

STURBRIDGE PLANNING BOARD
MINUTES OF
TUESDAY, APRIL 15, 2003

Present: Mike Beaudry
Marge Cooney
Sandra Gibson-Quigley, Chair
Deb Hill
Bill Muir
Milton Raphaelson
David Yaskulka

Also present: Lawrence Adams, Town Planner

S. Gibson-Quigley called the meeting to order at 7:00 PM and read the agenda. The minutes for April 1, 2003, were reviewed. It was noted on page one, Planner's Update, Zoning Amendments for ATM, line two, "Monopoli" changes should read "non-conforming uses" changes.

Motion: to accept the minutes of April 1, 2003, as amended, by M. Beaudry
2nd: M. Cooney
Discussion: None
Vote: All in favor

ANR's

There were none. L. Adams reminded the Board of the new ANR fee schedule adopted by the Town effective in May. An ANR application would be \$100.00 plus \$50.00 for each lot and payment would be due upon receipt of the application, otherwise it would be rejected.

ENDORSEMENTS

The Estates (South) Decision – Disapproval of a Definitive Subdivision Plan - S. Gibson-Quigley read the contents of the draft Decision.

Motion: to accept the Disapproval for a Definitive Subdivision Plan for The Estates South, as presented, by D. Hill
2nd: M. Beaudry
Discussion: None
Vote: All in favor

The Board endorsed the Decision dated April 15, 2003, and L. Adams would file it with the Town Clerk on April 16, 2003. S. Gibson-Quigley read the contents of the Decision.

Memorandum of Understanding (MOU) – Opacum Access via Forest Lane – L. Adams stated that Opacum Land Trust (OLT) wanted access off of Forest Lane, a necessity for OLT personnel and the Department of Environment Protection (DEP). There was concern for Forest Lane and the immediate area inside the open space (which would be owned by the Town for a detention basin) to be used as a temporary parking lot. Provisions for a permanent parking lot had been shown on the plans for the last phase of the development. L. Adams had brought together OLT, Brendon Homes, DPW and the Planning Board to agree on how the open space would be used while preserving the existing neighborhood and not intruding into the conservation area. He noted that Brendon Homes felt item #6 of the MOU (attached) was unfeasible because it created a temporary parking lot amidst a

construction area. It was L. Adams' recommendation that OLT seek an alternative to the temporary parking lot. This issue would be taken up at the Conservation Commission's April 17, 2003, meeting scheduled for 7:00 PM. He would be in attendance and invited interested Board members to attend. He believed the other fourteen items on the MOU were amenable to the parties involved. S. Gibson-Quigley would be signing this document, therefore she asked for the Board's input. The Board addressed the issues later in the meeting. (See Planner's Update)

Decision of the Board of Selectmen – Arnold Road Intersection- Document – Two conditions (Items 17 and 18) of The Highlands and The Sanctuary Definitive Subdivision Plan Decision involved improvements to this intersection. L. Adams felt the intent of the Planning Board was met under this document titled Decision of the Board of Selectmen and he recommended the Board execute the Decision if it concurred. S. Gibson-Quigley agreed the Decision met the intent of the Board, but was reluctant to sign a document that did not have a date as to when it had been presented to the Board of Selectmen. She asked if the document had been presented to the Board of Selectmen. Arnold Wilson stated R. Moss had come before the Selectmen regarding the widening of the road. The Selectmen had taken it under advisement and CME's opinion of the plan had been requested. As of yet, A. Wilson had not received a response from CME or MassHighway. The Board agreed to take no action on the Decision.

RELEASES

Lauren Ledge – Lot 4 and 14 – L. Adams requested that the Board not release the two lots until a joint report from the DPW Director and the Town Planner was obtained listing the existing conditions of work that had not been completed. S. Gibson-Quigley asked if the Board agreed to delay the request until a report was submitted. The Board concurred.

ZONING AMENDMENTS FOR ANNUAL TOWN MEETING – PUBLIC HEARING – Article 7 - Non-conforming Uses, Article 8 - Zoning District Amendment - Sturbridge Plaza SR to C and Article 9 - Zoning District Amendment - Whistling Swan and Boardwalk Rezoning SR to C

S. Gibson-Quigley opened the public hearing at 7:15 PM and asked to waive the reading of the legal notice. The Board agreed. L. Adams gave an overview of Article 7 stating its intent was to provide some flexibility for non-conforming single and two family residential structures and lots so they may be changed or altered. This flexibility would allow the Zoning Board of Appeals (ZBA) to grant, without special permits or variances, a simple determination (if found the change or alteration did not create a more non-conforming structure or lot) to then go to the Building Inspector or with a special permit and/or variance, go to the Building Inspector.

Concerns of the Board –

M. Cooney asked for clarification of “envelope” in “b)” of the proposed text. L. Adams commented that Town Counsel found some ZBAs considered the envelope the footprint and others, the volume of the existing building. It was his opinion that a ZBA needed to have a practice and an established evaluation that was consistent and fair. The “envelope” would be as the ZBA determined it to be. The Board was concerned with the interpretation of the word “envelope” in this text.

B. Muir was concerned that the building permit process would no longer begin with the Building Inspector, but with the ZBA and that the height of the structure would be left up to the determination of the ZBA, and not be governed by the bylaw which stated the limit was thirty-five feet. He felt the height of a structure should be a written restriction. L. Adams clarified that an applicant would still see the Building Inspector first for a building permit. If the permit was denied due to a non-conforming structure or lot, the applicant would then go to the ZBA for a determination or finding.

S. Gibson-Quigley asked for those of the public wishing to speak for or against the proposed zoning amendment. Kevin Smith, Finance Committee noted this article would have a substitute motion (memo from Town Counsel – copied and distributed to the Board by L. Adams) at the ATM.

- Arnold Wilson, 21 Cedar Street – stated the original zoning bylaw did not allow for increases in non-conformities which violated state law. Over past years, a bylaw had been written with the intent to satisfy the Town and the law. It was his opinion that the 2002 rewording of the bylaw satisfied the balance of both. He felt this article was a step in the right direction with regard to lakefront areas.
- Ginger Peabody, 4 Wildwood Lane (as a member of the ZBA) - requested that the ZBA be given leeway with the term “envelope”. She cited an example of a recent determination the ZBA had granted to a property owner on Bennetts Road and noted that lakefront properties needed to be protected. S. Gibson-Quigley asked if G. Peabody felt this amendment would provide flexibility to the ZBA. G. Peabody said it would, while making the process easier for the homeowner. D. Yaskulka asked if the new wording was helpful. She said it was a clarification that would be helpful. B. Muir questioned setback issues relating to lakefront properties. G. Peabody stated that changes involving setbacks would require a special permit and/or variance.
- Charles Blanchard, 26 Farquhar Road – agreed with A. Wilson that the previous bylaw did not allow for use of M.G.L., Chapter 40A, paragraph 6 (the exempt law). He was concerned that this amendment was more restrictive than state law which allowed for the reasonable extension of non-conforming residential uses. Applicants would be required to go to the ZBA as opposed to the Building Inspector. He also felt there were changes recommended by Town Counsel that had not been included in the proposed amendment.
- Kevin Smith, 148 Fiske Hill Road – concerned that the need to notify abutters was not required under a determination.

L. Adams explained that Suburban Residential lots with single story structures, having 100 feet of frontage and meeting front and side setbacks, could not add a second story because of the non-conforming lot (125 foot frontage required). This amendment would allow the second floor to be built without a variance or special permit because the applicant would not be creating a new non-conformity. The key point was that the lot created the non-conforming situation and he felt that must be addressed.

S. Gibson-Quigley moved on to Article 8, mentioning that the proponents wished to withdraw the article as they did not want to go forward with the request. The article was on the warrant, therefore it was too late for it to be withdrawn. L. Adams recommended the Board vote to take no action.

Motion: to recommend no action be taken on Article 8, by D. Hill
2nd: M. Beaudry
Discussion: None
Vote: All in favor

S. Gibson-Quigley moved on to Article 9. L. Adams noted this involved two separate pieces of property. First, the rear piece, Parcel 502A (approx. 14,000 square feet), the Whistling Swan land which was already used for parking would be brought into compliance with the proposed zoning amendment. Parcel 500A (approx. 5,960 square feet) to the rear of the Boardwalk, also used for parking was the second piece to be rezoned. S. Gibson-Quigley pointed out that once the parcels were rezoned to Commercial, changes could be made, but they would have come under Site Plan Review.

S. Gibson-Quigley asked for questions from the Board. There were none. She recognized those wishing to speak for or against the rezoning district amendment.

- Ed Galonek, Sturbridge – stated he had applied separately from the Whistling Swan for the rezoning, that James Malloy, Town Administrator thought it appropriate to combine the requests. The request for rezoning was to protect his investment at the Boardwalk should future parking be needed. At present, the Whistling Swan had a month to month lease to use his parking lot for their overflow. He had one unit

remaining in the Boardwalk that was not open. If it opened in June, as scheduled, he would not have enough parking to accommodate both the Whistling Swan and himself. The Whistling Swan would be restricted from parking in his lot. He was concerned that the overflow from the Whistling Swan would be imposing on all the neighbors, himself included.

S. Gibson-Quigley asked the Selectmen if rezoning the separate, individual pieces was a solution for the parking issue or could the situation be remedied by a longer term solution. B. Muir offered that if there was a difficulty in a certain area of Town, the Board could propose a change for the area. He felt it was important to assist land owners that had parking problems within the tourist areas. A. Wilson stated E. Galonek came to J. Malloy with the rezoning issue as a solution to the parking problem for the Whistling Swan. The Board of Selectmen agreed to put the zoning change on the warrant which allowed the Board to hold a public hearing and give its recommendations. C. Blanchard felt this change should be supported because it made the most sense and was the best solution for the valuable Commercial property involved. M. Raphaelson agreed that this change should be supported.

L. Adams commented that this would be a practical, though not an ideal solution. He would like to look at pocket parking lots for Fiskdale. Because he wanted the Whistling Swan and the Boardwalk to succeed, he asked that the Board support the rezoning. M. Cooney agreed, but she would like confirmation that the business would not expand.

S. Gibson-Quigley asked if there were any other questions on Article 9. There were none.

S. Gibson-Quigley asked if there were any questions on Article 7's substitute motion, Items #2 – #6 extensions.

- Mary Blanchard, 26 Farquhar Road – asked L. Adams if “and structures” in Item #5 should also be added to Section 20.02 and Section 20.05 after the existing title. It was agreed it should be added.
- L. Adams, Town Planner – in Item # 6, asked if Section 20.04 and Section 20.06 were of practical value. S. Gibson-Quigley felt the item should be left off the article.

Motion: to close the public hearing, by M. Beaudry
2nd: D. Hill
Discussion: None
Vote: All in favor

S. Gibson-Quigley reviewed Article 7 – the substitute motion – non-conforming residential structures, including Items #1 - #4, #5 with the words “and structures” added to the existing title of Sections 20.02 and 20.05 and Item #6 had been eliminated.

Motion: to recommend the adoption of Article 7, with the modifications from Town Counsel - Items #1, #2, #3, #4, #5 with the words “and structures” added to the existing title of Sections 20.02 and 20.05 and Item #6 omitted, by M. Beaudry
2nd: B. Muir
Discussion: None
Vote: All in favor

Motion: to recommend no action be taken on Article 8, by M. Beaudry
2nd: B. Muir
Discussion: None
Vote: All in favor

Motion: to recommend the adoption of Article 9, by M. Raphaelson
2nd: B. Muir
Discussion: None
Vote: In favor – M. Beaudry, B. Muir, S. Gibson-Quigley, M. Raphaelson and D. Yaskulka
Opposed – D. Hill and M. Cooney

PLANNER'S UPDATE

ConCom Surety for Wetlands Associated Activities – The Preserve – The Conservation Commission had told Brendon Homes they must provide a form of surety by April 19th to restore the site should The Preserve project fail or a Cease and Desist Order would be issued. L. Adams had prepared a memorandum stating that the Board was holding four lots for infrastructure improvement surety which the Commission could also use as surety. The Board would not release the lots until the Commission was satisfied that restoration of the site was not necessary. He asked S. Gibson-Quigley to sign the memorandum if the Board concurred.

Motion: to approve and allow the Chairman to sign L. Adams's memorandum, dated April 15, 2003, regarding the four Preserve lots being used for surety for the Conservation Commission, by M. Beaudry
2nd: M. Cooney
Discussion: None
Vote: All in favor

Collette Road Improvements – L. Adams suggested that when the Board meets with developers for The Allen Homestead, it address the road widening issues of Camp Road.

Sprint Antenna – Site Plan Review – The proposal would be coming to the Board for site plan review. Sprint had an agreement with the Selectmen to install a six foot antenna on top of the St. Anne's water tank. L. Adams met with the proponents at the site and it was agreed to have aboveground electric utility, as opposed to electricity near the water pipes. He asked that St. Anne's parish give their concurrence before Site Plan Review. Special permit process was not required since this was an existing water tank structure.

Westwood Drive Chapter 61 Notice – The Board had signed an ANR which had a property line through a new garage owned by S. Halterman. It was discovered that the land was in Chapter 61 which would allow the Town the right of first refusal. There was a possibility that the Conservation Commission would like to exercise that option.

Elderly Housing Project Interests – There had been renewed interest by Autumn Ridge for a new site for elderly housing. Other locations of interest – ten acres behind the former Tarragon's Restaurant and The Hall Estate on Hall Road behind the Town pumping station.

Spring Hill Bus Turnaround – L. Adams would be meeting with Tom Moss to discuss the potential for a bus turnaround.

Opacum Land Trust (OLT) Parking Area (Cont.) – The Memorandum of Understanding (MOU) discussion continued. S. Gibson-Quigley felt that OLT needed to stay within the constraints of the subdivision. L. Adams commented that with the exception of Item #6, the MOU complied with the Board's approval of Site Plan Review. He had tried to define the parameters of Forest Lane, the gate, the protection of the detention basin and who (DEP and OLT personnel, not the general public) would be using the gate for access. D. Yaskulka was concerned that the 275 acres of open space could be at risk if the temporary parking lot was not permitted. L. Adams did not feel that OLT and DEP would "walk away from" the 275 acres if the temporary parking situation was not resolved. The Conservation Commission could accept the open space, if necessary. B. Muir stated he did not recall the plan indicating access through Forest Lane as Attorney Sweet wrote in his letter dated March 18,

2003 and he believed the land would be kept as open space. He did not support the MOU, but had no issue with OLT controlling the open space. Access could be gained in other areas. The Board was concerned that demands were being placed on it that were not part of the original subdivision submittal.

Charles MacGregor, Brendon Homes, stated he believed the subdivision had been approved as presented on the plan – the cart path (slightly moved), a turnout for maintenance access, etc. He was willing to cooperate with the exception of the location of the temporary parking lot due to the fact that it was a major safety issue.

It was the final decision of the Board, that the MOU, with the omission of Item #6, met the interests of Greg Morse, the Town and the developer.

Quality Inn & Conference Center (The Inn at Sturbridge Isle) – Mike Loin, Bertin Engineering stated the Inn had come under new ownership in August 2002 and was being marketed as a family-type hotel. He was requesting the Board waive the formal site plan approval process and asked that it approve the installation of a two-gated, fenced-in pool. He reviewed the parking requirements for 82 rooms, maximum of 12 employees and no restaurant which calculated to 94 parking spaces. The original Site Plan had 100 spaces. A 300-foot well protection zone limited the proposed location of the pool to within a small portion of the existing parking lot, reducing it by four spaces, to 96 spaces. L. Adams suggested that as a condition of waiver, as-built plans showing underground utilities be submitted.

Motion: to waive Site Plan Approval with a request for As Built Plans that would include underground utilities, by B. Muir

2nd: M. Beaudry

Discussion: None

Vote: All in favor

S. Gibson-Quigley reminded the Board of the Annual Town Meeting on April 28, 2003 at 7:00 PM at Tantasqua High School.

L. Adams asked the Board to review the letter from Attorney Donahue, dated April 11, 2003, on The Estates (North) Subdivision which would be taken up at its May 20th meeting.

Motion: to adjourn, by M. Beaudry

2nd: M. Cooney

Discussion: None

Vote: All in favor

Adjournment at 9:15 PM