

THE COMMONWEALTH OF MASSACHUSETTS

TOWN OF WEST TISBURY

ZONING BOARD OF APPEALS

NOTICE OF PUBLIC HEARING

IN ACCORDANCE WITH THE ZONING BY LAWS YOU ARE HEREBY BEING NOTIFIED OF A PUBLIC HEARING ON THE APPLICATION OF:

Daniel C and Beth Ann Serusa

FOR A SPECIAL PERMIT AS PER THE FOLLOWING NOTICE

A Hearing will be held on Wednesday, June 7, at 7:30 PM at the Town Hall to act on the following:

An application for: 1) a Special Permit to allow the construction of a garage/workshop within 30 feet of the rear lot line on a parcel of land containing less than the minimum lot requirements for a non-habitable, accessory building, pertaining to Sections 4.110, 4.123, and 4.124 of the West Tisbury Zoning Bylaws; and 2) A Special Permit to allow a welding business as a Home Occupation. The location is Map 16, Lot 32, 36 Oak Knoll Road.

THE COMMONWEALTH OF MASSACHUSETTS

TOWN OF WEST TISBURY

BOARD OF APPEALS

June 19, 2000

DECISION OF THE BOARD OF APPEALS ON THE PETITION OF DANIEL C AND BETH ANN SERUSA

A Hearing was held on Wednesday, June 7, 2000 at 7:30 P.M. at the Town Hall to act on the following:

An application for a Special Permit for: 1) The construction of an 840 SF garage/workshop within 30 feet of the rear lot line on a parcel of land containing less than the minimum lot requirements for a non-habitable, accessory building of over 676 Sq Ft pertaining to Sections 4.1, 4.2-2(D)4 and 11.2-2 of the West Tisbury Zoning Bylaws; and 2) a welding business as a Home Occupation, pertaining to Sections 8.5-1 and 8.5-2 of the West Tisbury Zoning Bylaws.

Present: Eric Whitman, Jim Rothschild, Tucker Hubbell, Bob Schwier, Tony Higgins
Associate Members Present: Nancy Cole
Absent: Toni Cohen

The Board of Appeals unanimously GRANTED, with CONDITIONS, this request to allow: 1) The construction of an 840 SF garage/workshop within 30 feet of the rear lot line on a parcel of land containing less than the minimum lot requirements for a non-habitable, accessory building of over 676 Sq Ft pertaining to Sections 4.1, 4.2-2(D)4, and 11.2-2 of the West Tisbury Zoning Bylaws; and 2) a welding business as a Home Occupation pertaining to Sections 8.5-1 and 8.5-2 of the West Tisbury Zoning Bylaws on the following grounds:

- 1) The occupation is clearly secondary to the use of the premises as a residence for the applicants. The applicants have rented and lived in the house on the lot for two and a half to three years and bought the house and its lot in May of 2000. The applicant has submitted that there will be no exterior storage of materials for welding on the property, and that all equipment or vehicles will be scheduled for work dates and kept in the fenced in area drawn on the plot plan.
- 2) There has been no plan submitted proposing an exterior change or construction of a building which would alter the residential/agricultural appearance of this Rural neighborhood. The proposed garage/workshop is in character with the general pattern of development in the neighborhood and Town and would conform to the dimensional standards previously and generally employed. The 10' x 10' garage doors will face east and the exhaust vents will face north toward the rear lot line,

which is also the dividing line between the MB (Mixed Business) and RU (Rural) zoning districts.

- 3) No items are offered for retail sale.
- 4) No more than three persons are employed at this Home Occupation on this lot as the applicant proposes to be the sole employee.
- 5) The applicant has submitted that there will be no track machinery allowed on the property that would produce vibration from moving across the property. (i.e. bulldozers, excavators, etc). The applicant has submitted that all work will be done in the garage which will be insulated which will reduce noise from within, and that work will be done with the doors and windows closed. The applicant has submitted that all air removed from the building will travel through collector filters to remove contaminants and odors from the air inside before it is exhausted to the outside.
- 6) The applicant has submitted a landscaping plan denoting the proposed fencing and vegetation screening which shield the workshop/garage area from the street and his abutters to the east and west. There is already in place screening from the north.
- 7) The applicant has submitted that customer parking will be off-street and in front of the fenced in area on his property and the applicant has stated that drop off and pick up times will be from 9 AM to 3 PM, and there will be no more than two vehicles in excess of 10,000 pounds GVW behind the fenced-in area at any one time.
- 8) There will be no trucks or equipment or any sort of vehicle on the premises awaiting welding or other work unless they are behind the screened in area. Any parked vehicle awaiting welding work on the premises must be able to fit completely into the garage.
- 9) The applicant has submitted that he estimated truck traffic to be at about 4 vehicles per week and the Board finds that this approximate number would not alter the amount or pattern of traffic already generated by the neighborhood and Town and has deduced that car traffic would not have any more impact on the neighborhood and Town than what is already generated in the neighborhood for residential uses.
- 10) The applicant has recently finished putting in a Title V septic system on the property and is ready to grade and landscape. He has stated to the Board that his neighbor to the east has a depression in his property and the house is built into the ground and that Mr. Serusa plans to grade so runoff from his property will not flow into the lower area next door.
- 11) The applicant has stated that he has not and will not store hazardous materials on the property and that he knows how to and does dispose of them properly to prevent the pollution of groundwater. The applicant is also a well driller and knows of the hazards of well contamination. The applicant has submitted that he will install collector filters to remove any contaminants from the air inside before it is exhausted outside.
- 12) One of the general purposes of the West Tisbury Zoning Bylaw amended in 2000 is to create a document that provides for the well being of the lower and middle income residents of West Tisbury. ("The Town of West Tisbury values being a

diverse community that accommodates residents of varying income levels.” Section 4.4, Housing), particularly witnessed by the affordable housing provisions. The Town of West Tisbury has traditionally regarded the use of one’s own residential premises as a base for their small businesses as commonly incidental to the main use of the residential structure. The Board finds that this traditional regard for home-based businesses enables many of its residents to make a living.

- 13) The stipulations regarding the granting of Home Occupations by Special Permit, including but not limited to those for screening, noise, traffic, etc., indicate that this Bylaw is a document designed to condition an occupation or home business which could create traffic, noise, odor, etc to be compatible with the RU District.
- 14) The purpose of the RU District is “to maintain the Town’s historic pattern of rural settlement... “ as is also well defined in the Town’s Master Plan and Open Space Plan. The Board finds that a welding business is part of the tradition of farming and development of a rural community, being that the maintenance and repair of farming equipment has been and is dependent on welding, much like blacksmithing before it, and now.
- 15) The Board finds that to interpret the RU District as strictly a place for residential development would mean relegating the district to creeping suburbanization which is not the intent of the Bylaw, Master Plan or Open Space and Recreation Plan.
- 16) The Board finds that Mr. Serusa’s craft, and his prowess and regard for safety in this craft, are an asset to the Town. Mr. Serusa’s welding business involves the repair and maintenance of agricultural equipment, equipment for construction which the Town and the Island Community depend upon economically (and for having built their houses), and for the repair and maintenance of boating and other recreational equipment such as boat trailers, and for the repair and maintenance of emergency vehicles and equipment.
- 17) The Board finds that it is a well known problem on Martha’s Vineyard and West Tisbury that there is very limited space to lease for business and light industrial purposes and that the West Tisbury community has traditionally condoned small businesses as a secondary use of a residential property .
- 18) It is the conviction of the Board that Mr. Serusa’s business can be regulated as above to conform to the intent and provisions of the West Tisbury Zoning Bylaw and will not be detrimental to the community as set forth in Section 3.2.

Board Members voted as follows:

In Favor: Whitman, Schwier, Rothschild, Hubbell, Higgins, Cole

The CONDITIONS are:

- 1.) The business hours are from 8 AM until 5 PM. The drop-off, pick-up hours are from 9 AM until 4 PM. This is a change from Mr. Serusa’s submitted proposal of from 9 AM until 3 AM with regard to safety as the school buses discharge their passengers in the Oak Knoll area from approximately 2-3:30 PM.
- 2.) As soon as the foundation for the proposed building is in, and before the development and operation of the business may continue with the new

garage/workshop, the screening of 6 foot high fencing and trees and other vegetation as indicated on the site and Landscape Plan submitted and signed by Dan Serusa on June 7, 2000 must be in place. There will be an addition of 2 more trees to be added to the 8 trees to be planted along the eastern lot line as shown on the submitted plan. The trees are to be evergreens and at approximately 5-6 feet in height at the time of planting.

- 3.) It is not necessary that the building be "finished" in the sense of being shingled, but must be water-tight and have the doors and windows installed before the welding occupation can commence in the new workshop.
- 4.) The statement of intent submitted and signed by Dan Serusa on June 7, 2000 is part of the conditions of this Permit and must be conformed to.
- 5.) There will be no welding work performed as a business transaction conducted outside of the workshop. The doors and windows will be closed while the welding work is conducted or work which is noxious, or excessive noise producing.
- 6.) The exhaust blowers must be located on the north side.
- 7.) The applicant must regulate his business so that there is no "drop-in", drop-off of large equipment on the property that would exceed the number of vehicles allowed on site as conditioned in this document and in the Bylaw. Jobs must be scheduled.
- 8.) Six wheel dump trucks are to be the largest items to fit through the ten-foot wide doors. There is to be no unloading of heavy equipment from trailers or tows, etc. on the street.
- 9.) Work on large pieces of equipment which cannot fit into the garage/ workshop must be done off-site. Mr. Serusa will have to travel to the job, rather than the job being delivered or driven to his Oak Knoll property.
- 10.) There is to be no storage of excess metal outside of the screened off area.
- 11.) All of the regulatory material contained in the Findings above must be adhered to by the applicant.
- 12.) The granting of this Home Occupation is specifically to the applicant, Daniel J Serusa, and is not a Home Occupation granted to the premises at Map 16, Lot 32.

Any person aggrieved by this Decision of the West Tisbury Board of Appeals may appeal to Superior Court and must notify the Town Clerk of the action and submit a copy of the complaint within twenty days after the Decision has been filed in the office of the Town Clerk. **Date filed June 19, 2000. Case File 2000-19.**

No Variance or Special Permit shall take effect until:

1. A period of twenty days has elapsed from the date of the filing of the Board's written Decision with the Town Clerk, and the applicant has received a copy of the Decision bearing the certification of the Town Clerk that a period of twenty days has elapsed from the filing of the Decision and that no appeal has been filed, or the appeal has been denied or dismissed.
2. The **Certified Decision** and the **Certificate of Granting** are recorded at the Dukes County Registry of Deeds and the recording fee has been paid at the Dukes County Registry of Deeds.

3. A receipt for the recording stamped by the Dukes County Registry of Deeds has been returned to the Building & Zoning Inspector of West Tisbury or to the office of the West Tisbury Board of Appeals who will turn over the receipt to the Building and Zoning Inspector.

This Lot is described in Book 790, Page 184, and dated February 18, 2000 and recorded in the Registry of Deeds, County of Dukes County. The location is 36 Oak Knoll Road, Map 16, Lot 32. The records of this case are filed in the West Tisbury Town Hall.

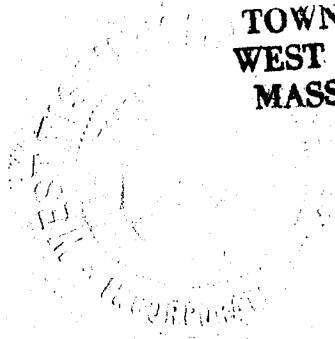
Julie Keefe
Administrative Assistant
West Tisbury Board of Appeals

*I certify That no appeal
has been filed.*

July 10, 2000

PMWliting

**TOWN CLERK
WEST TISBURY
MASS. 02575**



Perusa

June 7, 2000

Map 16, Lot 32

RECORD OF VOTE

The following members of the Board of Appeals vote to grant a special permit subject to the above-stated terms:

Eric C. Wet

Regis W. Hillbell Jr.

Robert M. St

Tommy King

[Signature]

Genny M. [Signature]

The following members of the Board of Appeals are in opposition to the grant of the special permit:

Filed with the Town Clerk on

June 19, 2000

Prudence M. Whiting
Town Clerk

Copy of Findings and Decision mailed to:

Ernie Mendenhall

All work done on the premises for welding services will be done in the proposed insulated garage; no trucks, or equipment of any sort of vehicle will be allowed on the premises for work to be done unless it completely fits in the garage. There will be no track machinery allowed on the property that would produce vibration from moving across the property for welding services to be performed, i.e. Bulldozers, excavators or army tanks.

All air removed from the building will travel through collector filters to remove any contaminants from the air inside before it is exhausted outside. There is no exterior storage of materials for welding on the property. All equipment or vehicles are scheduled for work dates and will be kept in the fenced in area drawn on the plot plan. There will be no more than two vehicles in excess of 10,000 pounds GVW in the fenced in area for welding services at any time. Customer drop off and pick up time will be from 9:00AM to 3:00PM. Customer parking will be in the front of the fenced in area for momentary parking and off street.

Traffic generated for welding services would be estimated at four trucks per workweek.

We are asking for business hours to be from 8:00AM to 5:00PM Monday through Saturday.



June 7th, 2000