

**WEST TISBURY ZONING BOARD OF APPEALS
MINUTES THURSDAY FEBRUARY 24, 2011
TOWN HALL AT 5 PM**

PRESENT: Bob Schwier (Acting Chair), Tony Higgins, Eric Whitman, Nancy Cole, Larry Schubert

ABSENT: Tucker Hubbell, Toni Cohen

ALSO PRESENT for All or Part of the Meeting: Michael Cutler, April Thanhauser, Carl Gehring, Mark Kiley, Stephanie Burke, Chris Scott, Tara Whiting

BUSINESS

- A slight change in design to the Habitat ranch house at Bailey Park was approved.

HEARINGS

5:15 An application by Michael Cutler for a Special Permit to replace a 14' by 36' storage building allowed by Special Permit in 2004 with a 22' by 32' antique barn. The existing building is 31' from the lot line and the replacement building will be at this same setback. Map 15, Lot 18; 7 Josiah Sachem Way; RU District. Sec. 11.2-2 of West Tisbury Zoning Bylaws *Correspondence: Abutter Maria Moody, in favor*

Michael asked to amend the dimension, i.e. to have the barn be 24' by 32' rather than 22' by 32'. The barn will be in effect 33' from the lot line, but he is still requesting the same 31' setback of the hoop building. The hoop house is 14' high; the barn will be an additional 7' high. The barn will be 968 sq ft. The Board voted unanimously to grant the Special Permit, citing that it was an improvement, in harmony with the Town, and no neighbors were against the granting.

5:30 An application by April Thanhauser for a Special Permit for a home occupation offering reflexology and meditation for relaxation and stress reduction. Sect. 8.5-1 of Zoning Bylaws. Map 12 Lot 45, 24 Indian Pipe Lane; RU District. *Correspondence: Abutter Andy Franklin (concerns about Indian Pipe Lane)*

April Thanhauser explained that reflexology is body work: Stimulating reflex points as an aid to stress reduction and for stimulating. She would see one person at a time for an hour, and eventually about 4 clients a day. She would use a room in her home as the office. As far as signs go, she may make a better Indian Pipe Lane sign and a better number 24 for the end of her drive, making it clear where to go. The Board made the following findings and granted the Special Permit.

- 1.) The granting of this permit will not cause traffic congestion, impair pedestrian safety, or overload existing roads. There will not be a net increase of traffic using Indian Pipe Lane. The applicant and her family have been instrumental in maintaining Indian Pipe Lane and the ZBA concludes she will continue to do so.
- 2.) The applicant will clearly mark the street number at her driveway so there is no confusion of which drive to turn into.
- 3.) There is ample off-street parking for clients on the property.
- 4.) The applicant is a certified Reflexology Therapist.
- 5.) The applicant has submitted that she would like to eventually see up to 4 clients a day. The Board accepts the applicant's offer to see patients up to 6 days a week, 8 AM to 8 PM.
- 6.) There will be no new construction or exterior changes made to the house for this occupation
- 7.) The application meets the requirements of Section 8.5-1.

- 8.) The granting of this permit is consistent with the definition, goals, objectives and conclusions contained in West Tisbury's Master Plan concerning Home Occupations. Under Action to Protect Community Resources and Character it is stated: "Allow for a diversity of home-based businesses, with a permitting process to insure minimum conflict with surrounding land uses".

DISCUSSIONS

Mark Kiley: Is purchasing old Vincent house behind Farmhouse B&B: A buildable lot, non-conforming house on non-conforming lot that will probably need to be torn down rather than fixed up. Mark and real estate agent Stephanie Burke told the Board about the property and opinions of consultants they've talked to. Mark was encouraged to apply to the Board to alter and extend a pre-existing, non-conforming house, and to again talk to Ernie Mendenhall and John Powers.

Re the Parsonage House: Tara Whiting and Chris Scott

...re options for preserving Old Parsonage and how/if ZBA can grant a variance for a new over 800 sq ft home on the 3 acre lot and keep the old house as a non-habitable use. This is what the Historical District people suggested to Tara what they do, ie get a variance (or Special Permit?) from ZBA.

Tara Whiting, owner with her brother of the parsonage/farmhouse property, explained her situation. She would like to abandon her present home, the old parsonage, because it is in serious disrepair to the point of being very difficult to live in, and she does not have the money for what she has been told it would cost to restore this old and historic building. The house was first built in the 1600's, and later added on to over the years. The Historic District Commission has informally denied her the ability to demolish the house in order to build a new one. She owns 3 .3 acres of land; by today's zoning, only enough property to have a house and an up to 800 sq ft "guest house". In order to have an over 800 sq ft house, she must demolish the historic old house, and she has been told she cannot demolish it.

The HDC suggested she apply to the ZBA for a variance of some sort to be able to save the old building, a beloved part of West Tisbury's character, and to build a new house. Tara asked to have a pre-application discussion with the Board to see how they could apply. Tara and her brother are now searching for ways to preserve the old building, one of them being deeding/gifting the old house to the Preservation Trust. Chris Scott of Preservation Trust said his organization is interested in being instrumental in restoring the old building because of its historical significance. Tara's dilemma has triggered a sense of loss in the community regarding the possible tear down. The Trust has, in recent times, been offered 4 or 5 significantly historic old houses to renovate. Unfortunately turning them into mini-museums is not feasible. For example, the Vincent house, moved to the grounds of the Dr Fisher House on busy Main Street in Edgartown, pulls in very little money per year. Possibly they could fundraise, restore the building and find a use for it, perhaps having non-profit organizations as tenants. The Trust has a wide variety of buildings and all have themes of public purpose. Perhaps not all of the house would be restored, for example the later dormers.

Chris told of his theory about old houses and zoning. The old buildings are privately owned but are part of our fabric, our commonwealth. Zoning can be an enemy of old houses. The owners need a place to live and don't necessarily want to sell their property, so often the old buildings get taken down. He would like to see something along the lines of, one can't tear down their historic house, but could have a zoning exemption for a new one on the property and in return, the owner would not be taxed for the old building. If zoning and assessing were tweaked, it would be to the public benefit.

Tara and Chris talked of conveying the house and one third of an acre (the property is 3.3 acres). They wondered if the Planning Board could subdivide off the .3 acre with the house on it. Chris Scott said we really could use legal advice all around. Eric Whitman suggested they find a good land use lawyer. Chris Scott suggested that the trust might be able to pay for some legal time, and

perhaps the HDC could chip in, since they are the Board that are denying Tara to take down the old house. Julie didn't think the HDC has a budget to do that.

Tucker Hubbell was absent, but had written down certain conclusions he had reached: That Tara and Daniel Whiting have the right to build a new over 800 sq ft house without ZBA approval if she deactivates her old house by removing the kitchen and it is no longer used as a habitable use. The Historic Commission may have to permit the new house. Tara and Daniel would need to apply to the ZBA as the permit granting authority for the new non-residential use (presumably housing a non-profit type enterprise) as it would be presumably in an over 1000sq ft building in the Village Residential District; And would need to apply for a dimensional variance for the non-residential use to exceed 1000 sq ft. Julie added that certain non-residential uses may be permitted in the VR and RU Districts. In essence, the ZBA did not provide any definitive answers.

Tara would like to be able to live in her house while her new house is being built, but the Building Inspector has said he can only issue a building permit for a guest house while the old house is being lived in.

OTHER CORRESPONDENCE

In: Planning Board (Simone)...copy of letter to R. Rappaport re condo-izing

Christie Phillips....re Island Co-Housing assessed homeowners fees

John Abrams....re Island Co-Housing assessed homeowners fees

Nicholas Puner...copy of letter to Ernie re FOCUS firewood sign

Ernie Mendenhall...letter to FOCUS re the firewood sign

Woody Bowman....letter to Ernie re firewood sign: It's now down

Ron Rappaport to Simone...re condo-izing

Out: Tucker to Ernie... re NStar shed

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