

STURBRIDGE ZONING BOARD OF APPEALS

(draft) MINUTES OF

Wednesday, 8 February 2006

Present: Ginger Peabody, Chairman
Mary Blanchard
Pat Jeffries
Bruce Sutter
Margaret Cooney
Theophile Beaudry

Absent: Robert Cornoni

Also in Attendance: Linda Coates, Administrative Assistant

Ginger Peabody opened the meeting at 7:00 P.M. The draft minutes of 12/14/05 and 1/11/06 were reviewed and accepted as amended.

Motion: to accept the draft minutes of 12/14/05 as corrected, by M. Blanchard
2nd: P. Jeffries
Discussion: None
Vote: In favor: G. Peabody, M. Blanchard, P. Jeffries, B. Sutter
Abstain: M. Cooney, T. Beaudry

Motion: to accept the draft minutes of 1/11/06 as corrected, by M. Blanchard
2nd: P. Jeffries
Discussion: None
Vote: Unanimous

CORRESPONDENCE

Waterman Design Associates, Inc. – dated 2/07/06 – Re: Crescent Gate at Sturbridge progress report.

Citizen Planner Training Collaborative: Advanced Tools and Techniques for Planning and Zoning Fifth Annual Conference - Saturday, 18 March 2006 from 8:00 A.M. to 4:00 P.M. at the Hogan Conference Center in Holy Cross College, Worcester. Members interested in attending should contact L. Coates. Registration deadline – 3/10/06.

Kopelman & Paige, P.C. – dated 1/25/06 – Confidential Executive Session Letter Re: Blue & Gold Development Group, Inc/Stoneleigh Woods, 72 Hall Road.

Kopelman & Paige, P.C. - Memorandum to Municipal Clients – dated 1/17/06 – Re: Avoiding Constructive Approvals of Subdivision Plans and Zoning Relief.

Jim Malloy, Town Administrator – dated 1/25/06 – Re: Special Town Meeting Warrant. All town meeting warrant articles for the April Town Meeting must be submitted to the Town Administrator's office no later than 2/10/05.

Central MA Metropolitan Planning Organization – Re: Regional Transportation Plan 2006 Update. Discussions will be held in the Rutland Public Library 2/7/06 at 7:00 P.M., Sutton Town Hall 2/08/06 at 7:00 P.M., and the CMRPC office in Worcester 2/16/06 at 7:00 P. M.

PUBLIC HEARING – 1-06-06-1V – VARIANCE – K.P. INDUSTRIES/K.P. SIGNS TO ERECT ONE (1) “SLEEPY’S” CHANNEL LETTER SIGN ON THE REAR OF THE BUILDING AT 120 CHARLTON ROAD.

G. Peabody opened the hearing at 7:11 P.M. B. Sutter read the Legal Notice. James Foertsch, K.P. Signs submitted the abutter's certified return receipt cards stating that one came back as non-deliverable. Barry Goldberg, Project Manager for Sleepy's stated that the store opened approximately three (3) months ago. At that time, they applied for a Special Permit for a non-illuminated sign that would conform to the Town's requirements. The Special Permit was denied. They have requested the hearing tonight to apply for a Variance that would allow them to erect a sign on the rear of the building. G. Peabody stated that a Variance is very difficult to get. She read 22.21 Multiple Tenant Properties Bylaw, and noted that they could have a sign on the Hobbs Brook signboard. B. Goldberg stated that he had been informed that no additional signs could be added to the signboard and that it was filled with active tenants already. G. Peabody noted that the GAP was gone and suggested that the Sleepy's sign could replace it. Mr. Goldberg stated that the GAP section was reserved for whatever store replaces the GAP. He further stated that the topography creates a hardship as it prevents people from seeing the Sleepy's store. There is visibility from the front of the building, but not on the back along Route 20. He has been trying to secure a space on the pillar signboard, but his negotiations with the landlord of Hobbs Brook have not been successful. Mr. Goldberg stated that Applebee's has three (3) signs. In addition, Sleepy's does not receive the same percentage of visibility benefits as the other tenants because it is located in the farthest corner from Walmart. Sleepy's is only visible when exiting the shopping center.

B. Sutter asked if Mr. Goldberg would be willing to move the sign on the front of the building to the back of the building. He also stated that the landlord was creating the hardship, not the topography.

G. Peabody asked if Mr. Goldberg knew he was not going to get a place on the pillar signboard when he signed the lease. Mr. Goldberg responded that he did, but they continued to try and negotiate even after the lease had been signed.

P. Jeffries mentioned that the back of the building will be covered once all the shrubs and ground cover reach their full height. Mr. Goldberg replied that Game Stop [EB Games] and Applebees both have signage on the back. He is asking for the same privileges that the other stores receive. M. Blanchard noted that technically if there is a need for a Variance, the owner of the building should be the one to apply for it. However, under

section 22.15 of the Sturbridge Zoning Bylaws, Sleepy's could lease and erect a sign on someone else's property. As far as the other stores are concerned, their signs are in violation of the Zoning Bylaws and will need to be taken down.

M. Blanchard questioned how big the current Sleepy's sign was, as they are only allowed a 30' sign. Mr. Goldberg stated that they were given permission to have the 50' sign. P. Jeffries mentioned that she did not remember his appearing before the Board for a Special Permit. Mr. Goldberg responded that the Building Inspector told them there is a blanket Variance that allows them to have the 50' sign. M. Cooney stated that since the 50' sign is a violation, the Board shouldn't continue with the Public Hearing. B. Goldberg stated that they have made a good faith effort to resolve the situation.

Motion: to close the Public Hearing, by M. Blanchard
2nd: P. Jeffries
Discussion: None
Vote: Unanimous

Motion: to deny the Variance requested by K.P. Industries/K.P. Signs to erect one (1) "Sleepy's" channel letter sign on the rear of the building at 120 Charlton Road because it does not meet the Variance requirements of Ch. Twenty-two, Signs, §22.15, is not allowed by §22.37 Exceptions, and has been found to be in violation of §22.21 Multiple Tenant Properties, by M. Blanchard.

2nd: P. Jeffries
Discussion: None
Vote: Unanimous

PUBLIC HEARING CONTINUATION – 11-29-05-1SP2V – SPECIAL PERMIT/VARIANCE-JMJ PROPERTIES, INC. TO CONSTRUCT A PARKING LOT TO SERVE AN EXISTING BUSINESS ON AN EXISTING NON-CONFORMING LOT THAT LACKS PROPER LOT AREA AND STREET FRONTAGE AT 79 MAIN STREET.

G. Peabody opened the Public Hearing at 7:30 P.M. She stated that it would be at JMJ Properties' discretion to continue with the Public Hearing as there are only five (5) voting members present; Mr. Beaudry cannot vote and Mr. Cornoni is absent. J. Morrison, JMJ Properties, Inc. stated that they would prefer to continue.

D. Roberts, Jalbert Engineering – Mr. Roberts briefly reviewed what had been discussed and resolved at the previous hearing. He stated that they were here tonight to resolve the remaining engineering issues the Greg Morse outlined in his memo to the Board dated 2/08/06.

G. Peabody read each paragraph of Mr. Morse's memo before the corresponding issue was addressed:

Parking Configuration – D. Roberts stated that they would remove one (1) of the three (3) spaces on the southeasterly side of the parking lot as suggested. He

further stated that they have provided a 24' access way, which is allowable. Although one cannot tell from the plan, the retaining wall actually tapers up and is not solid which provides plenty of clearance for drivers to see. He said that they would like to keep the five (5) spaces located behind the building.

Drainage – D. Roberts stated that the underground detention chambers would have five (5) rows, not six (6). The detail for the piping connections of the inlet and outlet side of the culvert chambers were not shown on the plan because they are standard connections, but they would be happy to provide the information to the Board. G. Peabody stated that they should provide it to the Planning Board as well. D. Roberts thought that G. Morse's concern was that the pipes intersect and could potentially bang into one another. Mr. Roberts stated that they actually sit on top of each other and proposed encasing them in concrete for protection.

D. Roberts questioned the concern that the manhole could be classified as a structure inside the setback. D. Roberts stated that the proposed location was due to an existing drainage system. The existing drainpipes will be re-routed and emptied into the new manhole drainage system.

Snow Storage – D. Roberts stated that the reason the proposed building was put on the plan was to show why the parking lot was oriented the way it is. They are well aware that they would have to appear before both the Planning and Zoning Boards to seek approval before commencing with the project. It was included for illustrated purposes only. G. Peabody stated that she would like the building removed from the plan to prevent the possibility of a future Board interpreting it as having been approved by the present Board. The building should be proposed as a stand-alone project when and if they choose to pursue it. D. Roberts stated that they would remove the building from the plans.

Pavement – D. Roberts stated that the 2 ½" is the minimum pavement depth required by culvert, but they would change it to 3 ½" if needed.

Topsoil depth dimensions – D. Roberts stated that the required topsoil depth dimension changes with each area being redone. He proposed that they change everything to 6" to avoid confusion.

G. Peabody asked if the removal of the parking for the proposed building would eliminate the five (5) spaces that G. Morse requested. D. Roberts replied yes. L. Jalbert of Jalbert Engineering stated that they were reconfiguring the three (3) southeasterly spaces to two (2). The access drive has two lanes; an inbound and an outbound lane. They could increase the distance allowance from 24' to 30' by moving the five (5) spaces forward 6', which would allow the cars to turn completely without using either of the two lanes. P. Jeffries asked how the sidewalk would be handled. L. Jalbert stated that it would be shifted in an easterly direction 3-4 feet. M. Cooney confirmed that the future building would be removed from that plan. L. Jalbert stated that all illustrations and references would be removed. L. Jalbert proposed a continuance to allow them time to re-submit the

plans with the appropriate changes. They did not have enough time to address the issues, as they did not receive Mr. Morse's memo until the afternoon of the hearing. G. Peabody asked Mr. Jalbert to provide the Board with a letter stating their request for a continuance. She requested that the letter be submitted tomorrow [2/9/06].

Motion: to continue the Public Hearing to 8 March 2006 at 7:05 P.M., by M. Blanchard
2nd: P. Jeffries
Discussion: None
Vote: In favor – G. Peabody, M. Blanchard, P. Jeffries, B. Sutter, M. Cooney
Abstain – T. Beaudry

PUBLIC HEARING CONTINUATION 10-12-05-1AA – ADMINISTRATIVE APPEAL FROM A DECISION OF THE BUILDING INSPECTOR DECLINING A REQUEST TO REQUIRE SITE PLAN REVIEW DUE TO AN EXPANSION OF USE, TRAFFIC IMPACTS AND PARKING AT 548 MAIN STREET

G. Peabody opened the Public Hearing at 7:55 P.M. She stated that it would be at their discretion to continue with the Public Hearing as there are only five (5) voting members present; Mr. Beaudry can not vote and Mr. Cornoni is absent. Attorney Neil conferred with his clients. He stated that both the applicants feel Mr. Cornoni's contributions have been an important part of the process; they would prefer to wait until Mr. Cornoni could be present. On behalf of his clients, he requested that the Administrative Appeal be continued to 3/08/06 and to extend the decision filing date to 3/15/06.

Motion: to continue the Public Hearing to 3/08/06 at 7:20 P.M. with the filing of decision date continued to 3/15/06.
2nd: P. Jeffries
Discussion: None
Vote: In favor – G. Peabody, M. Blanchard, P. Jeffries, B. Sutter, M. Cooney
Abstain – T. Beaudry

G. Peabody requested a five (5) minute recess at 8:00 P.M. The meeting was resumed at 8:05 P.M.

M. Blanchard questioned why Harold Nichols, Building Inspector was not present for the Administrative Appeal (O'Connell/St. John). It was her understanding that the Board had decided he needed to be present. G. Peabody replied that she had spoken to Mr. Nichols after the 1/11/06 hearing. He informed her that he had nothing further to add that was not already stated in his letter. Based on his response, G. Peabody felt that Mr. Nichols' presence at the hearings was no longer necessary. M. Blanchard objected to the decision being made by one person and not the entire Board. G. Peabody asked each Board member if they felt that Mr. Nichols presence was required. They all responded no.

G. Peabody informed the Board that the sections nineteen (19) and twenty (20) in the Rules and Regulations Governing Special Permits, and paragraphs three (3) and four (4) in the Administrative Appeal and Special Permit applications need to be changed to

reflect the new application processes which require the applicant to submit the Public Hearing Notice and mail the certified abutter notices. She requested the Board's approval of the changes, so they may be corrected on the hard copies and on the website.

Motion: to accept the rewording of paragraph's three (3) and four (4) of the Administrative Appeal and Variance applications and paragraphs nineteen (19) and twenty (20) of the Rules & Regulations Governing Special Permits, by M. Blanchard
2nd: P. Jeffries
Discussion: None
Vote: Unanimous

NEW BUSINESS/OLD BUSINESS
None

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

Meeting adjourned at 8:13 P.M.

Next Meeting: Wednesday, 8 March 2006