

STURBRIDGE PLANNING BOARD
MINUTES OF
TUESDAY, March 8, 2005

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

Absent: Thomas Creamer
Milton Raphaelson

Also present: Lawrence Adams, Town Planner

S. Gibson-Quigley called the meeting to order at 7:00 PM and read the agenda. The minutes of February 8, 2005 were reviewed.

Motion: to accept the draft minutes of February 8, 2005, as presented, by J. Morrison
2nd: J. Cunniff
Discussion: None
Vote: In favor – J. Morrison, Sq, J. Cunniff and D. Yaskulka
Abstain – T. Kenney

ANR'S

A. Davis – Holland Road – Para Land Survey – 1 lot – Approved	1
M. Lemay – Walker Pond Road – Para Land Survey – 1 lot – Approved	1
P. Roy – Paradise Lane – Para Land Survey – this ANR combined three lots into one lot and no new non conformities would be created (73A, 75A and & 75B) – Reconfiguration – Approved	0
# OF PARCELS CREATED	2

OLD STURBRIDGE VILLAGE – PETITION TO REZONE – PUBLIC HEARING
Ms. Beverly Sheppard, President and Mr. Paul Wykes, CFO

S. Gibson-Quigley opened the public hearing at 7:15 PM and T. Kenney read the legal notice commenting that this hearing had been postponed from February 15, 2005. S. Gibson-Quigley noted that though the petition had been submitted after the deadline established at the 2004 Annual Town Meeting, the Board of Selectmen (BOS) had accepted the request and a public hearing must be conducted and a recommendation provided to the Finance Committee. She also reminded the public that it should have no bearing on the recommendation of the Board that the parcel was owned by Old Sturbridge Village.

L. Adams stated that the Commercial Zone extended 300 feet from Main Street and that some of the buildings were located outside of the zone, but were pre-existing nonconforming uses and legal as currently used. S. Gibson-Quigley noted that the parcel rezoning included Country Curtains and Crabtree and Evelyn, etc which had frontage on Old Sturbridge Village Access Road.

Present on behalf of Old Sturbridge Village was Beverly Shepard, president, and Paul Wykes, Vice President of Finance and Information Systems. B. Sheppard stated that the petitioner wished to change the request from Commercial to Commercial Tourist with the rationalization that the zoning on the properties extend to the rear boundary. She felt the future of any concerns to the Lodges was in jeopardy as a result of how they are divided. L.

Adams added that the buildings in the Suburban Residential zone were nonconformities and though legal today, might pose long term risks which would concern a lender.

The Board had the following questions –

- Clarification as to the number of acres for the parcel – P. Wykes calculated that the change involved approximately one half of both Lot A (10.06 a.) and Lot B (3.48 a.) for a total of about seven acres.
- Acknowledged the request to change the zone from Suburban Residential to Commercial Tourist – L. Adams had spoken with town departments and elected officials who felt the change would eliminate the “big box” scenario, but still satisfy Old Sturbridge Village’s intent. He pointed out that the significant difference between the zones was that Commercial Tourist was directed toward tourism and limited retail stores to 7,500 square feet and did not provide for fast food establishments.
- Could the Board legally make the change within the public hearing from Commercial to Commercial Tourist – L. Adams had contacted the Office of the Attorney General and found that the Board must stay in the scope of the legal notice which, in this case, was to rezone that portion of property which was currently nonconforming to Commercial. To be legal the Board must be clear in its final action, the warrant posting must be clear as to the zoning district reference (Commercial, Commercial Tourist) and Town Meeting minutes must reflect the discussion.

S. Gibson-Quigley asked for those wishing to speak for or against the rezoning request –

- Beverly Sheppard, President Old Sturbridge Village – felt current zoning put the property in a nonconforming position and was a deficit as Old Sturbridge Village looked at the strategic planning of its assets; that the Lodges could not be brought up to date, leased to another hotel or any loss on the property would be limited to possibilities due to their nonconformity; and that Old Sturbridge Village needed to continue as a viable business.
- Arnold Wilson, 21 Cedar Street – felt the BOS had worked in Old Sturbridge Village’s best interest; noted that the Town’s wells were adjacent to this property and that there were restrictions due to the wetlands on the property. He offered what he thought to be options for the property – do nothing, change the whole property from Commercial to Commercial Tourist, have the 200 foot setback from the roadway be Commercial Tourist and leave the back land alone or leave the property as is with a provision in the zoning law that the Town, as an abutter, negotiate a contract zone with Old Sturbridge Village (ex. Public Safety Complex, Hampton Inn and Hometown Bank.) D. Yaskulka was concerned how these proposals would effect Old Sturbridge Village. Beverly Sheppard – felt this was attractive land, considered it Old Sturbridge Village’s front yard and this was Old Sturbridge Village’s highest and best asset. S. Gibson-Quigley pointed out that if Old Sturbridge Village sold the land, the Town would be left with a new owner who had all of the uses allowed within a Commercial Tourist District.
- Charles Blanchard, 26 Farquhar Road – felt the original zoning changes might not have been consistent; except for the Commercial Tourist District and that a change to Commercial Tourist would solve the problem no matter who owned the property.
- Arnold Wilson – suggested consideration of a change to Historic Commercial since hotel/motels were allowed in Commercial Tourist; concerned that the Oliver Wight House and Lodges would be torn down and replaced with a large hotel and referenced the former Old Sturbridge Village “gateway” which was now the site of Burger King and McDonald’s. J. Cunniff asked if this risk remained without a zoning change. A. Wilson said it would, specifically within the 200 foot Commercial area. The Board expressed a concern that there were two zoning changes referred to in the zoning amendment – from Commercial to Commercial Tourist and from Rural Residential to Commercial Tourist. L. Adams felt the intent was to rezone all the property to Commercial Tourist which would be more restrictive than the current zoning and noted that Commercial Tourist did not allow for fast food restaurants. He also noted that automobile service stations were allowed within Commercial, but not Commercial Tourist. S. Gibson-Quigley wanted to be clear on what was considered as a fast food restaurant and reminded the Board of Dunkin Donuts (not fast food) and the drive thru issue. T. Kenney noted the property was not Rural Residential, but Suburban Residential.

L. Adams felt the future of the whole property needed to be a dialogue between Old Sturbridge Village and the Town since it was so much the look and feel of the Town. He felt contract zoning was not a good vehicle because it removed decision making from Town Meeting process. D. Yaskulka felt that Old Sturbridge Village was worthy of an exception to zoning; that less restrictive properties increased the pace of development within a town and was in favor of reviewing A. Wilson's options. A. Wilson suggested setting a goal to study this rezoning and have a formal recommendation at the 2006 Annual Town Meeting, if it fit Old Sturbridge Village's timetable. B. Sheppard felt there was urgency in making this decision.

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

The Board had the following discussion –that the front 200 feet of property, now in Commercial, if changed to Commercial Tourist, would give some measure of protection; that if the decision was an emotional one due to the timeframe, it might not be in the best interest long term for the Town or Old Sturbridge Village to make that decision now; given the late submission of the request and the snowy conditions which might have prevented those with interest from attending this meeting, there was a concern that the decision was rushed; that the front land was not “on the table” for rezoning as the petition had been submitted; since the deadline date had passed, could the Board make its recommendation at the Annual Town Meeting; and should consideration be given to the proponent for their willingness to make the land more restrictive.

L. Adams suggested that the amendment could be reposted though the deadline had already been missed; pointed out that there was a risk in having the nonconforming buildings; and felt the Attorney General's office had been clear that proper documentation (meeting minutes, warrant posting) would allow for the advertised amendment to proceed and the vote would not be set aside. A. Wilson disagreed on the point of nonconformity stating that the purpose of nonconforming structures or uses was that eventually they would be brought into conformance or “go away” and felt there should not be a rush to make the use conforming.

The Board agreed it was uncomfortable voting the amendment to rezone the Old Sturbridge Village property as a whole. T. Kenney felt the issue was important and proposed the following -

Motion: to have a new public hearing on March 29th before the warrant was printed and issued to discuss the change from Commercial to Commercial Tourist and from Suburban Residential to Commercial Tourist, by T. Kenney
2nd: D. Yaskulka
Discussion: A. Wilson noted the warrant was closed and would have to be reopened and a substitute motion submitted.
Vote: All in Favor

S. Gibson-Quigley asked L. Adams to make a request to the BOS and Town Administrator to reopen the warrant for the language change and to notify the Finance Committee as such.

NEXTEL-GREEN MOUNTAIN COMMUNICATIONS – CELLULAR TOWER SITE PLAN REVIEW – PUBLIC HEARING George Chianis and Victor Drouin, Green Mountain Realty Corp.

S. Gibson-Quigley opened the public hearing and T. Kenney read the legal notice and noted the postponement from the scheduled date of February 15, 2005. George Chainis, agent for Green Mountain Realty Corp., Nextel Communications of the Mid-Atlantic and T-Mobile, was present for the site plan review and submitted

supplement information relative to the antenna specifics for T-Mobile, antenna specifics for Nextel and the Amended Order and Judgment. He stated the following –

- The tower height was to be 130 feet and located 350 feet from the original location;
- The Nextel center line would be at 128 feet, T-Mobile at 118 feet;
- The Nextel equipment shelter was to measure 12 feet by 20 feet, T-Mobile at 6 feet by 8 feet;
- There shall be an 8 foot stockade fence.

S. Gibson-Quigley reviewed the site plan with comments from G. Chainis and Victor Drouin as follows –

- Was there any nonconformities on the existing Site Plan – there was not;
- Did the plan meet zoning with respect to dimension requirements – it did;
- Were there any grading issues – there were none;
- The location of the proposed building – it would be within the 50 foot by 50 foot compound;
- Description of the driveway/access road – it was 12 feet (+/-) with riprap swales at the steeper slope areas;
- Number of parking spaces – one required, two would be provided;
- Building height – 6 feet;
- Were there any wetlands or vernal pools issues – Conservation Commission (ConCom) had approved the original wetlands crossing in 2001; the amended location (within the overlay district) had been approved November 24, 2002; an amendment to the decision was requested following the court's settlement agreement location placing the tower to its original site. A letter from ConCom had been submitted to the Board requesting a re-review of the wetland resource areas to check wetlands flagging and to determine if there were significant changes to the wetlands.
- Electric lines – 300 feet will be overhead (wetlands area) and 1,200 feet underground to the site, the road length had been reduced by 350 feet;
- Drainage – taken into account with the wetland areas;
- Lighting – one photo cell light (motion sensor) was on the building; no lighting on the tower;
- Landscaping – there would be some tree clearing with significant replanting.

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

J. Cunniff - asked for clarification regarding Section 12.08, Abandonment and Discontinuance – removal of the monopole. It was noted that the court decision addressed this matter.

T. Kenney – referenced Section 12.03(d)(3)(C) asking if a written statement of reasons for the unfeasibility of co-location had been submitted – this had been addressed with the original application to the Zoning Board of Appeals (ZBA). A report had been submitted by David Maxson, RF consultant, to the ZBA and a copy could be provided to the Board. L. Adams assured the Board that the ZBA had reviewed the co-location issue and had obtained a written report which was on file. When the special permit granted by the ZBA was appealed, the Telecommunications Act allowed for the court's decision and the Board's responsibility was to review site characteristics and not the use itself.

T. Kenney – concerned about drainage onto Clark Rd and asked where it was addressed on the plans – Page L-1A provided the information and L. Adams noted the DPW Director would be contacted for a curb cut permit.

S. Gibson-Quigley asked for comments or questions from the public.

- Carol Childress, New Boston Road – asked for the square footage of the wetlands to be destroyed and what would be replaced – Page Z-2 of the plans showed 6,420 square feet of replication, the square footage being removed measured under 3,000 square feet at 175 feet by 12 feet, this would be restated under ConCom review.

L. Adams suggested any decision to approve Site Plan Review include the following –

- As built drawings for the facility, the approach, the gravel path and the culverts;
- That the ConCom Order of Conditions be amended through a conservation process;

- The Decision should reference the amended Order and Judgment Case No. 04-CV-40021-FDS, as the authorization that allowed for this Site Plan Review approval.
- Molly Giordano, 6 Wildwood Lane – an abutter, stated that the overlay district had been removed at the 2004 Annual Town Meeting; the 130 foot tower was in a Rural Residential Zone and would be visible from the Draper Woods development; requested the tower be camouflaged like a tree and provided photos from the Boston Globe showing examples of towers across the country. Noting that the tower was to be 130 feet, S. Gibson-Quigley asked the height of the trees that would be surrounding tower. G. Chainis stated they were approximately 60 feet tall. T. Kenney referenced Section 12.03 (d)(1) which addressed M. Giordano's request about a simulated tree tower and asked the proponent if the tower would look like a tree – it was noted the tower would not look like a tree under the Amended Order and Judgment from the court. It was noted that the Board had no control over the monopole design due to this Order.

There were no other wishing to speak for or against the request.

Motion: to close the public hearing, by J. Morrison
2nd: J. Cunniff
Discussion: None
Vote: All in Favor

Motion: to approve Site Plan Review for Green Mountain Realty Corp. with the following conditions – the Board receive as built drawings, that there be an amended Order of Conditions from the Conservation Commission and that reference be made to the Amended Order and Judgment Case No. 01-CV-40021-FDS, by T. Kenney
2nd: J. Cunniff
Discussion: T. Kenney clarified that this application had gone through the review process with the ZBA, its Decision had been overturned in the courts and there was a Judgment that dictated the special permit and conditions. The Board could not modify, change or adjust this special permit due to the court order.
Vote: All in Favor

LAUREL WOOD DRIVE – PRELIMINARY SUBDIVISION PLAN – PUBLIC HEARING

176 Cedar Street, Mr. Andre J. Cormier, Escape Estates

S. Gibson-Quigley opened the public hearing and T. Kenney read the legal notice. S. Gibson-Quigley noted this was a process new to the Board under its Subdivision Rules and Regulations where the Board would not approve or disapprove the subdivision, but would provide input to the developer. The developer could then address these concerns and produce an improved plan for the subdivision. L. Adams added that the developer then had seven months to submit a definitive plan based on the preliminary plan and that the preliminary plan could not be registered with the Worcester District Registry of Deeds.

Andre Cormier, Jr., Vice President of Escape Estates was present to review the Preliminary Plans as follows –

- The parcel was located off Cedar Street and contained nine lots each having more than the required frontage and an area averaging about three quarters of an acre;
- Board of Selectmen had reviewed the plans and approved connections to Town sewer;
- Approximately six acres would be set aside as open space;
- The entrance would be a double barrel roadway;
- Natural vegetation would be maintained around the fringes of the lots.

S. Gibson-Quigley asked for questions from the Board which were addressed by A. Cormier and Rod McNeil, of McNeil Engineering as follows –

D. Yaskulka asked the acreage of the parcel – 15 acres with nine building lots varying from 32,000 square feet to 42,000 square feet in a Suburban Residential District and 150 feet of frontage.

R. McNeil explained the details of the roadway –

- The 22 foot roadway would begin on an 80 foot right of way into a 50 foot right of way with a double barrel entrance (18 foot paved surface entering and exiting with a 14 foot grass median);
- A modified cape cod berm would be used for edging;
- A four foot grass strip would separate the roadway from the five foot concrete sidewalk;
- Electric and telephone lines would be underground;
- Hydrant locations and fire protection would be to the satisfaction of the Fire Department;
- Homes would be serviced by private wells.

T. Kenney asked why the homes were not serviced by Town water, if there were lighting plans for the roadway and referenced Lot #9 and the potential for a shared driveway which was not allowed – A. Cormier stated he chose to invest in Town sewer over septic systems to create a better project design and the cost of Town water would have driven the cost of the lots up too much. L. Adams commented that the cost benefit was not there since the BOS had limited the number of lots to nine; light placement would be at the back of the cul- de-sac with a light placed every 300 feet. L. Adams noted that the Board had agreed the low street lights as were used within other subdivisions.

J. Cuniff inquired as to the unusual shape to Lot #9 – the intention was to break off the “neck” of this lot and offer it to the abutters for the cost of covering the survey.

S. Gibson-Quigley asked the length of the cul-de-sac, the disposition of the open space, noted that the mailboxes should not be in the middle of the sidewalk, that the name of the roadway needed to be changed and asked if there were wetlands that needed review by the Conservation Commission – the cul-de-sac length was 900 feet; the open space would go into a land trust, suggestions from the Board were welcome, other possibilities were a homeowners association or to give the land to the Town; L. Adams commented ConCom had requested a Request for Determination of Applicability for the wetlands within 200 feet.

D. Yaskulka commented that the open space parcel might be too small for a land trust or the Town to own.

S. Gibson-Quigley read into the record Greg Morse, DPW Director’s memo dated 03-07-05 which addressed the following –

- The omission of bound/monument locations on the plan
- Lot #9 access could possibly have a common driveway or be subdivided;
- Location of the northerly side sidewalk;
- Drainage piping and sewer forcemain not on the profile;
- Finish grades were needed for detention basin and the access was not satisfactory;
- Add tree and/or stonewall cuts to the plan;
- Consider a road name change due to similar names in the Town.

L. Adams noted that the Tree Warden, an abutter to the project, was clarifying an issue of Conflict of Interest with James Mallory and would review the plans when the issue was resolved.

S. Gibson-Quigley asked for those wishing to speak for or against the project –

- Carol Childress, New Boston Road – commented that the open space area was small and a benefit only to the residents, but not of interest to a land trust or a town; offered to help with its disposition and recommended contacting the Conservation Commission or D. Yaskulka for guidance.
- Bob Waraika, a direct abutter – concerned with the potential for drainage issues from the project onto their property. S. Gibson-Quigley stated that the DPW Director would be reviewing the plans when submitted and the issue would be addressed.

- Philip Sartanowicz, 179 Cedar Street – asked about the possibility of tying into Town sewer since approval for the line had been extended for the subdivision by the BOS and asked if the developer would be open to the existing homes tying in. S. Gibson-Quigley stated that the question needed to be addressed with the BOS since it acted as the Town’s Water and Sewer Commissioners; A. Cormier said he would look into the possibility depending on the BOS’s response.

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

Motion: to approve the Preliminary Plan for the Laurel Wood Drive, by J. Cunniff
2nd: J. Morrison
Discussion: T. Kenney was concerned that the approval did not have any conditions which directed the developer as to the issues that the Board had discussed. L. Adams offered that the process provided the developer with input on how to proceed with the project. After discussion the Board agreed that it needed to clarify what it liked and what it did not like regarding the plan. The Board’s primary concerns were the Cedar Street entrance off Lot #9 and the disposition of the open space It did not have an issue with the cul-de-sac as designed.
Amendment: to approve the concept except for the concerns of Lot #9's access to Cedar Street, the disposition of the open space, the DPW Director’s concerns and the drainage of wetlands to the abutter’s property, by T. Kenney
2nd: J. Cunniff
Discussion: None
Vote: All in Favor

Further Discussion: None
Amended Motion Vote: All in Favor

LOT RELEASE REQUESTS – DRAPER WOODS AND TURNER LANE – Mr. Willaim Swiacki, owner

As S. Gibson-Quigley began discussion of the Turner Lane Lot release, T. Kenney recused himself from the Board. Kevin Rabbit, of K.B. Rabbitt and Associates was present to make the request.

S. Gibson-Quigley stated the lot release request for Turner Lane was for Lots 1 – 6 with Lot 7 to remain under covenant as security for the remaining Turner Lane improvements. L. Adams referenced the DPW Director’s memo which stated that Lot 7 would cover the remaining costs and recommended the release of requested Lots 1 – 6. The Board executed the release. T. Kenney stepped back onto the Board.

S. Gibson-Quigley stated the lot release request was for Draper Woods, Lot 6. In place of Lot 6, the Board would keep Lot 1 as surety and continue to keep Lot 5. The Board executed the release.

Next meeting – March 29th – Sturbridge Isle – Three Year Review Public Hearing
 Penny Appliance – 171 Charlton Road, Site Plan Review Public Hearing
 Old Sturbridge Village – Rezoning Amendment Public Hearing

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

Adjournment at 10:10 PM