

**Joe Tierney** <[inspect@westtisbury-ma.gov](mailto:inspect@westtisbury-ma.gov)> May 1, 2023, 12:40 PM

to me

Dan,

Message received. I was unaware of the requirements of 40A section 7.

Thanks for bringing it to my attention.

Will respond shortly.

Best,

Joe

**From:** O'Connell <[oconnellwv@gmail.com](mailto:oconnellwv@gmail.com)>

**Sent:** Friday, April 28, 2023 7:45 AM

**To:** Joe Tierney <[inspect@westtisbury-ma.gov](mailto:inspect@westtisbury-ma.gov)>

**Cc:** Elizabeth Eisenhauer <[elizabetheseinhauer@gmail.com](mailto:elizabetheseinhauer@gmail.com)>; Paul Caval  
<[tatiemau@gmail.com](mailto:tatiemau@gmail.com)>; Jane Rossi <[planningboard@westtisbury-ma.gov](mailto:planningboard@westtisbury-ma.gov)>;  
[townadmin@westtisbury-ma.gov](mailto:townadmin@westtisbury-ma.gov); [concomm@westtisbury-ma.gov](mailto:concomm@westtisbury-ma.gov); Ilaria Rebay  
<[irebay@uchicago.edu](mailto:irebay@uchicago.edu)>; Richard Fehon <[rfehon@uchicago.edu](mailto:rfehon@uchicago.edu)>; Plapinger, William A.  
<[plapingerw@sullcrom.com](mailto:plapingerw@sullcrom.com)>

**Subject:** Re: 274 Indian Hill Road

Dear Joe,

We are writing to restate our complaints regarding Zoning Bylaw violations at 274 Indian Hill Road detailed in our February 2 email below. Other than your short email on February 6, we have not received any information, explanation or notice as required within 14 days by Massachusetts General Law, Chapter 40A, Section 7.

The ongoing issues with this property have escalated since February, with apparent wetlands violations under review by the Conservation Commission and continuing uses of the property that appear to be in violation of the West Tisbury Zoning Bylaws. We understand that the special permit application before the Planning Board was withdrawn, but the damage to the property in anticipation of building the so-called barn in violation of Section 8.1-1 and Section 8.1-5 remains a very serious concern. And within 200 feet of Indian Hill Road, a "Major Road" under the bylaws, we now see not only the framing for a fence and a commercial size dumpster, but also storage of trunks of trees, earth moving equipment, and a pallet of bags of material. One of the signage issues we raised in February has been temporarily resolved in that the commercial vehicles advertising the property owner's business have not been parked on the site lately. But there is now a large sign on the side of the accessory dwelling, and the large yellow sign remains on the shed, both in violation of the four square foot size limit.

The number of vehicles parked on the site continues to raise questions about the number of dwelling units or bedrooms on site, given the limitations of the three bedroom septic system (see January 11, 2023 letter from The Board of Health to the Planning Board regarding this property). We suspect that some of the areas designated as storage or garage in your square footage calculations in connection with the special permit application may in fact be used as dwelling units. If so, the existing square footage on the site far exceeds the limitations, and any new construction would require a special permit.

Overall, it appears that 274 Indian Hill Road has become a junkyard, with endless storage of building materials, a dumpster and heavy equipment, in flagrant violation of the letter and the spirit of the Zoning Bylaws. Section 3.2 prohibits uses in all districts which are obnoxious, offensive or a nuisance that are detrimental to the community. Section 2.3 articulates the purpose of the Rural District: "to maintain the Town's historic pattern of rural settlement, characterized by large expanses of open space and unspoiled views from the road, a scattering of residences and small business, and clustered development surrounded by open space". Anyone

walking or driving on Indian Hill Road must be shocked by the conditions at 274 Indian Hill Road that seem only to be getting worse.

Please let us know what actions you have taken or plan to take with regard to these issues. And if you are not taking any action, please let us know the reasons for the inaction as required by Chapter 40A, Section 7. We also would appreciate assurance from you that no building permit of any kind will be issued for this property until completion of all remediation of the site and wetlands as required by the Planning Board and the Conservation Commission.

Thank you,

Marilyn and Dan O'Connell

Rebekah and Josh Thomson

Cc: West Tisbury Planning Board  
West Tisbury Select Board  
West Tisbury Conservation Commission

On Mon, Feb 6, 2023 at 12:28 PM Joe Tierney <[inspect@westtisbury-ma.gov](mailto:inspect@westtisbury-ma.gov)> wrote:

Dan,

I am in receipt of your email. I will review and address where warranted.

Thank you for reaching out.

Joe

**From:** O'Connell <[oconnellwv@gmail.com](mailto:oconnellwv@gmail.com)>

**Sent:** Thursday, February 2, 2023 1:52 PM

**To:** [inspect@westtisbury-ma.gov](mailto:inspect@westtisbury-ma.gov)  
**Cc:** [townadmin@westtisbury-ma.gov](mailto:townadmin@westtisbury-ma.gov); Jane Rossi <[planningboard@westtisbury-ma.gov](mailto:planningboard@westtisbury-ma.gov)>;  
[concomm@westtisbury-ma.gov](mailto:concomm@westtisbury-ma.gov); [zba@westtisbury-ma.gov](mailto:zba@westtisbury-ma.gov); Dan O'Connell  
<[doconnellmv@gmail.com](mailto:doconnellmv@gmail.com)>; Rebekah Thomson <[rebekahjthomson@gmail.com](mailto:rebekahjthomson@gmail.com)>; Joshua  
Thomson <[jctmaui@gmail.com](mailto:jctmaui@gmail.com)>; Ilaria Rebay <[irebay@uchicago.edu](mailto:irebay@uchicago.edu)>; Richard Fehon  
<[rfehon@uchicago.edu](mailto:rfehon@uchicago.edu)>; Paul Caval <[tatiemau@gmail.com](mailto:tatiemau@gmail.com)>; Elizabeth Eisenhauer  
<[elizabetheseinhauer@gmail.com](mailto:elizabetheseinhauer@gmail.com)>  
**Subject:** 274 Indian Hill Road

Dear Joe,

We are writing to seek enforcement of the West Tisbury Zoning Bylaw as it applies to 274 Indian Hill Road. We are filing this complaint pursuant to M.G.L. c. 40A, Section 7.

Over the past two years, we have communicated with you via phone, text, and email regarding numerous and ongoing potential violations on this property. As abutters and property owners on Luce Farm Road, we have expressed our concerns and sought enforcement action by the town. So far, the only action taken by the town involved the second curb cut, and we appreciate your efforts to address that situation. Continued vigilance will be necessary to prevent further use of that now paved curb cut.

Now that the property owner has requested a special permit for a large "barn" structure, it is imperative that the town take a fresh and close look at the zoning law violations on the site. Zoning Bylaw Section 9.4 specifically prohibits the granting of a special permit for premises containing zoning law violations.

1. Tree cutting, excavation, filling, and grading.

In June 2022, the property owner began tree removal, earth moving and other site work in anticipation of building the "barn". In texts we exchanged with the owner on June 21, 2022, questioning his removal of many large trees, he admitted that he was starting to clear for a "barn". We immediately exchanged emails with you on June 21 and June 24, 2022, questioning the legality of this tree cutting, but no action was taken. We now realize that this work was in violation of Section 8.1-1 and Section 8.1-5.

2. Stone wall.

As part of the illegal site work discussed above, portions of an historic stone wall have been damaged and/or removed. This is in violation of Section 6.2-5, prohibiting any alteration of a stone wall in the Major Road 200 foot zone, except by Special Permit.

3. Signage.

- Section 8.4-2 prohibits signs in the RU district larger than four square feet. The large yellow sign on the "shed" visible from Indian Hill Road appears to be in violation of this provision. Also, the large signs on the sides of the multiple commercial vehicles

frequently parked on the site and in clear view of the road certainly are larger than four square feet. These advertise the owner's business and appear to violate not only the parking provisions (discussed below), but also the signage provisions.

- Section 8.4-4 (E) does allow for small warning signs, such as "no trespassing", but we question whether there is or should be a limit to the number of such signs. The large number of "private property" and "no trespassing" signs on this property seems to violate the stated purpose of the signage bylaw.

#### 4. Outdoor lighting.

The outdoor lighting fixtures on the accessory dwelling and single-family house appear to violate Section 8.6-1 of the Zoning Bylaw: "All outdoor lighting shall be shielded and pointed downward." This section is intended to "minimize artificial light shining from one property to another" as well as "to preserve and maintain the rural character of West Tisbury" and "eliminate problems of glare and sky glow". Outdoor lighting on the accessory dwelling is visible all night long from the dwelling at 25 Luce Farm Road.

#### 5. Parking.

We have sent multiple emails since December 2020, complaining about the number of commercial vehicles with signage referring to the property owner's business parked overnight and for extended periods (weeks and months) on the property. Your responses relied on Section 3.2 which prohibits more than one unregistered vehicle to be parked on any property, and in your observations, you did not see a violation of that restriction. However, it is implicit in the bylaw that multiple large vehicles are not permitted in the RU District, unless a special permit has been issued for home occupation or service business. If such a permit had been issued (and there is no record of one for this location), parking for the business would need to comply with Section 8.5-1 (B) which requires parking to be screened and prohibits the parking of more than two vehicles in excess of 10,000 pounds GVW. Furthermore, Section 8.2-1 reads: "Off-street parking areas for non-residential uses . . . shall be located behind or to the side of the principal structure to minimize visibility from existing streets. [Emphasis added.]" At least three vehicles appearing to be in excess of 10,000 pounds GVW are regularly parked on the property, overnight and for extended periods. (See attached photo.). And a large box trailer with signage is currently and often parked very near the road, appearing to serve as a marketing effort for the business (thus violating the sign bylaw as discussed above). The owner claimed when asked about these vehicles on the Planning Board site visit that he needs them on site due to ongoing maintenance work on his existing buildings. If that is true, the vehicles should be there only during working hours, and not parked overnight.

We have two additional concerns that we ask you to investigate. First, there is extensive site work, piping, filling and other action taking place this week at the far end of the property, very close to the wetlands. We have notified the Conservation Commission of this. What permitting is required for this activity, either from the building inspector, the Conservation Commission or Massachusetts DEP? Is this site work in violation of Section 8.1 of the Zoning Bylaw? And in violation of the town's Wetlands Protection Bylaw? And second, it appears that the owner plans to construct a fence on the corner of the property next to the road, within the 200-foot area protected by the Major Road provisions of the bylaw. And a large commercial dumpster seems to be permanently located in that area. Are these allowed?

Please take swift action to investigate these violations and issue appropriate enforcement proceedings and written responses to abutters.

Thank you,

Marilyn and Dan O'Connell  
Rebekah and Joshua Thomson  
Elizabeth Eisenhauer and Paul Caval  
Ilaria Rebay and Rick Fehon

Cc: West Tisbury Planning Board  
West Tisbury Select Board  
West Tisbury Conservation Commission  
West Tisbury Zoning Board of Appeals