

WEST TISBURY ZONING BOARD OF APPEALS
MINUTES JUNE 27, 2007
TOWN HALL AT 6:30

PRESENT: Eric Whitman (Chair), Tucker Hubbell, Bob Schwier, Nancy Cole, Larry Schubert

ABSENT: Toni Cohen, Tony Higgins

ALSO PRESENT for All or Part of the Meeting: Criseyde Jones, Rex Jarrell, Scarlet Jarrell, Maisie Jarrell, Carol French, Glenn Hearn, Bob Julier, Carole Hunter, Jeffrey Kontje, Roger Sylva, Richard Sylva, Gloria Sylva, Jim Cappuccino, Chuck Sullivan, Melanie Pappas, David Blackman

BUSINESS

The minutes of June 13 were approved as amended.

HEARINGS

6:30 An application by Rex and Scarlet Jarrell for a Special Permit for a home occupation of massage therapy and yoga classes to be held in a 2-story modified barn to be relocated to the 13 acre property. Sections 8.5-1 (home occupations) of Zoning Bylaws; Map 32, Lot 109; 1153 State Road; RU District. *Correspondence: 1) Abutter Tom Hodgson; 2) Abutter Susan Strane and William Starr; 3) Abutter David Tilton; 4) Abutter Daniel Bryant; 5) Abutter Joanna Cole; 6) Simone DeSorcy for Pl Bd; 7) Phone calls from abutting Bennet sisters (Molly Bennett, Carol French and Pat Lynch); 8) Abutters Dennis and Molly Bennett. All correspondence on file in ZBA office.*

The Jarrells joined the ZBA at the table. Chris Jones and Carol French, both abutters, were in attendance. Correspondence was read. Dennis and Molly Bennett had written, and Cris and Carol agreed, that traffic is fast at this point on South Road, that there is a curve in the road by the entrance, and the fact that the entrance is at the top of a hill reduces visibility for drivers on the road.

Talk turned to the access proposed for the relocated barn and traffic. The access entrance on the west side of South Road was used by previous owners to access the barn and the property in general. There is another access road to the south that is used to get to the house and other buildings on the lot. The barn entrance is flanked by stonewalls, has native vegetation growing by it and can accommodate only one car a time. Rex felt the Bennetts across the street might be at more of disadvantage on their side. Larry agreed, saying there was more of a blind curve on that side. Cris Jones, who uses Campbell Rd, slightly more to the south and on the west side, as her entrance, said everyone along that stretch of South Road has trouble getting in and out due to traffic. Scarlet said they have already made plans to trim back the entrance. She said they plan to create a beautiful place, a holistic peaceful place.

Carol French told of the difficulty she witnessed of a large 60' flatbed truck trying to get into the access entrance. She praised the driver for a good job and for not hitting her fence, but it showed the problems with the entrance. She also wondered how the speed limit could be reduced. She also stated that it sounded like a great complex, a great design to look at, though it probably won't be seen from the road.

Larry asked if the Jarrells considered using the other drive they use to get to their house. They replied they would consider it if the barn entrance doesn't work out; they certainly didn't want to

create an unsafe entrance; the farm road had never been heavily traveled. David Douglas owns the property abutting the entrance road on the north. Of the proposed entrance, Eric said someone turning in shouldn't have to wait. You would need to widen it. Carol French said people coming up the hill can't see. Eric and Tucker told the Jarrells the entrance would need to be at least double wide and brush cut back. The Jarrells were told they should talk to the Planning Board regarding permission for widening the entrance and particularly if portions of a stonewall would need to be removed.

Regarding the apartment to be built on a second floor, the ZBA concluded it was on a 13 acre parcel with one other livable house, did meet the density requirements and was not in need of a special permit under Sect 4.4-3&4. Further discussion took place regarding hours, numbers of clients and employees. Conditions were set, the hearing was closed and the meeting resumed wherein the Board unanimously voted to grant the Special Permit with conditions. The following are the written findings and conditions:

- 1.) The applicants are proposing a holistic health practice. In 1997 the home occupation zoning bylaws were amended to require an application for a Special Permit for home occupations not meeting the standards of Section 8.5-1A.
- 2.) The applicants are demolishing an old barn on the property and replacing it with a wooden barn from Vermont. The massage/body work and yoga instruction will be held in the barn. The employees will be Rex and Scarlet Jarrell and others they employ for the business. As conditioned, there will be no more than 3 people working at these occupations at any one time.
- 3.) The barn is set well back from the road and from any neighbors. The occupation would not generate noise.
- 4.) The applicants propose to use an existing access road on South (or State) Road which has been the traditional access to the metal barn on the property once used for agriculture. The entrance is wide enough for one car at a time and as such vehicles could not enter and leave at the same time. A stone wall abuts the entrance. There is also existing native vegetation at the entrance.
- 5.) Abutters have testified that traffic is fast at this point on South Road, that there is a curve in the road by the entrance, and the fact that the entrance is at the top of a hill reduces visibility for drivers on the road.
- 6.) There is another access road to the property further south, used to access the house. If the current access proves to be problematical, the barn could be accessed through this other drive.
- 7.) Number 3 of Section 8.5-1A provides that "It generates no additional traffic". There will be an increase in traffic in the immediate neighborhood entering and leaving the proposed existing drive, but the Board finds that, as conditioned, it will not be more detrimental to the neighborhood and Town. As conditioned, the granting of this permit will not cause traffic congestion, impair pedestrian safety, or overload existing roads. The conditions below relate to this issue.
- 8.) The applicants propose to be able to have clients from 7 AM to 9 PM, not necessarily to work all these hours but to be flexible for themselves and their clients. They propose a maximum of 2 yoga classes a day, averaging below 10 people per class. 10 or fewer clients a day are proposed for body work
- 9.) There is ample off-street parking space on the property provided for clients.
- 10.) The applicant is entitled to a sign as long as it is on site and does not exceed 4 sq ft and a sign permit is issued.

Conditions:

1. The applicant must obtain approval from the Board of Health for their requirements.
2. The hours are limited to beginning at 7 AM and ending by 9 PM Monday through Sunday.
3. No more than 3 people, including Rex and Scarlet Jarrell, may work at the occupation at any one time.
4. The proposed entrance leading to the barn from South Road must be brush cut to provide good sight lines and must be widened to be at least two cars wide. If this widening involves removing part of a stonewall, a special permit must be obtained from the Planning Board. Planning Board approval for the widened curb cut must be sought, and any other approvals required by the Town and State.
5. The terms of the Special Permit for this home occupation will be reviewed in 6 (six) months time, particularly to ensure that the entrance is working well.
6. This Special Permit is granted to Rex and Scarlet Jarrell. Any new lessee or owner of the property seeking to do a home occupation must apply to the ZBA.

Abutters David and Laura Douglas and a neighbor came to the hearing at 8, after the hearing had been adjourned, presuming it was at that time. A second notice sent out had stated the new 6:30 PM time and date. ZBZA regrets this inconvenience.

7:15 Continuation from May 30 of 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: 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. *Correspondence: 1) Jeffrey M. Kaye for Stoney Hill Farms Homeowners Association*

The Silvas joined the Board. There was no new correspondence. Bob Schwier hadn't been able to make the site visit. Eric explained the layout. Roger again explained that he and Gloria would like to retire elsewhere, sell their house, but come back to stay with their son a few months of the year. Richard was hoping to rent it affordably when they were not there. He then said, if my application could jeopardize other lots for youth, he will withdraw. Eric replied that that has not been a part of what the ZBA has considered at this hearing, so they would not be "hanging their hats" on it in a decision. Larry referred to the letter that Dale Julier was trying to find that stated the lots as part of SHFRA would need architectural review from them, the point being the new youth lots should follow the conventions of the Association. Tucker said if you read the staff notes, LUPC statements and the minutes of the revised 1996 MVC application, it's clear the intent was for these lots to come under the Associations regs. He pointed out Michael Colaneri's statements that these lots were not appropriate for multi family use.

Tucker then said he supported what the Silvas were trying to do and supported affordable housing, but he felt allowing just the affordable lots the ability to have an apartment was not fair to the rest of the Stoney Hill community, as they couldn't and they were trying to preserve open space in their community. He said that if this is something the Association would like to do, i.e. be able to build accessory apartments on garages or studios, they could go to the Planning Board and the MVC. The West Tisbury apartment bylaw on under 3 acre lots didn't exist in 1996. Richard said, I can add on, but not have an accessory apartment? Yes, they could apply to add on to the building Inspector, and if appropriate, the ZBA too. Could he build just a garage? Again yes after applying for the permits. Bob Julier felt it said in their charter that any accessory buildings went through their ARC. The question of withdrawing came up again. The Silvas

decided to withdraw as they didn't feel they would get the 4 votes necessary for a granting. The Board voted to withdraw without prejudice so the Silvas would be able to come forward with an addition or garage plan without waiting 2 years. Eric concluded by saying to the Silvas: This is not personal, he's in favor of apartments, but it's a question of fairness: if the other 32 plus lots can do less with their property than those who got their properties wholesale, it doesn't seem fair.

7:35 An application by Carole Hunter on behalf of Jerome Kenney for a Special Permit to relocate a 380 sq ft one-story detached garage to need 10' of setback relief on the south bound. Sect. 11.2-2 of Zoning Bylaw; Map 26 Lot 12.4; 560 Old County Rd; RU Dist. *No Correspondence.*

Eric Whitman recused himself, as while he is not connected to this project, he does do other work for the Kenney family. Tucker Hubbell was acting Chair. Designer Carole Hunter and builder Jeff Kontje joined the Board. The house on the lot is currently being renovated and expanded. Re-siting the garage would work well with the new development. The affected abutter is Mr. Kenney himself. No objections at the hearing. The board voted unanimously to grant the special permit on the grounds it would not be more detrimental to the neighborhood and town.

7:50 An application by Hutker Architects on behalf of Peter and Anne Standish for a Special Permit to build a 356 SF one-story garage within 500 ft of Firetower Hill. Sects. 6.3-3B and 6.3-5B (Special Places Dist.) of Zoning Bylaw; Map 11 Lot 124; 26 Bea Lane; RU Dist. *No Correspondence:* Jim Cappuccino of Hutker Architects represented the application. Melanie Pappas, an abutter also living on Bea Lane, attended to learn more about the project, and at the end commented she had no problem with it. The ZBA found that the 356 SF, 13' high garage was modest in size and would not break the tree line of Firetower Hill and voted unanimously to grant the Special Permit.

8:05 An application by Chuck Sullivan on behalf of David Blackman for a Special Permit to build a 24' by 24' garage with living room and loft bedroom above (over 676 sq ft accessory structure on under 3 acres). Sec. 11.2-2 and 4.2-2E of West Tisbury Zoning Bylaws. Location is Map 29 Lot 53; 114 Waldron's Bottom Rd; RU Dist. *Correspondence: 1) Abutter Domingo Pagan, who was concerned with the amount of vegetation to be taken down to reach the garage doors.*

Architect Chuck Sullivan and applicant David Blackman joined the Board at the table. According to a photo they submitted, there already is substantial clearing in that area. The applicant and his agent submitted they had received Board of Health approval that the septic capacity is adequate for the proposal. The structure meets setback and other dimensional requirements. The 2-car garage is built into an incline, the living room is 24' by 30' and the salt box floor above that is 360 SF.

David Blackman said he had young adult children who liked to visit, and other friends and relatives visiting with them. This would provide space for the younger members of the family to have space of their own. He wants to use the garage for a car and to store other equipment such as a brushcutter, tools, etc. Larry made sure the applicant understood section 4.2-2E which states : "The bedroom must be used in accordance with Section 4.2-2E: "Detached bedrooms, with or without toilet facilities, shall be considered part of the dwelling unit with which they are associated, and may be rented only to the same household that occupies that dwelling unit. Such bedrooms may not be rented to boarders or to paying guests of a lodging facility or any other

establishment (including owner occupied dwellings) providing sleeping accommodations for transient guests.” With this condition, the ZBA voted to grant the Special Permit.

OTHER CORRESPONDENCE

Out: From ZBA to Ernie Mendenhall re Jarrell and other hot tubs
From ZBA to Selectmen re Walpole’s 40B letters
From ZBA to Nancy Dole, copy to Ernie and Pl. Bd.

In: Nancy Dole reply

The meeting was adjourned at 8:30.
Respectfully submitted, Julie Keefe, Board Admin.