

STURBRIDGE ZONING BOARD OF APPEALS
MINUTES OF
WEDNESDAY, September 8, 2004

Present: Theophile Beaudry
Marge Cooney
Pat Jeffries
Ginger Peabody, Chairman
Bruce Sutter

Absent: Mary Blanchard
Robert Cornoni

Also in Attendance Nancy Campbell, Clerk

G. Peabody opened the meeting at 7:00 PM and read the agenda. The Board members introduced themselves. G. Peabody noted that though two members were absent from the seven member Board, there was a quorum and sufficient votes for special permit petitions. The minutes of September 1, 2004 were tabled to the next meeting so a full Board could review them.

Motion: to delay the minutes of September 1, 2004 until September 21, 2004 and a review by the full Board, by M. Cooney

2nd: P. Jeffries

Discussion: None

Vote: All in favor

CORRESPONDENCE

There was none.

PUBLIC HEARING – 08-11-04-1SP – SPECIAL PERMIT – RANDY BERECUME – TO PERMIT THE CONSTRUCTION OF A TWO FAMILY DWELLING AT 273 HOLLAND ROAD

G. Peabody opened the public hearing at 7:05 PM. Before reading the legal notice M. Cooney stated that this public hearing had been postponed from its August 11th date by mutual agreement between the applicant and the Board. Ronald Bercume and Randy Bercume presented the plans to the Board and stated the following –

- The proposed duplex would be owner occupied by Randy Bercume, the second unit would be a rental;
- A photo of the proposed duplex was submitted to the Board showing one front door as the duplex doors would be recessed;
- There would be five bedrooms – three on one side and two on the other side
- A site plan was submitted to the Board showing access to the site by a deeded 25 foot right of way (ROW) and an alternate driveway;
- The applicant did not intend to tar the ROW, it would remain gravel;
- The proposed duplex would be approximately 120-150 feet from Holland Road and the trees would not be removed; and

- The ROW currently served as a legal access to an abutting house – this was a concern to the Board with respect to adverse possession and open and notorious use. M. Cooney asked if there was documentation stating that the abutters had use of the ROW. Ronald Bercume stated he believed it had been a deeded ROW for longer than 20 years. The Board agreed that the alternate driveway would be a “cleaner” option.

G. Peabody asked for questions from the public.

- Edward Stover, 268 Holland Road – asked for clarification of the location of the Kimball’s house.
- Walter Szyszkiewicz, 281 Holland Road – stated that the ROW was written into his deed, that he had lived at this location since 1970, was concerned with the possibility of numerous two family dwellings on Holland Road, asked if the Conservation Commission had approved the plan (Ronald Bercume stated it had), asked if the drainage and septic system would support the proposed duplex (the property had percolated and the system design supported the five bedrooms) and stated that he was neither for nor against the duplex, but felt a two family dwelling did not fit into the area. Additionally, would the applicant need to come before the Board if he wished to build a garage in the future. G. Peabody replied that the site was a legal (conforming) lot. Therefore, the applicant would not need to come back to the Board, but could go directly to the Building Inspector for such a permit.
- Virginia Stallone, 270 Holland Road – concerned approval of this special permit would set a precedent for future two family dwellings in the area and that traffic would increase on an already heavily traveled road. G. Peabody clarified that the Zoning Board of Appeals was not a precedent setting Board. M. Cooney assured V. Stellone that each application was taken up on its own merits per Chapter 40A.

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

G. Peabody explained that a two family dwelling was allowed under special permit in the Rural Residential District. The Board had heard concerns from the public, but not opposition.

Motion: to grant a special permit to Randy Bercume for a two family dwelling at 273 Holland Road with the condition that it have a separate driveway as shown on the submitted plan – Project # 2004-093 from Green Hill Engineering, by P. Jeffries
2nd: M. Cooney
Discussion: None
Vote: All in favor

G. Peabody reminded the applicant that there was a 20 day appeal period.

PUBLIC HEARING – 08-11-04-2SP/V – SPECIAL PERMIT/VARIANCE – PETER & REBECCA MIMEAULT– TO PERMIT THE CONSTRUCTION OF RETAINING WALLS WITHIN THE FRONT, SIDE AND REAR YARD SETBACKS AT 76 SOUTH SHORE DRIVE

G. Peabody opened the public hearing at 7:30 PM. Again, before reading the legal notice M. Cooney stated that this public hearing had been postponed from its August 11th date by mutual agreement between the applicant and the Board. Peter Mimeault presented the plans and stated the following –

- The existing structures were built in 1970;
- He had purchased the property in February of 2004 and found that the foundation and existing walls were deteriorating;
- Submitted a letter of support for the retaining walls from abutters Matt and Janice Sosik which the Chairman read;
- The retaining walls would be constructed from interlocking blocks, be four feet in height or less, support a 2:1 or 3:1 slope and disappear into the topology;
- The parking areas retaining wall would be three feet high and be constructed of railroad ties;
- The plans were presently before the Conservation Commission for approval;
- Relative to safety, the property would be easier to access, especially in the case of an emergency; with the addition of the retaining walls and
- Vegetation would be used to maintain erosion and drainage would be improved because water would be directed away from the lake.

M. Cooney noted that a memorandum from the Town Planner recommended the use of pervious materials be used for the parking area. There were no questions from the public.

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

G. Peabody noted she had visited the property and felt it was in need of attention. She added that historically she did not support variance requests, but that it was her opinion a retaining wall was not a structure, as defined in the zoning bylaws, and that the proposed walls would be an improvement to the property while protecting the lake. She was in full support of the request. M. Cooney concurred and felt considerable thought had gone into the plans. B. Sutter saw the request as making a not good situation better, that it would address the concern of erosion and that the Town should not stand in the way of such an improvement. T. Beaudry felt it would improve safety issues.

Motion: to grant a special permit and variance to Peter and Rebecca Mimeault for the construction of retaining walls within the front, side and rear yard setbacks at 76 South Shore Drive as shown on the submitted Plan # 04172, dated 03-26-2-04, by P. Jeffries
2nd: M. Cooney
Discussion: None
Vote: All in favor

G. Peabody reminded the applicant of the 20 day appeal period.

REQUEST FOR DETERMINATION – 09-08-04-1D – LOIS BIZAK, 19 WOODLAWN DRIVE

William Simonic presented the request for determination on behalf of his sister, Lois Bizak, for property located at 19 Woodlawn Drive. This request was to permit the construction of an attached 22 foot by 26 foot two car garage with a home office area above a portion to the garage. The lot was nonconforming in that it lacked sufficient frontage and lot area. W. Simonic assured the Board this would not be a business office, but an office area for L. Bizak to have her computer and file cabinets (no plumbing) for her work at home.

Motion: to grant a determination to Lois Bizak for the construction of an attached 22 foot by 26 foot two car garage with a home office area above a portion to the garage for 19 Woodlawn Drive 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

2nd: M. Cooney

Discussion: None

Vote: All in favor

REQUEST FOR DETERMINATION – 09-08-04-2D – RICHARD GARON, 22 BLUEBERRY LANE

Glen Latour, contractor for Richard Garon, presented the request for determination for property located at 22 Blueberry Lane. This request was to permit the construction of a new 15 foot by 35 foot one stall garage next to the existing garage and a second floor master bedroom about the garage at 22 Blueberry Lane. The lot was non-conforming in that it lacked sufficient frontage. There were no questions from the Board.

Motion: to grant a determination to Richard Garon to permit the construction of a new 15 foot by 35 foot one stall garage next to the existing garage and a second floor master bedroom about the garage at 22 Blueberry Lane 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 G. Peabody

2nd: M. Cooney

Discussion: None

Vote: All in favor

REQUEST FOR DETERMINATION – 09-08-04-3D – SHAWN RICH, 15 BLUEBERRY LANE

Shawn Rich presented the request for determination for property located at 15 Blueberry Lane. This request was to permit the construction of a new 14 foot by 16 foot deck with a step down 6 foot by 28 foot deck to the existing deck. The lot was nonconforming in that it lacked sufficient frontage. There were no questions from the Board.

Motion: to grant a determination to Shawn Rich to permit the construction of a new 14 foot by 16 foot deck with a step down 6 foot by 28 foot deck to the existing deck at 15 Blueberry Lane 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 G. Peabody

2nd: P. Jeffries

Discussion: None

Vote: All in favor

OLD BUSINESS

Request for Determination Fee – G. Peabody stated that at the Board’s request, N. Campbell had submitted a memorandum to the Town Administrator asking the Board of Selectmen (BOS) to reconsider a fee for Request for Determination applications and that it notify G. Peabody as to the meeting date that the matter would be addressed. The matter was introduced at the BOS meeting of September 7th without notification to G. Peabody. At the recommendation of a Selectman, no action was taken. The Board approved G. Peabody to speak on behalf of the Zoning Board of Appeals when she appeared before the BOS to request the fee.

Windgate at Salisbury Site Visit – N. Campbell had contacted Steven Paquette regarding a site visit on September 21st to his Windgate at Salisbury project and was awaiting a reply. A video would be available for any Board member who was not able to attend the site visit.

Next meeting dates – Windgate Public Hearing Continuation – September 22nd
Regularly Scheduled Meeting – October 13th

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

Adjournment at 8:04 PM