

**WEST TISBURY ZONING BOARD OF APPEALS  
MINUTES JANUARY 24, 2007  
TOWN HALL 7 PM**

**PRESENT:** Eric Whitman, Toni Cohen, Bob Schwier, Nancy Cole

**ABSENT:** Tucker Hubbell, Tony Higgins, Larry Schubert

**ALSO PRESENT for All or Part of the Meeting:** Helen Walsh, Dan Pace, Jeannie Hay-Sternbach, Pascal Albanese, Jeremiah Brown, Nelia Decker, Jennifer DeVivo, Dan Imbrogno, Patrick Jenkinson, Carole Hunter, Robert Maciel, Vince Maciel, Mary Wirtz, Michael Achille

**BUSINESS**

- The minutes of January 10 were approved as corrected.
- Report from Julie that Bob Andrews submitted revised pool plans for Hirschtik on Jan 11, as requested

**7:20 PM**      **An application by Pyramid Construction on behalf of Charles Crovo for a Special Permit** for a 42' by 28' two-story garage, the 2<sup>nd</sup> story to be used as home office space. Sect. 11.2-2 of Zoning Bylaws (an over 676 sq ft accessory building on an under 3 acre lot requires a Special Permit from the ZBA); 201 Pond Rd, Map 30 Lot 2.56; RU Dist.; 2.75 acres.  
*Correspondence so far: 1) Susan Sugar Nathan; 2) Deep Bottom Pond Owners' Association; 3) Letter from applicant's agent, Pascal Albanese. All Correspondence on file in ZBA's office.*

Correspondence was read. Susan Nathan's lot is diagonally across the street from the Crovo lot. She is opposed to the building of the garage, essentially writing that it would be oversized and serve as a guest house; that it would set a precedent for over building on each lot; that it would be detrimental to the rural character of the development; that it would be obvious from the road, detracting from existing open spaces. The DBPOA wrote that they didn't find that the plans submitted to their Architectural Review Committee were complete, so they did not approve the structure. They requested that the ZBA not approve any application from their development until their ARC had reviewed and approved it first. ZBA commented that they would not treat an application from here any differently than from elsewhere in W.T. However, Bob said, there is a certain wisdom in working it out with the ARC first.

Jeannie Hay-Sternbach and Pascal Albanese are Pyramid Construction. Mr. Crovo is in Louisiana; they represent him. They submitted revised plans, a color coded map of the Deep Bottom Development showing relative size of the lots, photographs of the site and near neighborhood, and a 2 page letter detailing the construction and expected use. Helen Walsh, an indirect abutter, corrected Pascal's statement that the existing garage attached to the Crovo house has 2 car bays; it has three. Pascal agreed with her, apologized for the mis-statement. In his letter he explained that the proposed garage is smaller in usable floor area (approx 1600 sq ft) than Ms. Nathan supposed (2400 sq ft) as the second floor is not a full story and there is an entry porch and stairway.. He wrote that the house is built at the rear of the 2.8 acre triangular shaped lot and the garage will be put in a wooded area screening it from the road for the most part. The three bays are always in use in the existing attached garage...the cars are parked in the garage, and boating gear, bikes, etc are stored there. Mr. Crovo collects antique cars and would like to bring a couple to the island, hence the new garage...that third bay would be for a third family car or for a visitor's car. The upstairs would serve as personal office, additional space for family to retreat to when they have visitors, and as an exercise room. The need for the full bathroom, he explained was that the garage will be at a

distance from the house's facilities, the exercising, the car maintenance work. They have been to the Board of Health regarding the adequacy of the septic system for the project.

Jeannie presented the color coded map: Of the 73 lots in the development, their client's lot was 2.8 acres, a size of only 15% of the development's lots. 75% were 1.4-1.5 acres, the size of Ms. Nathan's lot; and 10% were 1.8-2.4 acres. Putting this accessory building on the Crovo lot would be in keeping with the density in the development, she concluded.

Pascal said that the revised plans had been turned into the ARC; the ARC had previously told them there was a discrepancy in elevations and the floor plans. Chuck Sullivan, Architect, had worked on the plans. ARC asks for very detailed plans re finish, construction materials, colors, etc and they hadn't wanted to develop the plans that fully until they knew if the ZBA would allow the construction. Eric indicated that the plans were sufficient for the ZBA. Pascal emphasized the size of the lot. Eric said he'd be interested if he were an abutter, as the construction is "big"; that there is already a 3 car garage on the house. (That garage is laid out with the doors on the east side, the house faces south.) Pascal understood the interest of abutters. They plan to leave as much trees and scrub intact as possible and will replant with pines. They need to apply to Deep Bottom to cut anything 4" in diameter and over. They have staked out the garage site; they'd welcome a site visit. Bob commented that most lots there are not woody; buildings are readily seen.

Eric asked for comments. Helen Walsh said that Mr. Crovo lived in Florida, not Louisiana as far as she knew, yet their business is in Osterville. Is he planning on having the business on the lot? Pascal said that Mr. Crovo Sr. lived in Florida, the son Charles was in Louisiana right now, but did have a business and home in Osterville. The Deep Bottom house is in Charles's name. Jeannie Hay said they know there are restrictions about occupations at Deep Bottom. Helen Walsh said it would be a monster addition for their neighborhood. Pascal said his client is applying while zoning allows him to. Zoning bylaws can change. Nancy said it does look like "guest house". Pascal again pointed out the footprint is larger than the second story. The Board voted to continue the hearing until January 31 at 7 and to make a site visit on January 29 at 4 PM.

**7:40 PM Continuation from January 10 of an application by Daniel Imbrogno for Special**

**Permits:** 1) Extend and Alter a pre-existing non-conforming house (by setbacks): A 1070 addition to be 32' from Crow Hollow Rd setback; 2) To have a landscaping home occupation/service business. Sections 11.1-3 and 8.5 of Zoning Bylaws; Map 31, Lot 102.22; 10 Crow Hollow Rd; RU District. Previous Correspondence: Abutters: 1) Irene and James Price (2 letters); 2) Chris and Nelia Decker; 3) Judith Schubert; 4) Patricia Duffy; 5) Elaine and Neal Price; 6) David and Adrian Maslin; 7) Barbara and Robert Maciel; 8) Crow Hollow Rd residents and neighbors: Veronica and Richard Conover; West Tisbury residents: 9) Wendy and Patrick Jenkinson; 10) Ken and Cathleen Vincent. Copy of January 4, 2007 letter from the applicants to their neighbors was submitted to ZBA by Irene and James Price.

New Correspondence: 1) Crow Hollow resident Mathew Bagedonow; 2) Abutters Irene and James Price; 3) Jeremiah Brown and Janice Haynes

All correspondence is on file in ZBA office and available to be read or copied.

Site visit was January 22 at 4 PM.

Correspondence was read. Bagedonow, who lives down Crow Hollow Drive, was in favor of granting; the abutting Prices were against, but asked for conditions and a review in 6 months time if granted; W. T. residents Haynes and Brown were in favor of the granting. Eric said the Board will take 2 votes; one on the house addition and the other on the business. Re the addition: Carole Hunter said she had nothing to add re the building plans. Bob Schwier, on crutches with a broken

ankle, missed the site visit and asked those who went of their opinion. Tony, Nancy, Toni, Eric and Bob went to the site. Their opinion was that the entrance/mudroom, to be 32' from Crow Hollow Rd, would not appear too close or be detrimental to the neighborhood. Robert Maciel talked of what he remembered as haphazard methods by the Town Selectmen in establishing bounds and setbacks a long time ago. Other testimony established that this lot was not a part of Crow Hollow subdivision but it had always used the Crow Hollow Rd as its entrance. After surrounding property was developed, the road was engineered and moved or widened toward the Imbrogno (then Maciel) house. ZBA voted to grant the Special Permit for the additions, citing it would not be detrimental, that there were a fence and plantings there and the applicants landscaping plan showed more plantings to be put in.

ZBA turned to the landscaping business, discussing conditions if a "yes" vote. They started with that the Prices to the north need to be screened. Robert Maciel said that when the Prices lot was built on they took all the trees down, a drive was established. The Imbrognos didn't take many trees down. (Since the Prices did not build their house and have owned it a long while, it was not clear if Mr. Maciel meant the cleared area on the Imbrogno lot or not, as that is the cleared area in question.) Bob Schwier asked fellow Board members how the business end looked to them? Nancy and Toni said, if I were the Prices, I'd be upset. The Imbrogno lot is pretty cleared, the shed, the equipment, the large compost pile and large pile of timber are well in view of the Prices. The site visit was in January, so there was less screening, but the business was dormant. The trees on the Price lot are tall, the brush is low. They need some protection from noise and looking at this more industrial, business end of the Imbrogno lot. Proposed condition 1) a 6' high stockade fence with plantings on both sides, as per site visit and landscaping plan, would help to mitigate noise and screen the fence. Jennifer DeVivo said they had read up on which plantings are effective for this, and will grow quickly. She and Dan Imbrogno stated that both the piles are for personal use. Eventually she plans to use all the compost on their property. The trees were offered to them from someone who cleared a lot of trees. Eventually, when they get a fireplace, they will cut up and use the pile for firewood.

Another proposed condition regarded equipment on the lot. The applicant has testified they currently store on their lot: A Bobcat, a mid-size tractor with implements, a mower trailer, a bobcat trailer, a trailer for the tractor, mowers, brush cutters, 2 light dump trucks, and a rack body truck. He confirmed this, adding that they are not "city" dump trucks, but light ones; not like Keene's dump trucks. Eric proposed that it be a condition that they can keep on the lot what they have, but not get bigger. Equipment and vehicles kept on the lot may be replaced, but not added onto in number or size.

The next topic was hours of business. The Imbrognos operate from 7:30 AM to 6:00 PM six days a week and want to continue doing so. Eric said if he lived next door, it would bother him; he finds it too much to ask a residential neighborhood to have: The equipment, 5 employees meeting on the lot in the morning, even if they do arrive in 2 cars. He said, similar businesses have been conditioned to have 5 or 5 ½ days, never 6 full days, and start at 8 or 8:30. In summer, windows are open and day after day after day, neighbors are having to listen to their business, being reminded of it. The workers are maintaining and loading equipment starting at 7:30. Dan said, the heavy machinery can stay on the job lots for the duration of a job. When it is on his lot and he has to load it for a job, he could wait until the mowers are loaded and the employees gone, and load heavy stuff himself at 8. The workers load up, they leave, then return in the evening. They back the trucks in at night so there's no beeps in the AM.

Eric said he's not trying to be punitive, but trying to make it so people around you have less to complain about, so you can continue with your business. Dan Imbrogno said he's never had any complaints. Bob suggested that the business grew incrementally so the neighbors have been slow to react. Eric continued, perhaps an 8 AM start on weekdays, later on Saturdays. The applicants voiced this would be not good for them. Robert Maciel said he's never bothered by any sound. ZBA said probably the sound is closer to the Prices and it might funnel down to them, as there is fencing between Maciel and Imbrogno. Back to hours of work, Dan explained that they have a short season, little work in the winter, so it's necessary for them to get in as long a day as possible. Also, weather is a factor, sometimes they can't work for 2 or 3 days, then have to catch up. He discussed again that he never had any complaints, nor did the Town, so this is a surprise to him. Eric pointed out its not just complaints, but a requirement to get the permit from the ZBA.

Nancy said, neighbors don't like to complain. Abutter Nelia Decker spoke: she said she felt lame that she hadn't complained. The business started out innocuously, it grew, then a new drive was made and a large cleared area appeared...it was already done, it felt futile to complain. She did speak to Dan about the clearing. It's not that no one noticed the business. It is very hard to complain. She feels they have bent over backwards...the noise, the beep beeping reminds her of the business nearby every day. She said she does understand about the rain. She's out and about early so wouldn't object to a 7:30 start, but can't speak for others. After further statements from Dan about how he had to start early, ZBA proposed this condition: Hours to be 7:30-5:30, Mon-Fri and 8-3 on Saturday. The start time cannot be earlier and the business may not operate on Sundays, but the ZBA recognized that from time to time due to weather and not on a regular basis, the end time may be flexible.

Re the large compost pile and large pile of timber, the applicants state that it's for personal use. The Board found them to be large piles, and again at the rear of their lot, but felt they couldn't condition these personal uses. A condition was made however, that there is to be no stockpiling on the lot for the business of clippings, brush, etc, or bulk storage of materials such as fertilizer, and that any future compost pile must be of a size typical of a household lot.

Bob asked if all 5 employees had to report on the lot in the morning...couldn't some of them meet on the job site? Dan Imbrogno said they all had to meet on his lot in the AM to fix the mowers, maintain them and to load up. They do start up the machinery in the AM to load it. They come in only 2 cars. Being that this is not a situation easily overseen or enforced, the ZBA didn't make the number of cars a condition, but did find that the applicant will ensure to the best he can that carpooling will result in only 2 cars arriving and leaving on the lot for employees.

Vince Maciel said to the room as a whole and to the Imbrogno's, the ZBA is trying to be fair; to make it possible for a business to survive and be fair to the neighbors. He thanked the ZBA for their time in making it possible for the Imbrogno's to continue. He said he personally was lucky enough to get one of the last Light Industry lots in West Tisbury, near the dump, and even though it's in that district, not in a neighborhood like Crow Hollow, he was given a lot of restrictions (given by the Planning Board, not ZBA). He added he didn't think, being in the LI district, he should have some of his restrictions.

It was made a condition that a site visit would be set in about 6 months time, in July to see if the conditions were being met and that they mitigated the business. Since no conclusions can be made at a site visit, the Board will consider the matter at a scheduled, notified, posted meeting as required.

Eric concluded that the conditions should help, but Dan and his crew will have to be careful, and remember they're not in the middle of Keene's Pit! Bob said the employees should be made aware of the situation and the conditions, and the ZBL regulations. The Board voted to approve based on, that with the conditions, the business would not be more detrimental to the neighborhood and would meet the requirements of the Zoning Bylaw. The written conditions are as follows. For a full copy of the findings, please call or visit the ZBA office.

1. *A 6' high stockade fence must be erected along the north bound as shown on approved Landscaping Plan dated January 26, 2007. The finished side of the fence must face abutters. The fence must be up by the time the business is back in full swing for the summer of 2007. Evergreen and deciduous trees and shrubs must be planted on both sides of the fence. Plantings must be mature at time of planting, the trees to be 5-6 feet in height, and should be fairly quick growers. As per approved landscaping plan, the mix will include, but is not limited to, Eastern White Pine, Blueberry, Bayberry, Holly spp, Cornus spp, Viburnum spp.*
2. *The business shall remain at the level it is at the time of this granting. Number of employees arriving for work at this property shall not increase from the current number of 5 (five). Any others would report directly to the job sites. Equipment and vehicles may be replaced, but not added onto in number or size. Number and type of trucks may not exceed what is specified in Section 8.5 of Zoning Bylaws.*
3. *Hours of operation limited to 7:30- 5:30 Monday through Friday and 8:00 – 3 PM on Saturday. The heavy equipment may not be loaded before 8 AM. It is understood that from time to time, due to weather conditions, this schedule might have to be flexible.*
4. *Grass clippings, brush and other detritus from a job may not be disposed of or stockpiled on the lot. The applicant testified that the large compost pile currently on the business end of the lot is for personal use and will be used for landscaping the property. After this pile is used up, a compost pile for personal use may be kept on the property that is of a size normally found on a house lot. The applicant testified that the large pile of logs on the business end of the property is for personal firewood use.*
5. *No stockpiling of materials such as stone, gravel and other materials needed to be loaded up and taken to a job site. No keeping of large volumes of fuels on the site. Materials such as bagged fertilizer, lime, and any pesticides or others potentially harmful may not be stored on the site*
6. *The ZBA will conduct a site visit in mid to late July, 2007 to ensure that the conditions are in place and are effective in mitigating impact of the business on the neighborhood.*

#### **OTHER CORRESPONDENCE**

- Planning Board Minutes
- Planning Bd letter re accessory structures and notice of Feb 12 hearing

The meeting was adjourned at 9:25.

Respectfully submitted, Julie Keefe, Bd. Admin.