

West Tisbury Zoning Board of Appeals  
Minutes January 7, 2016 – 5:10 PM  
2<sup>nd</sup> Floor, Town Hall

**PRESENT:** Roger Hubbell (Chairman), Nancy Cole, Toni Cohen, Tony Higgins and Julius Lowe.

**ABSENT:** Larry Schubert and Bob Schwier.

**ALSO PRESENT:** Chief Daniel Rossi, Quezia Andrade, Chris Alley, Steve Bernier, Joe Tierney, Rob Meyers, John Abrams and Clare Harrington (Administrator).

**Minutes:**

December 3, 2015- Nancy moved to approve the minutes with corrections, Julius seconded. The vote was unanimous with two abstentions.

**Hearings:**

**5:15 PM**

**An application from the West Tisbury Police Dept., Chief Rossi for setback relief for an accessory structure to construct a chain linked fence enclosure 10' x 20' x 8'; Map 16 Lot 97, 454 State Road, Zoning Bylaw 4.2-2D and 11.2-2 , MB District.**

Tucker opened the hearing; *No correspondence was received regarding the application.* Chief Rossi appeared before the board to request a special permit for setback relief to construct a chain link enclosure 10' x 20' x 8'. The structure will be used to store oversized or bulky evidence which is required for accreditation purposes. The applicant is seeking setback relief; 10 feet from the abutting property line (Map 16-257). The fence is over 6' in height which deems it an accessory structure. *The public hearing was closed, and a motion was made by Toni C. to approve the application and plan as presented. Julius seconded the motion the vote was unanimous.* A building permit needs to be obtained prior to any commencement of construction. Tucker explained the twenty day appeal procedure.

**5:30 PM**

**An application from Andrade's Landscape for setback relief for a metal frame storage unit; Map 16 Lot 81.2, 472 State Road, Zoning Bylaws 4.2-2D MB District.**

Tucker opened the hearing; *Correspondence: Letter from the Planning Board to the Building Inspector; dated 12/2/14; Email from Martha's Vineyard Savings Bank (Trustee of the property) acknowledging the application to the ZBA from Andrade's Landscape with no objection to the project.*

At the December 2, 2014, meeting of the Planning board they approved the containers under Ms. Andrade's annual review permit and required her to consult with the Building Inspectors office about the covers for the storage container to confirm it is a permissible structure.

Ms. Andrade apologized for proceeding with the project without obtaining the appropriate use permits for the containers from the building inspector's office. The application before the ZBA is for a special permit for setback relief under section 4.2-2D of the Zoning Bylaws. Since the installation of the containers and their use were already approved by the planning board the zoning board need only look at the application for a roof cover that caused the containers to be an accessory structure needing setback relief. *A motion was made by Julius to close the public hearing and open the board meeting. Toni C. seconded the motion. The vote was unanimous.* The project is located in the mixed business district and would not be more detrimental to the neighborhood. The proposed containers are located on the southeast property line 5 feet off one corner and 12 feet from the other corner. Mr. Tierney requested the applicant supply a list of the items to be stored in the containers be brought to his office when Ms. Andrade applies for the building permit. Julius moved to approve the plan as presented, Toni C. seconded. The vote was unanimous. Tucker explained the twenty day appeal procedure.

#### **5:54 PM**

**An application from Schofield, Barbini & Hoehn agent for Stephen Bernier for a proposed construction of ground-mounted solar array greater than 1500 sq. ft. in area, taller than 12' and less than the required setback from the property. Under section 4.2-2D and 8.10-4 of the Zoning Bylaws Map 16 Lot 84 and Map 16 Lot 81.1, 469 State Road, MB District.**

Tucker opened the hearing. *Correspondence; Email from Mike Pieczek (Map 16 Lot 87) requesting information pertaining to the application. Email from Paul Foley (MV Commission) to Joe Tierney copied to the ZBA, questioning if the project meets the threshold of a DRI.* Chris Alley from Schofield, Barbini and Hoehn presented the application along with a site plan from South Mountain Company. There are two applications before the board 1) Section 8.10-5; for the construction of ground mounted solar array greater than 1500 sq. ft. in area and taller than 12' above grade. 2) Section 4.2-2D4; for the construction of a non-habitable, detached, accessory structure at less than the required property line setback. The plan shows "canopy array D" east corner encroaching over the lot line (Map 16 Lot 81.1). A lot line change is required to accommodate the siting of this array. It should be noted that Mr. Bernier owns both properties. The applicant would apply to the planning board for a lot line change, upon the approval of the special permit from the ZBA allowing the reduced setback relief from 30 feet to 15 feet from the corner of the array D.

Chris explained that this is the only logical layout for the “arrays” considering all other factors including setbacks and the location of septic systems in the existing parking lot. The board felt that this would be a minor lot line change request to the Planning Board.

There will be 3 charging stations that will be mounted on the pillars. Regarding the landscape; the two planters currently holding red maples will be removed. Due to the size of the trees they cannot be readily transplanted. Mr. Bernier will replace the two “planter islands” with a similar landscape design as the down-island store. The parking as noted on the plan will be reconfigured such that they will gain one parking space. This change does not have any effect on the current handicapped parking spaces (located on the side of the building).

Drainage: The drainage system was designed in 1996 and works with the layout of the property. The retention basins are maintained and cleaned out yearly; crushed stone is replaced every two years, which is one reason it has worked for more than 20 years. The area partially under the farmers’ porch takes runoff at the same rate as the existing underground drainage system. It keeps water going where it has traditionally gone.

Mr. Abrams (South Mountain Co) and Mr. Bernier told the board that they have had positive feedback from customers regarding the canopies at down island Cronigs and that they like the protection from the weather as well as the solar collection aspect. Customers asking why the arrays are not located at the up-island market have come to Mr. Bernier’s attention.

Tucker made reference to the plan showing “canopy C & D”; and asked is there “A & B”? Rob Meyers told the board there is an application filed with the building inspector for a roof top mounted system proposed for the market and the Post Office building and these are referenced as A & B. Roof mounted PV arrays are by right so they aren’t included in this application. The roof mounted arrays combined with the canopies will offset 70% of the electric load. Tucker asked if canopy C (the array in the center of the lot) was not to be permitted, how much of a loss it would be overall. It was estimated that if canopy C was removed it would be about 1/3 less.

Tucker expressed his view concerning the aesthetics of the project. He stated he supports solar energy but is not a fan of the canopies and has heard some concerns regarding the visual impact. Tucker acknowledged that aesthetics are very subjective and that one needs to weigh the many ways that coal fired electric plants have caused much environmental damage throughout our country. Tony Higgins stated he initially was not a proponent of the down island arrays but has come to appreciate them in multiple ways. Toni C. was in agreement. Nancy thought the landscape design of the down island market has helped the esthetics of the solar arrays. John Abrams pointed out that you’re taking a parking lot and giving it a second use by the installation of the solar arrays.

Mr. Bernier pointed out the importance of solar power and harvesting the sun to mitigate the cost of electricity. Joe Tierney asked if they had thought about the loss of light on the porch with the canopy, where customers sit enjoying their lunch. It was suggested that skylights could help if needed. He also requested a final copy of the parking layout be submitted to him with the building application. Joe asked if there will be a fee for the solar generated by the arrays to customers using the charging stations; Mr. Bernier will not be charging any fee for their use.

Regarding the proposed “sunbird sculpture” the board was uneasy about regulating art on the pole and it was clear, Joe Tierney looked up the bylaw the building inspector determined that it is not a structure then setback relief is not needed.

Tucker wanted to clarify a point of reference regarding a condition from the 1995 special permit for Cronig’s. There were some concerns being raised by Joe Tierney, the building inspector, whether all previous conditions had been met. It was the opinion of the board that the building dept. had issued an occupancy permit for the project in 1995 so they felt that closed the door on any discussion of the conditions relative to whether they were completed. As for the condition that stated “the roof will be green”, these members of the board (Tony H., Tucker, Nancy and Toni C.) who were members in 1995 felt this was actually a statement of fact and not a requirement. The application at that time had requested a metal standing seam green roof and the board had **approved** it. At this time *Nancy moved to send a letter correcting the language regarding the roof to the building inspector. Julius seconded the motion, the vote was unanimous.*

*Julius moved to close the public hearing, seconded by Toni C. The vote was unanimous.*

*Nancy moved to approve the application with the following conditions;*

1) The special permit is conditional upon the Planning Board allowing the lot line changes; (setback relief of 15 feet from canopy D is contingent on Planning Board approval of the lot line change).

2) Landscape; the two planting areas as shown on the plan will be replaced with appropriate vegetation similar in style as the down island market.

*Julius seconded the motion, the vote was unanimous.* The twenty day appeal period was explained and all appropriate permitting from other Town Boards will need to be obtained prior to the start of any construction.

## **Discussion:**

There was a brief discussion among the board to increase application fees to cover the cost of mailing abutters notices by certified mail. The board was in agreement the cost of certified mailing of notices to abutters is prohibitive. It was pointed out that MGL under chapter 40A does not require mailings be sent certified.

## **New Business:**

Tucker told the board that at this time he would like to step down as Chairman of the Zoning Board but remain on the board. He has held the post since 2010.

At this time Tucker made a motion to nominate Vice-Chairman Nancy Cole to be Chairwoman. Toni C. seconded, the vote was unanimous. Julius moved to nominate Larry Schubert as Vice-Chairman, seconded by Toni C. The vote was unanimous. The board thanked Tucker for his stewardship throughout the past five years and welcomes Nancy as Chairwoman.

Correspondence was reviewed and no action is needed at this time.

Meeting Adjourned at 7:00 PM

Respectfully submitted  
Clare Harrington  
Board Administrator