

STURBRIDGE PLANNING BOARD
MINUTES OF
TUESDAY, November 9, 2004

Present Sandra Gibson-Quigley, Chair
Thomas Creamer
James Cunniff
Thomas Kenney
Jennifer Morrison
David Yaskulka

Absent: Milton Raphaelson

Also present: Lawrence Adams, Town Planner

S. Gibson-Quigley called the meeting to order at 7:00 PM and read the agenda. She welcomed member Jennifer Morrison. The minutes from October 19 will be prepared from notes as the audio portion of the recording was not activated and would be presented at the Board's next scheduled meeting.

ANRS

S. Gibson-Quigley gave a brief review of the Approval Not Required process for J. Morrison.

Paul Delacey – The Trail – Para Land Survey – Reconfiguration – Approved 0

OF PARCELS CREATED 0

NEW BUSINESS

Discontinuance of Portions of Walker Road and Bushnell Road – L. Adams circulated a packet containing a letter from Reed Hillman and a memorandum from James Malloy notifying the Board that there would be a warrant article at the Special Town Meeting scheduled for December 14th to discontinue portions of these roads. The Board of Selectmen will be conducting a public hearing on this matter. Also, L. Adams would be reviewing the Subdivision Control requirements for amending the Official Town Map with the assistance of Town Counsel.

Next Meeting Dates - December 7th Regular Scheduled Meeting
December 21st Zoning Bylaw Public Hearings

Workshop Meetings – Suggested topics - Open Space and Conservation Subdivision, Administrative Issues, Housekeeping, Waive Process, Smart Growth, Dialogue for the Future/Strategic Planning Survey results – level and method of growth, preservation of open space

ALLEN HOMESTEAD SUBDIVISION LLC – PUBLIC HEARING – TIME EXTENSION REQUEST
Attorney Louis W. Mountzoures, Manager, Allen Homestead Development, LLC

S. Gibson-Quigley opened the public hearing at 7:15 PM and T. Kenney read the legal notice. She recognized Attorney Louis Mountzoures who presented the following –

- Of the 38 homes proposed, 19 have been constructed and sold;
- Sturbridge Homes LLC have purchased 10 lots within the subdivision;
- Primary reason for the construction delay was topographic conditions and boulders;

- There was no waiver request for sidewalks; those along Collette Road and those within the subdivision (Tannery Road to house #17) have been completed;
- 80% of the binder coat and 20% of curbing completed;
- Grading, seeding and tree planting has been accomplished;
- Street lights, sewer, drainage completed;
- The stock pile of materials would be addressed once the Conservation Commission reviewed Allen Homesteads' proposal for the remaining seven lots;
- Remaining tasks – finish paving, some grading and landscaping, some curbing, guard rails, signs, set bounds, as-built plans upon completion of subdivision, miscellaneous and final cleanup.
- The extension request is for until at least September 30, 2005

S. Gibson-Quigley asked for comments/questions from the Board -

- Was ten months time sufficient for the extension or should the Board consider a twelve month extension – L. Adams concurred one year was sufficient, but no later the November, 2005, in the event that the Town needed to complete the roadway;
- Have grading issues been resolved to L. Adams' satisfaction – L. Adams felt it would be advisable to wait for the Conservation Commission's decision relative to the buildability of the last lots located near Allen Pond. He recommended that some public improvements funds for land restoration be reserved should any of those lots not be buildable and that the Board formally accept the response from Hometown Bank for the surety for this project.

S. Gibson-Quigley reference the following correspondence to the Board -

Gary and Cynthia Tuttle - dated 10-27-04 - stated that the grading issue for Lot 29 (40 Tannery Road) had been addressed

Matthew Sosik, Hometown Bank – dated 11-04-04 – verified Hometown Bank had on deposit the sum of \$183,963.02 under the terms of the fully executed “Form K” Lender's Agreement;

- Why had sidewalks on Collette Road been completed when it had been previously stated that this would be requested that it not be done and was so reflected in the public notice for the public hearing – L. Mountzoures apologized that he had not picked up at the meeting this work would not be done. Grading of the front yards had allowed for the sidewalks to be put in place.
- What had the applicant done to minimize the impact of the prolonged construction time to the abutters – L. Mountzoures stated the project should have been presented in two phases. S. Gibson-Quigley noted that Thomas Trapp, 19 Collette Road and Jerry Paulino, 21 Collette Road abutters who had expressed concerns to the Board in August 2003 had signed the petition not objecting to the extension.

S. Gibson-Quigley asked if there was anyone from the public wishing to speak for or against the request for time extension –

- George Suprenant, former owner of the Allen property – disagreed with L. Mountzoures' comment that the water system had been completed. He stated he had granted a right of way to be put through his property for a looped waterline from Allen Homestead to Route 20 and asked if this was going to be done. He felt an extension should not be granted without the waterline and submitted a memorandum from the Fire Chief which stated he had understood that the waterline would extend to Route 20.

S. Gibson-Quigley did not recall this waterline and asked its purpose. L. Adams provided the Board with the endorsed plans of the Allen Homestead Subdivision which showed the waterline within the subdivision and on Old Stagecoach Road which limited the jurisdiction of the Board relative to the waterline. L. Mountzoures stated that this was a separate project entered into between G. Suprenant and Russ Kelcourse. L. Mountzoures understood that water to the project was complete since all 38 houses had service. However, he would need to provide the Board with a letter from the contractor along with an as-built plan to confirm that all details

relative to the waterline had been completed as depicted on the endorsed plans. S. Gibson-Quigley stated that original bond releases would indicate that water and sewer work was complete and that the Board could not address agreements that were outside of the original endorsed plans. L. Adams offered to review the waterline plan with the Fire Chief and the DPW Director and reemphasized that the Board could act upon the limits of work as shown on the plans.

- Michael Suprenant – reference the note on the plan (page 10) regarding the water main and limit of work.
- Walter Polakowski, abutter to Tannery Road – felt a monetary penalty would get the work completed faster, remember the original plan showing sidewalks extending to Camp Road. S. Gibson-Quigley said the endorsed plan showed sidewalks to the end of Tannery Road and that retaining funds from the applicant was the only means of penalty available to the Town.
- Bruce Sutter, 33 Tannery Road – asked how long the stockpile of materials would remain on site. L. Mountzoures would follow up on this issue and contact Mr. Noel.

There were no other comments or questions. Given the serious waterline issues, L. Adams recommended that the Board keep the public hearing open until its December 7th meeting to obtain the Conservation Commission’s decision on the buildability of seven remaining lots, obtain input from the Fire Department and allow the involved parties to reach an agreement as to how the looping of the waterline can be done. Closing the public hearing would prohibit the Board from discussing new information. T. Creamer questioned if the Board gained anything by delaying the extension. L. Adams was concerned that approving the extension would not give the Board leverage with the developer and supported continuing the public hearing. J. Cunniff asked if there was value in having L. Mountzoures obtain a letter from the builder regarding the waterline being built to the approved plan. L. Adams felt Counsel should review such an issue and that the parties involved should reach a solution and bring it back to the Board. D. Yaskulka had hoped the abutters would have given their opinions for or against the extension. T. Kenney did not approve of a development being in default of its preexisting guidelines and supported a one year extension from the time of the previous deadline (April 2004) and then readdress any issues in a secondary public hearing.

Motion: to close the public hearing, by T. Kenney
2nd: T. Creamer
Discussion: None
Vote: All in Favor

Motion: to extend the Allen Homestead Subdivision time for completion of public improvements to April 1, 2005, by T. Kenney
2nd: T. Creamer
Discussion: None
Vote: In Favor – T. Kenney, T. Creamer, J. Morrison, J. Cunniff
Abstained – D. Yaskulka

**REQUEST FOR WAIVER OF SITE PLAN REVIEW – SIMPLE INDULGENCE – 598 MAIN STREET
Lori Manchester**

L. Adams noted this was the former site for High Octane. S. Gibson-Quigley added that this site had previously been approved for a commercial use. The Board would require Site Plan Review if there was to be an expansion or a change in the intensity of the use. L. Manchester was present and had addressed issues of parking (showed on street parking and submitted an agreement entered into with St. Anne’s Church for additional parking.) High Octane had obtained a letter of agreement allowing use of the shared driveway which went across the abutter’s property. S. Gibson-Quigley would like L. Manchester as the new owner to provide the Board with such a letter from this abutter. L. Manchester gave her consent to permit the Board to use her submittal for waiver of Site Plan

Review as a model for future applicants. T. Kenney asked that a timeframe be included on parking agreements in future submittals.

Motion: to waive of Site Plan Review for Simple Indulgence, at 598 Main Street with the condition that the abutter's agreement for the driveway right of way be provided prior to the issuance of an occupancy permit, by T. Creamer

2nd: D. Yaskulka

Discussion: None

Vote: All in Favor

NEW BUSINESS (cont.)

Other Zoning Amendment Petitions – L. Adams said there were three items for discussion –

- Uplands Bylaw – supported by the Conservation Commission – Edward Goodwin member of the Conservation Commission was present to discuss this issue. He stated the Commission sought to have one half acre upland with sewer lines and 90% uplands without sewer lines for suburban and rural residential. L. Adams noted that caution should be used with the language and questioned if the Attorney General might look at such a bylaw as a “taking”. The purpose of such a bylaw would be to provide better lots and better development schemes. He suggested that Board create a subcommittee of two Planning Board members and two Conservation Commission members to look at all possible issues such a bylaw might create. T. Creamer and J. Cunniff volunteered to serve on such a subcommittee. L. Adams would contact the Commission for two members to serve.

Discussion for Rezoning Residential to Commercial – 246 Fiske Hill Road at Intersection Route 20 and Route 49

James McDonald was present to discuss a request to rezone this property. S. Gibson-Quigley noted that this property address did not have frontage on Route 20. L. Adams concurred stating that the frontage was on Fiske Hill and that an 81 foot right of way existed through the State's MassHighway property and also added other lot deficiencies – lack of utilities and highway impact. S. Gibson-Quigley felt that rezoning this parcel to commercial would contribute to an increase in the traffic volume on Route 20; she pointed out that there were other parcels available on Route 20 presently zoned commercial and that she would need a good reason to consider such a rezoning. T. Kenney felt this parcel had the size needed to accommodate a big box regional retail home supply store, as shown on the informal plan submitted. He questioned if residential use was the best use of this parcel for the Town and that such a use should be located away from a residential zone. S. Gibson-Quigley questioned if this was the image and type of commercial development that the residents wanted for their Town. The Board debated the issue of rezoning this parcel to commercial and questioned why the parcel might have been zoned residential. L. Adams offered that it acted as a buffer to Fiske Hill and that it lacked supportive infrastructure. He added that looking at the parcel's location on two major arteries, on a divided highway and with the potential for water and sewer it could be commercial. A high density residential use might be appropriate. Also mentioned was the survey results which indicated the interest in more commercial development within the Town. S. Gibson-Quigley was concerned that the changes to this parcel would need to occur too quickly in order to satisfy the 2005 Annual Town Meeting deadlines for a zoning change. J. McDonald supported his request stating that he would be providing the Town with more jobs, additional tax revenue and more amenities. L. Adams noted that the parcel issues of buildability, wetlands constraints, accessibility and utilities should be resolved before the zoning change.

Other Zoning Amendment Petitions (cont.)

- Elderly Age Definition – L. Adams suggested the Town Bylaw defining elderly (age sixty and over) be consistent with the Federal Fair Housing Act which allows age restricted housing at fifty-five (active adults) or sixty-two (less active adults) year thresholds. Since there were a number of active adult projects soon to come before the Town for approval, he recommended the Board address this issue. S. Gibson-Quigley recognized Charles Blanchard who felt the market lent itself to the age fifty-five category. He encouraged the Board to make the change and offered examples of how it would benefit the Town. T.

Kenney agreed that by providing the amenities to “these adults” the Town would be gaining long term support from its residents. Members agreed to support age fifty-five as a change to the bylaw. L. Adams would prepare a zoning amendment which would reflect this change.

- Contractor Yards or Landscaping Yards (introduced by Jeff Bonja) – L. Adams stated there were non-conforming landscape companies in Rural Residential areas that were in violation of zoning according to James Malloy, Town Administrator acting as the Interim Zoning Enforcement Officer. He noted there was not a demand to add this to the list of allowed uses, but if the Board chose to support the amendment it would bring the existing yards into compliance. C. Blanchard stated there were grandfathered yards presently operating within the Town and felt there should be an area of town or a zone which would allow for new landscape businesses. He offered J. Bonja’s suggestion of Rural Residential District by a special permit and added the recommendation of the Commercial District by a special permit. J. Cunniff felt there needed to be a level of control to protect abutting residents. L. Adams supported the idea under the provisions of a special permit, but pointed out that the amendment would require a sponsor. T. Kenney suggested one of the non-conforming companies sponsor the amendment and S. Gibson-Quigley suggested the Board of Selectmen. When asked by C. Blanchard if the Board would sponsor the amendment she sensed the Board did not wish to be the sponsor. Members did not disagree. T. Creamer asked if individuals who had been operating businesses in Town for years would be asked to relocate. L. Adams stated that if they were operating before zoning went into effect they would be considered legal and non-conforming. He felt that creating a different zone for this use would be problematic because state law required everything to be treated equally. It was his opinion that the vehicle for this process was a special permit which could handle issues of size, screening and hours of operation. The Board agreed to look at this issue further and L. Adams would prepare some alternative languages.

Next meeting date – December 7, 2004

Motion: to adjourn, by T. Kenney
2nd: J. Cunniff
Discussion: None
Vote: All in Favor

Adjournment at 10:00 PM