

STURBRIDGE ZONING BOARD OF APPEALS
MINUTES OF
Wednesday, January 26, 2005

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. G. Peabody noted she had received a request from Hazel Hopkins on behalf of Yankee Spirits asking for a continuation of their special permit and variance public hearing to the Board's next meeting.

Motion: to continue the public hearing for Yankee Spirits to February 9th at 8:00 P.M., by M. Blanchard
2nd: P. Jeffries
Discussion: None
Vote: All in favor

The Board members introduced themselves. The minutes of January 12, 2005 were reviewed.

Motion: to approve the minutes of January 12, 2005, as corrected, by M. Blanchard
2nd: P. Jeffries
Discussion: None
Vote: In favor – B. Sutter, M. Blanchard, G. Peabody, P. Jeffries, R. Cornoni and T. Beaudry
Abstain – M. Cooney

CORRESPONDENCE

Nancy Campbell Memorandum – requesting Board authorization for payment of Attorney Mark Bobrowski's Invoice, dated 01-13-05 in the amount of \$ 3,727.50 from the MassHousing Partnership technical funds awarded to the Town for services during the Windgate at Sturbridge review.

Motion: to authorize payment of \$3,727.50, by P. Jeffries
2nd: R. Cornoni
Discussion: None
Vote: All in favor

G. Peabody Letter to Dawn Toon – dated 01-14-05 – RE: Guaranteed Roofing & Building Maintenance Co. – stated D. Toon's letter of concern had been forwarded to James Malloy, acting Interim Zoning Enforcement Officer.

G. Peabody Memorandum to J. Malloy – dated 01-14-05 – RE: Kopelman & Paige, P.C., RRI – requested a meeting of subcommittees from the Planning Board and the Zoning Board for discussion on the disposition of the above RRI appeal.

2004 Annual Report – submitted to the Board for its review.

PUBLIC HEARING – 01-26-05-1V/SP – BLUE & GOLD DEVELOPMENT – TO PERMIT THE CONSTRUCTION OF THE PROPOSED DEVELOPMENT OF A 71 UNIT ACTICE ADULT HOUSING COMMUNITY, NAMELY STONELEIGH WOODS, ON APPROXIMATELY 35.5 ACRES OF LAND AT 72 HALL ROAD

G. Peabody opened the public hearing at 7:05 P.M. and M. Cooney read the legal notice. The Board read the following memorandums and correspondence into the record –

- Paul and Tony Fantaroni, dated 01-20-05 – letter in support of the project
- Conservation Commission, dated 01-26-05 – memo regarding initial review of the project
- Board of Health, dated 01-25-05 – memo stating no input as project is on municipal sewer
- Ed and Jeri Levesque, dated 01-20-05 – letter in support of the project
- Town Planner, dated 11-16-04 – memo addressing his concerns with the project
- Planning Board, dated 01-10-05 – report of issues to be addressed by Planning and Zoning Boards
- Interim Zoning Enforcement Officer (James Malloy), dated 12-08-05 – memo addressed his concerns and issues for the project
- Attorney Mark Donahue, dated 01-20-05 – letter in response to J. Malloy’s memo
- Police Chief, dated 11-16-04 – addressed his concerns for the project

G. Peabody commented that meeting arrangements for discussion of this project should be directed through the Board’s clerk and not on an individual basis between the proponent and Town department representatives.

Attorney Mark Donahue represented the applicant, Blue and Gold Development, with regard to the Stoneleigh Woods project. Also present were Robert and Grant Havasy, partners of Blue and Gold Development; John Massauro, engineer, of Waterman Design Associates; and Gary Schneider, architect, of Bloodgood Sharp Buster. Atty. Donahue stated the following on behalf of the applicant –

- A request to limit the development to individuals 55 years of age or older as per Massachusetts Law, Chapter 151B, in perpetuity;
- The best design conflicted with the specific language of the Zoning Bylaws resulting in the requests for limited variances of these Bylaws;
- Reviewed the proposal –
 - ⇒ Site accessed by a cul-de-sac not yet built off Hall Road, but approved by the Planning Board for construction, located approximately 850 feet from Route 20; G. Peabody asked if the roadway had been recorded with Worcester District Registry of Deeds – Atty. Donahue noted this had not been done.
 - ⇒ Site contains approximately 35.5 acres;
 - ⇒ The cul-de-sac will remain a private roadway in perpetuity;
 - ⇒ Development parcel grades measured approximately six to seven percent, grades become steeper on the open space parcel behind OFS Fitel;
 - ⇒ Unique conditions on the site have affected the project design – the access easement shared with abutting apartment complex and the Exxon Mobil Pipeline, a 33 foot easement which traverses the site had restrictive uses;
 - ⇒ Limitations due to Bylaw restrictions – Section 21.12, no development within 35 feet of a street and a 75 foot setback of property lines;
- Development consists of 71 units in 19 separate buildings with a mix of three or four units each;

- Development envelope consists of approximately 20 acres of land, approximately 15.5 acres would remain as open space;
- Buildings clustered to reduce the impact of development, reduce the amount of area to be maintained by the owner and to create a sense of community;
- Clubhouse proposed for community residents;
- Land features provided for appropriate spacing;
- Units would be serviced by Town water and sewer and the developer would pay approximately \$420,000.00 in sewer privilege fees to the Town;
- Limited variances requested to obtain the optimum design for the development were reviewed as –
 - ⇒ Regularity factor – not met due to the open space parcel which buffers OFS Fitel and provided open area for the residents of the development;
 - ⇒ Distance between buildings in a multiple dwelling project – not met in four locations in the development due to conditions of the site (steep grades);
 - ⇒ Distance between clusters (not defined in the Bylaw) in a multiple dwelling project – due to Exxon Mobil Pipeline easement and clubhouse location;
 - ⇒ Clusters not to exceed twenty units – applicant felt the density was appropriate given the design layout and distance between buildings.
- Special permit – an issue of land use, was this an appropriate location for a multiple dwelling project with an age limitation.

Robert Havasy discussed how an age restricted community was created and marketed for the first phase of seniors known as the active adults (55 to 75 years of age) –

- Has produced developments on Long Island, and in New Jersey and Connecticut;
- Active adults look to downsize from present homes, eliminate repairs and reduce expenses;
- Stay consistent with the characteristics of the marketplace through architectural appearance and products used;
- Three perimeters followed – clustering the buildings to avoid sprawl and provide open space. less infrastructure required in the self contained community and social integration provided a support system for neighbors;
- Looks to provide richness in appearance through design and color, but not in price.

John Massauro reviewed the site and plans as follows –

- Roadway kept to one side of the project due to the property's slope
- The project would be a walkable community with roadway grades under five percent;
- Existing vegetation maintained were possible;
- Restrictions of the land – contours; pipeline must be crossed at a 90 degree angle, had a fill limitation and a limit of two crossings;
- Showed a cross section of the landscape architecture.

Gary Schneider gave a brief background of his firm and reviewed the architectural design of the project –

- Projects within the area in active adult communities – Winchester, MA; Southborough, MA (Carriage Hill);
- More living space provided in less square footage (1,700 – 1,800 square feet) with large master bedrooms, secondary living space on the upper level with a second bedroom;
- Tried not to use a specific style so as not to date the project – used traditional forms and colors

Atty. Donahue summed up the presentation stating that the issue was that of land use and stated that the site was appropriate for this type of development.

G. Peabody offered thoughts on the project – in favor of the active adult housing for the community; felt the project met the letter of the law, but not the practical side of it; felt the loft could be used as a third bedroom which was a red flag to her suggesting the active adult community could become a family unit project, the clubhouse at 1,500 to 2,000 square feet was small for a 71 unit development; walking paths should be included, as well as sidewalks; was the open space for sight enjoyment since there were no trails shown; very opposed to the variances requested; all units looked the same with the garage the most visible feature; units not creatively placed, but placed to maximize coverage and profit; variances were self created and the criteria for granting them was not met.

M. Cooney referenced Section 21.02 which required the applicant to meet all conditions and requirements for multiple dwelling projects; Section 21.04(d) which names open space for public use and enjoyment and this project's open space appeared to be more a buffer to OFS Fitel and for the use of homeowners only; questioned if the additional thirteen acres, apart from the development parcel, was to satisfy the regulation requirement of a half acre per unit since the open space, in her opinion, was no more than just "vacant land."

M. Blanchard agreed the variances were self imposed, regularity factor would not be a problem except for the perimeter created by "appeasing" OFS Fitel for the buffer zone; and eliminating some buildings would bring the design into compliance.

B. Sutter agreed with the above comments. R. Cornoni suggested reducing the number of units to accommodate the bylaws. P. Jeffries felt the project should be designed to fit into the land, should be done without variances and that the view of all the garage fronts was not attractive.

G. Peabody felt the Board was not willing to grant the requested variances and suggested the applicant withdraw without prejudice or the Board would close the public hearing and take a vote. M. Blanchard noted that an impact statement and environmental suitability study had not been included in the submittal. She felt the idea of the project was good for the Town, but that it had major problems with the self imposed variance requests. Atty. Donahue asked to continue the public hearing to address removing one or more of the variances and asked for discussion relative to the number of buildings in a cluster.

B. Sutter commented that the developer's approach found the bylaws to be a problem when designing the project. He felt given the amount of land for the project, the design should comply with the bylaws. Bylaws are set at town meeting and it was not up to the Selectmen to determine a project's density. He felt the current plan did not meet the intent of the bylaws. M. Blanchard was not opposed to continuing the public hearing and would be willing to look at revisions. Atty. Donahue asked that the applicant be allowed an opportunity to work on the design to address the Board's concerns and continue the process of the special permit. M. Cooney asked if the revisions would need to be reviewed by the Planning Board again.

L. Adams stated that the first design of the project had been "terrific" showing forty units on twenty acres, felt the purpose of the open space was to justify the number of units, not a design strategy; zoning bylaws were not a restriction, as indicated by the applicant, but a requirement for good design templates. Since this was the first of three multiple dwelling projects he suggested the Board use care in its review process.

G. Peabody recognized persons wishing to speak from the public –

- Carol Goodwin, Orchard Road – concerned there was no open space for the public, felt the developer should purchase more land, would like to see more green space between the Commercial area and the houses, more natural vegetation should be maintained and the developer should work with the land and not create their own drainage.
- Maureen Ouellette, 95 Fiske Hill Road – commended the Board on its efforts and felt the project did not need to be so congested, that more land should be purchased.

There were no others wishing to speak on the project. The Board discussed whether or not to proceed with the public hearing. Having heard the Board’s discussion, Atty. Donahue asked for a continuation and stated that the applicant could address the variances in a responsive fashion and be left with the special permit if the variances were “stripped out.” He felt communication and dialogue was needed to react to the Board’s input. He would provide an extension for the deadline date of the special permit.

Motion: to continue the public hearing for Blue and Gold Development to March 9, 2005 at 7:10 P.M. provided an extension to the application deadline date was provided by Atty. Donahue, by M.

Blanchard

2nd: P. Jeffries

Discussion: M. Blanchard commented that dialog was necessary. G. Peabody agreed if the applicant came back to the Board with a good plan. P. Jeffries concurred with M. Blanchard. B. Sutter addressed a comment made that the Board had allowed changes to the Windgate project, but noted that the plan had not changed much, that it came in as a good design. He felt the tone and wording had not been respectful of the bylaws during this hearing and agreed that the Board should work together with the applicant, but that they had not tried to comply with the spirit of the bylaws. He preferred not to continue the hearing.

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

Atty. Donahue extended the deadline to May 5, 2005. G. Peabody stated that the public hearing would close after ten minutes if the revised plan was not good. The Board took a short recess.

OLD BUSINESS

Request for Determination Fee – G. Peabody followed up on a discussion from the Board’s last meeting relative to requiring a fee for Request for Determinations filed with the Board. She had noted that under the provisions set forth under Chapter 40, Section 22F the Board could set its own fees. M. Blanchard stated that the two appointed members were only allowed to vote with the approval of their appointing authority which was the Board of Selectmen who twice denied the request. The Board conducted a lengthy debate for and against the fee. G. Peabody recognized

- Charles Blanchard, Sturbridge resident, who stated that determinations were set up by Massachusetts General Law, as a right, and were very different from variances and site plan review. The Town could have chosen some group or individual other than the Zoning Board to make this decision. He felt a person should not have to pay for this service which was not of their making, but due to a zoning change by the Town.

G. Peabody supported her request of this fee by saying it was a good service provided to the resident and it had a value. M. Blanchard did not support the fee since it went into the general fund and residents already paid taxes and should not have to pay for a service that was needed due to a change in the zoning bylaws.

G. Peabody recognized

- Jeff Bonja, 180 Fiske Hill Road – stated all fees go to the general fund. He asked the fee for a business certificate and the time it took to prepare it. He then stated that if a comparison was to be used, a fee

was charged for the business certificate and as a tax payer why should he be required to register his business.

G. Peabody asked if any one had new comments on this issue. There were none. M. Blanchard reminded the Board that the appointed members (B. Sutter and T. Beaudry) could not vote on this matter.

Motion: to apply a fee of \$25.00 for a Request for Determination application, by G. Peabody
2nd: M. Cooney
Discussion: None
Vote: In favor – M. Cooney, G. Peabody and R. Cornoni
Opposed – M. Blanchard and P. Jeffries

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

Adjournment at 9:23 PM