

## STURBRIDGE ZONING BOARD OF APPEALS

### MINUTES OF

Wednesday, June 14, 2006

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

**Also in Attendance** Diane Trapasso, Administrative Assistant

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

### APPROVAL OF MINUTES

**Motion:** to approve the draft meeting minutes of May 10, 2006, as corrected by M. Blanchard  
**2<sup>nd</sup>:** P. Jeffries  
**Discussion:** None  
**Vote:** All in favor

### CORRESPONDENCE

G. Peabody acknowledged the following correspondence:

Letters from Kopelman & Paige, Town Counsel:  
Windgate Comprehensive Permit Project

A letter from Waterman Design: Progress Report  
Crescent Gate at Sturbridge

A memo from J. Malloy, Town Administrator, regarding the use of email as it relates to the Open Meetings Law.

Crescent Gate will be having its last informational meeting at Town Hall for the marketing of 18 affordable units. The meeting is June 22, 2006 from 6:00 P.M. to 8:00 P.M. The lottery will be July 19, 2006 from 6:00 P.M. to 8:00 P.M. All information is provided by the Crescent Gate agent Ms. Epstein.

The Green Valley Institute is presenting a workshop at Town Hall on June 28, 2006 at 7:00PM. Building Sustainable Communities Through Development.

**REQUEST FOR A VARIANCE – DANIEL SEAVER, 311 BOYLSTON STREET,  
SHREWSBURY, MA 01545**

At 7:05 p.m. G. Peabody opened the Public Hearing.

B. Sutter read the legal notice.

The applicant is requesting a Variance to construct a common driveway at 304 & 306 Leadmine Road.

G. Peabody read the memorandums from J. Bubon, Town Planner, G. Morse, DPW Director, H. Nichols, Building Commissioner/Zoning Officer & K. Kippenberger, Conservation Agent.

Attorney Neal was present to represent the owner. He submitted the green cards. Attorney Neal stated that on August 7, 2001, the Planning Board signed an ANR plan for this configuration. Attorney Neal stated that plan has not been recorded as yet by Mr. Seaver. He believed Mr. Seaver is waiting for all required permits before recording the plan. Mr. Seaver has required frontage and area for both lots. In fact, the land area is many times that required by the Sturbridge zoning bylaws. Although there have been some changes to the lot lines between Parcels A and B, as submitted to the Zoning Board of Appeals, the changes do not affect the required frontage and area. Mr. Seaver will need to seek Planning Board approval of a revised ANR plan if he obtains the variance. The land is zoned rural residential and Mr. Seaver is seeking to build two single family residences on the land, a use allowed as of right in the rural residential district. The balancing of the wetlands issues and the conditions placed on the property by the Conservation Commission with the common driveway issue is such that on balance, the public good is served by minimizing wetlands impact with minimal effect on the intent of the bylaw. The driveway is common for only a portion of the lengths of the individual driveways and are separate at street level and after the wetlands area.

The two lots of land herein contain a total of 25 acres and approximately 1,000 feet of frontage on a public way are irregularly shaped, being shaped like an inverted L. The majority of the land is back land and the land in front is almost all wetlands, and has a small pond adjacent to the property which drains onto the property. The properties surrounding the applicant lot are somewhat mixed with a number of one acre lots with houses and a number of large lots, containing wetlands. The back part of the land is also very steep. Due to the wetlands, the front part of the land cannot be built upon. The back is over 200 feet from the roadway, resulting in a very expensive driveway due to the wetlands, the conditions imposed on the building of the driveway by the Conservation Commission and the steepness of the land.

G. Peabody stated she walked the area and commented that some lots are unbuildable.

The Board has concerns over the angle point of the retaining wall which limits the size of the vehicle access to the property.

Attorney Neal wished he had the department reports before hand, which would have of allowed some changes to be made.

**Motion:** made by M. Blanchard for a continuation to July 12<sup>th</sup> at 7:05 PM with revisions made to the driveways.  
**2<sup>nd</sup>:** P. Jeffries  
**Discussion:** None  
**Vote:** 7 -0

**REQUEST FOR A SPECIAL PERMIT AND THREE VARIANCES –  
FREDERICK GUYETTE, 14 AMORY LANE, SOUTHBRIDGE MA**

The Public Hearing was opened for Frederick Guyette 14 Amory Lane, Southbridge MA at 7:45PM

B. Sutter read the legal notice.

The applicant is requesting a Special Permit and three Variances for the construction of parking lot improvements to serve the existing businesses and building additions and improvements of the façade of the existing Fred’s Variety Store. The lot is a non-conforming lot. The property is located at 25 Brookfield Road, (Fiskdale) Sturbridge.

G. Peabody read the memorandums from J. Bubon, Town Planner, G. Morse, DPW Director and H. Nichols, Building Inspector.

Mr. Roberts of Jalbert Engineering spoke on behalf of the applicant and submitted the green cards. The lot was created prior to 1964 and the existing structures were built prior to 1940 both conditions predate zoning. The existing lot and structures do not conform with current zoning bylaws in lot area (1.0 AC. Required, 0.55 AC. Existing), in street setback for existing business (Hooya’s Restaurant) (25’ Required, 24.3” Existing), and in side yard setback for existing business (Fred’s Variety) (10’ Required, 3.3 Existing). The existing parking lot configuration was built 1990 according to the approved site plan by Lycott Environmental Research Inc. dated April 17, 1990 and “asbuilt” plan dated September 10, 1990. The approved siteplan shows the 5 spaces within the front setback line and the two spaces located along side of Fred’s Variety Store.

In order to improve the traffic flow pattern throughout the site and upgrade the existing façade of Fred’s Variety Store the applicant is seeking the afore mentioned variances and special permit to construct the parking lot improvements and building additions.

Questions from the Board were:

M. Cooney – how the propane gas was being stored.

R. Cornoni – handicap ramp only being enclosed – not an addition.  
G. Peabody – catch basins have hoods – traffic flow – have traffic signs.

**Motion:** made by M. Blanchard to close the Public Hearing.  
**2<sup>nd</sup>:** P. Jeffries  
**Discussion:** None  
**Vote:** 7 - 0

**Motion:** made by M. Blanchard to grant a Variance for Lot Area (1.0 Ac. Required, 0.55 Ac. Existing)  
**2<sup>nd</sup>:** T. Beaudry  
**Discussion:** None  
**Vote:** 7 – 0

**Motion:** made by M. Blanchard to grant a Variance for Street Setback for Existing Business (25' Required, 24.3' Existing)  
**2<sup>nd</sup>:** T. Beaudry  
**Discussion:** None  
**Vote:** 7 –0

**Motion:** made by M. Blanchard to grant a Variance for Side Yard Setback for Existing Business (10' Required, 3.3' Existing)  
**2<sup>nd</sup>:** P. Jeffries  
**Discussion:** None  
**Vote:** 7 – 0

**Motion:** made by M. Blanchard to grant Special Permit with conditions to construct Parking Lot Improvements to serve existing businesses and building additions to improve the façade of the existing Fred's Variety Store on an existing non-conforming lot. The Lot is non-conforming in area (1Ac. Required, 0.55 Ac. Existing).

**Conditions:**

1. Propane tank to be installed on a concrete pad and shall be screened.
2. All Catch Basins should have hoods installed on the out lead pipes if feasible.
3. Signage for traffic flow and parking

**2<sup>nd</sup>:** P. Jeffries  
**Discussion:** None  
**Vote:** 7 –0

**REQUEST FOR A SPECIAL PERMIT AND VARIANCE – NEW LIFE FELLOWSHIP – ASSEMBLY OF GOD, 8 EAGLE AVENUE, STURBRIDGE MA**

The Public Hearing for New Life Fellowship – Assembly of God was opened at 8:15PM.

B. Sutter read the legal notice.

The applicant is requesting a Special Permit and a Variance to construct a church on an existing non-conforming lot.

G. Peabody read the memorandums from J. Bubon, Town Planner, G. Morse, DPW Director, H. Nichols, Building Commissioner/ Zoning Officer and K. Kippenberger.

Mr. Roberts of Jalbert Engineering submitted the green cards and spoke on behalf of the applicant. The lot was created 1984 and conformed to the zoning requirements at that time. The existing lot does not conform to the current zoning bylaw in street frontage (125' Required, 75' Existing).

The proposed church has been designed with an underground stormwater detention system that meets DEP Stormwater guidelines and will have a minimal number of parking spaces for the elderly and visitors on-site. An agreement with Dr. Warner, the property owner to the south, allows for 39 parking spaces offsite.

M. Cooney has concerns about a public assembly not having a sprinkler system. Mr. Roberts stated that the architect says it is not required. The Board would like a letter from the architect stating the fact. G. Peabody asked D. Trapasso, if she could ask the Fire Chief for his input on the sprinkler system issue.

G. Peabody wanted to know the hours of operation and what happens when there is a conflict with Dr. Warner.

M. Blanchard said no decision can be made until applicant gets approval from Board of Selectman on sewer hookup.

Questions from the public:

Mr. Colwell of 5 Pine Haven Road wanted to know if a noise study was done because there was a function going on and he had to go inside his house because it was loud. Mr. Roberts was unaware of one being done.

Ms. Beaudin of 9 Fiske Hill Road wanted to know if Dr. Warner were to sell his property what happens to the parking agreement. Mr. Roberts could not answer.

Mr. Julien of 11 Fiske Hill Road, the Town Plumbing Inspector, was concerned about not having a sprinkler system in place. Also questions the use of the kitchen.

The Board questioned the shared parking and a sprinkler system, and would like more defined days and hours of operation.

**Motion:** made by M. Blanchard for a continuation to July 12, at 7:30PM.  
**2<sup>nd</sup>:** P. Jeffries  
**Discussion:** None  
**Vote:** 7 - 0

**REQUEST FOR DETERMINATION –NANCY PERRSON & DAN MACKAY, 5  
HAWTHORNE ROAD, STURBRIDGE MA**

The applicant is requesting to build a two car garage with a master suite above, with breezeway attached and a three season porch with deck attached.

Ms. Perrson and Mr. MacKay spoke on their on behalf. G. Peabody stated the plans do not show the new driveway. Mr. MacKay said they are not sure about having a new driveway. G. Peabody would like to see a new plan showing the driveway because the lot coverage may be exceeded.

B. Sutter thought the bylaw for the lot coverage didn't pertain to driveways coverage. M. Cooney agreed with B. Sutter on the driveway. There was some questioning of the bylaw among the Board members. G. Peabody would like the applicants to withdraw the plan and submit a new one showing the driveway.

**Motion:** made by M. Blanchard to allow the applicant to withdraw without prejudice and waive the Application fee.  
**2<sup>nd</sup>:** P. Jeffries  
**Discussion:** None  
**Vote:** 7 -0

**OLD/NEW BUSINESS**

G. Peabody read the letter from Mark Farrell of Ocala Realty. He is requesting the release of \$2,000.00 held in escrow for work performed at 10 Main Street in Sturbridge. The work involved relocating a water line his property that served two other dwellings. The money was held in escrow to ensure that the work was performed satisfactorily and there were no leaks or drop in water pressure. The work has been completed for three years and there have been no leaks or drop in pressure.

**Motion:** made by M. Blanchard to release the \$2,000.00 held in escrow.  
**2<sup>nd</sup>:** P. Jeffries  
**Discussion:** None  
**Vote:** 7 – 0

G. Peabody stated that at the Crescent Gate Affordable Housing meeting, Ms. Epstein thought it would be a good idea for the Board to keep a list of qualified names for the affordable housing.

B. Sutter questioned, why have a list. G. Peabody stated when an affordable unit when on the market for sale, the Town could refer to the list for a qualified applicant. It would be helpful.

**Motion:** made by M. Blanchard to retain qualified names for the affordable housing  
**2<sup>nd</sup>:** P. Jeffries  
**Discussion:** None  
**Vote:** 7 –0

G. Peabody stated that Ms. Bubon will be changing some of the wording on some of the applications for the Board.

B. Sutter said he will on vacation and will not be at the next meeting, which is July 12<sup>th</sup>.

**Motion:** made by P. Jeffries to adjourn at 9:20PM

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

**Discussion:** None

**Vote:** 7 - 0