

STURBRIDGE ZONING BOARD OF APPEALS
MINUTES OF
WEDNESDAY, February 26, 2003

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

Absent: Pat Jeffries

Also in Attendance Nancy Campbell, Clerk

G. Peabody opened the meeting at 7:00 PM and read the agenda. The Board members introduced themselves. The minutes for February 12, 2003, were reviewed.

Motion: to accept the minutes of February 12, 2003, as written, by M. Blanchard

2nd: T. Beaudry

Discussion: R. Cornoni asked if it was normal to refer to Arnold Wilson as the Chair of the Board of Selectmen (page 5) and other individuals as their board titles or should they be referenced as speaking as a citizen. G. Peabody said individuals usually distinguished how they were speaking, whether as a board member or a resident. It was M. Blanchard's opinion he was not representing the Board of Selectmen when he asked his question. Due to the question asked, G. Peabody wanted the minutes to reflect he was speaking as Chair for the Board of Selectmen. In the future, she will ask how the speaker wishes to be identified for the record.

Vote: All in favor

CORRESPONDENCE

G. Peabody read a letter from JoAnn Teachout, of Jalbert Engineering, dated February 25, 2003, requesting the public hearing continuation for their client Tania Sladdin, scheduled February 26, 2003, be continued to the next meeting of the Board.

OLD BUSINESS

G. Peabody responded as an individual to statements made at the February 12, 2003 meeting regarding the zoning in Sturbridge. She noted the Zoning Board of Appeals had strict guidelines which dictated how it must interpret the bylaws for Town. Zoning bylaws were presented at the Annual Town Meeting where registered voters of the Town, present at the meeting, voted whether to accept or reject them. They were not written by the Board. It was her goal, and that of the Board, to treat everyone fairly.

REQUEST FOR DETERMINATION OF A NON-CONFORMING STATUS - #02-26-03-1D – Dawn & Michael Toon, 20 Simpson Street

Peter Hauge, of Patriot Homes, represented Dawn Toon, owner of the property. P. Hauge provided the Board with a signed plot plan showing approximate measurements for a 38 foot by 30 foot split, 1200 square feet upper level, 300 square feet lower level (if finished), lot coverage of 12.5%; two-car under garage; three bedrooms and two baths serviced by town water and sewer. The plan was in compliance with all setback regulations. M. Blanchard asked if it was a grandfathered lot – P. Hauge said he had been told it was. M. Blanchard felt the applicant did not need a special permit because the lot was grandfathered. G. Peabody noted that because the lot was grandfathered and met setback

regulations, the Board could grant a positive determination which would allow P. Hauge to go directly to the Building Inspector for a building permit. She referred to her notes from a workshop on non-conforming lots, structures and uses conducted by Town Counsel, at the Board's November 13, 2002 meeting. J. Bonja wanted clarification as to what was considered grandfathered. L. Boniface believed the lot was protected, but setbacks must be met. T. Beaudry recognized it as a buildable lot given the form included in the request application from the Finance Director taxing the property as a buildable lot.

Motion: to find for a positive determination for Dawn and Michael Toon, that 20 Simpson Street was a buildable lot, that the structure was to be built as shown on a plan prepared for Peter S. Hauge, by B & R Survey, Inc., which showed no setback violations, that it should not exceed 38 feet by 30 feet and was not be subject to approval by the Board of Health since it would be serviced by town water and sewer, by G. Peabody

2nd: T. Beaudry

Discussion: J. Bonja noted that he would be abstaining due to his lack of understanding on the definition of grandfathering. He requested clarification of the issue from the Town's attorney. M. Blanchard asked for clarification on determinations.

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

Under a simple majority vote, the above positive determination was granted.

J. Bonja found a memo from Kopelman & Paige, dated November 19, 2001, that had clarification regarding what was protected under grandfathered lots. It cited M.G.L., Chapter 40A, Section 6 – “Any increase in area, frontage, width, yard, or depth requirements of a zoning ordinance or by-law shall not apply to a lot for single and two-family residential...” as items that were protected.

REQUEST FOR DETERMINATION OF A NON-CONFORMING STATUS - #02-26-03-2D – Brian & Lynn Levesque, 8 Tantasqua Shore Drive

Brian Levesque stated he wanted to add a second floor to the existing structure and provided the Board with pictures of the property and drawings of the proposed addition. The plans showed that the footprint would not change and the non-conformances would not increase. B. Levesque said his neighbors did not have any issues with the addition. Within the last two years, he had installed a new well and septic system that was designed to accommodate a three bedroom home. J. Bonja asked about the one foot overhang – B. Levesque said instead of going straight up, he felt the overhang would give the look of a gambrel style house.

Motion: to find for a positive determination for Brian and Lynn Levesque, 8 Tantasqua Shore Drive, that the footprint should remain as shown on a plan titled Subsurface Sewerage Disposal Design #99103, that the existing non-conformities not be intensified or additional ones created, that the owner may apply for a building permit for the described activities as referenced on the application (Exhibit 1) and that it was subject to the approval of Title V by the Board of Health, by G. Peabody

2nd: J. Bonja

Discussion: None

Vote: All in favor

NEW BUSINESS

Robert A. Cottone Penalty Memo – G. Peabody read her memo dated 02-26-03 (see attached) which notified the Finance Director of the non-criminal penalty of \$50.00 per day, imposed to Robert A. Cottone, under an administrative appeal that was granted to Joann Prescott-Caron and Suzanne Caron on September 11, 2002.

PUBLIC HEARING CONTINUATION – TANIA SLADDIN – VARIANCE AND SPECIAL PERMIT – TO ALLOW THE CONSTRUCTION OF A 39 FOOT BY 36 FOOT SINGLE FAMILY DWELLING ON AN UNDERSIZED LOT WHICH HAS FRONTAGE MEASURING 75 FEET AT 90 WESTWOOD DRIVE

G. Peabody reopened the public hearing at 7:40 PM and addressed the letter from Jalbert Engineering requesting the hearing be continued to the Board's next scheduled meeting.

Motion: to continue the public hearing for Tania Sladdin to March 12, 2003, at 7:25 PM, by G. Peabody
2nd: J. Bonja
Discussion: None
Vote: All in favor

NEW BUSINESS (cont.)

Request for Determination Application – The Board was given a copy of the application for Request for Determination. G. Peabody asked that the Board formally adopt the draft as an official application form.

Motion: to adopt the Request for Determination as an official application form, by J. Bonja

M. Blanchard asked that the Board be allowed time to review the form before it was adopted. G. Peabody agreed and would bring the matter to the Board again at the March 12th meeting.

J. Bonja withdrew his motion.

Work Session Notes - M. Blanchard felt it was beneficial for the Board to hear a summation of work sessions that were held outside of regularly scheduled open meetings. G. Peabody said she would be giving a report on all sessions that she felt would more than satisfy the Board. M. Blanchard requested Board members be notified of work session dates.

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

Adjournment at 7:52 PM