

WEST TISBURY ZONING BOARD OF APPEALS
MINUTES THURSDAY JUNE 24, 2010
2ND FLOOR TOWN HALL AT 5

PRESENT: Tucker Hubbell (Chair), Eric Whitman, Bob Schwier, Toni Cohen, Larry Schubert, Nancy Cole

ABSENT: Tony Higgins

ALSO PRESENT: Janice Sparks, Kendall Miller and Son, Ernest Mendenhall (Bldg and Zoning Insp.)

OLD BUSINESS

- **“Open Cape”:** No further developments to discuss.

- **Woods Hole Oceanographic Institute’s wireless equipment on Fire Tower without Town permits:**

The Zoning Board further discussed the information sent to them by WHOI regarding their wireless system located on the West Tisbury Fire Tower in 2007 and came to the conclusion that the installation of the radios/receivers did require a Special Permit from the ZBA, under Section 8.8 of the Zoning Bylaws approved in 1999 and amended in 2010; that the installation still does require a retroactive Special Permit, and then whatever further permitting is required by the Town’s Building and Zoning Inspector. The Board voted that they can not make an exception in this case. The Zoning Board received an application for a Special Permit from WHOI in August of 2000 for a similar installation on the Fire Tower that was subsequently withdrawn without prejudice due to WHOI postponing the installation

The Board voted to waive many requirements of Section 8.8 because the installation is for transmitting data for a non-profit, scientific, educational entity and because in 2007 WHOI underwent the extensive permitting process by the Commonwealth who owns and manages the Fire Tower. The Board agreed that WHOI, in this case: 1) Do not have to have a pre-application conference; 2) The material already submitted is sufficient for the application; 3) They do not need to submit the required project review fee, but must pay the \$200 application fee.

- **Linda Bassett’s elder care business:** Linda had inquired of the office and Ernie Mendenhall whether she would still need a Special Permit for an assisted living facility if it were done under the aegis of a program called “Caregiver Homes”. As Linda plans to care for 3 or more adult residents and further fits the definition of assisted living in the Zoning Bylaw, the Board agreed that she should apply for a Special Permit as required in the Use Table in the Zoning Bylaw. The Board agreed this use would be welcome in West Tisbury but needs the Special Permit and subsequently whatever permitting required by the Building Inspector and the Board of Health.

HEARINGS

5:20 An application by Janice Sparks for a special permit to build a 24' by 32' garage with overhead storage space (over 676 sq ft accessory building on an under 3 acre lot) to be 30' from the west bound and 81' from the front bound, or alternatively 52' from the west bound and 30' from the front bound. Setback relief is requested. Sec. 11.2-2 of West Tisbury Zoning Bylaws.) Map 16 Lot 20; 49 Old Coach Rd; RU Dist. Correspondence: *1) Inquiry from abutter Ralph D'Amico; 2) Abutters Joel and Elaine Weintraub*

Correspondence was read. The Weintraubs objected to the granting of the permit as the applicant has previously received a Special Permit for setback relief for an addition to her house. The Weintraubs cited the language and requirements that concern the granting of a Variance in Massachusetts, whereas the applicant is applying for a Special Permit as provided for in the Zoning Bylaws. They felt the lot was small and the project could be downsized to meet setbacks. Janet said she was surprised these neighbors had written and objected.

Janet's plot plan shows 2 options. If an over 600 sq ft accessory building is placed to the front of a house, the required setback is twice that of the regular setback. Before she learned this, Janet originally planned to put the garage at the front of the house, 30' feet back from the front bound. She came up with Plan B which would put the garage 81 feet from the front bound and 30' from the west bound???. She had explained to the board in a letter how very much it would mean to her to have the garage for storage, and she repeated this to the Board in person. She described that lots of people have accessory buildings to the front of their lots. It was explained that under 600 sq ft buildings used to be permitted to be 10' back from the bound or the height of the roof, whichever was higher, but that changed in 2000.

After discussion, including suggestions of reducing the size to under 600 sq ft or moving plan B back in order to meet setbacks, the Board decided to make a site visit on July 15 at 4:30 and reconvene the hearing at 5:30 the same day. Janet will stake out the sites.

DISCUSSION

5:45 Kendall Miller: Old Gifford house on Edgartown Rd opposite end of Old County Rd. Kendall Miller owns the elderly yellow house on Edgartown Road, opposite the end of Old County Road, that has an old outbuilding leaning against the east side of the house. The building, Kendall said is an old ice cream parlour that was once connected to the main house, but has not been for decades. It is derelict and Kendall has been told his house insurance will be withdrawn unless he demolishes and removes the derelict leaning structure. He was there to ask the ZBA about what rights he would have, or what process to go through, in order to be able to rebuild if the structure is taken down before he gets a special permit. If he takes it down he's afraid he'll lose the right to replace the pre-existing non-conforming structure. It has that designation due to not making the current Village Residential setbacks.

Kendall has been in contact with Historic District Commission's Chair, Sean Conley, and Ernie Mendenhall. Ernie was in attendance and said that Kendall wants to put an addition on the house for which he'll need a Special Permit from the ZBA. The detached leaning structure is a separate issue, as it is detached and Kendall does not want to replicate it. The detached structure has been about 2' away from the house, though leaning closer now, and has been un connected for about 50 years. The Board looked at Kendall's proposed addition plans. ??? The addition would be moved back about 5', making it slightly more conforming re the front bound, and would then extend beyond the house about the same amount of feet. The addition would not encroach more on the side bound than the existing derelict structure. The addition would be two-storied..

The Board said “they didn’t have a problem with the plans” shown them. He was encouraged to apply as it was a separate action than demolishing a derelict, detached accessory structure. He would have to apply to the Zoning Board for a Special Permit, submitting plot plan, floor plans, elevations and the drawings he brought with him tonight.

Kendall explained that the project would need to be done in stages, beginning with shoring up the foundation of the house.

NEW BUSINESS

- **The minutes of June 3** were approved
- **State Road restaurant** ventilation fans: Ernie Mendenhall had received complaints from Bill Haynes and Mark Weiner who live across the street from the restaurant: The fans on the roof are too loud this year. Ernie talked with Tucker and Julie about it. Tucker and Eric went separately to listen. Tucker reported the following: He was there about 5:30 PM. The traffic noise was 3 or 4 times as loud as noise from the ventilation system. He would wait to try and hear fans in between cars. He stayed about ten minutes. He could hear the fans from the Haynes property but didn’t find it loud. All 3 fans go on together. He didn’t hear any metal on metal. Eric said his experience was the same. It’s not malfunctioning. Ernie and the Kenworths agreed that their fan person should come out and check it out. They had had the fans cleaned for the start of the season...the Board conjectured that somehow this service had changed the fans’ sound this year? Eric and Tucker said that if you look at them, (the 3 fans), 2 of the tops might be touching and maybe there’s a vibration.

Ernie talked of how this might come to the ZBA: If he makes a ruling and one of the 2 sides in the matter disagrees, their recourse is to appeal to the ZBA. Ernie seemed to think that a protracted noise study was the way to determine the noise level beyond the property’s bounds. The Board were thinking a simple hand held device might be the way to go, and voiced that the ambient noise there was probably over the noise of the fans.

OTHER CORRESPONDENCE

- Susan Roberts, Anderson & Krieger re planned building schedule for AT&T at Airport and other documents (Certificate of Insurance, Removal Bond, NEPA Report)
- Susan Roberts phone call and email re new wireless bylaw and their co-locator TMobile: TMobile was heard after the amended wireless bylaw was approved at Town Meeting in April. Their proposal was based on an AT&T application approved to have co-locators heard before the bylaw changed. TMobile met the AT&T requirements, but is subject to the new bylaw. This doesn’t mean any changes to the installation or to AT&T. Tucker suggested Julie ask Susan if AT&T wanted to go up to 125’ in height as the new bylaw allows this at the Airport.
- MVC: Notice of hearing for Big Sky Tents...Thurs July 1 at 7:15 PM

The meeting was adjourned at 6:30 PM.

Respectfully submitted, Julie Keefe Board Admin.