Thomas,

HEARINGS

5:15 An application by Mitch Gordon for a Special Permit to use an existing building on the premises as an art gallery to sell the applicant's work. This is a use that was granted to the applicant in 2000, but needs re-permitting as the use lapsed. Section 8.5 of Zoning Bylaws; Map 16, Lot 64; 554 State Rd; RU District. *No correspondence:*

There was no correspondence and no one in attendance for this hearing. Mitch presented his proposal, his brief to the Board was read. The Board members were familiar with the property from a previous successful Special Permit application. The following findings and conditions were made and the Special permit was granted unanimously:

- 1.) *The application met the Review Criteria of Section 9.2-2 of the West Tisbury Zoning Bylaws.*
- 2.) *The applicant lives on the property. The gallery is of secondary use.*
- 3.) *There is ample on-site parking.*
- 4.) *The proposed hours are 10 AM to 5 PM four days a week. Expected traffic at peak times would be approximately 2 cars per hour.*
- 5.) *As per the applicant's proposal, he may host drawing groups twice a month.*
- 6.) *As per the applicant's proposal, he may have gallery openings.*
- 7.) *The premises are readily accessible to fire, police, and other emergency vehicles.*
- 8.) *The granting of this permit will not cause traffic congestion, impair pedestrian safety, or overload existing roads.*

Conditions:

- 1.) The applicant is to be responsible for "manning" his parking area in order to comply with Town and State requirements for parking and traffic issues and to ensure that parking is on-site for all gallery activities.
- 2.) The board reserves the right to re-evaluate the conditions if the number of gallery openings and number of vehicles has a negative impact on the neighborhood or road safety as per Finding #8 above.
- 3.) This home occupation must be compliant with Section 8.5 of the Zoning Bylaws.

5:30 An application by Eben Armer for a Special Permit for a stone masonry home occupation/service business including storage on a family owned abutting lot. Section 8.5 of Zoning Bylaws; Map 31, Lots 53 and 52; 57 & 69 New Lane; RU District. *Correspondence: 1) Abutter Janice Manter, against; 2) Ginny Jones, concerns*

Correspondence was read. Janice Manter was opposed to Eben's business being on his property, describing it as light industrial. Ginny Jones was not against storage of stone as is or the use of the property as a base, an office, but was against stone cutting on the property. Eben had submitted a brief and site plan, which the Board looked at. They had been to the property on a site visit the previous day.

Eben explained that he has been building his house and his mother's for the last couple of years, which would account for heavy vehicle use and stone cutting. He has been cutting and moving stone for personal use. What he proposes on his lot are passive uses for his business, Contact Stone, Inc. He has an office in the house where his accounts person works. No more than 3 people work on the property for business related activity. He has a pile of stone, such as granite pieces on his mother's next door property. The rock pile consists of pieces, slabs, of stone left over from jobs that are too valuable to not

keep. He uses it for personal projects or on different jobs; he often barter pieces to friends or other homeowners. Having the stone gives him flexibility with his prices.

He keeps a dump truck on the lot. He, or an employee, drives it off to work in the morning and returns it at night. His heavy equipment is kept on job sites. Truck loads of stone are delivered to a site off premises and he delivers stone to jobs from there. Work on the stone of necessity must be done at the job site. He still needs to finish his fireplace and wants to do other projects around his property, but does not propose to do stone cutting or other prep work for his stonemasonry business at his house. He offered to screen his stone pile. Eben addressed many of his comments to Mrs. Manter.

Kim Cottrill spoke. She said her mother, abutter Janice Manter, is worried about the business expanding, that there will be lots of equipment on the property loading and unloading stone. Kim suggested to her mother that if there should be expansion down the road, she could protest it. Eben said he would like to have his Bobcat on site on occasion. Janice Manter said, if you have big boulders, you need big trucks. She has had a problem already with Eben bringing heavy equipment over her property (an old drive to the rear of Pigeon's) without her permission to put in wells and septic on his mother's property. Even if it weren't Eben himself driving, he's ultimately responsible for it. (Janice's property abuts Deborah Pigeon.) She was afraid they were using adverse possession of her right of way on her property. Tucker reassured Janice that any permit would go only to Eben, not into perpetuity for anyone that owns the land. It could not be sold as an ongoing business.

Deborah Pigeon apologized to Janice Manter for any intrusions during the renovations to her house. She and Eben are not using the old driveway.

Board member Nancy Cole had recused herself and was sitting with the audience as she is an abutter of the Pigeon property. Nancy said she felt that any loading or unloading of stone with the dump truck at the stone pile should be done during business hours. The Board agreed, setting the hours of 9-3 for this activity. They also proposed limiting the number of trucks kept and used on site to one. When asked, Eben said he now owned a loader backhoe, a Bobcat and an excavator, all kept off premises. Nancy also said she was very grateful that the dirt bike track that used to be on the Pigeon property (before Mrs. Pigeon bought it) was no longer in existence.

Eben said, if he has free time, he needs to work on his house, his property; needs to keep his crew in work. He will from time to time want to have his heavy equipment on his lot for this purpose. The Board agreed, saying they did not control personal activity on a lot. With no more comment or questions, the hearing was closed. Conditions were set and the Board voted unanimously to grant the Special Permit with conditions as follows:

The Conditions are:

- 1) *This permit goes to Eben Armer only. It does not go with the land. Should the premises be sold, the stone masonry home occupation business may not be sold as a permitted ongoing use. New permitting or abandoning the use would be required.*
- 2) *The abutting property Map 31, Lot 52: Any right to store anything on this property ceases when the owner no longer gives permission to do so.*
- 3) *Any loading, unloading or other activity at the stone pile on the Armer property may take place only between the hours of 9AM and 3 PM. The stone pile must stay at the same approximate size and inventory and in the same location and be screened with plantings. It is understood the pile will change, but the net result should remain about the same.*
- 4) *The number of dump trucks on the property is limited to one.*
- 5) *The applicant owns other heavy equipment that is kept off site. On occasion should the applicant need to use these machines at his property for personal reasons or moving stone from the stone pile, these machines may be on the property for up to a week. There is to be no long term storage of this equipment on the property.*
- 6) *There may be no cutting of stone for business use on the property. It is understood that the applicant has the right to work with and cut stone for personal use, for working on his own property.*

5:40 An application by Breese Architects on behalf of Lawrence and Yvonne Keusch for a Special Permit to alter and extend a pre-existing, non-conforming (by setback) house: Add screen porch, new entry, master suite, garage and associated decks. The existing attached garage will be converted to habitable use. Setback relief is needed for the new attached garage on the east bound. Sects. 11.1-3, 11.2-2 and 4.2-2(4)D of Zoning Bylaws. Map 30 Lot 2.13; 94 Pond Rd; RU District. Correspondence so far: 1) *Copy of letter to Breese Architects from Deep Bottom Administrator Donna Bouchard, against;* 2) *Abutter Steve Chapman, against;* 3) *Abutters Mary Lu and Jeff Long, against;*

Correspondence was read. Mr. Chapman is the direct side abutter to the Keusch's and it is the setback on his bound that the applicants are applying to encroach upon. The Keusch's are asking to be 26' from the shared lot line. Mr. Chapman is against this encroachment. The Longs were against the setback relief as well, citing that the Deep Bottom Pond Architectural Review Committee had voted against the project. The DBPARC correspondence regarded their committee's denial of the project.

Peter Breese and Liane Thomas of Breese Architects presented their client's application, saying that the design is sensible and will make the existing house more traditional and balanced. The Board looked at the presented plans with the architects. Peter explained that the Keusch's want to have more room as they have 4 children and often their elderly parents stay with them. They do not live here year round. The additions, which include the conversion of an attached garage to habitable space, would meet the 50' setback. The un-insulated, unfinished, one story, 2 car garage would not, requiring 24' of setback relief on the east bound. The Board told Peter that 24' of setback relief was a very lot to request, especially with a neighbor whose house is 41' from the lot line, and is objecting. It was discussed that setbacks at the time of the permitting of this development were 40'. However subsequent building on a lot would be under the 50' setback. One does have the right to apply for a special permit for setback relief.

Peter said they did have a Plan B, a scheme that would work, but doesn't satisfy the owners' needs. Nancy said she understood what he was saying, but the neighbor has a problem with the garage being so close. Larry suggested that the garage actually might be a buffer for the Chapmans, blocking out noise and activity from the Keusch's pool at the rear of their lot. The proposed size of the Keusch house fits the neighborhood, but it's a lot of setback relief. Liane Thomas said the Keusch's are very tidy, keep their property well, and they want a 2-car garage.

Tucker said that the Board would give little setback relief, especially in this case with the neighbor being 41' from the line. Peter and the Board discussed putting a detached garage in front of the house, reminding him that the setback for that would be 100' (setback relief could be asked for). It was left that Peter would try to talk to Mr. Chapman about his concerns, and would also talk to his clients about either a garage in front of the house or reducing the attached garage to a one-car garage. That could reduce the garage by 14 feet, thus making the setback 40'. The Board said they would consider that, as the subdivision was developed at 40' and it would be similar to Mr. Chapman's setback of 41'. Peter was given the choice of continuing the application or withdrawing without prejudice. He chose to continue and the hearing was set for the following Thursday at 4:45 PM.

OLD BUSINESS

Change to Bailey Park Habitat site plan: Habitat's Neal Sullivan had contacted the ZBA to say they wanted to have a slight change of site for House B on Parcel 2: To shift it approximately 24 feet to the northwest to save a stand of trees that will provide screening for the houses. All setbacks will still be made. The board found this to be a reasonable request and unsubstantial change and signed off on the provided new plan.

OTHER CORRESPONDENCE: MVC...Re revised DRI requirements.

The meeting was adjourned at 7. Respectfully submitted, Julie Keefe, Board Admin.

