

West Tisbury Zoning Board of Appeals (ZBA)  
Minutes May 12, 2016— 5:05 PM  
Second Floor, Town Hall

**PRESENT:** Nancy Cole (Chairman), Larry Schubert, Tony Higgins, Julius Lowe and Bob Schwier

**ABSENT:** Tucker Hubbell and Toni Cohen

**ALSO PRESENT:** Attorney Eric Peters, Patricia Linn, Mark Nicotera, Luiz Oliveira, Jeffrey “Skipper” Manter, Elizabeth Armer, Eben Armer, Dan Imbrogno, Glen Provost and Clare Harrington (Administrator).

**Minutes:** April 28, 2016

**Hearings:**

**5:15 PM - A hearing on an application from Trademark Services, agent for Luiz Oliveira for the construction of a 30’x 40’ storage building, setback relief and a home occupation. This application falls under section 11.2-2, 8.5-1(B) and 4.2-2(D) of the Zoning Bylaws, Map 16 Lot 61, 560 State Road, RU district.**

Nancy opened the hearing. Correspondence was read: Email from Mitch Gordon (Map 16 Lot 64) in support of the application. Email from Anne and Alan Reekie (Map 16 Lot 235) regarding a question pertaining to the storage of chemicals for commercial use in a residential district. Clare reported to the board that Ms. Patricia Linn (Map 16 Lot 60) came to the office to obtain copies of the application and voiced her opposition to the project.

Mark Nicotera, agent for Mr. Oliveira, presented the application. The applicant is proposing to build a 30’x40’ metal storage building for his insulation business. The building would be used to store his materials including a cargo trailer, pick-up truck with a dump body and a small car. The building would also have an office with a bathroom. The applicant is also seeking setback relief; 20 feet from the side and rear property lines. The height of the building is 14 feet complying with height regulations. The components stored are non-flammable and stored in separate containers inside the building. The applicant explained that the business is best suited for the location. It would also act as a buffer between the landfill (where the solar arrays are located) and his property. The plot plan and the structures shown on them were explained to the board. Larry explained that if the ZBA was to approve the application the plan signed would have to be accurate as to where the buildings are on the property when obtaining a building permit.

Traffic would be limited to once a day to the job sites and the trailers are routinely left at the

project location until completion. Deliveries to the business would be once a month.

Larry asked about EPA regulations on the storage of the materials. There are two separate containers which store the liquid material. The fire chief would be required to sign off on the handling and storage of these materials under existing building codes. This would also become part of the conditions of the ZBA if the application was approved. The applicant would be applying to the BOH for a new septic design in the future but they first wanted to secure the special permit from the ZBA for the building and the home occupation.

Attorney Eric Peters representing Patricia Linn (direct abutter Map 16 Lot 60) voiced his concerns regarding the number of buildings located on the property. There are animals housed in one shed which he thought the building inspector was addressing because the building may not meet setbacks, Attorney Peters showed photos of Mr. Oliveira's property taken from the Linn property showing a fence broken. He went on to explain that the property is in disrepair. Ms. Linn has made several calls to the animal control officer because of their animals on her property. The board examined them and they will become part of the record. Attorney Peters went on to explain that the proposed structure is a metal building which is not appropriate or in harmony with the residential neighborhood. The building is over 1200 square feet which is twice the size of a 676 sq. ft. which is allowed under the bylaw and would not be in keeping with the neighborhood. Mr. Peters also stated that vehicle traffic is constant all day long. Mark Nicotera told the board they would not be opposed to a shingled building rather than metal or a different shape. Mark explained that the building is sited approximately 300 feet in the back of the property. Mr. Nicotera told the board that the boundary line between, the properties will be surveyed. The board was in agreement that a site visit would be in order to get a better understanding how the size of this building works on the property and within the neighborhood. Nancy pointed out that the roof pitch as designed now may need to be reworked with a design that would work better in a residential neighborhood, not so industrial. The board continued the public hearing till May 19, 2016 at 6:00 PM. A site visit will be held Wednesday, May 18<sup>th</sup> at 5:00 pm.

**5:55 PM – A hearing on an application from Eben Armer for a 22' x 32' accessory structure which requires setback relief, under section 11.2-2 and 4.2-2D of the Zoning Bylaws, Map 31 Lot 53 located at 57 New Lane, RU district.**

Nancy opened the hearing. Correspondence was read into the record. The narrative provided by Eben Armer described the project. A letter from Virginia Jones (Map 31 Lot 46) referring to a home occupation granted to Mr. Armer (stone masonry) to adhere to the conditions as outlined in SP #2010-20. A notice of violation letter dated March 17, 2016, to Mr. Armer from the building inspector's office. Clare reported to the board that Skipper Manter reviewed the application on behalf of his mother, Mrs. Janice Manter (Map 31 Lot 51), Mrs. Manter had no objection to the project but wanted to be sure the structure was to be used to store personal items only.

Mr. Armer explained that his business is growing and would like to move his business to a commercial space which he is currently in the process of negotiating for space in Vineyard Haven. He told the board that he had made a poor decision in respect to starting the building without going through the proper permitting process. The project started by building a retaining wall, which he then put two sides and a roof on. The structure is a total of 704 square feet. He explained that he would be using this for personal storage only. Larry reminded Mr. Armer that he does need to adhere to the conditions on the SP #2010-20. He may work on the weekends on his personal projects keeping the noise limited because of the neighborhood. He stated that he wants to be a good neighbor. Mr. Armer talked about the setback relief requested, which is 25 feet from the southeast corner of the building to the property line (abutter, map 31 lot 52 Deborah Pigeon – Eben’s mother) and 47 feet from the northwest corner of the building to the property line (there was no objection from the abutter, map 31 Lot 123; Brown). The height of the accessory structure/shed is 13 feet 6 inches, with a shed style roof.

At this time, Larry moved to close the public hearing and open the board meeting. Julius seconded, the vote was unanimous. With no further discussion Larry moved to approve the plan as presented under 11.2-2 and 4.2-2D of the Zoning Bylaws, with a condition; it is a non-habitable space for personal storage only. Julius seconded, the vote was unanimous. The board was in agreement that Mr. Armer should have been aware that a building permit was required prior to any construction taking place. And reminded him that he has to comply with the conditions outlined in the special permit (#2010-20) and be mindful of his neighbors when moving, loading and unloading stones in a residential neighborhood beyond the hour outlined in the permit. Nancy explained the twenty day appeal period.

## **Discussion:**

**6:15 PM** - Glen Provost (Vineyard Land Surveying) appeared before the board to request a minor change regarding special permit #2015-16, 245 Thumb Point Rd, the Pil property. The homeowner is preparing to install the pool and would like to rotate the pool about 90 degrees from the approved location. There are no setback issues and it is outside the buffer zone. The board was in agreement the change was de minimis in nature, Larry moved to approve the minor change by rotating the pool 90 degrees from the original location. Julius seconded, the vote was unanimous. The board signed the updated plan.

**6:20 PM** - Dan Imbrogno explained that he is in the process of completing the project and would like the boards input on the landscape plan. He told the board that he was working with the Building Inspector to file for a temporary occupancy permit. The landscape plan that the board and he agreed upon was modified from the original “Hart” plan that the MV Commission had approved. He was told by his architect that he would need an “as built” plan drawn, which the board would approve and send to the MV Commission to sign off on. The board asked Clare to review this with Paul Foley at the MV Commission.

Dan said he has completed the landscape to the left and the right of the apron in front of the building and along the Estrella's property line. The backside and to the left of the building is not complete. This is the area where eventually the fire suppression tank will be located. He would like the board to review the site and approve or disapprove what currently is there. This would take place through the public hearing process. He has completed the plan as much as can be accomplished as of this date and built a beautiful building in the mixed business zone. The board has planned a site visit, Wednesday, May 18<sup>th</sup> at 4:45 pm. Mr. Tierney will forward a complete report to the ZBA regarding his final inspection of the Imbrogno property. The board was in agreement that this would be discussed further.

**Old Business:** Joe Tierney (building inspector) asked Clare to show a revised floor plan for a home office on a previously approved garage at 201 Pond Rd, Map 30 Lot 2.56. The new owner, Ms. Patricia Salem, would like to reconfigure the bathroom and partition a portion of the first floor garage to become a recreation room. The board asked if Clare would speak with Joe Tierney, to verify more information regarding the project.

**Affordable Housing Committee (AHC)** – Julius moved to re-appoint Larry Schubert as the Zoning Board of Appeals representative to the AHC for a one year term. Bob seconded, the vote was unanimous.

**Correspondence:**

Copy of the RFP given to the Board on the Community Housing Project at 566 Edgartown Road- no action taken

Email from Amy Carignan (Map 16 Lot 231) – re: Imbrogno Property- Clare will email the Cardigan's informing them the special permit #2014-11 was approved on May 22, 2014, and the site is still a work in progress.

Meeting adjourned 7:00 PM

Respectfully submitted,  
Clare A. Harrington  
Board Administrator

