

WEST TISBURY ZONING BOARD OF APPEALS
MINUTES MAY 30 2007
TOWN HALL 7 PM

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

ABSENT: Toni Cohen

ALSO PRESENT for All or Part of the Meeting: Rick Sylva, Roger Sylva, Glenn Hearn, Brian Kennedy, Amy Eisenlohr, Dale Julier, Bob Julier, Ernie Mendenhall, Mike Colaneri

BUSINESS

The minutes of May 9 were approved.

HEARINGS

Crovo continued to June 27. An architect is working on new plans.

7:20 An application by Richard and Roger Sylva for a Special Permit for a 420 sq ft accessory apartment attached to a 700 sq ft single story garage. The lot is 100' wide and will need setback relief as part of any Special Permit granted if it is decided they are not subject to any Association strictures...: structure is proposed to be 26' from side SW bound, 42' from side NE bound and 60' from front SE bound. Sects. 11.2-2, 4.4-3, 4.4-4, of Zoning Bylaws; 18 Bailey Park Rd; Map 10 Lot 226; RU Dist.; .72 acre. *Correspondence: Attorney for Stoney Hill Farm Homeowners Association, Jeffrey M. Kay.*

Correspondence was read. Atty Kaye reported that the SHFHA discussed the application at their annual meeting on May 27 and were unanimously opposed to the project. The association feel that the intent of the MV Commission in their permitting of the three affordable lots was that they must be developed according to the requirements for the original subdivision, including no more than 3 bedrooms in a house, architectural review and approval from their ARC required, and no additional subordinate dwellings. He asked for a month's continuance in order for the Association to find a copy of a letter they are sure is crucial to this application.

Roger Sylva explained that he and Gloria will be retiring soon and moving, but will want to come back for extended stays and their son Rick, in effect, wants an in-law apartment. The reason the door for the garage will be so high is for boat storage. The apartment would be on the side of the garage, not on top. Rick said he understood about the 3 bedrooms; he has a 3 bedroom septic system and will turn 2 bedrooms in the house into one; the net result with an apartment would be 3; the apartment would be tied in to this system.

Eric said an issue for himself is that the original 33 lots of the subdivision cannot have an accessory apartment, and yet this lot could. Rick said he's never been part of the subdivision; in some ways he is and some ways he's not; he pays dues for the road; he's not sure if he can vote at Association meetings.

The following was established through testimony from Dale and Bob Julier, Amy Eisenlohr and Michael Colaneri: The original 33 lots Snowden developed in 1987, approved by the Planning Board and the MVC with conditions, included the now Maciel and Eisenlohr lot as resident Homesite lots. The 3 affordable lots developed by the Town in 1996, now Kimberly,

Flanders/Locke, and Silva, were owned by the town through tax title and were not among the lots cited in the original subdivision approval. All the lots are about an acre or in this case under an acre. The Town had been seeking to get an easement to the lots and electricity from the Association; the Great Plains access road is owned by Baumrin and Jampel. In 1996, the Association sought to modify their permits granted in 1987: To convert the existing community studio building by the swimming pool into a residence for a caretaker; in return for this increase in density they would grant easements over Stoney Hill Rd and Great Plains Rd and provide access to utilities for a \$1500 fee for each affordable lot to be paid by each owner. The MVC staff and LUPC notes specifically state that the lots have to adhere to the covenants; the decision itself says it's up to the individual new lot owners to decide if they want to be members of the Association or not. It is silent regarding whether the houses are to be developed under the same strictures as the original development. There is believed to be a letter from the MVC to West Tisbury stating that the new affordable lots are to be developed under the same criteria, but so far Dale Julier has been unable to find a copy. Work had started on the 3 new houses when the SHFHA realized they had not come to them for architectural review. Dale came to the then executive secretary who had said she had forgot to give the new owners the letter from the MVC stating they'd need architectural review. The letter was subsequently given to each new owner and they were reviewed by that entity.

Bob Julier said it doesn't make sense that the 3 new lots could have 2 dwellings, and also, the Silva garage/apartment will impact abutter to the south Amy Eisenlohr. Amy said the neighborhood was happy to have their new neighbors and would welcome the next 3 affordable lots planned for Bailey Park Road. They are all for affordable housing, and their street will have 8 affordable lots when the next 3 are developed. The individual owners worked out how to stagger their houses on the narrow lots. However, if all new affordable lots have apartments on them, it will detract from the neighborhood and add a lot of density. And, her house is 26' by 30'; the Silva garage/apartment will be 32' by 26'.

Mike Colaneri said he could give a first person account of all as he'd been a member of the MVC at the time and was a member of the Affordable Housing Committee. The Town owned these lots at the time of the Snowden decision. The MVC conditions were meant for only those 33 lots before them. The specifications for the individual building envelopes, etc had been elaborate. He said it had not been friendly between the Town and the Association regarding utility and road easements for developing the 3 affordable lots. When the conversion of the building by the pool came up, the Town had said we'll support you if you give us a tie in to the electricity and access. He said what Ricky wants to do is legal; it's true the others can't. These homeowners should look at the alternatives; he could put on a big addition on his home, or have a "travel" home parked on the property. He said the AHC would look at the next 3 affordable lots and condition them they can have one single family residence only. He said the 1996 decision did not state that the new lots were restricted as the original ones had been.

Nancy asked if the MVC had consciously said they were not to be held to the same restrictions as the others? Mike said he personally felt they should not be restricted. Normally the Association's electricity charge was \$9,000; these 3 lots were charged \$1500 each.

Bob Julier said if you listen to the tapes of the Commission hearing, the word density comes up all the time, including from Mike Colaneri, worries about too much density. Now affordable housing is popular, but density is still an issue. We are living in relatively small spaces there.

Dale Julier said the small lots in our development is what prompted the Town to go to 3-acre zoning. She further said, the affordable lots are not the issue, having apartments is. When the affordable lots were being permitted, the Assoc. had asked if they were going to be 2-family houses; they'd been told no, because that would be too much density. Their development will have 8 affordable lots, which is fine, but not apartments as well. Bob Julier said in the original decisions regarding Snowden, he was asked to buy up land he didn't already control and make it green space, but no one ever put the squeeze on him to do it, and he didn't do it. He said actually there are more than the 33 lots in the development and they all follow all the strictures. They are lots that people over time bought and they all automatically became part of the Association and follow the rules. The Assoc assumed the 3 affordable lots were like everyone else. All looked at a map provided by Glenn to ascertain how many lots had been developed.

Glenn thinks 7 or 8 additional lots may have joined the Association. Mike Colaneri said, how can they talk about density issues re this apartment when they sold electricity to additional lots. He said density's been an issue since the 70's; there is about 7/8 acre per lot. He said: Some areas (in Town) take the brunt of affordable housing; what Ricky's asking for is legal; there's vacant space in the development which addresses the density issue. He said the Association told Glenn Hearn they want \$15,000 per lot to tie in. Glenn said, he has only talked informally with Bob Julier; there has been no official proposal from them, but they had discussed \$5,000 per lot, not \$15,000. It's Jampel and Baumrin who control Great Plains Road who want, in addition, \$10,000 per lot.

Brian Kennedy spoke; they had charged \$9,000 for the privately developed lots to tie in, which is not an arbitrary figure; they have to negotiate with Baumrin and Jampel every time they try to do anything.

Eric suggested the Board heed the Association's request in Atty Kaye's letter: To continue the hearing for a month in order to locate the document Dale Julier feels will be key. Ernie Mendenhall said as Zoning Inspector he can only enforce what is written in a decision, not what is in minutes. He added that when the Town went to 3-acre zoning, it kicked affordable housing in the teeth. Glenn Hearn said the push for 3 acre zoning came after Baumrin developed 75 lots on the right hand side of Great Plains. The hearing was continued to June 27 at 7:15. A site visit was set for June 26 at 4:30, to be followed by a follow up site visit to Imbrogno to look at their screening.

OTHER CORRESPONDENCE

- Copy from Jen Rand of letter from town of Walpole...to read and discuss at next meeting and give input to Selectmen before they'll act on letter request.

The meeting was adjourned at 8:50 PM.
Respectfully submitted, Julie Keefe, Bd. Admin.

Approved on June 13, 2007