

**WEST TISBURY ZONING BOARD OF APPEALS**  
**Minutes for Tuesday, June 11, 2019 meeting**  
**2<sup>nd</sup> Floor, West Tisbury Town Hall - @ 5:00 PM**  
**APPROVED ON AUGUST 22, 2019**

**PRESENT:** Nancy Cole, Larry Schubert, Toni Cohen, Tony Higgins, Julius Lowe and Deborah Wells

**Also Present:** Pam Thors, Board Administrator

**Absent:** N/A

**5:15 pm** – Executive Session

A roll call vote was taken to open the Executive Session.

When asked about the meeting that the Board wanted with the Board of Selectmen, Nancy stated that it seemed they could not accommodate the request to meet in executive session.

Nancy stated that the Land Court decided for Michael Smith in the case. She explained that the judge looked closely at the “Common Control” issue and determined that the husband and wife led somewhat separate lives and that as far as their finances were concerned that the wife’s property was hers and not part of her husband’s assets. The \$10,000 payment made towards the purchase of the lot by Mr. Smith was seen by the judge as a “gift” and in his opinion did not have the effect of proving “Common Control”.

Larry stated his feelings that Mr. Smith may have been acting strategically during the ZBA appeal process by not presenting some of the personal information that was later divulged in court. He stated that after Mrs. Smith’s death, when Mr. Smith sold his lot and tried to get a building permit on his late wife’s lot, he was making an effort to circumvent the Zoning Bylaws regarding undersized lots. He stated his support of appealing the decision.

Pam said that it seems that Mark Bobrowski wants this overturning of precedence to happen at a higher court level. Nancy read through some of the cases listed as precedence. Most of them noted that evidence of common control played a large part in the judgment of the case. She stated that the Smith case, if left to stand on its own merits, would present the issue of individual aspects of marriages being a part of judgements concerning “Common Control” of real estate. She then suggested that whether the case was used as a reference as it stands (not appeal) or as a case decided in a higher court proceeding, (appeal), it would have the same effect. She said that maybe it was a way toward change.

*A motion was made to take no further action on the case. The vote carried-4 in favor, 1 opposed, (Larry Schubert).*

**The meeting adjourned at 6:25 pm.**

**Respectfully Submitted, Pam Thors, Board Administrator**