

STURBRIDGE ZONING BOARD OF APPEALS

MINUTES OF

WEDNESDAY, November 10, 2004

Present: Theophile Beaudry
Mary Blanchard
Marge Cooney
Robert Cornoni
Pat Jeffries
Ginger Peabody, Chairman
Bruce Sutter

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

G. Peabody opened the meeting at 7:00 PM and read the agenda. The minutes of October 13 and October 27, 2004 were reviewed.

Motion: to approve the minutes of October 13, 2004, as written, by M. Blanchard
2nd: P. Jeffries
Discussion: None
Vote: In favor – T. Beaudry, M. Blanchard, R. Cornoni, P. Jeffries, G. Peabody and B. Sutter
Abstain – M. Cooney

Motion: to approve the minutes of October 27, 2004, as written, by M. Blanchard
2nd: M. Cooney
Discussion: None
Vote: All in favor

REQUEST FOR DETERMINATION CONTINUATION – 10-13-08-04-1D – MICHAEL DETARANDO, 98 SOUTH SHORE DRIVE

Michael Detarando was present with Leonard Jalbert who reviewed the application as follows –

- The structure would be completely outside of the setbacks;
- Required no variances except for the 16.5% lot coverage;
- Previous structure was more non-conforming – 3ft of property line, 20 feet from lake and a 2 story structure bigger than that proposed;
- Additional lot coverage (1.5%) would be a deck and walkway one story above grade – minimal impact
- Conservation Commission had approved an Order of Conditions.

M. Cooney noted she read in the minutes from the previous meeting that the house had burnt 18 years prior and that M. Detarando would like to replace the house in its existing lot coverage. M. Blanchard had referred to Kopelman & Paige's memorandum suggesting the Town remove section 20.06 from its Zoning Bylaws. Since this had not been done, M. Cooney felt the Board must respect the Bylaws as written making this issue a moot point. She felt a special permit was necessary.

G. Peabody felt determinations were simple decisions. Since the Board continued this application it must not have found the decision to be easy. She felt that including the well house and the outdoor kitchen in the 16.5% was a stretch and was not comfortable using a determination for this request, but would prefer a special permit application due to the non-conforming lot and a petition for variance to build over the 15% lot coverage.

M. Detarando asked if he built the house within the 15% lot coverage and then added a shed and outdoor kitchen, would that count against the lot coverage. G. Peabody said it would and that he would need to apply for a variance to add the shed and kitchen. She would not support such a request as there was no hardship. When asked, she acknowledged that she considered the shed as part of the present lot coverage, but felt the outdoor kitchen was not, that it was simply a barbeque. She noted that the foundation was crumbling and that it had been difficult to determine where the house had been.

M. Blanchard responded to M. Cooney's comment relative to section 20.06 stating that it had been an oversight on the Town's part not to delete the section from the Bylaws. She would not be as strict when interpreting 20.06 having heard Counsel's presentation. She did not have an issue with the additional 1.5% lot coverage and supported the determination, but would like to see the proposed house be within the lot coverage without the porch.

M. Cooney reiterated that 20.06 was "on the books" and until it was changed she would uphold the bylaw. B. Sutter felt the discussion had more to do with the fact of abandonment.

M. Detarando recognized that the non-conformity had been abandoned and after two years he could not return them to their non-conforming status. It was his opinion that the non-conformance of intensity (lot coverage) had not been abandoned and that his request was to keep the lot coverage at its present state. G. Peabody clarified that she was not against the construction, but that M. Detarando was using the wrong "vehicle" and should be applying for a special permit and a variance.

M. Blanchard did not agree, felt there was a contradiction within the bylaws since 20.06 was meant to be deleted and was in favor of the determination

Motion: to deny a determination to Michael Detarando and that the applicant apply for a special permit, by M. Cooney

2nd: P. Jeffries

Discussion: None

Vote: In favor – B. Sutter, M. Cooney, G. Peabody, P. Jeffries, R. Cornoni and T. Beaudry
Opposed – M. Blanchard

REQUEST FOR DETERMINATION — 11-1304-1D – ERNIE COLOGNESI, 326 THE TRAIL

Mark Morin, general contractor for E. Colognesi presented the request for determination for property located at 326 The Trail. This request was to permit the construction of a 70 square foot addition to the rear of the house and an attached 30 foot by 24 foot two stall garage to the front of the house. The lot was nonconforming in that it lacked sufficient frontage area. M. Morin circulated photographs of the existing house and proposed plan designs. G. Peabody did not see any problems with the request.

Motion: to grant a determination to Ernie Colognesi to permit the construction of a 70 square foot addition to the rear of the house and an attached 30 foot by 24 foot two stall garage to the front of the

house at 326 The Trail since the request did not intensify or create any new non-conformities and that the owner may apply for a building permit as per the application, by M. Blanchard

2nd: M. Cooney

Discussion: None

Vote: All in favor

PUBLIC HEARING CONTINUATION – 08-18-04-1CP – COMPREHENSIVE PERMIT – MAIN STREET SENIOR HOUSING, LLC – TO PERMIT THE CONSTRUCTION OF A SIXTY-NINE UNIT ACTIVE ADULT CONDOMINIUM COMPLEX CONSISTING OF 57 GARDEN STYLE AND 12 COTTAGE STYLE UNITS AT 450A MAIN STREET

G. Peabody. continued the public hearing at 7:25 PM and acknowledged the receipt of the following documents –

Gregory Morse Letter – dated 11-08-04

CME Associates – dated 11-10-04 – Material review

Waterman Design Associates – dated 11-10-04 – response to Greg Morse’s letter

She commented that the subcommittee had met twice: 10-27-04 - Waterman Design engineers and CME engineers for technical discussions and 11-08-04 - Attorney Bobrowski, Ed Marchant and the applicant for financial discussion of the project pro forma. Work session notes had been provided to the Board.

Paula Thompson, of Waterman Design Associates reviewed the following relative to CME Associates’ letter –

- Removed yield sign from previous roadway design;
- Work areas were removed from the 200 foot riverfront area and the 100 foot buffer;
- Lengthen some of the basins to ensure the standard of water quality on the one inch runoff;
- Provided an emergency access walkway to the Autumn Ridge on the plan – S. Paquette was in receipt of permission from Sturbridge Housing Associates to allow this access;
- A stormceptor unit was added for water quality;

Scott Young, CME Associates, had the following comments –

- An invert of an elevation of a pipe needed updating;
- Easement of the sightline to the entrance on Route 20 should be recorded – Mark Fougere noted that the paperwork was in progress with the applicant’s attorney;
- The components of the gas sand trap reversed (place pump chamber after the trap, not before) and the trap lowered which would remove any gas or fumes from within the building as soon as possible – Wayne Belec, of Waterman Design Associates would look into this item.
- Meter the pump to determine how much water would be discharged and read the meter quarterly;
- Operation and maintenance for gasoline and sand trap should be more specific – open manhole on schedule;
- Other issues – building height, overflow parking;
- All other comments had been adequately addressed.

G. Peabody invited Greg Morse to review his letter with the Board –

- There had been an ongoing request for a traffic light at this intersection – G. Peabody agreed the traffic study had indicated traffic was a level F which was not good;
- Felt the roadway should conform to the Town’s 150 foot radius at the point of exit and entry into the underground garage;
- The entrance roadway interfered with the abutter’s existing parking and was concerned as to how this would be regulated;

- Concerned with the protection for the watershed and the Town's well, felt there was a direct conflict with the Town's withdrawal point;
- Felt the building height would have a visual impact for the Town;
- Gasoline and sand trap issues have taken a long time to be addressed, he had stated this was a problem five months prior;
- Questioned if the approvals could be replicated for all land owners and felt it was an issue of fairness and wondered if the intent was to avoid giving up open space – G. Peabody noted that due to the Chapter 40B regulations this was out of the Board's control;
- Problems had occurred with the Route 20 pump station during fall weekends where both pumps must run and there was not full build out on Brookfield Road

Wayne Belec and Paula Thompson responded to G. Morse's letter –

- State did not allow for a traffic signal within the permit issued by MassHighway;
- Noted this access was a privately owned access driveway and not a roadway and review of the Fire Chief and CME Associates had determined this was not an issue since the maneuvering patterns accommodated the Town's largest fire apparatus;
- New entrance configuration did not result in loss of parking to the abutter;
- Sidewalks have been included on the plans;
- All State regulations had been respected relative to Stormwater Management – S. Young would look further into the effects with regard to bringing the new well on board;
- The applicant had requested a waiver for the building height – buffers would be left along the property line (wetland with a 25 foot no touch zone);
- Gasoline and sand trap details had not changed, but have added a maintenance schedule per the plumbing code;
- Had previously checked with DPW Director for water and sewer availability and Board of Selectmen had not raised sewer capacity issues during earlier conversations.

James Malloy, Town Administrator discussed the calculation of the sewer connection fees. He stated the Board of Selectmen agreed the fees would be waived for the subsidized units- \$39,839. This project's fee would be based on the Phase One Sewer Project of 1972 which was mostly funded by the EPA. Town Counsel had agreed that if there was an amount agreed upon between the Town and the proponent for the sewer privilege fee, that amount should be included in the motion approving the extension. This would then be a binding amount. The Board should negotiate a privilege fee for the remainder of the project and include it in a final motion should the Board approve the project. J. Malloy reviewed SPL Development's letter with proposed sewer fees based on 18 affordable units

The Board and S. Paquette commented on G. Morse's letter–

- Wished that it could better address the issues of traffic;
- All agreed that there was a traffic problem – M. Blanchard noted that 40B projects could be denied for safety issues if back up information was provided;
- Fire Chief was happy and satisfied with the roadway design;
- Stageloft would not lose any parking;
- Sewer issues discussed regarding calculating one bedroom units based on .5;
- The revised pro forma would come in at approximately 12-13%;
- Plumbing, wire and Building Inspector fee would not be waived;
- Specific financial aspects of the permit could be discussed after the close of the public hearing.

G. Peabody reviewed all the waivers requested and asked the applicant what the “carrot” was for the Board. S. Paquette agreed to install an automatic generator to provide emergency lighting for the units and common areas and the pump in the garage. He hoped the Board found this to be a tangible benefit.

G. Peabody asked for questions from the Board and the public. There were none. She noted that Attorney Bobrowski suggested that the Board could close the public hearing and direct him to prepare a draft decision with conditions to review. She would not take any testimony once the hearing was closed. She thanked Main Street Senior Housing LLC and Waterman Design for their professionalism and cooperation, Attorney Bobrowski and Ed Marchant for their help with the legal process and the pro forma review, all Town Boards, Committees and all department heads for their guidance, CME Associates for their engineering reviews and Larry Adams, Town Planner and Nancy Campbell, Administrative Clerk for their research, organization and guidance. She also thanked the Board for its extra meeting time and homework.

The Board agreed that items previously discussed were in its purview to review and to obtain up to date figures from the applicant, specifically budgetary figures relative to a revised pro forma after the close of the public hearing.

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

Motion: to instruct counsel to prepare a draft decision with conditions that will be used by the Board to consider whether to approve or to disapprove the project as defined in the said draft decision or any subsequent draft decisions, by M. Cooney
2nd: M. Blanchard
Discussion: B. Sutter questioned the drafting of a decision given that the Board had not yet voted. It was made clear that two decisions would be prepared (one to grant with conditions taken from public hearing discussions and one to deny) by Attorney Bobrowski for the Board's deliberation, revision, as it felt necessary, and lastly its vote.
Vote: All in favor

G. Peabody stated that the Board would meet on November 17th to discuss the draft decision of Windgate at Sturbridge as prepared by Attorney Mark Bobrowski.

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

Adjournment at 8:30 PM