

WEST TISBURY ZONING BOARD OF APPEALS

Minutes for Thursday, May 30, 2019 meeting

2nd Floor, West Tisbury Town Hall - @ 5:00 PM

APPROVED ON AUGUST 22, 2019

PRESENT: Nancy Cole, Larry Schubert, Toni Cohen, Julius Lowe, Deborah Wells and Pam Thors, Board Administrator

Also Present: See attached list

Absent: Tony Higgins

5:15 pm: (Continuation) A hearing on an application from Carl Sobel for a Special Permit to operate a Home Occupation (Lumber Mill) under Section 8.5-1 (B) of the Zoning Bylaws, Map 17 Lot 42, 171 Otis Bassett Rd. RU district.

The notice was read. The applicant was not present at this time. Deborah Cedenos spoke and requested that the board vote to support the community in this case. She stated that the abutters have had to put up with this excessive noise for 15 years. A new owner/abutter, Kelly O'Meara stated that when she moved in, she assumed that this activity, (milling), was not allowed in the bylaws. Nancy explained that anyone can apply to the ZBA for any relief from the bylaws. Many abutters reiterated that the noise level is intolerable to them.

Mary Sobel entered and was asked if she has any testimony to add. She stated that she wished that there was some compromise that would allow her husband to continue his hobby. She said that her husband does this for many island people involved in various crafts. She added that there should be some way to measure the decibels created before a decision is made.

Larry stated that his original thought was that the Sobel's could speak to Joe and come up with a temporary solution which would allow them to finish their house. He later spoke to the building inspector, and was told that there is evidence that the use is commercial and not just a hobby. The Building Inspector also told him that once a Cease and Desist Order is written, that he cannot reverse his decision unless there is a Special Permit issued from the ZBA. Larry said that state law dictates the noise levels allowed in any given area and that the ZBA cannot grant relief for an activity that produces levels over that limit. He referenced Keene's pit that had to go through the process of determining decibel levels. He said that he doesn't believe that the board can vote to allow the saw mill due to the enormous noise impact on the neighborhood.

A motion was made to close the Public Hearing and open the Board Meeting

A motion was made to deny the Special Permit for a Home Business. The vote on the motion was unanimous.

The reasons given were noise, traffic and safety and location in the RU District.

5:35 pm: (Continuation) A hearing on an application from Michael Colaneri, Trustee of Roger's Path Realty Trust for a Special Permit to alter a pre-existing non-conforming structure under Section 11.1-3 (A) of the Zoning Bylaws to allow an existing barn to be converted to an accessory apartment under Section 4.4-3 (A) of the Zoning Bylaws, Map 22, Lot 10.1, 41 Rogers Path, RU District.

The Notice was read and Attorney Coogan explained the changes made to the plan after reviewing them with the Building Inspector. He said that they shifted some walls so that the HVAC heating space is no longer accessible from the interior thus reducing the square footage to become 760 sf.

As far as screening goes he said, he doesn't think that 300 feet is necessary but that they are amenable to anything the board agrees upon. Screening closer to the building was suggested. Nancy said that usually the applicant comes up with a plan to screen the proposed structure and presents it to the board.

Geoghan asked if they can vote on the project and have a plan approved after the fact. Nancy Dole, an abutter, said that she would like to see the landscaping plan prior to anything being approved. She stated that all of the buildings on the property are an eyesore due to trash of all sorts. She stated that keeping your property free of garbage is not expensive. She stated that a 300 foot no cut zone would not be maintained by the owner. She said that she would like to see a no-cut zone on the road coming in by the dumpster and a no- cut zone along her property until you reach the chicken coup. She said she would like him to plant two trees close to his house as well. The maps were reviewed. Nancy Dole made suggestions and the circular drive was discussed. She stated that the road to the new house shouldn't be from Roger's Path because it is a Special Way. She talked about the fact that Special Ways must, according to the bylaw, be protected from over use. Nancy suggested that in this case, they should limit the use of Roger's Path per the bylaw by conditioning the approval on changing the access to the private road instead. Larry questioned this change due to the fact that someday the lot may be sold and having an easement over the other lot may cause problems for the owner.

Geoghan asked about the no-cut zone. Larry asked about a 10 foot no-cut zone. Nancy said that she thinks 10 feet is too narrow. Nancy said they should vote on the application but condition the owner to come up with a plan to be reviewed and approved by them which would include a no-cut zone and some plantings closer to the building. Geoghan suggested that they propose a 30 foot no-cut zone with language that if something came down it would be removed. Nancy said that the plan must show the no-cut zone and the plantings. She reiterated that the driveway to the accessory apartment would have to show on the plan as being on the private road instead of Rogers Path. Nancy also noted that the rules regarding Accessory Apartments must be adhered to.

A motion was made to close the Public Hearing and open the Board Meeting

A motion was made to approve the Special Permit with Conditions, (see below). The vote on the motion was in favor, 4 votes in favor, 1 opposed, (Julius Lowe).

- 1) A landscape plan showing driveway change, proposed plantings for screening and 30 foot no-cut zone as discussed must be approved and signed by the ZBA prior to the issuance of an Occupancy Permit.

Many comments were made regarding the poor behavior on the part of the applicant who is a Town Official.

Old Business:

The Smith case was briefly discussed as an issue to be reviewed in Executive Session. Pam apologized for not listing the Executive Session on the agenda. It was noted that the deadline for filing an Appeal is June 14th. It was decided that the Executive Session would be scheduled for Tuesday, June 4th at 5:15pm.

The meeting adjourned at 7:10 pm.

Respectfully Submitted, Pam Thors, Board Administrator

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Attachment #1**

Others present:

**Debra Cedeno
Chuck Hodgkinson
Carlo D'Antonio
Sue Angeley
Jim Airaisian
Geoghan Coogan
Kelly O'Meara
James Anthony
Marc Favreau
Mike Smith
Nancy Dole
Elle Lash**