

**STURBRIDGE ZONING BOARD OF APPEALS**  
MINUTES OF  
WEDNESDAY, September 11, 2002

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

**Also in Attendance** Lawrence Adams, Town Planner  
Nancy Campbell, Clerk

G. Peabody opened the meeting at 7:00 PM and requested a moment of silence in memory of the victims of the tragic events of September 11, 2001. She then read the agenda and asked the Board members to introduce themselves. The minutes for August 28, 2002 were reviewed.

**Motion:** to accept the minutes of August 28, 2002, as written, by M. Blanchard  
**2<sup>nd</sup>:** J. Bonja  
**Discussion:** None  
**Vote:** All in favor

**ADMINISTRATIVE APPEAL DECISION – Joann Caron-Prescott and Suzanne E. Caron, as principal of Cedar Lake, LLC. – Administrative Appeal – Relief from a decision of the Building Inspector dated June 12, 2002, declining to take enforcement action against the setback violation and property encroachment by Robert Cottone**

G. Peabody opened the discussion for the appeal. M. Blanchard stated she felt the previous minutes seemed to conflict as far as the opinion on what the appeal was based on. It was her understanding that the appeal was based on the Building Inspector, Mark Lev's, June 12, 2002, decision. G. Peabody clarified that the appeal was based on the Enforcement Officer declining to enforce the Sturbridge Zoning Bylaws and did not pertain to the building permit. M. Blanchard still agreed with M. Lev, based on what he knew and saw at the time of his decision. She felt it was not up to him to do the measurements and not up to the Board to determine exact boundaries. P. Jeffries also shared that opinion.

J. Bonja felt the Board had better evidence before them, noting the survey done by the registered surveyor. L. Boniface felt that the decision of the Building Inspector was a moot point. He believed the building was illegal and that the Board must do something to correct the situation. M. Beaudry felt L. Jalbert's survey showed the pin to be in the wrong place and there was no verification from R. Cottone that the pin was correct. R. Cornoni felt the surveys and maps presented by L. Jalbert were certified and registered and had validity to them which the other survey did not have.

**Motion:** I move that we find for the appellant and impose the following conditions:

1. The subject structure (a garage) must be brought into compliance with the Zoning Bylaws, such that no portion of the structure may be within fifteen feet of the property line as established by the survey Drawing Number 01855, unless a new property line is established under Condition 3 below.
2. The deadline for compliance shall be completed by November 12, 2002, after which time the Zoning Board of Appeals shall impose a non-criminal penalty of fifty dollars, under the Town's Zoning Bylaws, Section 24.02. Each day that such violation continues shall be deemed a separate offense.
3. The property owner, Mr. Robert A. Cottone, is free to negotiate with the Appellant, for the acquisition of additional land that can satisfy the setback requirement, based on a new property line; or to pursue other remedies that may be available to him to satisfy the zoning setback requirements within the time frame contained above. Such negotiations or remedies must be concluded by November 12, 2002, with proper and sufficient notice to and deliberations of the Zoning Board of Appeals, to avoid the commencement of the non-criminal penalty, by J. Bonja

**2<sup>nd</sup>:** T. Beaudry

**Discussion:** L. Boniface thought that the November 12<sup>th</sup> date was too short a period of time to begin imposing fines. He felt it created too much pressure. G. Peabody felt the date gave R. Cottone time to make a land acquisition or decide how he would bring the garage into compliance. G. Peabody offered that the Board could request an approved plan be in place by November 12, 2002, and then allow until April 12, 2003, to approve the execution of such plan. If there was not a plan in place by the November 12<sup>th</sup> date, the Board could then begin to impose the \$50.00 per day penalty. If the plan was in place, the Board could allow R. Cottone until April 12, 2003, to complete the work, deferring the penalty until that time. Should the work not be completed by the April deadline, the penalty would be imposed from November 12, 2002. L. Boniface was in support of that suggestion. G. Peabody noted that there was not a limit to the amount of time the Board was allowed to enforce the penalty.

**Amended Motion:** I move that we find for the appellant and impose the following conditions:

1. The subject structure (a garage) must be brought into compliance with the Zoning Bylaws, such that no portion of the structure may be within fifteen feet of the property line as established by the survey Drawing Number 01855, unless a new property line is established under Condition 3 below.
2. The deadline for **submittal and approval of a plan** of compliance shall be completed by November 12, 2002, after which time the Zoning Board of Appeals shall impose a non-criminal penalty of fifty dollars, under the Town's Zoning Bylaws, Section 24.02. Each day that such violation continues shall be deemed a separate offense.
3. The property owner, Mr. Robert A. Cottone, is free to negotiate with the Appellant, for the acquisition of additional land that can satisfy the setback requirement, based on a new property line; or to pursue other remedies that may be available to him to satisfy the zoning setback requirements within the time frame contained above. Such negotiations or remedies must be concluded by November 12, 2002, with proper and sufficient notice to and deliberations of the Zoning Board of Appeals, to avoid the commencement of the non-criminal penalty.
4. **The collection of the penalty shall be deferred until April 9, 2003. Upon execution of the plan, to the satisfaction to the Zoning Board of Appeals by April 9, 2003, the accrued penalty will be waived,** by G. Peabody

**2<sup>nd</sup>:** J. Bonja

**Discussion:** J. Bonja noted the meeting date for November was November 13, 2002 and in April 2003 the closest meeting date would be April 9, 2003.

**Amendment to the Amended Motion:** to change the date of April 12, 2003 to April 9, 2003, by J. Bonja

**2<sup>nd</sup>:** R. Cornoni

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

**The Board vote on the Main Motion as amended was as follows:**

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

G. Peabody thanked the Board for all its hard work on this decision. She also acknowledged the work done by the Town Planner, L. Adams and the Board's clerk, N. Campbell. The Board recessed for five minutes.

## **DISCUSSION/ADOPTION OF SPECIAL PERMIT RULES & REGULATIONS AND FEE SCHEDULES**

Some members felt that the proposed Special Permit Rules & Regulations and Fee Schedules were more than necessary. G. Peabody believed it was best to have these rules and regulations in place and then waive those that the Board did not feel necessary for any special permit that might come before it. It was G. Peabody's intention to have these Rules & Regulations become the policy of the Zoning Board of Appeals. L. Boniface did not feel the Board needed to become involved or adopt Rules & Regulations to the extent of those being proposed. M. Blanchard understood that the Rules & Regulations could be waived, but she felt they were cumbersome to an individual who might come to the Board with a simple special permit. P. Jeffries felt the Rules & Regulations were intimidating and asked at what point the applicant would be aware that some of them could be waived. G. Peabody suggested applicants come to the Board to determine which items might be waived before they file their application. She cited examples of special permits that might require the guidelines provided by the proposed Special Permit Rules & Regulations. Other Boards and Committees would be provided with copies of the plans and could then give its input to the Zoning Board. She felt a better decision could be made if these regulations were in place. Some

members thought it would be better to use the Rules & Regulations as a guideline for applicants. J. Bonja commented that guidelines would not be enforceable.

A copy of a current application for a special permit was reviewed by G. Peabody for the Board. M. Blanchard requested additional time to review the Special Permit Rules & Regulations and Fee Schedules. L. Boniface would like to see more samples of Rules & Regulations used by other towns of equal comparison to Sturbridge. G. Peabody suggested the members call other towns to determine their requirements for special permits. Selectman Charles Blanchard felt the Board was on the right track to adopt Special Permit Rules & Regulations and Fee Schedules. He felt there was a need for such regulations. L. Adams cautioned the Board that they could not have different rules for different special permits. Therefore, it was best to have the rules in place and waive those that did not apply to specific special permit requests.

L. Adams recommended creating a subcommittee to discuss the Special Permit Rules & Regulations and Fee Schedules and the subcommittee could come back to the Board with its suggestions at the October 9<sup>th</sup> meeting. G. Peabody asked for volunteers to serve on the committee. She appointed P. Jeffries, M. Blanchard and L. Boniface to the subcommittee. The Board agreed to be prepared to adopt the Special Permit Rules & Regulations and Fee Schedules at its October 23<sup>rd</sup> meeting.

### **CARON ADMINISTRATIVE APPEAL DECISION (Cont.)**

The Board was presented with the final revised decision of the Caron Administrative Appeal for its review. All Board members indicated their votes and agreed to sign the original document, which would later be completed by N. Campbell. Copies of the final document would be provided to each Board member.

### **OLD BUSINESS/NEW BUSINESS**

Citizen Planners Training Collaborative Workshop – G. Peabody announced that the Fall Schedule was available for any member that was interested in attending. She recommended the October 24<sup>th</sup> workshop (7:00PM – 9:00PM) for Special Permits and Variance Workshop to new members. N. Campbell would handle the arrangements.

The Spaho Corp. Refund – G. Peabody signed a letter for the refund of \$715.00 for the Park Place Project that was withdrawn without prejudice. The request must be presented first to the Town Accountant for payment.

Rules & Regulations Governing Comprehensive Permits and Instructions for Applications for Variance – G. Peabody will be providing copies of each to the Town Administrator, Chair, Board of Selectmen, Chair, Conservation Commission, Chair, Planning Board and the Zoning Enforcement Officer.

Stallion Hill Project – J & W Company, Inc. has notified the state of their intent to build. They are looking for approval of the application from the Town.

The September 25, 2002 meeting was cancelled due to the lack of business. The next scheduled meeting will be October 9, 2002.

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

**Adjournment at 8:48 PM**