

STURBRIDGE ZONING BOARD OF APPEALS
MINUTES OF
WEDNESDAY, January 14, 2004

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

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

G. Peabody opened the meeting at 7:00 PM and read the agenda.

CORRESPONDENCE

Conflict of Interest & Public Records – G. Peabody encouraged members to attend this open meeting scheduled for January 27th in Greenfield, MA. Those interested should contact Nancy Campbell.
Kopelmen & Paige – dated December 18, 2003 – RE: Rehabilitative Resources, Inc. v. Peabody
Kopelmen & Paige – dated January 8, 2003 – RE: Rehabilitative Resources, Inc. v. Peabody
Kopelmen & Paige – dated January 12, 2003 – RE: Rehabilitative Resources, Inc. v. Peabody,
James Malloy Memo – dated December 22, 2003 – RE: Annual Town Report

The minutes for December 11, 2003 were reviewed.

Motion: to accept the minutes of December 11, 2003, as written, by M. Blanchard
2nd: T. Beaudry
Discussion: None
Vote: In favor – T. Beaudry, M. Blanchard, J. Bonja, R. Cornoni and P. Jeffries
Abstain – G. Peabody

PUBLIC HEARING – 01-14-04-1 – SPECIAL PERMIT – ABRAMS, GREGORY – TO PERMIT THE CONSTRUCTION OF A 750 SQUARE FOOT ADDITION TO THE SECOND FLOOR OF THE RESIDENTIAL DWELLING AND ENCLOSE ITS FIRST FLOOR PORTICO AT 43 ABRAMS DRIVE

G. Peabody opened the public hearing at 7:05 PM and J. Bonja read the legal notice. Gregory Abrams was present with his plans. G. Peabody noted that the Board had not received a certified letter from the proponent's engineer verifying the soundness of the foundation and first floor of the dwelling as requested by the Building Inspector. G. Abrams commented that the letter was forthcoming. In the absence of this letter, G. Peabody suggested continuing the public hearing until the Board's February meeting.

Motion: to continue the public hearing for Gregory Abrams until February 11, 2004 at 7:05 PM, by M. Blanchard
2nd: P. Jeffries
Discussion: None
Vote: All in favor

G. Peabody recused herself from the Board at 7:10 PM.

GREEN MOUNTAIN REALTY CORP. – DISCUSSION AND VOTE

P. Jeffries opened the discussion and asked J. Bonja to continue with information he had for the Board. He asked if the Board had any further questions or modifications to the list of facts and findings he presented at the December 11, 2003 meeting. There were none. He suggested this list of facts be entered as findings of fact for the public hearings.

J. Bonja stated that it was his opinion that a 100 foot tower provided viable coverage as requested for by the applicant to accommodate the two carriers listed on the application. Testimony from the Board's technical expert supported this evidence and it had not been disputed by the applicant. The open spaces for the four additional carriers were speculative and therefore did not enter into J. Bonja's decision. His decision was made based on the Town's approval of the 126 Clark Road site as part of its Wireless Communication Overlay District and that the applicant had complied with most of the Town's bylaws. He noted that the applicant could add other locations by coming back to the Board under a new special permit application. M. Blanchard agreed with J. Bonja in that a 100 foot tower would be less invasive to the neighborhood and referenced the real estate appraiser's letter submitted by the Giordano's stating that the 130 foot tower would have a negative effect on their property. R. Cornoni added that the applicant would still have the option of the T3 site for future coverage. T. Beaudry and P. Jeffries were in agreement with J. Bonja.

J. Bonja reviewed the model conditions submitted to the Board for review by N. Campbell. He made the following recommendations:

- Item #1 – needed clarification of RFR to read – Radio Frequency Radiation
- Item #2 – as written
- Item #3 – as written
- Item #4 – as written
- Item #5 – as written
- Item #6 – omit
- Item #7 – omit
- Item #8 – omit
- Item #9 – as written
- Item #10 – needed to be modified to read two (2) carriers
- Item #11 – as written
- Item #12 – omit
- Item #13 – omit
- Item #14 – omit
- Second Item #14 – as written

Motion: to grant the special permit for the erection of a cellular communications tower as described by the applicant, Green Mountain Realty Corp., PO Box 10, Wolfboro, New Hampshire, in their application for property at 126 Clark Road, Assessor's map 215, lot 126, Block 1457, as recorded in the Worcester Registry of Deeds, Book 15340, Page 21, with the requirements that a maximum height be set at 100 feet and therefore allow two carriers as indicated in the application with the conditions of this grant are as discussed – Item #1 with RFR identified, Item #2, Item #3, Item #4, Item #5, Item #9,

Item #10 with the modification of two carriers, Item #11 and the second (non-red) Item #14, by J. Bonja

2nd: M. Blanchard

Discussion: None

Vote: All in favor

P. Jeffries noted there was a 20-day appeal period from the date of the filing with the Town Clerk.

G. Peabody stepped back onto the Board at 7:27 PM. She thanked the Board for its hard work. The Board thanked J. Bonja for his engineering knowledge and his ability to help the Board understand the technical issues of the application.

OLD BUSINESS

G. Peabody acknowledged the payment (\$1989.10) made to Broadcast Signal Lab for consultant services regarding the Green Mountain Realty Corp. application. Payment was made from funds on deposit (\$3,000.00) with the Town specifically designated for this purpose.

Motion: to authorize the Finance Director to release any residual funds from this account and return them to the applicant, by J. Bonja

2nd: M. Blanchard

Discussion: None

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

NEW BUSINESS

G. Peabody noted there were two positions open for the Board – her position, as well as the seat vacated by G. Jeznach. Individuals interested in filling the vacant position should contact James Malloy, Town Administrator.

REQUEST FOR DETERMINATION – ABUTTER NOTIFICATION DISCUSSION

Larry Adams, Town Planner

G. Peabody asked the Board if it felt an application fee would be appropriate for Requests for Determinations. After discussion it agreed to request that the Board of Selectmen consider an \$85.00 filing fee for Requests for Determination submitted to the Board. L. Adams concurred with the Board on the fee.

Motion: to submit a proposal to the Board of Selectmen to require a fee of \$85.00 for applications for Requests for Determinations, by J. Bonja

2nd: M. Blanchard

Discussion: None

Vote: All in favor

G. Peabody reviewed a discussion from the Board's last meeting where it felt it was unfair that abutters were not notified in cases of Requests for Determinations. L. Adams offered clarification on this issue stating that the notice to abutters was a state requirement. His concern was that if the Board began imposing this notification for Requests for Determinations, abutters might perceive this as a public hearing process, which it was not. There could be a challenge if the Board failed to notify them, the process would be invalidated, which also was not the case. A decision on a Request for Determination should be based on the facts and not on neighborhood

impacts or support or lack of support from abutters. He added that the determination was a finding of fact - either the request increased the non-conformity or it did not; and abutters should not have standing to make a contribution in that determination.

After discussion the Board agreed that a determination should not require notification to abutters.

Next meeting – January 21, 2004 at 7:00 PM – Green Mountain Realty Corp., Decision review and endorsement

Motion: to adjourn, by M. Blanchard

2nd: P. Jeffries

Discussion: None

Vote: All in favor

Adjournment at 7:55 PM