

STURBRIDGE ZONING BOARD OF APPEALS
MINUTES OF
Wednesday, January 9, 2008

Present:

Theophile Beaudry
M. Blanchard
Marge Cooney
Robert Cornoni
P. Jeffries
Kevin Kelley
Ginger Peabody, Chairman

Also Present : Diane Trapasso, Administrative Assistant

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

The Board introduced themselves and G. Peabody also introduced J. Bubon, Town Planner, H. Nicholas, Building Commissioner/Zoning Enforcement Officer and Jonathan Eichman, Town Counsel from Kopelman & Paige.

APPROVAL OF MINUTES

Motion: to approve the corrected draft meeting minutes of December 12, 2007 by M. Blanchard.

2nd: M. Cooney

Discussion: None

Vote: 5 – 0 – 2(P. Jeffries & T. Beaudry)

CORRESPONDENCE

Letter dated January 7, 2008 from Waterman Design Associates – Construction report on Crescent Gate at Sturbridge

Memo from Town Administrator – Town Meeting Reminders – Request to include articles

PUBLIC HEARING FOR AN ADMINISTRATIVE APPEAL FILED BY SYLVIO PROULX WHICH SEEKS TO OVERTURN A CEASE & DESIST ISSUED BY THE ZONING ENFORCEMENT OFFICER FOR PROPERTY LOCATED AT 109 MAIN STREET

H. Nichols, Building Commissioner/Zoning Enforcement Officer, spoke and explained the zoning violation and the basis for the cease and desist order. He offered the following:

Prior to 1965, Sylvio Proulx operated a new car dealership at 109 Main Street (he has been informed it was a Nash dealership). As part of this dealership, there was an auto body shop and repair shop that operated as accessory uses to the main or primary use of an auto dealership.

Under the current Zoning Bylaws, auto dealerships are not allowed uses in the Commercial Zone. Syl's Auto Sales may operate at this location as a non-conforming (existing at the time zoning was adopted) use. It is my understanding that the other businesses that operate at 109 Main Street (Sturbridge Automotive, R&R Auto Center, Status Limousine and Sturbridge Service Center's storage area) are not owned by Mr. Proulx. Therefore, these other businesses, specifically Sturbridge Automotive and R&R Auto Center are now independent primary uses and no longer accessory uses to Syl's Auto Sales.

H. Nichols also stated that his office had received three complaints from Sturbridge residents.

Attorney Neal spoke on behalf of the applicant. He presented to the Board a time line of paper work of history of the business. He stated that his client seeks relief from the enforcement action of the Zoning Enforcement Officer dated October 12, 2007 and received on October 16, 2007 regarding the use of the property. The Zoning Enforcement Officer stated in his letter that only the auto sales were allowed on the property as a non-conforming use. The Petitioner seeks to have the other uses of the property: auto repair, auto rental, limousine service and auto body shop allowed as pre-existing non-conforming uses under zoning bylaw.

The petitioner is appealing the enforcement action of the Zoning Enforcement Officer. The property has been used, since before the adoption of zoning in March, 1965, for auto repair, auto rental, limousine service and auto body shop. Under §20.03 of the zoning bylaw, any lawful use in existence at the time of the enactment of the bylaw may continue even if such use does not conform to the bylaw.

The Board is not happy at the way the site looks, it needs to be cleaned up.

The Board discussed how the use has changed, space is being rented out and not under the ownership of Syl's.

Attorney Neal claimed nothing had been changed, it is all grandfathered.

J. Eichman of Kopelman & Paige, claims this is a legal misconception, the primary use is something else. The car dealership, auto repair are separate on their own.

Mr. Muir of Shattuck Road, felt the site should conform more to the site plan.

The Board feels that Attorney Neal has presented a lot of paper work to digest and need time to read it all.

Motion: Made by M. Blanchard to grant a continuation for the Administrative

Appeal filed by Sylvio Proulx for property at 109 Main Street to February 13, 2008 at 7:15 PM

2nd: M. Cooney

Discussion: None

Vote: 7 – 0

PUBLIC HEARING FOR BICHOP AND LINDA NAWROT REQUESTING A SPECIAL PERMIT AND VARIANCE TO ALLOW THE DEMOLITION OF THE EXISTING NON-CONFORMING RESIDENCE AND RECONSTRUCTION OF A NEW HANDICAPPED ACCESSIBLE IN ITS PLACE AT 88 WESTWOOD DRIVE.

M. Blanchard read the legal notice.

G. Peabody read the memos from J. Bubon, Town Planner, H. Nichols, Building Commissioner/Zoning Enforcement Officer, E. Jacque, Conservation Agent, G. Morse, DPW Director, A. Reisman, Board of Health Agent and T. Ford, Police Chief.

Mr. Trifone of Trifone Design Associates, Inc. spoke on behalf of the applicant. The existing lot was first subdivided in 1960. The existing lot predates the existing zoning bylaws. The existing residence does not comply with the current bylaws. The lot does not meet the current lot size or area requirements. The applicant is proposing to remove the existing residence and construct a new handicapped accessible single-family residence to meet the applicant's needs and to meet all present building codes and standards. The applicant proposes to wrap the deck around the south side of the home to accommodate wheel chair access to the deck and driveway. The existing topography of the lot slopes to the lake and cannot be safely navigated by the handicapped.

The Board had concerns about the size of the house. They feel it is too big and would like to see the plan reworked.

Motion: Made by M. Blanchard to continue the Public Hearing for Bichop & Linda Nawrot requesting a Special Permit & Variance to February 13, 2008 at 8:20 PM

2nd: P. Jeffries

Discussion: None

Vote: 7 – 0

OLD/NEW BUSINESS

NONE

NEXT MEETING

February 13, 2008

Motion: Made by M. Blanchard to adjourn at 8:35 PM.
2nd: P. Jeffries
Discussion: None
Vote: 7 - 0