

**WEST TISBURY ZONING BOARD OF APPEALS
MINUTES THURSDAY, JANUARY 19, 2017
2ND FLOOR TOWN HALL AT 5:05 PM**

PRESENT: Nancy Cole (Chairman), Tony Higgins, Larry Schubert, Julius Lowe, Roger Hubbell and Robert Schwier.
ALSO PRESENT: See attached attendance sheet.
ABSENT: Toni Cohen

Minutes:

October 27, 2016 – Julius moved to approve the minutes with corrections. Larry seconded, the vote was unanimous.

November 17, 2016 – Larry moved to approve the minutes with corrections. Bob seconded, the vote was unanimous.

Hearings:

5:15 pm- A hearing on an application from Fullers Energy, agent for William Callahan, to install a two 24 panel ground mounted solar system taller than 12 feet, under 8.10-4 of the zoning bylaws, Map 8 Lot 24, 16 Red Coat Hill Rd, RU District.

Correspondence: Ltr dated 1/11/17 from the MV Land Bank Commission – (Map2 Lot 9.1 –West Tisbury & Map 52-A-2 – Tisbury) expressed concerns regarding various conservation reservations along the Tisbury-West Tisbury town line and the visual impact of the units. Email from William & Barbara Bennett (Map 2 Lot 9.3), dated 1/19/2017; opposed to the application. A point of correction: Clare explained to the board that the legal notice and the legal advertisement stated “to install a 24 panel ground mounted solar system...” Dave Smith, from Fuller Energy, asked if this would have an impact on the public hearing. Clare told the board she immediately contacted the MV Land Bank and Bill Bennett, the two abutters who contacted the Zoning Board to clarify there are “two” single pole mounted trackers. Nancy read the correspondence into the record (see on file with the ZBA). It was clarified that the applicant is applying under 8.10-4B of the bylaws - ground or pole-mounted system taller than 12 feet, requires a special permit from the ZBA. The applicant is not seeking setback relief.

Dave Smith, from Fullers Energy, presented a site plan, showing a proposed two-bedroom dwelling, including the two proposed solar arrays. The proposed trackers vary in height from a stowed position at night of 11 feet above ground level to a maximum height of 20 feet above ground level at dawn and dusk. Each unit is 4 feet wide by 6 feet high, a total of 432 sq. ft. The unit is positioned such that it follows the sun east to west. At dawn and dusk the unit would be at the highest level it would reach (20 feet) and could have an impact on Mr. Bennett’s view from his property. Bob voiced his concern regarding the impact of heavy machinery and the intense traffic on Red Coat Road, which has been designated a special way.

Dave explained to the board the decision on the location for the tracker was to minimize tree impact on the arrays, because of the topography of the property. They want to use the natural slope of the land; this would also reduce the number of trees that need to be cleared, utilizing the natural grade to keep them lower rather than on the crest of the hill. They want to keep them as far away from the house as possible due to potential shadowing caused by the house. They would like to avoid putting them in the front of the house which would require more clearing and putting them closer to the road

A discussion ensued regarding the advantages and disadvantages between ground mounted and pole mounted system, specifically on this parcel, which included the difference financially and the number of kilowatts produced by each different system. The discussion continued on what the difference would be between the total amounts of clearing between a two poles mounted system vs the same area where a ground mounted array could be installed. A ground mounted system on this property would be less intrusive from Red Coat Road and Mr. Bennett’s property. Dave stated the tracker system is 3.93 cents per KW hour. Ground-mount is about 4.15 cents per KW hour, which in Dave’s opinion the tracker is more efficient. Dave explained that the power produced by the two trackers would be used by Mr. Callahan at other properties he owns. He does plan in the future to build another home on this property (4.85 acres). The board talked about the intent of the solar bylaws; for residential use, which would preclude the use of solar expressly for “selling” to others. The discussion continued about the amount of kilowatts produced per unit and what the “average” usage for a three bedroom house is.

Dave told the board the tracker system produces 14.4 kilowatts, in comparison to a large ground mounted system. Under "Schedule Z", any excess electricity could be virtually metered to another account; Mr. Callahan could net use the excess to his other properties. The board agreed that with people looking at alternative energy sources, "solar tracker" units would become more popular. The use of these units could conceivably affect the character of the town.

The board was in agreement that a site visit was necessary. The applicant agreed to stake out the area where the tracker will be sited, including a pole designating the height of the tracker. Larry moved to have a site visit January 26th at 4:30, and to continue the hearing to Thursday, January 26th, at 5:10 pm, Julius seconded. The vote was unanimous.

5:40 pm - A hearing on an application from Sophia Brush and Dhakir Warren, for the approval of a three bedroom dwelling and reclassification of a pre-existing camp into a detached accessory apartment, under zoning bylaws 11.1-3 and 4.4-3, Map 17 Lot 109, 103 Great Plains Road, RU district.

Nancy opened the hearing at 5:40 pm. **Correspondence/Inquires:** Keith McGuire (agent for Virginia McLaughlin Map 17 lot 49), received copies of the application. Copies of the application were emailed to Virginia McLaughlin. Document: purchase/sales agreement was submitted by the applicant (see file).

Sophia Brush presented a site plan showing an existing 426 sq. ft. "off the grid camp" and a proposed three bedroom dwelling on a 1.5 acre non-conforming lot. The applicant would like to rehab the existing camp into a detached accessory apartment on the existing footprint. She explained that both the existing structure, the camp (footprint) and the proposed three bedroom dwelling will meet setbacks. Their plans are to build the three bedroom house first and then rehab and complete alterations on the existing camp into a detached accessory apartment. Ms. Brush told the board they have entered into a purchase and sales agreement which is contingent on a special permit from the ZBA. It was explained that if they plan to rent the accessory apartment it would have to be rented affordably under the Dukes County Regional Housing guidelines. A discussion ensued among the board if the applicant needed permission from the Zoning Board to build the proposed three bedroom house or just a special permit for the rehab of the existing camp into a detached accessory apartment. The applicant does not need a special permit to build the proposed three bedroom house, Special permits do have an expiration date, but it was explained to the applicant there is a mechanism in place to seek an extension. The board clarified that this property is a non-conforming, pre-existing lot, a main dwelling and an accessory dwelling (ex: accessory apartment/detached bedroom) is allowed under the zoning bylaws (pending other permits as required). A discussion continued concerning the definition of camp vs a dwelling; as defined in the zoning bylaws. Julius stated that by right you can build the three bedroom house, and then come to the board to reclassify the camp as a detached accessory apartment. The existing "camp/shed" that people may have lived in before, would not be classified as a dwelling by the bylaws and would require existence alternation to comply with current building codes.

Nancy stated the application in front of the board is the rehabilitation and alterations of an existing camp into a detached accessory apartment, which is an accessory structure to a proposed three bedroom dwelling. At this time Nancy opened the hearing to public comments.

Keith McGuire, agent for Virginia McLaughlin (Map 10 Lot 49 & 50), had the following questions.

- 1) Can the camp be rented in its present condition or does it need to be repaired prior to be rented? Nancy stated the camp cannot be rented in its present state and would need to be repaired.
- 2) Has the affordable housing system worked and has the board seen this in practice? Tucker responded, there are 45 accessory apartments and yes it is working.
- 3) In this neighborhood with 1.5 acre lots, are a house and a guest house allowed? Nancy answered that guest houses are not allowed on 1.5 acre lots. Accessory apartment and detached bedrooms are allowed. Accessory apartments have to be rented affordably under the housing guideline; a guest house does not fall under these restrictions. A brief discussion regarding the affordable housing bylaw ensued. Keith stated that Ms. McLaughlin is concerned with the character of the island and the density of the neighborhood. Mr. McGuire raised questions about the septic system, screening, and if the applicant would be using the existing driveway or creating a new access? Ms. Brush stated they plan on accessing the property through the shared driveway with Mr. Peebles (M17 - L 108). It is the intent of the applicant to keep as much of the screening intact as possible. The board explained that the septic design, including the placement of the well, would be laid out according to the board of health regulations.

Katherine Brennan (Map 17-Lot 111) stated that she welcomes new neighbors, but shares similar concerns raised by Mr. McGuire. Some of her concerns: the use of the camp, screening and the siting of the proposed house from her property, the parking area and the increase of traffic. A discussion regarding the right of way of the driveway connecting Mr.

Peebles' property ensued. An earlier subdivision plan configured shows this dog-legged as outlined on the plot plan as part of the property.

Attorney George Brush confirmed that Mr. Peebles does have a right of way over that dogged-leg from his house in the back to the road. Ms. Brennan stated she was not clear on that issue, and may not agree with that answer. Ms. Brennan went on to say, the transformer is located on her property and would want assurances that any disturbance from the electrical trenching be adequately repaired. Also the value of her property is impacted because of the unsightly condition of the camp. She hoped the applicant would also rehab the exterior of the structure. Julian stated it definitely would be substantially changed for an accessory apartment and would have to meet all building codes

Larry stated he was also the appointed member of the Affordable Housing Committee and spoke to the question of available affordable housing and the impact on the density in the town. The town spent years leaning in the opposite direction in trying to decrease density and maintain the rural character. The town is now grappling with the need for affordable housing. He outlined the current bylaws and the regulations under 4.4-3, and how it's enforced. Affordable housing has to meet the standards imposed by the Dukes County Regional Housing Authority.

Attorney Brush, stated on behalf of the applicants that it makes economic sense that they want to know what is allowed on the property and look at the project as a whole, which includes the rehab/alterations of the "camp" to a detached accessory apartment and a three bedroom house. The infrastructure of the project is all contingent on the timing of the rehab and alterations for the camp. Buying the property is contingent on obtaining a special permit. Attorney Brush discussed Chapter 40, Section 6, as it speaks to existing structures on non-conforming lots.

Julius moved to close the public hearing and open the board meeting, Bob seconded, and vote was unanimous.

The following findings:

- 1) The applicant will comply with the footprint of the building envelope, for a three bedroom home.
- 2) The detached accessory apartment is in harmony with and will not be more detrimental to the neighborhood.
- 3) The property is a non-conforming, pre-existing, 1.45 acres; an existing camp has been on the property since 1950.
- 4) The applicant agreed any trenching for electrical services through Ms. Brennan's property will be restored to the original state.
- 5) The application complies with section 9.2-2 of the West Tisbury Zoning Bylaws.

Conditions:

- 1) The camp is deemed non-habitable, until it complies with all state and local building regulations.
- 2) A final set of plans for the accessory apartment will be submitted to the ZBA of approval prior to a building permit being issued.
- 3) The applicant will comply with 4.4-3 and 4.4-4 of the zoning bylaws. All other permits required by other Town Department must be obtained prior to a building permit being issued.

Larry moved to approve the footprint of a building envelope for a three bedroom house and the reclassification of an existing 426 sq. ft. non-habitable structure (camp) into a detached accessory apartment, under 4.4-3, with the findings and conditions outlined above. Bob, seconded, roll call vote was taken. Schubert- yes, Higgins-yes, Lowe -yes, Schwier-yes, Cole-yes. Hubbell-abstained (associate member). Nancy explained the twenty day appeal period.

Business:

Budget FY 2018- Meeting with the Finance Committee. Clare explained to the board that the FinCom, would like to discuss the ZBA's FY2018 budget. An email from Katherine Triantafillou, Chairman of the FinCom, they had a question regarding the increase to the personnel service line. Nancy and Clare are scheduled for January 24th Tuesday at 5:45 pm. The board had a brief discussion on reducing the administrators hours from 35 a week, down to 32 hours a week.

Correspondence:

All correspondence was reviewed, no action needed at this time.

Meeting adjourned at 7:30 pm

Respectfully submitted,

Clare Harrington

Board Administrator/ZBA