

**STURBRIDGE ZONING BOARD OF APPEALS**  
MINUTES OF  
WEDNESDAY, February 12, 2003

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

**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 January 22, 2003, were reviewed.

**Motion:** to accept the minutes of January 22, 2003, by M. Blanchard  
**2<sup>nd</sup>:** J. Bonja  
**Discussion:** None  
**Vote:** In favor – J. Bonja, M. Blanchard, G. Peabody, R. Cornoni and T. Beaudry  
Abstain – L. Boniface and P. Jeffries

**OLD BUSINESS**

At the January 22, 2003 meeting of the Board, a special permit was granted to Mark Farrell of Ocala Realty Trust to allow the construction of a garage and second floor professional office, with a setback of 18 feet from the front property line at 10 Main Street. The chair erred in saying that the special permit with conditions was granted. The special permit required a super majority vote. The seven-member Sturbridge Zoning Board of Appeals would have needed five “yea” votes, even though there were only five members present. The vote of the Board for the special permit was 4 -1-0. G. Peabody felt it was the intention of the Board to grant the special permit and that the negative vote was against the conditions stated rather than a vote against granting a special permit.

**Motion:** to reconsider the special permit vote of January 22, 2003, G. Peabody  
**2<sup>nd</sup>:** J. Bonja  
**Discussion:** None  
**Vote:** In favor – J. Bonja, M. Blanchard, G. Peabody, R. Cornoni and T. Beaudry  
Abstain – L. Boniface and P. Jeffries

**Motion:** to accept the special permit as entered into the record from the January 22, 2003 meeting, by J. Bonja  
**2<sup>nd</sup>:** R. Cornoni  
**Discussion:** M. Blanchard stated she felt Mark Farrell of Ocala Realty Trust was deserving of a special permit. Her reservations were with the conditions attached to the special permit, namely the condition pertaining to Site Plan Review. It was her opinion the Board was delegating their authority to other boards and in this instance, the condition was negated when the other board voted to waive Site Plan Review.  
**Vote:** Roll Call Vote: In favor – J. Bonja, M. Blanchard, G. Peabody, R. Cornoni and T. Beaudry  
Abstain – L. Boniface and P. Jeffries

**PUBLIC HEARING – GREGORY CRAIG – VARIANCE – TO CONSTRUCT A 24 FOOT BY 28 FOOT TWO CAR GARAGE ON THE NORTHWEST CORNER OF THE PROPERTY AT 66 BENNETTS ROAD**

G. Peabody opened the public hearing at 7:05 PM and J. Bonja read the legal notice. Representing Gregory Craig was Attorney Scott Fenton. Atty. Fenton stated that the variance was to construct a 24 foot by 28 foot structure and not a garage. He noted that the Zoning Bylaws define a garage as storage for motor vehicles exclusively. The purpose of the two-story structure would be storage on the second floor and the storage of two motor vehicles on the first floor. Atty. Fenton described the structure as follows: not be connected to sewer or water, so it would not be a habitable structure; the property was created in 1973 by an ANR plan, which was amended in 1991; consists of 30,000 square feet; a movable structure currently is on the property.

G. Peabody brought it to the attention of Atty. Fenton that the petition request was for a garage, not storage and a garage. She noted that the Board could not grant more than what was requested by the petitioner. She offered that the petitioner could withdraw without prejudice and come back to the Board with a revised application or proceed with the present application. Atty. Fenton said the applicant was asking for a typical garage where there was a second floor for storage purposes, not habitable purposes. G. Peabody asked Atty. Fenton to have G. Craig share the conversation she and G. Craig had had regarding the garage. G. Craig stated he was considering using the structure for his hobby which was photography. He said he had changed his mind and now had devoted a space in his house for a studio. G. Peabody had informed him that he could withdraw his application and reapply.

Atty. Fenton stated the hardship occurred because of the abutting structures, the usage was consistent with the other properties in the area; the topography of the land and setback requirements prohibit the structure from being built on G. Craig's parcel across the private way. G. Peabody showed the garage plans to the Board.

Questions from the Board: the height of the garage – 13.6 feet; was there water service, heat or electricity – no water or sewer, but there would be electricity and heat (to keep paint from peeling); size of existing property – approx. 30,000 sq. ft.; are there setback violations – no, complies with all setback and dimensional requirements; was the second floor a full floor – yes; could the two properties be joined – no, because of the private way; was the structure on the septic system – no, the site plan showed the location of the structure.

J. Bonja asked how the petitioner presented the evidence for shape, soil and topography in order to support a variance. Atty. Fenton answered that legally the lot was one large (over one acre) contiguous lot with the private way separating it. G. Craig had one deed for the two parcels and received a real estate bill for each parcel. The hardship was that the petitioner could not use the land as its intended purpose (zoned Rural Residential). There was no way to expand the property. J. Bonja felt all properties on the road had a similar topography. G. Peabody did not find a problem with the garage, but rather its size and the second story. M. Blanchard agreed that the proposed garage had the potential for something different, especially with the full floor and not a half floor.

The Board recognized Pat Craig who commented that the garage would be used for the storage of household items and furniture. M. Blanchard questioned the height of the garage at 13.6 feet. Atty. Fenton corrected it to be 23 feet. J. Bonja did not have a problem with the structure. He felt the Board could apply a use condition which could be enforceable by the Zoning Enforcement Officer. However, he would like an opportunity to visit the site.

**Motion:** to continue the public hearing for Gregory Craig to March 12, 2003 at 7:05 PM, by M. Blanchard  
**2<sup>nd</sup>:** J. Bonja  
**Discussion:** There was discussion regarding the schedules of board members. G. Craig offered to walk the site with board members.  
**Vote:** All in favor

**PUBLIC HEARING – 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 opened the public hearing at 7:35 PM and J. Bonja read the legal notice. Leonard Jalbert of Jalbert Engineering was present to represent Tania Sladdin. L. Jalbert stated that the property consisted of one and a half lots and the size was typical of all parcels on that section of Westwood Drive. A single family dwelling had been removed from the site 12 to 13 years ago. The site would be served by town sewer. The applicant was proposing a two-story single family residential home which would conform to all setback requirements. An Order of Conditions which had been registered with the Worcester County Registry of Deeds (# 36218) was issued by the Conservation Commission. The lot coverage of the proposed structure would be 17%, 2% over that allowed in the Intensity Regulations of the Zoning Bylaws. G. Peabody felt the extra 2% lot coverage was a problem, given that this was a smaller lot.

Questions from the Board: was the deck included in the 17% lot coverage – L. Jalbert said it was; the square footage of the house – 1,806 sq. ft.; why did the Building Inspector not issue a building permit – due to zoning regulations criteria for small lots under Section 20 and 24. G. Peabody requested a continuation so she could visit the property.

**Motion:** to continue the public hearing for Tania Sladdin to March 12, 2003 at 7:20 PM, by G. Peabody  
**2<sup>nd</sup>:** J. Bonja  
**Discussion:** None  
**Vote:** All in favor

G. Peabody asked for a five minute recess at 7:55 PM.

G. Peabody resumed the meeting at 8:00 PM and noted the last applicant had requested a change to the public hearing continuation.

**Motion:** to rescind the motion to continue the public hearing for Tania Sladdin to March 12, 2003 at 7:20 PM, by M. Blanchard  
**2<sup>nd</sup>:** J. Bonja  
**Discussion:** None  
**Vote:** All in favor

**Motion:** to continue the public hearing for Tania Sladdin to February 26, 2003 at 7:40 PM, by M. Blanchard  
**2<sup>nd</sup>:** J. Bonja  
**Discussion:** None  
**Vote:** All in favor

**PUBLIC HEARING CONTINUATION – STALLION HILL VILLAGE, LLC – COMPREHENSIVE PERMIT – TO CONSTRUCT FIFTY-SIX TOWNHOUSE CONDOMINIUMS LOCATED OFF STALLION HILL ROAD**

G. Peabody reopened the public hearing at 8:00 PM. She asked T. Beaudry to inform the Board as to the negotiation sessions conducted on January 22, 2003 when the negotiating team met with the applicant, Mark Zulkiewicz, the Town Planner, Lawrence Adams, DPW Director, Greg Morse, attorney for the applicant, Edith Netter, Town Administrator, James Malloy and Dennis Rice of Cullinan Engineering. T. Beaudry noted there was discussion pertaining to the different phasing of the water and sewer with the G. Morse. G. Peabody thanked G. Morse for all his time and attention to this project, as well as Nancy Ryder who was present to represent the Conservation Commission. She also thanked L. Adams for all his support and guidance.

Attorney Edith Netter represented the applicant, Mark Zulkiewicz and introduced engineers for the project, Dennis Rice and Vito Colonna, both of Cullinan Engineering, Auburn, MA. The overall concept for the project had been

discussed at the January 8, 2003 meeting. This meeting would cover the design of the units and the affordable housing component.

M. Zulkiewicz discussed the design of the project:

- 56 condominium units on a loop road off Stallion Hill (duplexes, triplexes and two sixplexes)
- foundation size – 30 feet by 22 feet, individual units with a six foot overhang above the garage and front entryway
- two-stories with an attached one-car garage and one additional outside parking space, full basements (unfinished), with walkouts
- first floor – living/dining area, kitchen, half bath
- second floor – master bedroom and two others, full bath
- exterior to be colonial in nature with possible mix for appearance
- interior – affordable units (priced at \$135,000-145,000 depending on current interest rates) to be the same as the market rate units (priced in the low \$200,000), market rate units will allow for upgrades (cabinets, flooring, etc.)
- condominium fees have not been set – will be part of a condominium association
- roads will be private with sidewalks inside the loop road and extending out to Stallion Hill Road
- affordable units will be mixed throughout the project
- proposed wood burning fireplaces in the living room area
- no parking will be allowed along the roadway (this brought up a potential parking issue – where would the resident’s visitors park. A parking lot was suggested.
- underground utilities
- a preliminary lighting plan to be presented
- application for water and sewer had not been submitted – G. Peabody read a memo sent to the Board from J. Malloy regarding the issue of water and sewer approval (see attached) M. Zulkiewicz said he would be bring the water/sewer issue to the Board as the law allows for this under Chapter 40B
- project on a 73 acre parcel, of which a vast majority will be undisturbed

Attorney Edith Netter discussed the affordable issues:

- 25% of the units were required under Chapter 40B and the New England Fund to be set aside and be available to households who earn below 80% of the median income (\$46,720 for Sturbridge) – 25% calculated out to 14 units
- the New England Fund will be subsidizing the project – the developer would finance their construction loan through a member bank of the Federal Home Loan Bank Board and receive a slight reduction in interest rates
- 70% of the affordable units receive local preference – local residents and town
- units would be chosen through a lottery run by a housing authority or a lottery agent (ex. CHAPA – Citizens Housing and Planning Agency) – fees for the lottery agent would be paid for by the developer
- it is critical to make sure the project remains affordable over time - done by a monitoring agent (ex. CHAPA ) who would oversee that the resale process was done in accordance with the law
- New England Fund and Chapter 40B requires units to remain affordable for at least 30 years – longer periods of time may be discussed
- deed restrictions can help guarantee affordability – this limits the appreciation of the resale on the unit

Questions/comments from the Board: was there an asset limitation – most communities restrict affordable units to a first time home buyers who would typically be individuals without large assets (the Board would have purview to set this condition); the elderly needed to be included in the program along with first time home buyers; how were units taxed – a Department of Revenue directive suggested the units be assessed on the actual price and not the marketable price; how was the resale price determined – the deed rider restricted the purchase price to that which an eligible household could afford with a floor built in, ensuring the seller the price that the unit was purchase for; maintenance

over time would be the obligation of a homeowner's association; would the market rate units help support the affordable units – this would be discussed at a future time; a concern for the high cost of condo fees incurred by the affordable units, would there be a cap – this can be addressed by creating a fair value based on the original price of the unit rather than the size of the unit, also there are provisions under the Condominium Act to provide caps (can be handled in a negotiation session).

Atty. Netter stated that the overriding goal was to create a mixed income community that would work over time.

G. Peabody asked Nancy Ryder, Conservation Commission Clerk, for her comments. Her issues for discussion were:

- public spaces – the fact that the center area was considered open active recreational space would need to be addressed with the Conservation Commission
- exemptions – did this relate to all waivers or just costs (G. Peabody – item had been tabled)
- landscaping – Conservation Commission would like a copy of the preliminary plan for review since landscaping would be critical to the wetlands in the area (G. Peabody – item had been tabled)
- maintenance – Conservation Commission would like copies pertaining to this item particularly snowplowing and salt going into the riverfront (G. Peabody – item had been tabled)
- 52 houses with wood burning fireplaces – endangered habitat would need to be protected from inhabitants cutting trees down for wood
- Department of Environmental Protection file letter submitted to Board; N. Ryder read the main paragraph for the record (see attached)
- Scope of services from the February 12<sup>th</sup> work session – the Engineering Review to be conducted by New England Environmental, Inc. being replaced by the Judith Nitsch Engineering Review – Conservation Commission was not in favor of waiving local regulations

It was discussed in the negotiating session held on this date that the engineering firms representing the applicant and the firm representing the Conservation Commission would be walking the site together and the issues in the letter from DEP would be addressed. G. Peabody recognized Dennis Rice. He commented that it was not uncommon to get comments such as those read in the DEP letter. He took exception to some of the comments made questioning if they were technically correct, specifically the stormwater management. He has called Joe Bellino, of DEP, and was waiting for his response.

G. Peabody asked for comments from L. Adams. He felt there was concern and confusion regarding the scope of services and wanted to be sure the timeframe stayed on schedule. It was important to know what both the State and the local Conservation Commission required. The Board needed to resolve the conflict between the 30-year proposed affordable criteria and the Board's Comprehensive Permit Rules and Regulations that required in perpetuity. He would be including the 15 items brought to his attention by the Fire Chief, Police Chief and the DPW Director in any scope of service that was to be prepared. Attorney Mark Bobrowski, facilitator for the Board, would be attending the engineering work session to help with any issues that might arise.

Attorney Netter asked to make the following corrections:

- The proponents had said the center of the project was open space, not that it was open space available for active recreational uses
- It was not determined that there was a protected habit area

Arnold Wilson, Chair of the Board of Selectmen, was recognized and asked if the consultant (Atty. Bobrowski hired with grant funds) would be starting to participate in the work sessions. G. Peabody said he would be helping with the engineering scope. He also questioned M. Blanchard's comment that the Board had the authority to grant a tie in to water and sewer. M. Blanchard replied that under Chapter 40B the Board had authority to grant all permits.

L. Adams clarified that the Zoning Board of Appeals could grant any permit, but that they could not require the Town to incur additional capital expenses. Town Counsel had been asked for a clarification on that issue for both the Board and the Board of Selectmen.

N. Ryder responded to Atty. Netter's two corrections – the Commission would be looking to see what the specific uses would be and what restrictions and protection would be given for the wetlands area. She stated that the entire Quinebaug was an endangered species habitat with a certain amount of upland buffers. These areas were State protected habitat and not local jurisdiction.

**Motion:** to continue the public hearing for Stallion Hill Village to March 19, 2003 at 7:05 PM, by P. Jeffries  
**2<sup>nd</sup>:** M. Blanchard  
**Discussion:** None  
**Vote:** All in favor

R. Cornoni requested copies (11 inch by 17 inch) of the display map showing the layout of Stallion Hill Village presented at this meeting for the next meeting on March 19th.

**Motion:** to adjourn, by R. Cornoni  
**2<sup>nd</sup>:** P. Jeffries  
**Discussion:** None  
**Vote:** All in favor