

**WEST TISBURY ZONING BOARD OF APPEALS
MINUTES THURSDAY, MAY 3, 2012
2ND FLOOR TOWN HALL AT 4:45 PM**

PRESENT: Tucker Hubbell (Chair), Bob Schwier, Eric Whitman, Tony Higgins, Nancy Cole, Larry Schubert

ABSENT: Toni Cohen

ALSO PRESENT FOR All or Part of the Meeting: Ernie Mendenhall, Bill Black, Sue Ellen Rothrie, John Kosboski, Jack Mayhew, Betsey Mayhew, Paul Levine, Richard Fischer

BUSINESS

- The minutes of April 19, 2012 were approved as read.

HEARINGS

5:00 PM Continuation from April 12 of an application by Sprint Spectrum LP to modify a Special Permit: Sprint currently has an existing wireless facility located at 66 Old Courthouse Road, Map 22 Lot 7 and would like to make modifications. Sprint proposes to remove and replace the three (3) existing antennas located inside the existing stealth monopole and replace three (3) new antennas and six (6) Remote Radio Heads (RRH). In order for the proposed equipment to remain concealed, the existing 28" diameter canister must be replaced with a 58" diameter canister. In addition, Sprint also proposes to add one (1) additional equipment cabinet inside Sprint's existing equipment shelter located at ground level. Section 8.8-7. RU District. *Correspondence so far: Letter from ZBA to Ernie Mendenhall; Letter from Ernie Mendenhall to ZBA; Letter from Julie to Liz Rutkowski; Letter from Liz Rutkowski to ZBA All correspondence on file in ZBA office.*

Correspondence was read. Tucker told Bill Black and the rest of the audience that he had spoken to Counsel Ron Rappaport. He has no conflict of interest; he has not represented the Flanders for a long time; he never had any dealings with their cell tower; the State Ethics Board has no problem with him advising on this matter; and he has given a statement to Jen Rand to that effect.

Tucker told the room that as the violations on the lot were still not rectified, the Board would not be acting on the matter at this hearing, nor would he be taking testimony. Liz Rutkowski had been informed of this and was told she didn't have to take the long trip to the Island for such a hearing, unless she chose to. Liz decided not to make the trip under the circumstances.

Tucker said at their last meeting, they had talked about trying to figure out the leases between the Flanders and the carriers and were advised by Counsel that the ZBA job is zoning, and enforcement is Zoning Inspector Ernie Mendenhall's job. It is up to Sprint, the tenant, to work out their issues with the Landlord, the Flanders. The Zoning Inspector should send a letter to the applicant, Sprint, listing the violations to the conditions of the 2007 Special Permit that he has found on the site. Until the lot is compliant, the application to amend the existing Special Permit cannot be acted upon. The audience asked a few questions to clarify the Special Permit process. The hearing was continued to 5:30 PM on May 17th.

5:35 PM An application by Jack and Margaret Mayhew for a Special Permit for setback relief:
To install a 64 panel, 15.36 KW ground mounted photovoltaic array in an 1131 sq ft foot print to be

25' from their bound along Field View Lane. The height is 7'6" high. Sects. 11.2-2 and 2.4-2-D4 of Zoning Bylaws; Map 11, Lot 77; 35 Field View Lane. RU Dist. *No Correspondence so far*

There was discussion over whether the installation would be 14.6 KW or 15.36 KW; anything over 15 being called commercial. Tucker said it was moot anyway as there is no bylaw yet in place for installation of this kilowatt size. Jack Mayhew said the array should take care of the electricity they are using. In order to fit it in to be not in the shadow of the house, they put it to the front of the house, which means it would have to be 100' (as opposed to the regular 50') from their bound with Field View Lane. They are asking for the installation to be 25' from the Field View Lane side and 25' from the western bound.

Asked how visible the structure would be to the road and to neighbors, Jack said there was pretty good scrub oak between it and them. Neighbors Arthur Marx and Pia Post found they would not get reflection from or otherwise be impacted by the array. The installation would be in 2 rows and 7 ½' high. Neighbor Bob Woodruff suggested he shorten the rows and make it into a triangle. That would mean needing more setback relief, so that idea was abandoned. Jack said it is low, you won't see it from the meadow, and it can easily be screened. He'd be happy to do evergreens. Neighbors Paul Levine and Richard Fischer said they would help him do that if he did.

The Board voted unanimously to grant the setback relief.

Findings:

- 1.) *The construction applied for will not be substantially more detrimental to the neighborhood and Town, and the construction is in harmony with similar development in the neighborhood and town in scope, size, and design.*
- 2.) *The applicants stated that they have sited the array away from trees and the shadows cast by their house.*
- 3.) *The Zoning Act states that a permitting Board may not unreasonably regulate energy systems.*
- 4.) *The proposed site, despite the setbacks needed for it, seems the best, natural place on the lot to place the array. Existing vegetation will screen it from the Field View Lane and the neighbors. The applicant has offered to plant more vegetative screening if it seems necessary for further screening.*

The meeting was adjourned at 6:10

Respectfully submitted, Julie Keefe, Board Admin.