

West Tisbury Zoning Board of Appeals (ZBA)  
Minutes April 28, 2016— 5:05 PM  
Second Floor, Town Hall

**PRESENT:** Larry Schubert (Vice Chairman), Tucker Hubbell, Toni Cohen, Tony Higgins, Julius Lowe and Bob Schwier

**ABSENT:** Nancy Cole

**ALSO PRESENT:** Manny Estrella, Sharon Estrella, Reid Silva, Peter Rodegast and Clare Harrington (Administrator).

**Minutes:** April 7, 2016 – Julius moved to approve the minutes with amendments. Tucker seconded, the vote was unanimous.

**Hearings:**

**5:15 PM - A hearing on an application from Chief Estrella/West Tisbury Fire Dept., for a sign permit. Under section 8.4-6 of the Zoning Bylaws, Map 31 Lot 35, 551 Edgartown Road, RU District.**

Larry opened the hearing. No correspondence was received regarding the application. Chief Estrella explained to the board that he had applied to the building inspector for a sign permit. Joe Tierney explained because the sign is over 4 feet that he would need to apply to the ZBA for a special permit. Chief Estrella had the sign rebuilt and refurbished to save the town money and moved to station #1 (it was moved from station #2 at the Public Safety Building). The overall size of the sign is approximately 10 square feet as shown on the submitted photo of the sign which is on file at the ZBA. Tucker moved to close the public hearing and open the board meeting. Tony H. seconded, the vote was unanimous. The board meeting opened and with no further discussion, Tucker moved to accept the sign as presented which was in keeping with the Town's best interests financially because the sign was repaired and refurbished. Bob seconded the motion, the vote was unanimous. Larry explained the twenty day appeal period.

**West Tisbury Affordable Housing Committee Report (AHC):** Larry Schubert, the member on the Affordable Housing Committee (AHC) gave a brief report to the board regarding the proposed housing project located at 565 Edgartown Rd. Larry told the board the Selectman approved the Request for Proposal (RFP) to be advertised for the project.

After reviewing the bylaws it appears that where multi-family housing is concerned the Planning Board is the special permit granting authority under 4-4.3(B) not the Zoning Board. The Zoning Board would only be involved if the project needs setback relief or other zoning issues that falls under the ZBA purview. A brief discussion ensued regarding the reasoning on why an applicant must see two different boards for different matters. Logically speaking one board should handle the whole process. The board decided that question could warrant further discussion at a later date or explore this question with counsel. Larry continued briefing the board on the AHC and their intention to meet with all boards involved with the project. Tucker expressed his opinion that the AHC should not meet with any board informally, only through a public hearing process. Larry will relate that suggestion to the AHC.

**5:37 PM – A hearing on an application from Reid Silva, agent for Elizabeth Braudis, for a special permit to construct a 20' x 45' pool and 8' x 8' spa/hot tub. Under section 8.5-4 of the Zoning Bylaws, map 1 lot 83, Norton Farm Road, RU district.**

Larry opened the hearing. No correspondence was received for this application. Reid explained the siting of the proposed 20' x 45' pool which includes the 8 x 8 spa and its location on the lot which meets the 50 foot setback requirement. The pool equipment will be housed in sound-proofed insulated equipment shed. A proposed 4 foot high pool fence with self-locking, self-latching gate is outlined on the plan. Larry explained that the applicant will have to comply with all state and local pool regulations.

Julius moved to close the public hearing and open the board meeting. Bob seconded, the vote was unanimous. After reviewing the proposed plan as submitted and hearing the testimony given by Reid Silva, agent for Elizabeth Braudis, the board was in agreement that the application meets the criteria of the Zoning Bylaw 8.5-4. Bob moved to approve the application as submitted on the proposed plan under 8.5-4 and to comply with all state regulations governing pools. Tony C. seconded, the vote was unanimous. Larry explained the twenty day appeal period.

**Old Business/Discussion- Manny & Sharon Estrella regarding Dan Imbrogno special perm it #2014-11 (landscape plan).**

Larry opened the discussion and read into the record an email (on file with the ZBA) the Estrella's sent to Paul Foley at the Martha Vineyard Commission(MVC) regarding the condition of the Imbrogno property and how he has not adhered to the approved landscape plan related to his special permit. Sharon continued outlining specific areas where the applicant is not complying with the plan, specifically the back side of the building where the landscape is not completed and also the width of the driveways.

The Estrella's feel strongly that he has not complied with the landscape plan plantings which run along their property line. They disagree with the Board's decision. Paul Foley at the MVC concurs that the landscape which run along the Estrella's property line is satisfactory. Mrs. Estrella pointed out that Mr. Imbrogno is operating his business out of the building without an occupancy permit (CO). Larry told Sharon that this would be an enforcement question through the building inspector's office. Sharon told the board she had written a letter to the building inspector regarding Mr. Imbrogno operating his business without a CO.

At a previous meeting it was the board's opinion that the landscape plan should be completed prior to a CO or a temporary CO being issued for the project, but stated again for the record that enforcement is conducted by the building inspector. A brief discussion ensued regarding what grounds a temporary CO could be granted. The board agreed that the decision of granting a CO lies with the building inspector's office. Manny expressed his frustration that the planting along his property is not what the board and he agreed upon at a site visit last September. Manny said there is a big difference between the maximum growth between a shrub and a tree. The point was to screen his property from Mr. Imbrogno building. The discussion continued regarding this matter and the specific types of trees vs shrubs which run along the Estrella's property line. The board was agreement that the plantings were adequate. The Estrella's did not agree with the board.

The discussion returned to the enforcement aspect relative to the landscape part of the project which falls under the building inspector's purview. Tucker explained to the Estrella's that the ZBA has two roles as to zoning bylaws. The ZBA is the permit granting authority for special permits also the ZBA is the board which applicants who are appealing decisions made by the building/zoning inspectors apply to. Mrs. Estrella was not aware of the procedure. She emphasized that she has filed a letter with Mr. Tierney's office.

#### **Discussion – Peter Rodegast regarding a detached bedroom.**

Peter Rodegast came before the board with his client John Brennan, for an informal discussion regarding a detached bedroom on his property at Dauphine Merry Way. The property has an existing house and shed/bunk house located on 1.4 acres. The original camp was built in 1985 and then moved in 1993 to the present location which lies approximately 20 feet from the property line. The applicant would like to tear this building down and relocate it. The building would become a habitable structure as a 400 square foot detached bedroom which would require setback relief. By moving the building it becomes less non-conforming. There was a brief discussion regarding the size of enclosed porches. The board suggested that they may want to keep the neighbors apprised of the proposed project. The proposed project should be in keeping with the zoning bylaws.

Meeting adjourned at 6:45 PM

Respectfully Submitted

Clare A. Harrington



