

**STURBRIDGE ZONING BOARD OF APPEALS**  
MINUTES OF  
WEDNESDAY, APRIL 10, 2002

**Present:** Kim Adams  
Theophile Beaudry  
Mary Blanchard  
Lawrence Boniface  
Jeff Bonja  
Pat Jeffries, Chair  
Ginger Peabody

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

P. Jeffries opened the meeting at 7:00 PM

**PUBLIC HEARING FOR MATTHEW KIBBE TO BUILD A PORTABLE STORAGE SHED, 16 FEET BY 8 FEET, LOCATED TEN FEET FROM THE PROPERTY LINE ON THE NORTHEAST CORNER OF THE LOT AT 324 THE TRAIL**

P. Jeffries opened the hearing at 7:05 PM. Matthew Kibbe presented his request. He explained his need for storage of boating equipment and why he must locate the shed within the setback. Due to ledge, the site of his septic system and leach field and the slope of the land he chose the proposed location. He noted that his neighbor, Sally Conrad, was not opposed to the shed and had submitted a letter to the Board. The Board also had a letter from Sally's son and the property owner, Steven Conrad who was against the shed's location because it would block his view of the lake. Steven Conrad felt there was sufficient area to build the shed elsewhere on the lot. P. Jeffries expressed a concern for the aesthetic value of lakefront property and told M. Kibbe that there was no precedence on zoning issues. Therefore, it did not matter where other residents had built sheds in the past.

M. Kibbe was asked if he had any new information for the Board. He mentioned the arrival of sewers to the area would require the shed to be placed in its proposed location. M. Blanchard noted it would be premature to consider the sewers in this situation since they have not yet been designed. P. Jeffries asked if M. Kibbe could expand his garage. He said would be expensive to expand the garage and power lines would have to be moved.

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

At the request of the Chairman, G. Peabody explained to M. Kibbe there were three criteria that he must meet for the Board to grant a variance. His land was not different than the rest of the land around the lake; therefore, he did not meet the first criteria of shape, soil and topography. She agreed there probably were other properties with sheds within the setbacks, but that had occurred prior to the present Board and, again, the Zoning Board was not a precedent setting Board. T. Beaudry felt the shed was too close to the water. L. Boniface felt the neighbor's concern needed consideration from the Board.

**Motion:** to deny the variance to Matthew Kibbe, 324 The Trail, Fiskdale as shown on Assessor's Map 14, lot 324, recorded in Book 2497, Page 73, plan recorded as lot 5 The Trail at Big Alum Lake. The reason for denial – he did not meet any of the requirements necessary to grant the variance, by G. Peabody.

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

**Discussion:** L. Boniface did not agree with the reason.

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

The minutes for Wednesday, March 13, 2002 were reviewed.

**Motion:** to accept the minutes of a March 13, 2002 as written, by G. Peabody

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

**Discussion:** None

**Vote:** In favor – T. Beaudry, J. Bonja, P. Jeffries and G. Peabody  
Abstained – K. Adams, M. Blanchard and L. Boniface

## **NEW BUSINESS**

P. Jeffries asked Board members interested in attending the Spring Meeting for the Central Massachusetts Zoning Board to be held at the Castle Restaurant, Leicester, MA to contact N. Campbell.

T. Beaudry, J. Bonja, P. Jeffries and G. Peabody attended the Selectmen's meeting of April 7<sup>th</sup> regarding Chapter 40B. The Board has been invited to attend the May 6<sup>th</sup> Selectmen's meeting for the presentation of the Stallion Hill Project by J. & W. G. Peabody and J. Bonja have been researching the Chapter 40B issue via the Internet and resources in Boston.

## **PUBLIC HEARING FOR JASON HOENIG TO CONSTRUCT A 26 FOOT BY 26 FOOT ADDITION TO CONVERT A SINGLE FAMILY DWELLING TO A TWO-FAMILY DWELLING AT 10 WARREN ROAD**

P. Jeffries opened the hearing at 7:35 PM. Mark Farrell was present for Jason Hoenig. J. Bonja questioned the wording of the Special Permit and the legal notice. There was discussion regarding whether or not the Board could act on the Special Permit as it appeared before them. P. Jeffries consulted L. Adams, the Town Planner for his recommendation. It was L. Adams' opinion the use had been determined by J. Hoenig having stated he was building a two-family dwelling.

M. Farrell presented the plans along with the location (corner of Brookfield and Warren Road) and size (3.2 acres) of the property. The one-story addition met all zoning requirements, parking was adequate and the use would not be detrimental to the neighborhood. Flood easements on the property narrowed the possible locations of the addition.

P. Jeffries asked for questions from the Board. G. Peabody wanted to verify that the addition would be for residential use only, no businesses (contracting, daycare, etc.). J. Bonja asked if there would be a separate entrance/egress. M. Farrell said there would be no businesses, that it would be residential only and that the addition had its own door. It was noted that if the Special Permit was granted the applicant must still meet all building requirements with the Building Inspector, Board of Health, Fire Department, etc.

**Motion:** to close the public hearing, by G. Peabody

**2<sup>nd</sup>:** M. Blanchard

**Discussion:** None

**Vote:** All in favor

G. Peabody requested to place a condition that the addition remains residential only and any type of business would be prohibited. This condition would run with the land. If the Board did not grant the Special Permit to run with land, it would revert back to a single family when and if the applicant sold the property creating a hardship for any future owners. P. Jeffries noted there was presently a daycare business in the existing dwelling. G. Peabody stated the condition should then apply to the proposed addition only. Board members questioned the need for such a condition. G. Peabody said she had received a phone call from an abutter asking the Board to request such a condition due to traffic and safety issues. M. Farrell was concerned that such a condition would unfairly limit the use of the property. J. Bonja offered that the Board could allow the condition to run with person, thereby allowing its new owners to come before the Board for another determination. Some Board members felt that licensing and allowed uses would protect the area from a commercial business.

**Motion:** to grant a Special Permit to Jason Hoenig, 10 Warren Road, Assessor's Map 9, lot 10, recorded in Book 19916, Page 1, to construct a 26 foot by 26 foot addition to create a two-family home with a special condition that no businesses of any shape, type or form be allowed and that the Special Permit go with the land and not with the person, by G. Peabody

**Motion:** to amend G. Peabody's motion by striking out the words – with a special condition that no businesses of any shape, type or form be allowed and that the Special Permit go with the land and not with the person, by M. Blanchard

**2<sup>nd</sup>:** K. Adams

**Discussion:** None

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

The applicant was reminded of the 20-day appeal period and that the decision must then be recorded with the Worcester Registry of Deeds.

**PUBLIC HEARING FOR CHRISTOPHER & JANET ZAFIRIS - TO CONSTRUCT AN ATTACHED GARAGE 24 FEET BY 26 FEET, TO BE LOCATED 5.7 FEET FROM THE PROPERTY LINE ON THE EASTERLY SIDE AT 70 STALLION HILL ROAD**

P. Jeffries opened the hearing at 8:05 PM Christopher Zafiris presented his plans. He stated that in years to come, he would most likely require the use of a wheelchair, in his opinion making the garage necessary. The proposed garage entered into the setback due to the location of their house, the slope of the land, wetlands, drainage ditches and their septic system. The Zafiris's were not the original owners of the home built about 1980. P. Jeffries pointed out there were three criteria that needed to be met in order to obtain a variance. She asked G. Peabody to explain the requirements. G. Peabody also explained that the Board could only rule on the application request. The Board did not have the right to offer suggestions for other variance proposals. She discussed the possibility of withdrawing without prejudice since the public hearing had yet to be closed. If the Board voted to deny the variance, the Zafiris's could not present the Board with other plans for at least two years. The Board briefly discussed with the Zafiris's the drainage ditches and culvert that were on easements in front of their property. Recommendation was made to contact Greg Morse, DPW Director, regarding any drainage problems. C. Zafiris requested to withdraw his application for variance without prejudice.

**Motion:** to grant Christopher & Janet Zafiris a withdrawal without prejudice for their variance at 70 Stallion Hill Road, by Ginger Peabody

**2<sup>nd</sup>:** M. Blanchard

**Discussion:** None  
**Vote:** In favor – K. Adams, T. Beaudry, M. Blanchard, J. Bonja, P. Jeffries and G. Peabody  
Abstain – L. Boniface

## **REVIEW AND DISCUSSION OF CHAPTER 40B RELATED RULES AND REGULATIONS**

Lawrence Adams, Town Planner presented the Board with a draft of Rules and Regulations for Chapter 40B. This draft bylaw has been adopted by a number of communities and allows the Board to request outside assistance for reviews relevant to Chapter 40B projects. The applicant would pay the fee for this outside assistance. Reviews would be public record and available to the applicant and all interested parties. Some of the Rules and Regulations have been taken from the model regulations of the State Housing Appeals Committee. L. Adams asked the Board to review the draft and consider adopting them at their next scheduled meeting. Any questions regarding the draft should be given to G. Peabody who will forward them to L. Adams and/or Town Council. A public hearing would not be required to adopt the Rules and Regulations; however they must be on the Board's agenda. Copies of the state model regulations and the memo (03-12-02) from Town Council discussing the same are available from N. Campbell.

A meeting has been scheduled for May 6<sup>th</sup> with Charlton Town Planner, Al Gordon. A. Gordon has recently been involved with a Chapter 40B project that was eventually denied.

G. Peabody had researched and offered these figures on the fee structure for Chapter 40B application: \$5,000 – filing fee Comprehensive Permit with additional costs of: \$5,000 for 0- 5 acres; \$7,000 for 6 – 10 acres; \$9,000 for 11 – 20 acres; \$11,000 for 21 + acres. These fees would be used towards consultants, review fee, etc. Any money left at the end of the project would go back to the applicant. Once the Board has used 75% of the fees, the applicant must replenish the monies. L. Adams commented that this method was hard for the town's treasurer to manage. Under the LIP Program the state expects the town to make a contribution (waiver local fees) to advance the interest of the project. It would be best that these fees be placed on the town's books and then waive them.

## **NEW BUSINESS (Cont.)**

The Board agreed that it would be best to schedule two meetings per month beginning in May – 5/8 & 5/22, June – 6/12 & 6/26. K. Adams would be leaving the Board soon and it was agreed that in the best interest of the Board, she be asked to submit her resignation thereby allowing the Board of Selectmen and the Zoning Board of Appeals to appoint a member in her place. P. Jeffries would talk to Jim Malloy about K. Adams' vacancy. The Stallion Hill Chapter 40B project made this an important issue for the Board.

## **REORGANIZATON**

**Motion:** to reorganize the Zoning Board of Appeals, by M. Blanchard  
**2<sup>nd</sup>:** G. Peabody  
**Discussion:** None  
**Vote:** All in favor

**Motion:** to nominate G. Peabody for Chairperson, by M. Blanchard  
**2<sup>nd</sup>:** J. Bonja  
**Discussion:** None

**Motion:** to nominate P. Jeffries for Chairperson, by T. Beaudry

**2<sup>nd</sup>:** K. Adams

**Discussion:** M. Blanchard felt G. Peabody had the time, had been attending meetings and subcommittee meetings and had access to a computer for the position. P. Jeffries felt G. Peabody made many motions for the Board and did not see the Chairperson for that role. Members did not see any harm with the Chairperson making motions for the Board.

**Vote:** In favor of G. Peabody - K. Adams, T. Beaudry, J. Bonja, L. Boniface, M. Blanchard and G. Peabody

**Vote:** In favor of P. Jeffries - P. Jeffries

**Motion:** to nominate P. Jeffries for Vice Chairperson, by G. Peabody

**2<sup>nd</sup>:** K. Adams

**Motion:** to close the nominations, by T. Beaudry

**2<sup>nd</sup>:** M. Blanchard

**Discussion:** None

**Vote:** In favor of closing nominations – All in favor

**Vote:** In favor of P. Jeffries for Vice Chairperson – All in favor

**Motion:** to nominate J. Bonja as Clerk, by G. Peabody

**2<sup>nd</sup>:** M. Blanchard

**Discussion:** G. Peabody felt that in this situation the Clerk would not take minutes, but read public hearing notices and keep the Board on track.

**Vote:** All in favor

**Motion:** to adjourn, by M. Blanchard

**2<sup>nd</sup>:** K. Adams

**Discussion:** None

**Vote:** All in favor

**Adjournment at 9:00 PM**