

STURBRIDGE ZONING BOARD OF APPEALS
MINUTES OF
WEDNESDAY, November 12, 2003

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

Absent: Gary Jeznach

Also in Attendance Nancy Campbell, Clerk
Larry Adams, Town Planner

G. Peabody opened the meeting at 7:00 PM and read the agenda. The minutes for October 8, 2003 and October 15, 2003 were reviewed.

Motion: to accept the minutes of October 8, 2003, as written, by M. Blanchard
2nd: R. Cornoni
Discussion: None
Vote: In favor – M. Blanchard, G. Peabody, P. Jeffries, R. Cornoni and T. Beaudry
Abstain – J. Bonja

Motion: to accept the minutes of October 15, 2003, as written, by M. Blanchard
2nd: P. Jeffries
Discussion: None
Vote: All in favor

CORRESPONDENCE

Attorney Michael Rosen, of Devine, Millimet & Branch of Andover, MA – requested that the Board continue the November 12th public hearing for Green Mountain Realty Trust until the next scheduled public hearing on November 19th.

Green Mountain Realty Corp., George Chianis, Representative – written authorization that the Board shall have until November 19, 2003 to conduct and close the public hearing with an additional 90 days to take final action and file its decision.

Motion: to allow P. Jeffries, Vice Chairman, to sign the authorization to extend the Green Mountain Realty Corp. public hearing until November 19, 2003, by M. Blanchard
2nd: J. Bonja
Discussion: None
Vote: In favor – J. Bonja, M. Blanchard, P. Jeffries, R. Cornoni and T. Beaudry
Abstain – G. Peabody

P. Jeffries endorsed the authorization letter written by G. Chianis for Green Mountain Realty Corp.

Kopelman & Paige, P.C. – dated October 16, 2003 – RE: Gladen Corp. v. Zoning Board of Appeals

Kopelman & Paige, P.C. – dated November 6, 2003 – RE: Kenyon Oil Company, Inc. v. Zoning Board of Appeals

126 Clark Road Telecommunication Tower – Many letters, all identical with different signatures, were submitted to the Board expressing opposition to the telecommunications tower proposed at 126 Clark Road.

Dr. and Mrs. Robert J. Giordano – dated November 10, 2003 – RE: 126 Clark Road, Cell Tower Application – questioned the legal responsibility for damage to their property and animals during construction of the cell tower and referenced the lack of Wildwood Lane in the impact studies to the neighborhood and environment done by Green Mountain Realty Corp.

G. Peabody announced to the public in attendance that the public hearing for the proposed cell tower had been continued to November 19th.

PUBLIC HEARING – VARIANCE – ALBERT R. DIONNE IRREVOCABLE TRUST – TO ALLOW A LOT WIDTH LESS THAN REQUIRED TO CREATE A BUILDABLE LOT AT 50 WHITTEMORE ROAD

G. Peabody opened the public hearing at 7:14 PM and J. Bonja read the legal notice. Julie Thibaudeau presented the variance request on behalf of the Trust. She stated that 50 Whittemore Road (#50) –

- was a vacant, nonconforming lot;
- had a lot layout which presented a substantial hardship in that the property line ran through a significant portion of the house on the abutting property at 46 Whittemore Road (#46);
- was purchased along with #46 by Albert Dionne as two parcels in 1960 with the property lines as they exist presently. This was not know until a property survey was conducted in June 2003;
- and #46 each had separate legal descriptions, tax bills, sewer subs and betterment fees;
- if required to maintain 125 feet of frontage for the minimum of 30 feet, that that line would come within nine feet of the foundation of the house at #46 making both properties nonconforming;
- met all other zoning requirements;
- complied with frontage requirement (100 feet) until the bylaw changed two years ago.

J. Thibaudeau noted that if the width variance was granted it would create a one half acre lot with 125 feet of frontage with side yard setbacks that fell within the required fifteen feet. It would not be a detriment to the public good or derogate from the intent of the bylaws.

The Board reviewed a copy of the proposed line change and asked the setback of the house on #46. A family member stated the house was located approximately 44 feet from Whittemore Road. The Board recognized that the required lot width was the sole relevant concern.

G. Peabody asked for questions or comments from the public.

- Larry Adams, Town Planner – offered he did not see an impact to the neighborhood, but noted that the issues of betterments and sewer stubs were immaterial to zoning conformation. The request should be taken up on its merits and he felt this variance had merit. He stated the applicant would need an Approval Not Required Plan with a notation that there was a variance in place before the Planning Board would endorse it.

J. Bonja asked the applicant if they planned to build on the lot or sell it. J. Thibaudeau thought the lot would be sold, but was not sure at this time.

There were no further questions.

Motion: to close the public hearing, by M. Blanchard
2nd: P. Jeffries
Discussion: None
Vote: All in favor

J. Bonja wanted to make a point that the Board should be consistent with its findings. M. Blanchard commented that the lot conformed two years ago and felt it was protected from zoning changes for five years. G. Peabody agreed that this request fell under vested rights. Based on the fact that there was a time line on the change, J. Bonja did not have an issue with the request.

Motion: to grant a variance as requested to Albert R. Dionne Irrevocable Trust for 50 Whittemore Road, Assessor's map 29, lot 50, WDRD Book 14576, page 110, to allow a lot width less than 125 feet within the thirty foot front setback as shown on Plan # 203022510/P43/03, Sheet 1 of 1, drawn by Cullinan Engineering, dated October 7, 2003, by P. Jeffries
2nd: J. Bonja
Discussion: None
Vote: All in favor

G. Peabody reminded the applicant of the twenty day appeal period.

REQUEST FOR DETERMINATION FOR A NON-CONFORMING STATUS #11-12-03-1D – ABRAHAMSON, PAUL, 72 PARADISE LANE

Attorney George Hammond represented Paul Abrahamson for the request to rebuild a shed at 72 Paradise Lane. P. Abrahamson purchased the property in June 2003. He had removed the existing 9 foot by 14 foot aluminum shed and was building a new shed when the Building Inspector told him he needed to consult the Zoning Board for such a change to a nonconforming lot. It was P. Abrahamson's intent to build the new shed on the same footprint on the existing concrete pad. M. Blanchard raised a question of the two parcels, #41 and #42. Attorney Hammond noted that the deed showed two parcels. However, according to the statute, lot 41 and lot 42 had merged. P. Jeffries asked the distance of the shed from the lot line. Attorney Hammond explained that though the engineer's plan indicated the shed was approximately two feet from the line, it was actually four to five feet from the line. J. Bonja asked the applicants if the neighbors had any problems with the new shed. P. Abrahamson answered that they did not.

G. Peabody asked for questions or comments from the public. There were none.

Motion: to grant a determination that the request did not intensify the existing nonconformities nor create additional ones and that the owner may apply for a building permit for the described activities as shown on the application and plan, by M. Blanchard
2nd: J. Bonja
Discussion: None
Vote: All in favor

OLD BUSINESS/NEW BUSINESS

There was none.

P. Jeffries reminded the Board that she would not be in attendance at the Board's December 10th meeting. R. Cornoni asked if the Board should schedule an additional meeting for the proposed cell tower at 126 Clark Road. The Board agreed to tentatively schedule its meeting for Thursday, December 11th for Green Mountain Realty Corp. discussion and decision.

Motion: to adjourn, by M. Blanchard
2nd: J. Bonja
Discussion: None
Vote: All in favor

Adjournment at 7:55 PM