

**STURBRIDGE ZONING BOARD OF APPEALS**  
MINUTES OF  
WEDNESDAY, October 9, 2002

**Present:** Theophile Beaudry  
Mary Blanchard  
Jeff Bonja  
Lawrence Boniface  
Robert Cornoni  
Pat Jeffries  
Ginger Peabody, Chairman

**Also in Attendance** Nancy Campbell, Clerk

G. Peabody opened the meeting at 7:00 PM and asked the Board members to introduce themselves. The minutes for September 11, 2002 were reviewed.

**Motion:** to accept the minutes of September 11, 2002, as written, by M. Blanchard  
**2<sup>nd</sup>:** T. Beaudry  
**Discussion:** None  
**Vote:** All in favor

**CORRESPONDENCE**

Cottone Appeal – The Board had received a copy of the appeal of the Decision regarding the Administrative Appeal Caron v. Building Inspector #08-14-02-1.

Stallion Hill Project – J & W Company has made application to the state for this project. A letter has been sent to the state from the Board of Selectmen identifying deficiencies in the application. The Zoning Board of Appeals has yet to become involved with this project.

Park Place Refund – The Town Accountant has notified the Board that the partial refund (\$715.00) due Walter Regep, from the Park Place Project (#06-12-02-1), cannot be released until it has been presented at a Town Meeting. Since the fee was paid during FY 2002 (05-06-02) and these revenues have been closed, the only way to refund this money would be through appropriation at a Special Town Meeting. G. Peabody spoke with W. Regep, who understood the situation.

G. Peabody read the agenda.

**PUBLIC HEARING FOR MARK FARRELL – VARIANCE – TO ALLOW THE CONSTRUCTION OF A GARAGE 18 FEET FROM THE FRONT PROPERTY LINE AT 10 MAIN STREET**

G. Peabody opened the hearing at 7:05 PM and J. Bonja read the legal notice. Mark Farrell, of Green Hill Engineering and Ocala Realty Trust, presented the variance request. He noted this was a 12,000-sq. ft. lot, which was wide, but shallow. The property has a single family home on its northerly portion and a 2-car garage in the middle. M. Farrell was proposing to demolish the garage and build a new garage approximately 20 feet from the southerly boundary. He felt the proposed change would correct the following – 1) a drainage problem with the garage during the winter; 2) structural problems with the garage (no footings so the garage has settled); 3) entering/exiting the property would be safer if the garage were moved. M. Farrell further noted that the changes would create a more conforming structure.

G. Peabody explained the necessary criteria in order to grant a variance and stated she did not feel M. Farrell provided evidence to indicate his situation was unique to the properties within the neighborhood. She referenced the definition of a garage according to the Sturbridge Zoning Bylaws, stating it was an accessory building to be used only for the storage of motor vehicles. She also referenced the Zoning Bylaws, Section 20.04 – a non-conforming use or structure may not be altered or reconstructed, if the cost of such alteration exceeds 50% of the fair market value of the structure, at the time of the change. Also of concern, was whether the structure would remain a garage or at some point M. Farrell intended to use it as office space.

T. Beaudry agreed that the existing garage was a non-conforming structure. J. Bonja noted that the application showed the existing garage was to be torn down, therefore he questioned if Section 20.04 even applied. He also asked M. Farrell if he had considered making the garage 20 feet wide, whereby negating the need for a variance. M. Farrell felt that size would be too small. M. Blanchard asked if M. Farrell was aware of the new zoning bylaw regarding non-conforming uses and structures, Section 20.05. She explained that a pre-existing non-conforming structure or use may be extended, changed or altered under issuance of a special permit and that his application might be better served under a special permit request and not a variance. She felt the proposed changes would be safer and less non-conforming than the existing garage. P. Jeffries felt that if the driveway were utilized better, there would be sufficient turning area. M. Farrell disagreed. G. Peabody asked M. Farrell if the house on the property was rented at this time and for what purpose he was using the garage. He commented that the house was rented and that he, himself, used the garage for storage. G. Peabody asked if he intended to put a second floor on the proposed garage and use it as an office building. He said that he might do that at some point. G. Peabody said she would like to see a profile of the garage, its height and appearance and that if a variance or special permit were to be granted she would want a condition in place to kept the garage private.

G. Peabody asked if there was anyone to speak for or against the requested variance.

- Robert & Theresa Hamelin, 5 Main Street – concerned that the water line would have to be moved should the garage location change. This would affect the water pressure into their home. M. Farrell said he had contacted the water department and discovered that in the 1930’s, numerous families paid to have Southbridge extend the waterline to Old Sturbridge Road. The water company would not move the line because it was private. M. Farrell would be responsible for moving the lines.

M. Farrell requested to withdraw his application without prejudice given the new information of the waterline and the possibility of applying for a special permit.

**Motion:** to allow Mark Farrell to withdraw the plans and application for variance without prejudice, by J. Bonja  
**2<sup>nd</sup>:** M. Blanchard  
**Discussion:** None  
**Vote:** All in favor

**Motion:** to close the public hearing, by M. Blanchard  
**2<sup>nd</sup>:** J. Bonja  
**Discussion:** None  
**Vote:** All in favor

**PUBLIC HEARING – CLIFFORD GRANT – VARIANCE – TO ALLOW THE CONSTRUCTION OF A DWELLING AND DECK WITH A SETBACK OF 11.3 FEET FROM THE FRONT PROPERTY LINE, 8.2 FEET FROM THE NORTHERLY PROPERTY LINE AND 11.8 FEET FROM THE SOUTHERLY PROPERTY LINE AT 55 BENNETTS ROAD**

G. Peabody opened the hearing at 7:30 PM and J. Bonja read the legal notice. Mark Dante, of Dante Builders was present to represent Clifford Grant and review the plans and request for variance. He noted that the existing structure was a pre-existing non-conforming structure located on a lot divided by a private way creating two pieces of property. M. Dante read and submitted four letters from abutters supporting the variance request. He felt there were hardships with the property regarding size and topography – the size of the property did not allow for any structure to be built on it; due to wells on abutting properties, the septic system placement made the proposed location the only feasibly location for the house; the grade variation to the water limited the location of the house. The existing structure would be too small for a year round home. M. Dante noted that a two-story structure would also fall within the property setbacks. He did not feel the proposed plans would hurt the neighborhood and that it would be consistent with the abutting properties.

G. Peabody again reviewed the requirements for a variance commenting that the shape, soil or topography had to be unique to the parcel. It was M. Dante’s opinion that this property met that criteria. G. Peabody asked if the applicant had considered that the structure might be too big for the property. She also noted that this property was already non-conforming and referenced Zoning Bylaw, Section 20.04. T. Beaudry felt the deck was too big for the property. G. Peabody recognized Clifford Grant, owner of the property, who reviewed the plans with the Board. There was further discussion amongst the Board as to the location of the structure and the setback measurements. R. Cornoni inquired if there was a reason the proposed home was not centered on the property and J. Bonja asked for the frontage of the property. M. Dante replied there was no particular reason the home was not centered and that the frontage measured 56.57 on an angle. M. Blanchard asked for clarification on the quickclaim deed included in the application. She was concerned that C. Grant was not the only owner of the property. C. Grant verified he had purchased the other portion of the property from his brother and now was sole owner. M. Blanchard commented the hardship was not because the land was a steep slope, but a result of the enforcement of the bylaw. M. Dante believed the land was better served with the proposed structure since the existing structure was not in compliance with the sanitary or the building codes. The use of the property was not changing, it was being improved. P. Jeffries felt that most lakefront properties were non-conforming and that it was not the intent that people could not use their properties to the fullest. She did not feel a 1,000-sq. ft. house was too big, though she did have a problem with the deck. She asked the distance of the structure on the abutting property from that of the Grant’s. J. Bonja felt the house was too big for the lot and he could not support the variance since it did not meet any of the conditions. G. Peabody recalled the Board having denied a variance requesting lesser relief on this same road. L. Boniface felt the bylaws should help people and not hinder them when they sought to improve a non-conforming lot. He wanted an opportunity to visit the property. M. Blanchard concurred saying improvements should be allowed on non-conforming lots, but that the deck was too large. She again referenced the new zoning bylaw for special permitting, Section 20.05. C. Grant told the Board it was his intent to improve the property as others had done in the neighborhood.

**Motion:** to continue the public hearing for consideration and for a site visit by members of the Board who had not done so, by M. Blanchard

**2<sup>nd</sup>:** P. Jeffries

**Discussion:** None

**Vote:** In favor – L. Boniface, M. Blanchard, P. Jeffries, R. Cornoni and T. Beaudry  
Opposed – J. Bonja and G. Peabody

**Motion:** to reconsider her original motion, by M. Blanchard

**2<sup>nd</sup>:** P. Jeffries

**Discussion:** None

**Vote:** All in favor

**Motion:** to amend the original motion to include a date and time of October 23, 2002, at 7:10 PM, by M. Blanchard

**2<sup>nd</sup>:** P. Jeffries

**Discussion:** G. Peabody emphasized to the applicant she felt strongly that if the house was non-conforming, she did not see how they could change her mind since their land (not the structure) had to be unique to the zoning district. It was her opinion that there were many steep slopes along the Leadmine Pond area and that the Grant property was not unique and did not meet the first requirement necessary for the Board to grant a variance. M. Blanchard did feel that the slope on the Grant property qualified as being unique to the area. C. Grant asked for clarification of the definition of uniqueness.

**Vote:** In favor – L. Boniface, M. Blanchard, P. Jeffries, R. Cornoni and T. Beaudry  
Opposed – J. Bonja and G. Peabody

## **NEW BUSINESS/OLD BUSINESS**

Special Permit Workshop – November 13, 2002 – 7:00 PM – Town Planner, Lawrence Adams and Town Counsel will conduct the workshop. Other Boards will be invited to listen with a session following for questions and answers.

Special Permit Rules and Regulations Subcommittee Suggestions – after review the subcommittee made the following recommendations for change:

- 1.00 – 2<sup>nd</sup> line – insert the words “Section 9” after the words Chapter 40A
- 4.02 – Check on the effective date for applications
- 4.02(3.) – registered land surveyors – do they do elevations; 3<sup>rd</sup> line - insert the word “easements” after the word “setback”
- 4.02(5.) – 1<sup>st</sup> line – insert the words “condition, surfaces” after the words “square feet”
- 4.02(7.) – 1<sup>st</sup> line – insert the words “vernal pools” after the word “bodies”
- 4.02 – add an item “20. Noise Pollution”
- 5.02 – 6<sup>th</sup> line – replace “greater than 30 acres” with the words “30 to 75 acres” and then add the words “greater than 75 acres....\$10,000”
- 6.01 – review the entire section
- 7.05 – 2<sup>nd</sup> line – change the words “two (2) “ to read “one (1)”
- 7.06 – 1<sup>st</sup> line – change the words “two (2)” to read “one (1)”
- 10.0 – move to introduction
- 10.01 – move to introduction
- 11.0 – 1<sup>st</sup> line – insert the words “and applicable Town Bylaws”; 6<sup>th</sup> and 7<sup>th</sup> line – check on the use of fourteen (14) days
- 12.0 – 1<sup>st</sup> and 7<sup>th</sup> line – replace the words “this bylaw” with the words “these Rules & Regulations and applicable Town Bylaws”

If there were not major changes by Greg Morse, the DPW Director, Board of Health, James Malloy, Town Administrator and Lawrence Adams, Town Planner, the Board could look toward adopting these Rules and Regulations at the October 23<sup>rd</sup> meeting. Board members requested there be a method for changes written into the Rules and Regulations. G. Peabody thanked the subcommittee for their work.

**Motion:** to adjourn, M. Blanchard  
**2<sup>nd</sup>:** T. Beaudry  
**Discussion:** None  
**Vote:** All in favor

**Adjournment at 8:56 PM**