

**STURBRIDGE ZONING BOARD OF APPEALS**  
MINUTES OF  
WEDNESDAY, October 13, 2004

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

**Absent:** Marge Cooney

**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 of September 8, 2004 were reviewed.

**Motion:** to approve the minutes of September 8, 2004 as presented, by P. Jeffries  
**2<sup>nd</sup>:** T. Beaudry  
**Discussion:** None  
**Vote:** In favor - B. Sutter, G. Peabody, P. Jeffries and T. Beaudry  
Abstain - M. Blanchard and R. Cornoni

**REQUEST FOR DETERMINATION – 10-13-04-1D – MICHAEL DETARANDO, 98 PARADISE LANE**

Leonard Jalbert presented the request for determination on behalf of Michael Detarando, for property located at 98 Paradise Lane. This request was to permit the demolition of the existing structures and permit the construction of a new 1,895 square foot house with an attached 194 square foot deck. The lot was non-conforming in that it lacked sufficient frontage and lot area. It was L. Jalbert's opinion that this was a grandfathered lot.

L. Jalbert referenced the memorandum submitted to the Board by the Building Inspector which indicated a special permit and variance would be required for the proposed site plan. He presented the Board with a copy of the original site plan submitted to the Building Inspector and noted that the plan before the Board had been revised to reduce the lot coverage from 18.6% to 16.5%. He recognized 16.5% exceeded the allowed 15%, but felt this did not intensify or increase the existing non-conformity since the existing lot coverage was also 16.5%. He added that the proposed footprint would decrease the lot's non-conformity as it did not encroach into the side yard setbacks as did the existing footprint. An Order of Condition had been approved by the Conservation Commission and would be recorded in the Worcester District Registry of Deeds.

G. Peabody asked how this request could be allowed under a determination with respect to the zoning bylaw relative to abandonment (Section 20.07.) She felt that after two years the grandfathering was gone. She had visited the site and found the only existing structures on the property to be a shed, an outdoor barbeque kitchen and a crumbling foundation. She added that the bylaws did not allow for a structure to be rebuilt except in conformity with the bylaws (Section 20.06.) M. Detarando stated the house had burnt in 1986 and he wanted to replace the house within the existing lot coverage. G. Peabody questioned how the

existing lot coverage could be considered at 16.5% when there was no house on the lot. L. Jalbert said there was a foundation on the site. M. Blanchard recalled a memo from Kopelman & Paige which addressed removing Section 20.06 from the bylaws. She also felt it was interesting that the proposed lot coverage matched that of the application's existing lot coverage and had an issue with abandonment and the lot coverage. B. Sutter asked for clarification to the definition of abandonment and what options the applicant would have if the lot was vacant. R. Cornoni would like input from the abutters which a request for determination did not require. M. Detarando stated the abutting property owners were in support of the plan. L. Jalbert felt that according to Massachusetts General Law the structure would not derogate for the intent of the bylaw since this was a non-conforming lot prior to zoning.

M. Blanchard said she was not ready to make a decision on the request and would like to look into the matter further. The Board concurred and would take the issue up at its next regularly scheduled meeting on November 10<sup>th</sup>.

#### **REQUEST FOR DETERMINATION – 10-13-04-2D – THOMAS DOWLING, 9 WEDGEWOOD ROAD**

Thomas Dowling presented the request for determination for property located at 9 Wedgewood Road. This request was to permit the construction of an addition of a family room, master bedroom/bath and a two car garage. The lot was non-conforming in that it lacked sufficient area (.06 acre.) T. Dowling had approval from the Conservation Commission for the work and told the Board that his neighbors supported the request. The property was serviced by Town water and sewer. There were no questions from the Board.

**Motion:** to grant a determination to Thomas Dowling to permit the construction of an addition of a family room, master bedroom/bath and a two car garage at 9 Wedgewood Road 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

**2<sup>nd</sup>:** P. Jeffries

**Discussion:** None

**Vote:** All in favor

#### **REQUEST FOR DETERMINATION – 10-13-04-3D – SCOTT & TABITHA ANTONIO, 5 WELLS PARK ROAD**

William Webb, contractor for Scott and Tabitha Scott, presented the request for determination for property located at 5 Wells Park Road. This request was to permit the construction of an addition of a kitchen/entry expansion with an attached two car garage. The lot was nonconforming in that it lacked sufficient area (.07 acre.) There were no questions from the Board.

**Motion:** to grant a determination to Scott and Tabitha Scott to permit the construction of an addition of a kitchen/entry expansion with an attached two car garage at 5 Wells Park Road 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

**2<sup>nd</sup>:** P. Jeffries

**Discussion:** None

**Vote:** All in favor

#### **REQUEST FOR DETERMINATION – 10-13-04-4D –BARBARA YEAGER, 23 LONG AVENUE**

Barbara Yeager presented the request for determination for property located at 23 Long Avenue. This request was to permit construction for a 3 foot by 11 foot expansion of an existing deck with a roof over a portion of the deck and a three season sunroom. The lot was nonconforming in that it lacked sufficient area and frontage. B. Sutter asked if the applicant would be enclosing the upper level only. B. Yeager replied that the upper level only would be enclosed. There were no other questions from the Board.

**Motion:** to grant a determination to Barbara Yeager to permit the construction of an addition for a 3 foot by 11 foot expansion of an existing deck with a roof over a portion of the deck and a three season sunroom at 23 Long Avenue 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 P. Jeffries

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

**Discussion:** None

**Vote:** All in favor

## **CORRESPONDENCE**

Memorandum dated 10-12-04 from N. Campbell - requesting payment on invoice #0017698 from Judith Nitsch Engineering, Inc., in the amount of \$3,000.00 for services rendered by Douglas Prentiss for the traffic peer review of Windgate at Sturbridge.

**Motion:** to approve the payment of invoice #0017698 for \$3,000.00 to Judith Nitsch Engineering, Inc., from the Outside Consultant Review Fee Account for Windgate at Sturbridge, by M. Blanchard

**2<sup>nd</sup>:** T. Beaudry

**Discussion:** None

**Vote:** All in favor

G. Peabody mentioned that the working subcommittee had met with Paula Thompson, of Waterman Design Associates and Scott Young and Chuck Eaton, of CME Associates, on October 5<sup>th</sup>. Present at the meeting were G. Peabody, L. Adams, N. Campbell and P. Jeffries. M. Cooney was unable to attend. Discussed were the technical points of Scott Young's memorandums dated September 1<sup>st</sup> and September 27<sup>th</sup>.

Kopelman & Paige – dated 10-12-04 – RE: Rehabilitative Resources, Inc. v. Ginger Peabody, et al - notification that the Board's decision had been upheld in its entirety by Worcester Superior Court.

Kopelman & Paige – dated 10-7-04 – RE: Green Mountain Realty Corp. v. The Town of Sturbridge, et al - notification to the Board of the decision agreed upon between Green Mountain Realty Corp. and the Town Administrator, James Malloy.

## **OLD BUSINESS/NEW BUSINESS**

Next meeting dates – Windgate Public Hearing Continuation – October 20<sup>th</sup>  
Regularly Scheduled Meeting – November 10th

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

**2<sup>nd</sup>:** P. Jeffries

**Discussion:** None

**Vote:** All in favor

**Adjournment at 7:47 PM**