

**WEST TISBURY ZONING BOARD OF APPEALS**

**Minutes for Thursday, July 2, 2020 meeting**

**Online meeting via ZOOM- @ 5:00 PM**

**Approved on July 23, 2020**

**Present:** Nancy Cole, Larry Schubert, Deborah Wells and John Rau.

**Absent:** Julius Lowe and Andy Zaikis

**Also Present:** Nickolas Peters and Pam Thors, Board Administrator,

The Board voted to approve payment of the following: Payroll-\$2,320.50 and MV Times bill-\$571.54, Reynolds Rappaport, Kaplan & Hackney, LLC-\$833.00 and daRosa's MV Printing- \$136.98

**5:00 pm- A Continuation of A Public Hearing on an Application for Special Permit from Nickolas Peters Construction, LLC to operate a Service Business (Construction) under Sections 3.1-1 and 8.5-2 of the Zoning Bylaws, Map 11 Lot 111, 343 State Rd., RU District.**

The Notice was read and Nick explained the project. Nancy asked Pam what she had found out after researching the Town's bylaw changes and contacting Town Counsel, Michael Goldsmith. Pam said that the Home Occupation bylaw, (precursor to the Service Business bylaw), was adopted by the Town at the Town Meeting held in December 1987. She said that this is the first place that references the number of vehicles above 10,000 lbs. Gross Vehicle Weight, (G.V.W.) allowed in the Residential District. She stated that the Peters family purchased their lot in July of 1988. She said that Town Counsel advised that Chapter 40A is very clear that the date of vote is the date that the bylaw goes into effect.

The language of the bylaw and the use of the word, "shall", was discussed. Pam said that Michael Goldsmith agreed with the board's opinion that the use of the word implies that there is no leeway allowed in the restrictions of the bylaw.

Nickolas said that he isn't even sure where to look for a storage facility for his extraneous vehicles, explaining that with the rent and many other bills related to running his business, the most obvious options are not affordable for him.

He went on to say that he has 4 vehicles over 10,000 lbs. G.V.W. on the property and that he has parked vehicles off site before and had experienced damage and theft.

The Board discussed the possibility of Nickolas going before the Planning Board to ask about changing the bylaw. The changes discussed included allowing a larger number of vehicles of that size on properties in certain neighborhoods or on properties over a certain size and asking the Planning Board to review the increase in sizes of personal trucks that might influence the allowable weight limits allowed.

Nickolas stated that a relationship with a partner became contentious and that person complained to the State. He said that when Joe Tierney, Building Inspector became involved, the various issues were brought to his attention. He mentioned the length of time his family has been running this business with no complaints from neighbors and the similarities shared with his business and those operating from neighboring properties.

Nickolas requested that the Board allow him to withdraw his application without prejudice.

Larry Schubert asked how Joe Tierney would follow up on this. Nancy suggested that a letter be drafted to Joe explaining that the ZBA's hands were tied in this case and that the applicant may seek a bylaw change with the Planning Board. All agreed that they hoped a "Cease and Desist Order" can be avoided.

John Rau suggested that Nick 1) Meet with the Planning Board and 2) look into possible parking for his vehicles.

*Deborah Wells moved and John Rau seconded the motion to close the Public Hearing and open the Board Meeting.*

*A motion was made to allow the applicant to Withdraw Without Prejudice. A roll call vote was taken; Nancy Cole-yes, Larry Schubert-yes, Deborah Wells-yes, John Rau-yes. The vote was unanimous.*

Nancy suggested that Pam send Joe Tierney a copy of the minutes with a brief explanation of the reason for withdrawal.

**Executive Session:** The Executive Session was cancelled because the Larkosh appeal has already been referred to Town Counsel.

The Lamberts Cove Inn outdoor dining in the "English Garden" was discussed. It was confirmed that any issues with the Inn should be addressed by the Building Department as Joe Tierney is the Town's Bylaw Enforcement Officer.

The meeting adjourned at 6:35 pm.

Respectfully Submitted, Pam Thors-Board Administrator