

**WEST TISBURY ZONING BOARD OF APPEALS**  
**MINUTES THURSDAY APRIL 8, 2010**  
**2<sup>ND</sup> FLOOR TOWN HALL AT 5**

**PRESENT:** Tucker Hubbell (Chair), Eric Whitman, Toni Cohen, Nancy Cole, Tony Higgins, Bob Schwier

**ABSENT:** Larry Schubert

**ALSO PRESENT for All or Part of the Meeting:** Cole Powers, John Powers, Chris Scott, Rhonda Backus, Wenonah Madison, Dan Sauer, Susan Wasserman, Derwood Vanderhoop, John Abrams

**BUSINESS**

- The minutes of March 25 were approved.

**DISCUSSION**

**5:00 PM Cole Powers of the Deep Bottom Pond Owners' Association to discuss former Russo lot now owned by Ruddock; Map 30 Lot 2.55:** Cole introduced himself as a member of both the Board of Directors and Architectural Review Committee of the Deep Bottom Pond subdivision. Cole related the history of the dealings with this lot from the Deep Bottom point of view. (The Zoning Board's history with the lot is, briefly, as follows: The Russos' building permit had expired. The lot by this time had lost its buildability and the building inspector could not renew the building permit. He told them their recourse would be to appeal the decision to the ZBA.

In July of '03 the ZBA upheld the appeal of Ernie's decision that Russo could build on a lot that lost its buildability, due to feeling very bad for the family who claimed they did not know the lot could lose its buildability by a certain date; financial hardship. They were given a chance. The building permit expired (again) after being renewed and once again it was unbuildable. In '06 the ZBA told the Russos and other real estate agents that they felt they could not uphold another appeal of Ernie's decision and didn't want to mislead them by encouraging to them to apply. They had the right to, however. No further formal applications to build were made to the Board.

The Ruddocks bought the next door house and lot in '07 and have since bought the Russo lot. The Ruddocks knew the lot had been deemed unbuildable when they bought it. They now want to build on it. They have hired Bob Andrews to do permitting for them. They want to build a house on the Russo lot and want the ZBA to uphold an appeal that the lot can be built on. Bob Andrews has been to see Julie at the ZBA office and Ernie, as has Cole Powers. Bob Andrews says that if they can't have a house on the lot, they will merge the 2 lots and build a 2,500 sq ft detached bedroom (i.e., no kitchen per se). Bob says the zoning bylaw does not limit the sq footage of a detached bedroom. Ernie at first agreed with him, but decided such a structure did not meet the intent of the Bylaw. (It is two-storey and has 2 bedrooms and a large living room.) (I no longer have a copy of the plan...do one of you have one??)

Cole said the DBPOA have recently discovered there is a clause in the covenant put in by developer Rossbeck: That if a lot does not have enough acreage for buildability due to not making the development closure schedule for buildout of lots, and borders on the common, the Association can sell them enough of the common land to make up the 3 acres. The lot owner is then required to return its use to common land, not build on it. None of the parties involved, including lawyers, spotted this clause. Cole and the Association do not want this to become a practice at Deep Bottom. They would like the ZBA to hear and grant an appeal that it is a buildable lot based on the prospect that there will be a house built there anyway. The DBPOA oppose the idea of the lot merge and any kind of guest house arrangement. Cole said that the Town would get more revenue from the lot if there is a house on a separate lot.

Nancy Cole said, if they have 3 acres, just get a building permit; it would be of no concern to the ZBA. Cole said it would be costly and a headache to convey. Tucker said he couldn't vote for it; it's an unbuildable lot to him like any other. Nancy said she felt bad for the Russos; it wouldn't be fair to grant an appeal to someone else after discouraging the Russos from applying again. It was pointed out to Cole that under the bylaws it could become buildable under affordable housing provisions. Cole said money was no object for the Ruddocks; this would not be an option they would take. The Board told Cole there would be no basis at this point for them to overturn that the lot is unbuildable; DBPOA should use their own solutions to respond to the Ruddocks desire to build on the property.

## **HEARINGS**

**5:20 PM An application by Daniel Sauer and Wenonah Madison of 7A Foods** to amend, alter and extend a special permit granted in 1993 in regard to the running of "Back Alley's": To continue to serve as a food counter keeping the same permitted hours, and to prepare value added food products, to have a take-away food program, to have a take-out and ice cream window and to be able to give sustainable food cooking classes at some time in the future. Sections 11.1-3 and 9.3-3 of Zoning Bylaws; Map 32 Lot 58.1; 1045 State Rd; Village Residential Dist.

*Correspondence: None*

The Board had copies of Dan and Wenonah's statement and interior floor plans. The 8 page statement included 1) a mission statement; 2) the name 7A ;3) Description of business (storefront and prepared foods); 4) Personnel; 5) in closing; and a sample menu and a sample of the prepared foods to be available. The plans were 1) Kitchen and Hallway Revision; 2) Existing Building Layout; 3) Enlarged Kitchen with no Hallway.

They explained they wanted to keep the spirit of the business as it has been; that is, sandwiches, soup, salads. They would like to serve made to order food. They will be making interior changes to make better use of the space; to have more room for baking for example and to be able to keep different prep areas separate. They would like to have a window from which to sell ice cream and already prepared items from a limited menu. They envision perhaps closing the main door at 6, say, and keeping the window open until 9. (the former Garcia's Deli was granted to be open until 9.)

Tucker asked if they had talked to the Board of Health about outside tables. They had and due to water flow, will not be having tables outside. The Board noted that it's just as well as people at tables linger and parking can be at a premium. Wenonah said that between her and her husband Dan, they had 30 years of restaurant experience. They have run the Outermost Inn's restaurant for the last 5 years. Dan was the Chef there. The business grew while they were there. They grew vegetables, bought local fish, bought from farmers, and they'd like to bring the same

feeling to 7A Foods. They grow a lot of produce that they used for meals at the Outermost Inn. This is a first time venture for them to be running a place with their own funds. They would like to make prepared foods, and have been in discussion with John Powers about this. They would like to do value added products. They know the place will take a lot of work.

Tucker told them they would need to comply with former conditions on the property such as for lighting and trash. They have a copy of the former conditions. As far as signs go, they will keep the same size on the store, and Chris Scott for Front Alleys will work toward getting a T-sign for both establishments.

Tucker opened discussion to those in attendance. Abuttor Susan Wasserman said it would be great for the up-island contractors to have a place to eat, but to not forget it's a neighborhood. She said she was also speaking on behalf of David McCullough who is not on the Island. She is concerned about the window, tables, and hours.

Chris Scott and Rhonda Backus of MV Preservation Trust, who own Alley's Store, spoke. Chris was happy to have a quality business apply to be at Back Alley's. Having 7A Foods next door would enhance their business; Rhonda said Alley's hours were 7 to 7 in the summer; the quietest time for them is afternoon while people are at the beach. It was discussed that Paul Garcia was granted an amendment to a Special Permit to allow staying open until 9. The permit was given for a year to be looked at after this period to see if was working out. The Board said they had not had any complaints. John Powers, Board of Health Agent, said he had 3 neighbors come in and complain about trash and after 9 PM noise. The ZBA said they had been unaware of these complaints. They questioned whether the hours should be as late as until nine. They told the applicants that, if granted to be open to nine, at 9 PM all activity would have to stop. Tucker suggested that the ice cream be granted on a trial basis. Wenonah explained that there were two ways to go: Make it themselves or order it from a good ice cream maker. If they are making it, they would be investing in equipment to do so. They would lose money if they were ordered to cease serving it if this were the case. They don't know if they can make it or not yet as it is up to the Bd. Of Health. John Powers said the proposal is too big for them to look at. It needs more concrete plans: Menu, set-up, equipment, wastewater information.

Dan said they are negotiating with the Tribe re whose paying what for equipment, renovations. Tucker asked the Board if they'd like to continue or vote this night. Nancy said they would be voting to OK the use and she feels the main change is the addition of the window. When asked Dan and Wenonah said they would like to have the vote that night. There are no major changes, plus the Tribe would like to know that they have been permitted. The Board discussed conditioning the window on a trial basis for one year, and that no tables were allowed, and that previous conditions on the business would apply. If the window seems to have a bad effect on parking and traffic, the Board would revisit the situation. If they could no longer use the window, it would not mean they couldn't sell ice cream.

John Powers said he has to see what they are selling out of the window "station". What if someone wants a soda, or candy or a bag of chips? What is being sold affects how the station should be set up. Bob Schwier felt the Board should back away from micromanaging; let them run their own business; permit it and let them work things out with John Powers. Eric suggested the Board continue the hearing until the Board of Health finishes their permitting. He and other members told the applicants not to be worried by this; they are in favor of the business. The hearing was continued until April 22 at 6 PM.

**6:00 PM Continuation from March 25 of an application by South Mountain Company for a Special Permit** to have an off-premises sign on the corner of State and Stoney Hill Rd in the location of the former Chicama Vineyard's sign on the property of John and Rosemary Williams. Section 8.4-6B of the Zoning Bylaws. Map 8 Lot 21.1; 3 Stoney Hill Rd; RU Dist.

*Correspondence: 1) Planning Board; 2) Polly and Thomas Bassett; 3) Byron Hartley*

Nancy Cole left the table and recused herself from this hearing.

Correspondence was read. The Planning Board and Byron Hartley were concerned particularly with the already bad site lines exiting from Stoney Hill Rd. John Abrams said they wanted the sign as an identifier. He said he doesn't feel strongly about it. He said the original Chicama Vineyard sign was closer to the road and it was then moved back. Eric said that if the sign is against the pine trees it would be OK, but not in front of them. The Board and John further discussed this. The up-island side of the sign would not be as visible to those driving down-island. The Board voted to grant the permit under the condition that the sign will be placed where it will not break the line of pines and will not make the site lines more difficult. They said they were not big on signs along the road, but as conditioned they would not turn it down.

The meeting was adjourned at 7 PM.

Respectfully submitted, Julie Keefe Bd. Admin.