

WEST TISBURY ZONING BOARD OF APPEALS
MINUTES: SEPTEMBER 6, 2006
TOWN HALL AT 7 PM

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

ALSO PRESENT for All or Part of the Meeting: Joel Coslov, Lynda Coslov, Bldg. Insp. Ernie Mendenhall, Glenn Maki, Patricia Kuehn, Dave Fitzpatrick, Jamie Ferry, Sharon Estrella, Manny Estrella, Atty Douglas Sederholm

BUSINESS

- Minutes of July 26, 06 were approved.
- Revision to Coslov fence plans was approved: *Letter from Deep Bottom Pond Architectural Review Assoc to Coslov; and letter to ZBA from Dan and Elaine Pace and Janice Cramer.*
- Casey pool: Complaint to Ernie from the Casey's neighbor of change in placement of fence. Larry and Julie met with Justine, one of the conditions, on this site in May and ZBA approved landscape plan in May, the site to have been viewed again in the fall to see if plants were flourishing and effective as screening. Since the fence was put in at a different location than what appeared on the plan, the ZBA will put off going on the fall site visit until the Deep Bottom Pond Owners and their ARC review the premises and come to a conclusion on how the Caseys should proceed.
- Report of phone call from Missy Manter re her lot rented to Keene's: She wants restrictions (conditions) taken off her lot rented to Keene's. Julie told her she thought the procedure to try to do this would be to apply to amend the Keene Permit. The Board did not have time to discuss this point further, and will at a future date.
- Report that Rose Willett and Bob Skydell will be applying for a Special Permit for Gadowskis' lot at end of month.

HEARINGS

7:30 An application by Glenn Maki to build a 25' by 27' detached garage with 12' by 27' overhead storage space, to need 15' of setback relief to be sited 35' from the eastern bound. Map 17 Lot 110; 113 Great Plains Rd; RU Dist.; Sect. 11.2-2 of Zoning Bylaw: Non-habitable detached or attached accessory structures which will not meet current setback requirements and/or exceed 676 SF in floor area, may be allowed by Special Permit from the Board of Appeals. *Statement, Maki. Correspondence: 1) Abutter Dave Desmarais*

Mr. Desmarais wrote that the applicant had plenty of room to make the 50' setback if the garage was turned a bit, and some lawn sacrificed. He felt the applicant should make the 50' setback. Glen Maki presented his plans, showing a pork chop lot with a longish drive. He'd like the garage for vehicle and boat storage. He sited the garage so it would not be difficult to back his boat in. There are mature pines and oaks he'd like to keep as buffer; siting it where he planned would mean less tree loss, plus aesthetics, it wouldn't be too close to his house.

Tucker suggested extending the backup area 10' or so, so he would need less setback relief. Eric told Mr. Maki that the Board was paying attention to the abutter's letter, and suggested that he compromise. Mr. Maki said he understood, that the well-being of the neighborhood was important to him. As he didn't know his neighbor, he'd like to have a continuance to try to talk to him. He feels strongly that the site he has chosen is the only site that would work for him. The Board voted to continue the hearing until September 27 at 7:15.

7:45 An application by Patricia Kuehn and Dave Fitzpatrick for Special Permits for: 1) 8' of setback relief from the required 40' front bound setback for a farmer's porch; and 2) 5' of setback relief from the required 40' front bound setback and 5' of setback relief from the required 25' side-yard setback to relocate an existing 11' by 20' shed; 3) Alter and extend a pre-existing non-conforming (by frontyard setback) house by adding on the porch, a kitchen and a master bathroom. Sects. 11.2-2 and 11.1-3 of Zoning Bylaws. Map 32 Lot 67; 1073 State Rd; VR Dist. Already approved by the WT Historic District Commission. Statement, Kuehn Fitzpatrick *Correspondence: 1) Abutter Bassett/Benoit, in favor; 2) Abutter Peter Williams, in favor; Abutter Nancy Dole in phone conversation, in favor.*

After examining the Kuehn porch plans, the Board found that the measurements were to the road, not the actual property bound and made adjustments to the amount of setback relief this Village Residential project would need. As for moving the shed to be about parallel with the house, Patricia explained that the back yard was very lovely with old trees and plantings and this seemed the appropriate place...particularly they would need to cut down a large tree on the south if they tried to make the 40' setback from the front. ZBA asked what the use for the shed would be? Patricia Kuehn replied that it was a garden shed, and that some "century" she might sell flowers from there. (A use that would require a Special Permit).

The additions to the main house meet setbacks, but they needed to be permitted by Special Permit as the house was pre-existing non-conforming by the front setback. After discussion, the project was approved unanimously: *The Board of Appeals voted unanimously to GRANT Special Permits to Patricia Kuehn and Dave Fitzpatrick to: 1) Have setback relief to add on an eight foot (8') deep farmers porch to the front of the house; 2) Setback relief to be able to relocate the shed to be no closer than sixteen feet (16') from the eastern, front property line and no closer than 18' (eighteen feet) from the side, southern property line; 3) Alter and extend a pre-existing, non conforming structure by adding the farmers porch, the kitchen and master bedroom as per approved plans.*

8:10 An application filed by Jamie Ferry for a Special Permit under Section 3.1-1 of the West Tisbury Zoning Bylaws to construct a standard 60' by 120' outdoor tennis court on Map 16 Lot 71.1; 21 Amos Lane; Mixed Business District. Statement, Jamie Ferry. *No Correspondence*

Jamie's statement was read regarding the court he'd like to build and the screening he plans for the project. He said his property at State Rd is 2 lots, but is one for zoning purposes and the subject lot is entered into from Amos Way, not State Rd, so that would be the front of his lot. Setbacks in the Mixed Business District are: Private Road front setback = 25', side setback = 30' and rear setback = 20'. He felt he'd situated the court as best he could from the neighbors' points of view. Jamie produced brochures showing the kind of fencing and surface he would put in. There will be rubber surfacing outside of the court ...the fence encompasses 60' by 120'.

Tucker asked if he were planning a membership club? The Board looked at the use table and definitions in the ZBL regarding Membership Clubs (under Community Uses), and they pertained to non-profits. A membership entity that was not a non-profit would be a recreational business, allowed in the MB by Plan Review or in this case by the ZBA as the court exceeds the 3000 sq ft threshold that requires a Special Permit. Doug Sederholm said Jamie is not applying for a private club. He is applying for a tennis court for private use.

Bob asked if there would be other buildings in the future? Jamie said yes he might put another building on the lot. Sharon and Manny Estrella asked what the building would be for, and if the

court was going to be used just for tennis? Jamie replied yes, it would be just for tennis, not be a multiple court as had previously been proposed for an enclosed tennis court, and there would not be lights for night games. Jamie added he was not saying he'd never apply for another use on the lot; that he'd like to build a building for his office and business. Doug Sederholm said that setbacks would limit its size. Jamie said that he would talk with Manny and Sharon about where it would be located. Manny and Sharon were told by the Board that they would be notified by ZBA, and very likely by Planning Board Site Review, of new construction on the lot, particularly if it was in connection with the court. The hearing was closed and the ZBA voted unanimously to approve the Special Permit with conditions as follows:

- 1.) **The applicant's attorney stated that the tennis court is for private use, and the applicant stated that the tennis court will remain a tennis court, not a court for multiple sports, but did not rule out applying at another time for another use on the lot.**
- 2.) **The applicant and his attorney stated there is a plan to build an accessory building on the lot at some point, but not at this time. The applicant stated it likely would be used as an office and for his business.**
- 3.) **The court will meet required setbacks. It will be constructed with materials to best blend in with the habitat: wood-posted landscape fence with a mesh sound and wind screen surrounding.**
- 4.) **The court will be recessed at one end and there will be a 3 ft. seeded slope or retaining wall there to control erosion.**
- 5.) **There is an existing drive and parking area, and written and spoken testimony from the applicant that he plans to screen the court from abutters with evergreen plantings, and will ask for the abutters' assistance in locating where the screening should be planted.**
- 6.) **The applicant has submitted that there will not be lighting on the court for nighttime playing.**
- 7.) **The application satisfied the Review Criteria of Section 9.2-2 of the West Tisbury Zoning Bylaws.**

The Conditions are:

1. **No lights to be installed for nighttime playing. No nighttime playing.**
2. **The court is to be used by the applicant and his guests.**
3. **The applicant shall meet with the principal abutters regarding the placement of screening vegetation.**

OTHER CORRESPONDENCE

- MA Federation of Planning Boards...newsletter
- Broadcast Signal Lab's Post Construction Survey for 66 Old Courthouse Rd Wireless Facility Site
- Jen Rand: Chilmark holding State Ethics Commission meeting for all Island Town employees in Oct. Tucker will attend.
- Dept of Housing and Community Development: Updating subsidized housing inventory. AHC now updates this form.
- MV Times: Discounted rates, etc to advertise with them as opposed to Gazette. Will discuss at a future time.
- Personnel Board: Employee Performance Evaluation form. Again, to be done at a future date.

The meeting was adjourned at 9:10 PM. Respectfully submitted, Julie Keefe, Bd. Admin