

West Tisbury Zoning Board of Appeals
Minutes: June 7, 2000

Present: Eric Whitman, Tucker Hubbell, Bob Schweir, Jim Rothschild, Nancy Cole, Tony Higgins

Absent: Toni Cohen

Also Present for All or Part of the Meeting: Ernie Mendenhall, Vincent Maciel, John Powers, Linda Carroll, David Merry, Kent Healy, Michael Colaneri, Danny Serusa, Beth Serusa, Adele Schonbrun, Stanly Schonbrun, Cynthia Eakin, Milo D'Antonio, Karen English, Thaw Malin III, Donnie Mills

Hearing: Daniel C and Beth Ann Serusa Re 36 oak Knoll Road, Map 16, Lot 32.

Request for a Special Permit to 1.) allow 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; and 2.) allow a welding business as a Home Occupation, pertaining to Sections 8.5-1 and 8.5-2.

Stanley Schonbrun submitted a letter to the Board which Nancy Cole read aloud, and he submitted a petition with 18 signatures against the granting of permits for this application.

Dan Serusa submitted a written proposal of measures he would undertake to conform his building and occupation to the requirements of the Zoning Bylaw. Chairman Whitman opened the hearing to comment and David Merry spoke in support of Mr. Serusa's application stating he was a good businessman, neat and clean. He said he often drove in the area and did not observe an increase in traffic from the welding occupation.

Mr. Schonbrun said that the granting of this application would be against the spirit of the Zoning Bylaws as Home Occupations are allowed if they do not disturb the neighbors. He said this application was for an industrial use, that it didn't fit into the spirit of the bylaw.

John Powers said he was attending the meeting to support Dan Serusa; that the way in which he plans to use the property supports the spirit of the bylaws. He said Dan Serusa owned the property now and now had the control to correct former mistakes.

Dan Gouldrup said that he supported Mr. Serusa's effort; that he lived right across the street, and had not been bothered by excessive noise.

Building and Zoning Inspector Ernie Mendenhall spoke, saying that West Tisbury historically supported Home Businesses. He suggested a year's trial; that Mr. Serusa presents a plan, sticks to it and then is under a Review Period. Mr. Mendenhall added, however, that once the building is built, it would be a big investment on the applicants part and punitive to deny him.

approval with reluctance. Eric Whitman said he voted yes out of a belief in Mr. Serusa conforming his work to the neighborhood and because of the well known problems of the blue collar worker needing to use his premises for their businesses for lack of affordable, or any, business and industrial space. Tony Higgins spoke for the continued mixed use of neighborhoods, saying he had always been against the creeping suburbanization of West Tisbury. Tucker Hubbell stated that he would welcome Dan Serusa in his neighborhood; he had a busy religious camp and a busy Inn as *his* abutters. H said he could appreciate the concern over traffic, and felt that the conditions would resolve the neighbors' issues.

The findings and conditions are as follow:

- 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.

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.

West Tisbury Zoning Board of Appeals
Minutes: May 10, 2000

Present: Eric Whitman, Tucker Hubbell, Nancy Cole, Bob Schwier, Jim Rothschild

Absent: Toni Cohen, Tony Higgins

Also Present for All or Part of the Hearing: Vincent Maciel, Dan Serusa, Beth Serusa, Adele Schonbrun, Stanley Schonbrun, John Powers, Cynthia Eakin, Kent Healy, Julie Keefe

Hearing: Continuation for Daniel C and Beth Ann Serusa for 36 Oak Knoll Road, Map 16, Lot 32. Request for a Special Permit to allow the construction of an 840 Sf garage/ workshop within 30 feet of the rear lot line (abutting the Business District) on a parcel of land containing less than the minimum lot requirements for a non-habitable, accessory building over 676 Sf, pertaining to Sections 4.110, 4.123 and 4.124. **Further Correspondence:** abutter James McDonough, In Favor.

Chairman Whitman opened the Hearing continuation and stated that the hearing was still open to public comment. He said that the Board had visited the Serusa site and had a good look at the property and the neighborhood. He asked Dan Serusa to continue with his presentation. Mr. Serusa said he had alternative siting ideas: One would be to site the garage so that the door faces the rear of the property and another would be to stay within 50 feet of the lot line and rotate the building a quarter turn.

When asked, Mr. Serusa replied that the garage door would be steel with foam fill insulation and that he would limit his working hours and drop offs to starting at 8 AM. It was then discussed that Vineyard Gardens was bound by special Permit Conditions to not work before 7 AM, and that the Board would contact them if the abutters wanted to complain. It was discussed that large equipment owners would have to be notified that work must be done on their premises. Mr. Serusa said that his jobs aren't just parked on the site waiting for repair as he needs to schedule and order steel for jobs.

The applicant was told that should he acquire the right to do the welding on his property, he would have to make concessions for lessening noise and the impact of larger machinery, such as a backhoe coming in on a trailer pulled by a ten wheeler truck. It was discussed that stockade fences with trees planted on the neighbors side would serve as visual and sound barriers. Mr. Serusa was told that he would need to submit a site plan with fences and gates laid out on it, that essentially he would be boxing his work area in.

Stanly Schonbrun said that it was all a moot point as Mr. Serusa did not and had not applied for a Home Occupation Permit. The Assistant said that the Serusas had the right to apply for a garage/workshop independently from whether or not they possessed a Certificate of Use and Occupancy from the Building and Zoning Inspector permitting their Home Occupation; that permitting the Home Occupation was a separate issue as they had the right to build a garage for many purposes other than a Home Occupation. She said that the Serusas had applied to build a garage and that it wasn't until two days

before the hearing, when Mr. Schonbrun and others called and wrote, that the Board and its office were made aware of the extent of Mr. Serusas business on the site or of the neighbors concerns. Chairman Whitman said he hadn't realized that the application did not include a request for a Home Occupancy Permit. He suggested that the Board be able to continue at this time with considering the Home Occupancy issue along with the permitting of the structure, as just such a hearing with the same concerned parties present was the method by which that permitting process would be heard. Mr. Schonbrun did not agree with this, saying he wanted the Home Occupation issue dealt with at a future hearing as another application. The Board agreed as legally the Home Occupation application would need to be advertised.

The Board and the Serusas discussed what steps they should take at this point. They could withdraw the application and build an under 676 Sf structure meeting setbacks; continue with this hearing and have the application acted on; reapply for a Home Occupation Permit along with the request for the garage; or continue the hearing a week to consider these options. Chairman Whitman told the Serusas it might be better if the Board could consider both requests at the same time rather than acting on the garage request alone tonight. Dan and Beth Serusa decided to withdraw the current application in order to resubmit it with a request for a Special Permit for a home Occupation. A tentative hearing date of June 7th was set.

The meeting was adjourned at 8:35.

Respectfully submitted, Julie Keefe, Admin Asst

West Tisbury Zoning Board of Appeals
Minutes: May 3, 2000

Present: Eric Whitman, Bob Schwier, Tucker Hubbell, Jim Rothschild, Tony Higgins, Nancy Cole

Absent: Toni Cohen

Also Present For All or Part of the Meeting: Helen Brown, Beatrice Amaral, Jim Hart, Anthony Lewis, Derril Bazy, Billy Megan, Dan Serusa, Beth Serusa, Vincent Maciel, Cynthia Eakin, Phyllis Costella, Janice Sparks, Adele Schonbrun, Stanley Schonbrun, Julie Keefe

Continuation of Hearing from April 5: James A Hart Re 56 Indian Hill Road, Map 16, Lot 82. Request for a Special Permit to allow a Home Occupation in the Business District pertaining to Sections 3.136 and 3.241.

Jim Hart said that he understood that the first criteria for a Home Business was to live on the premises. He said he would like to withdraw his current application until he has built a house for his family and they are living there in order to not be turned down by the Board at this date and have to wait two years to apply again. The Board told Mr. Hart that there is a proposed change in the as yet unapproved new Zoning Bylaw wherein up to 2,000 sq ft businesses would be allowed on existing 20,000 sq ft lots in the Business District. Mr. Hart said he was pleased to hear that. He said that at this date, he had committed to building a house for his family on this property in West Tisbury and would go ahead with it. The Board voted to accept Mr. Hart's withdrawal of his application.

Continuation of Hearing from April 19th: Billy Megan for John and Sheila Bernson Re 618 Old County Road, Map 26, Lot 10. Request for a Special Permit to allow the conversion of a garage into a seasonal, detached bedroom with plumbing which will be 30 feet from the lot line, pertaining to Section 4.123. **Correspondence from Counsel Richard McCarron** was read. Mr. McCarron had determined that "...detached bedrooms have become and are commonly incidental to the main use of the residential structure in the Town of West Tisbury." He went on to determine that the only issue here would be setback requirements under Section 4.123.

Board Members discussed that there were accessory, habitable structures along this section of Old County Road in the form of an apartment over a garage and what appeared to be guest houses and detached bedrooms. It was discussed that detached bedrooms will become part of the dwelling unit for the same household in the new Zoning Bylaw. Mr. Megan repeated that his clients wanted only more seasonal bedroom space. It was moved to close the hearing.

Board Members voted to grant a Special Permit for this application, with conditions, on the following grounds: 1) It would not have a material detrimental effect on the established or future character of the neighborhood and Town as the building is already there and the use as an additional bedroom would have no more effect than if the applicant had added a bedroom to his house; 2) the affected abutter voiced that he had no

objection to the project; **3)** the conversion retains the character and dimensions previously and generally employed in the neighborhood because there will be no substantial exterior change; **4)** Town Counsel and the Building and Zoning Inspector had found detached bedrooms in an Agricultural and Residential District to be a permitted use customarily incidental to the permitted main use; **5)** there were other lots in the neighborhood with detached non-conforming habitable space; **6)** alternative plans had been considered by the applicants. **In Favor:** Whitman, Schwier, Rothschild, Higgins, Hubbell. **Abstain:** Cole

The conditions were: **1)** There is to be no renting of this detached bedroom to tenants other than those who are renting the main house. **2)** A heating system may not be installed in the converted garage. **3)** These conditions remain in effect unless superseded by the adoption and approval of a new zoning by law that will nullify these conditions.

Hearing: South Mountain Company for Anthony Lewis and Margaret Marshall Re 125 Middle Point Road, Map 39, Lot 2.21. Request for a Special Permit to allow the addition of a bedroom to an existing 3 bedroom house which will be within 30 feet of a lot line at the nearest corner, pertaining to Section 4.123. Correspondence in favor of this project was received from the affected abutter, Wesley T Ward, Director of Land Conservation, The Trustees of Reservations. Nancy Cole recused herself as her husband works for South Mountain.

Derril Bazy of South Mountain Company presented the Lewis/Marshall application. He explained that the project began as a need for a study on the first floor. He said that it would not be an addition of a bedroom per se as the space would be an extension of a hallway, and not designed as private bedroom space. He said that the northeast side was the logical place for an addition as a kitchen, an enclosed porch and a deck were on the other sides. He further explained that the original site for the house had been placed closer to this lot line due to wetlands considerations.

The hearing was closed. After brief discussion, **members voted unanimously to grant the Special Permit on the grounds that:** **1)** It would not have a material detrimental effect on the established or future character of the neighborhood and Town; **2)** the affected abutter was in favor of the project; **3)** with regard to the Wetlands Protection Act and other Coastal Zone Strictures, the house had been built upland of the buffer zone of the Great Pond and then, consequently, closer to the northeast lot line; **4)** the addition retains the character and dimensions previously and generally employed in the neighborhood by nature of its design and the construction materials to be used and by complying with Coastal Zone height restrictions; **5)** alternative plans had been considered by the applicant.

Hearing: Daniel C and Beth Ann Serusa Re 36 Oak Knoll Road, Map 16, Lot 32. Request for a Special Permit to allow the construction of an 840 Sf garage/workshop within 30 feet of the rear lot line(abutting the Business District) on a parcel of land containing less than the minimum lot requirements for a non-habitable, accessory building over 676 SF, pertaining to Sections 4.110, 4.123, and 4.124. **Correspondence**

not in favor was read from Monte Frank and Stanly Schonbrun. Bob Wittig's phoned comment that he agreed with Stanley Schonbrun's circulated letter was read.

Correspondence in favor received from Kent Healy and Sarah Alwardt was read.

Mr. Serusa explained that he had an existing workshop space 100 feet from his eastern abutter, Monte Frank, and that the new garage would be 150 feet from this neighbor. It would also relocate noise towards Vineyard Gardens, which, he said, was a busy and noisy place. Mr. Serusa explained that he had rented the property for the last 2 to 3 years, had been doing welding as a living on the site, and had just recently bought the property. Eric Whitman asked Mr. Serusa if he had a Home Occupation Permit to do the welding or if he had ever applied for one. Mr. Serusa said no, he didn't know he had to have one. Eric asked if Mr. Serusa repaired large, heavy equipment on the site? He replied yes, that he did occasional work for John Keene, that he repaired bucket loaders. Eric asked how long the big machines would stay in his yard, and was answered that a job usually took 2-3 days. He explained that some of the equipment in the yard now and recently was due to the large amount of septic and landscaping work that had been done on his property; that some of the equipment remained there for further work.

When asked, **Mr. Serusa** said he had on average one ten-wheeler on the property a month and one bucket loader a month. Bob Schwier asked what was the most his proposed building could take. Mr. Serusa said a six wheel truck would fit, perhaps a bucket loader. He said work could be done in Keene's yard for example although it was cheaper and easier for the work to be done on his premises. Mr. Serusa explained that he would put up evergreen screening and fences to screen his yard from the neighbors. He said he was in the process of landscaping, replanting after removing the trees and brush from the property after the septic installation. He said he was waiting to see where the proposed garage would be permitted to be built before he finished with some of the heavy equipment that had remained on his property. He was also waiting to see where the landscaping would be needed. He discussed the problem of grade and subsequent drainage from his lot to Monte Frank's, next door to the east. Mr. Frank's house is built into the ground, there is a depression on Mr. Frank's property wherein runoff flows into it. Mr. Serusa plans to grade to so runoff from his property will not flow into the lower area next door.

Chairman Whitman opened the hearing to public comment. **Mr. Stanly Schonbrun**, an abutter two lots to the east, said that while the Serusa were renting the property for the past two and a half years he hadn't complained about what he considers an industrial use in a residential neighborhood. He had felt that the Serusas would be moving on, but since they bought the property and have an application in for a permanent garage/workshop he wanted to object to a granting of permission to build this structure. He said that Mr. Serusa's business did not qualify as a Home Occupation and questioned if he had a permit for a Home Occupation. He said that the regulations governing this permit should be those for a Home Occupation.

Mr. Schonbrun made the following points: **1)** This activity which should be secondary was taking over the premises; **2)** the changes were overt; **3)** putting the workplace in the

back wont shield the noise; 4) Mr. Serusa has produced excessive noise, vibration and smells. 5) there would be no screening from large trucks and machines; that often you couldn't get by them when they're parked on the road, and that there were often more than four large pieces of equipment parked on and near the Serusa property. 6) there is heavy traffic on Oak Knoll Road because of the Serusa business. 7) Vineyard Gardens (which abuts the Serusas to the rear) is in the Business District, the Serusas are not, and the neighbors shouldn't have to put up with it. He said that the existing welding business does not qualify as a Home Occupation and shouldn't be allowed.

Cynthia Eakin, an Oak Knoll resident in the neighborhood, spoke saying there was a lot of equipment at the Serusa lot, and that work started there too early in the morning; as early as at Vineyard Gardens. She said that when it was hot, the doors were open and smell and noise were noticeable. She said there were a lot of trucks as a result of the business, and that there were kids in the neighborhood.

Jan Sparks, a resident on Old Coach Road, spoke to say she agreed with the letters that had been written against the project. She said she had no objection to a home-based occupation, but that the Serusa property was looking like an industrial site. She said that the straw that broke the camel's back was that the trees and shrub had recently all been cleared from the property and it looked like an industrial site to her. She said she was embarrassed to drive by with guests and was afraid that property values in the neighborhood would go down.

Beth Serusa spoke. She said that they had owned the property for only two months; that they were just beginning to landscape. She said there had been a lot of industry and industrial equipment on the site recently because of all the heavy septic and clearing work being done. She explained that they lived there and wanted there place to look nice, that they had intentions of planting trees and other landscaping where it has been cleared. She said it was their intent to improve the lot and that Mr. Schonbrun would not have to look at a lot of heavy equipment all over the property.

Dan Serusa further explained that an excavator had been left out in front of his property while work was being done. In discussing odors, he said that currently he can't vent in the temporary green-house like structure he's using. He said the smells would be primer or paint and that a filter system and closed doors would stop the odors. He said that he stored no hazardous materials on the property and that he disposed of them properly. He said that he more than most understands about well contamination.

Eric Whitman proposed that the hearing be continued until May 10 at 7:30 in order for the Board to conduct a site visit on Monday at 4:30 at the property. He said that to be fair it should be acknowledged that the septic system had needed to be upgraded to Title V when the property was sold and that the Serusas had had no time to do anything since that land disturbance. Eric then said that Dan needs a home business occupation permit and that technically he's needed it for the last two years.

The minutes of April 26th were approved. The meeting was adjourned at 9 P.M.