

WEST TISBURY PLANNING BOARD MINUTES November 6, 2023, pg 1

PRESENT Ginny Jones, Leah Smith, Matt Merry, Amy Upton, John Rau.

ABSENT: Heikki Soikkeli

ALSO PRESENT: (Names as they appeared on the Zoom screen)

Cynthia Aguilar, Nancy Weaver, Hammond Electric, Rachel Eugster, iPhone, Cheryl Doble, Thomas Humphrey, Terre Young, Scotty Young, James Lengyel, Greg Martino, Philippe Jordi, Michele Kelley, Fire Chief Greg Pachico, Ben Robinson, Jeffrey DuBard, Guy Grassy, Keith McGuire, Amy Upton, Casey Haywood, Martha, Connie Alexander, Leslie Eaton, MVPSIS Conf 3, Elaine Miller, Greg Martino, Steve Kelly, Fire Chief Leland, Jane Rossi.

Leah opened the meeting at 5:00 pm and declared a quorum present.

●Public Discussion on Red Coat Hill and Shubael Weeks Road regarding access issues:

Ben Robinson stated the Tisbury Planning Board has a quorum.

Leah explained that the boards were seeking a resolution to the access issues through Red Coat Hill Road and Shubael Weeks Road, both designated special ways. She said the root of the problem is access for abutters along those roads. She thanked Cynthia Aguilar for the in depth research she conducted and provided to the Tisbury and West Tisbury Planning Boards (WTPB). Much of the problem is that the road runs through both towns, several roads have been closed off and they are special ways. The ways have been abused by large vehicles and they have not been preserved. Also, emergency vehicles have been affected negatively by the lack of Tisbury access.

Greg Pachico, West Tisbury Fire Chief, commented that Merry Farm Road is very difficult: it's narrow, not trimmed back, has a lot of potholes, etc. There are a lot of joining roads, and getting fire trucks in there will be an issue and needs to be addressed.

Greg Martino, Tisbury Fire Chief, said the roads and ways are challenging to get through. He is aware of a number of incidents where they have had to access the Tisbury properties from the West Tisbury access which has hindered emergency

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calls. If the emergency vehicle breaks down during an emergency call due to the poor road conditions, that is a big problem. He pointed out that insurance companies have the ability to cancel insurance for property owners that don't provide adequate access for emergency vehicles, adding that the planning boards need to address the situation.

Ginny explained that the board took a bus ride through several narrow roads many years ago to see if a vehicle of that size could travel down some of the less maintained dirt roadways; it was difficult. The roadways in question are confusing with conflicting signage and blind sightlines.

Matt Merry asked what is holding people back from acknowledging property owners' legal access. Greg Martino said a few families have access through Red Coat Hill Path to the state highway. However, it has been blocked off. A lawsuit was filed against the Bilzerians (abutters along the Red Coat Hill Path) but it didn't go anywhere. The property owners can't get permission to clear their way through to the highway. James Lengyel stated that if people have legal access, they should exercise their rights, and he is open to that. Greg Martino said there is a stalemate, and they need mediation. There are some disagreements regarding unfiled easements. The roads are designated special ways and the access has been taken away. Some feel the special ways designation was an illegal taking. Leah asked about the right of way, wanting to know if it allows travel across the Land Bank and IHT properties. Philippe Jordi said the right of way is a legal access for a select group of property owners, and they have every right to use the access. Leah asked why they haven't been able to do so.

Rachel Eugster said it is good to hear the LB and IHT say people have rights to cross. Her family does have that right but it has not been recognized. If the LB and IHT are ready to allow the access, then the problem is solved for 5 households. James said the Land Bank will need to see documentation stating that the easements are valid in order for them to be recognized, and the documents will need to be legally analyzed. He said he understands that Greg and Ken have legal access but they have seen no others.

Jefrey DuBard said there are several access points but more traffic in general is being generated. If currently blocked-off roads are opened, there will be enough entry points that no one road will be over-burdened. Matt pointed out that the

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WTPB can give permission on the West Tisbury side but cannot control what happens in Tisbury. He asked if the Tisbury Planning Board is willing to investigate and resolve this burden, adding that now would be a good time to take care of the issues that have been a problem for years. Ben Robinson said the board only has the power through application approvals. It's up to the owners. They could do something at Town Meeting but can't exercise easements.

Matt said the WTPB granted Callahan permission to build on his lot after the special way was designated so the access was already there. He asked if Tisbury has done a similar approval. Ben said they have approved an ANR and a curb cut. He said the gates pre-date the designation of the special way so the board cannot regulate them. Ginny pointed out that a board cannot approve subdivision access through an abutting town. She added that special ways have specific requirements and are protected ways.

Michelle Kelly said she lives at the corner of Red Coat Hill Road and Shubael Weeks Path. She pointed out that Simran Road has a similar situation, with a shared road between Tisbury and West Tisbury. She has been using the roads in West Tisbury to get to and from her home. The easement is somewhat complicated but allows some to access State Road through the IHT property. Michelle pointed out that some people travel through the easements even though they are not necessarily accessible. She asked James Lengyel if the Land Bank uses the roads and he said they do on occasion. Greg Martino asked why others aren't allowed to use the roads. He said if the road that runs along IHT was allowed to be used it would work. He said there is no "right of easement", it is simply for emergency use. He said Ken Hurd tried to force the hand of the Bilzerians, but it became too expensive. The road will require improvements. James said there is a registered right of way that should be valid.

Connie said she lives on a private way and is having an issue with dogs. She asked if she could install a gate. Ben Robinson said there is a distinction between private, special and public ways. Public roads cannot be blocked . Rachel Eugster explained the history of her family property. They had a deeded right of way in 1987, but the Bilzerians installed a gate. John Hoft Road was closed at the time and her mother had a prescriptive easement to get to the main road. Unfortunately, there was a delay in the recording of the documents.

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She stated that the Land Bank and IHT have placed an unfair burden on the Tisbury residents.

Leah pointed out that the West Tisbury abutters want the Tisbury abutters to have their own access through Tisbury which will alleviate the congestion and damage to the roads. She summarized the comments as follows:

- James and Philippe recognize the concerns stated by both Fire Chiefs
- Rachel Eugster has documentation/proof of access
- The remaining obstacle to access to State Road is the Bilzerians' property
- West Tisbury cannot do anything regarding an access for Tisbury
- Blocking roads is illegal
- Public safety is critical

Rachel asked the Tisbury Planning Board if the “grandfathering” language could be removed from the Special Ways bylaw. Ben said private property issues are between property owners. The Planning Board cannot get involved.

Regarding locked gates Greg Martino explained that emergency crews have a specific key to unlock the gates for emergency purposes. Scotty Young said his daughter's house is on Shubael Weeks Road, which is next to Carly Simon's. They have never had a productive conversation with the property managers regarding opening the gate. However, the gate is currently open although the road is in rough shape. They have paid into road associations. Some fixes are easy and some are difficult to tackle. He asked James what the Land Bank would do if the deeded access is legal. He asked if James would put up a gate. James said that currently Ken and Greg could travel south to the state highway. He said he didn't know if he would put up a gate or not. Philippe said they could put up a gate that would allow those who have legal access to cross.

Matt Merry said there appear to be more legal questions for the property owners to pursue. He suggested the property owners team up and come up with a solution. Jane asked if the Bilzerians had been notified of the meeting and Amy said she had spoken with Attorney Ellen Kaplan who stated that they are interested in being a part of the conversation. Leah said all involved will need to reach a common understanding.

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CORRESPONDENCE:

- E-911 Address Assignment: Andrade, 364 State Road, Map 11, Lot 57.**

Ginny moved and Matt seconded the motion to approve the assignment.

Meeting adjourned at 6:30 pm

Respectfully Submitted,

Jane Rossi, Board Administrator.

**Approved on December 11, 2023 Smith-
yes, Jones-yes, Merry-yes,**