

**WEST TISBURY ZONING BOARD OF APPEALS**  
**Minutes for Thursday, February 17, 2022 meeting**  
**Online meeting via ZOOM- @ 5:00 PM**

**Present:** Larry Schubert, Julius Lowe, Deborah Wells, Andy Zaikis, Jeffrey Kaye and Casey Decker

**Absent:** N/A

**Also Present:** Pam Thors, Bd. Administrator, The BenDavids, Elizabeth Carroll, Wayne Greenwell, Peter Mauro, Amy Waltz, Elizabeth Joakim, Jack Cushman, Peyton Wallace, George Sourati, Wendy Nierenberg, Pat Kreger

**5:00 pm (Continuance)** A Public Hearing on an Application for a Special Permit from Alexander BenDavid to operate a Service Business, (landscaping and power-washing), in a residential neighborhood under Sections 8.5-2 (Non-residential Uses in the RU and VR Districts) and 3.1-1 (Use Table), of the Zoning Bylaws at 43 Old County Rd., Map 10, Lot 18.1, RU District.

Larry read the Hearing Notice and said that the board had held a site visit on February 5<sup>th</sup>.

Alex stated that after many phone calls they finally found a place to store 95% of their work vehicles. He said they are leasing a pit site from month to month and will be able to keep 2 dump trucks, landscaping trailers and other heavy business equipment there. He said that the only work vehicles they will need to store on their property are Alex's commercial/personal use vehicle and the power washer trailer. He stated that the only daily traffic will be 2 employees driving in to pick up the power washing trailer which will be attached to his commercial/personal truck and the employees returning them to the site.

Larry asked if the workshop on the property will continue to be where smaller landscaping tools will be stored.

Alex said they will be stored there but is planning to load all tools necessary for the day on his truck, which will go out with the power washing trailer. This should cut down on trips in and out during the workday.

Deborah asked how often power washing is done. Alex said that power washing is done every day during the work week.

Jeffrey noted that the BenDavids seem to have addressed neighbors' concerns as best as they can.

It was verified that there is no new correspondence.

Wayne Greenwell applauded the BenDavids for the initiative they took, and asked whether the lease is permanent.

Alex said he rents the pit space on a month to month basis but assured the abutters and the board that if anything were to happen with the lease, that he would address it. He added that 99% of the loud noise will not be happening any more. He said that there may be other equipment on the lot occasionally but that it's important for the neighbors to know that this would be for his personal use only.

Wayne Greenwell asked about the compressor on the property. Alex stated that his is the quietest available on the market.

Larry reiterated that noise on the property will not be from the Service Business.

Wayne asked if there is a way to contain whatever it is that is currently making noise on a regular basis.

Larry said it is important for all to realize that it is the job of the ZBA to review the home business but not to get involved with noise from personal activities on the lot. He reminded all that we are all neighbors and letting each other know if there is excessive noise that is bothering them that they communicate that.

Alex stated that anything creating noise now will be from his personal use of equipment. He noted that the has mowers, hedge trimmers, barns with horses and goats as well.

Pam noted that abutters can be rest assured that conditions of approval will only include the one large truck and power washing trailer and that all other equipment is off the table.

Wayne asked when the equipment will be moved. Alex said it should all be gone by the end of the week.

Deborah noted that vehicles occasionally coming in to do work on the Ben David property are accommodated as a matter of right.

Elizabeth Carroll asked if there is a guarantee that trucks won't be coming in and out and whether materials for clients will continue to be dropped off on the property. She also voiced her concern for changes made to the surface of the Special Way.

Larry stated that he had looked into the documentation on the legal access to the property. He said that the subdivision plan had been approved in 1982 and that Stoney Hill Path wasn't added to the list of Special Ways until 2008. He went on to say that the restrictions now are "no paving, no concrete, etc." do not affect this Special Way.

Elizabeth again voiced her concern for preserving the Special Way.

Larry stated that routine maintenance is allowed but concrete and asphalt products are not. It was raised as a possible question to the Planning Board as to whether crushed stone or RAP is allowed.

Larry asked Alex if these types of materials will be delivered to the property. Alex stated that bluestone for clients will be delivered only to the pit site. He did add that power washing liquids will need to be delivered to the property every two weeks.

Wayne asked if fixing the fence between his property and the Ben David's is still on the table.

Alex said he still plans to fix this fence but that it may take a little longer since he now has the cost of the pit lot to consider.

Elizabeth asked if trucks moved to the pit site will be brought back to the lot. Alex said that the only daily traffic will be his two employees coming in to pick up the truck and power washing trailer.

Wayne asked about the bobcat. Alex said it is stored at his pit site but will be brought back occasionally for personal use and maintenance.

*D. Wells and J. Lowe move and seconded a motion to close the Public Hearing and open the Board Meeting.*

Alex stated that the hours of operation for the business will be Monday through Saturday from 7am to 6pm in season. He said that there will be only 2 employees and that no other business vehicles would be on the property on a daily business other than the truck, trailer and 2 employees.

Larry noted that the delivery of power washing liquids every two weeks will not be considered a use "on a daily basis". He went on to say that he always appreciates when neighbors can come together to make concessions that de-escalate situations.

He noted that this is the way the community supports families and diversity.

Deborah agreed with Larry that young families are very important to the vitality of the community.

Julius commented that working with neighbors is always the best route to take.

Jeffrey noted that it is a matter of good faith now between the neighbors.

Larry thanked everyone for their participation.

*A roll call vote was taken with the following resulting votes;*

*L. Schubert-yes, J. Lowe-yes, D. Wells-yes, A. Zaikis-yes, J. Kaye-yes, C. Decker-abstained.*

**5:35 pm (Continuance)** A Public Hearing on an Application for a Special Permit from Christina Hsu & Peyton T. Wallace to allow construction of a 12' x 26' in-ground pool and bringing into compliance an existing 248 sf shed which will house the pool equipment requiring 5 feet of west side yard setback relief and 1 foot of south side yard setback relief under sections 8.5-4C and 11.2-2 of the West Tisbury Zoning Bylaws at 63 Otis Bassett Rd., Assessors' Map 17, Lot 16, RU District.

George Sourati, engineer for the applicant shared a google map showing the 1 acre lot on Otis Bassett Rd. The Site Plan was also reviewed. The shed is shown 49' from the SE lot line and 45' from the SW lot line. The Proposed pool is surrounded by 4' of patio on three sides and 10' of patio on the side adjacent to the rear lot line. The existing shed is planned to house the pool equipment. The pool itself is compliant with all setbacks.

Deborah asked where the septic is located. George pointed out that it is in the Northeast area of the lot.

The correspondence was reviewed. There were three letters in opposition to the application.

George noted that one letter was from an abutter who is 350' from the property line. He clarified that the variance is only for the shed, which will be sound insulating; and not for the pool.

Larry Cohan noted that another pool in the vicinity of his lot is responsible for a lot of noise and that pool noise should not be discounted.

George showed photos that indicate a buffer of woods between the Wallace property and the Joakim property. HE showed a cross section that he had drawn indicating the various heights of evergreen screening and the results.

Pat Kreger, an abutter, asked if the plans are supposed to be showing what is presently there. She expressed her opinion that they do not represent the current lack of screening.

Jeffrey asked what the use of the pool would be like.

Peyton said that they live here year-round and only they and their two kids will use the pool. He clarified that they do not rent the property.

Andy asked if the shed could easily be moved.

Peyton said it is built on pilings.

Jack Cushman disagreed that the site plan presented is current. He asked how the pool will be heated.

George said he is not sure but that the equipment will be housed in a soundproof shed in compliance with the pool bylaw.

Various ideas to reduce the impact of the project on the abutters were discussed. George reiterated that this is what his client would like to do.

Elizabeth Joakim, the abutter who stands to be impacted the most, said that the shed was not built where it was supposed to be and that she would like to see it removed. She said that the Assessor's records show that it was being used as a bunkhouse.

It was ascertained that it would only take a few days for the applicant to put together a proposed landscape screening plan. A site visit to review the plan was suggested.

Peyton said he does not want to upset people and realizes that privacy is important to everyone.

A site visit was scheduled for February 23<sup>rd</sup> at 4pm.

*A motion was made and seconded to continue the hearing until February 24<sup>th</sup> at 5:35pm.*

*A roll call vote was taken with the following resulting votes;*

*L. Schubert-yes, J. Lowe-yes, D. Wells-yes, A. Zaikis-yes, J. Kaye-yes, C. Decker-yes.*

Larry noted that Pam and Jane, the Planning Board Administrator had discussed Section 9.2-1D of the bylaws describing the site plan review process. He said that Pam will be emailing the files for ZBA applications at the same time she files them with the Town Clerk. On the Planning Board's part, they will put the application on their agenda to be heard prior to the ZBA hearing. It was agreed that any application that does not get reviewed by the time of the ZBA hearing will be "deemed a favorable recommendation", by the Planning Board.

The minutes of the February 10<sup>th</sup> meeting were not reviewed but will be put on the agenda for the next meeting.

The email from John Rau in which he resigns from the ZBA effective immediately was read. He has been appointed as an Associate Member of the Planning Board. Larry asked Pam to respond by thanking John for his past and future service to the Town.

Deborah noted that a "Diversity Committee", has been formed in West Tisbury. She suggested that in going forward, the ZBA consider choosing members that may add diversity in experience and length of residency in town, as well as the more obvious ways of adding diversity to Town Employees, Boards and Committees

Different ways of getting the information to perspective board members were discussed.

The Meeting adjourned at 7:00 pm.

Respectfully Submitted,

Pam Thors-Board Administrator