

STURBRIDGE ZONING BOARD OF APPEALS

MINUTES OF

Wednesday, March 5, 2008

Present:

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

Also Present :

Jean Bubon, Town Planner
Diane Trapasso, Administrative Assistant

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

APPROVAL OF MINUTES

Motion: to approve the corrected draft meeting minutes of February 13, 2008 by M. Blanchard
2nd: T. Beaudry
Discussion: None
Vote: 7 – 0

CORRESPONDENCE

Workshop presented by Horsley Witten Group – Low Impact Development Techniques – March 19, 2008 at Town Hall

Letter from Kopelman & Paige – Robert A. Cottone, et al. v. Cedar Lake, LLC

Letter from Kopelman & Paige – Re: New Identity Theft Law

Letter from Kopelman & Paige – Re: Recent Developments in Land Use Law

Letter from J. Bubon, Town Planner – Re: Mimeault – 76 South Shore Drive

DECISION 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

G. Peabody stated that tonight's meeting is for an Administrative Appeal filed by Sylvio Proulx, 109 Main Street. The Public Hearing was closed at the February 13, 2008 meeting. There will not be any further testimony taken, there will not be any public input but from time to time there may be a clarification from J. Bubon, the Town Planner. The Hearing was convened at two meetings. Tonight's meeting is to make a decision either to uphold the decision of the Zoning Enforcement Officer or to overturn that decision.

G. Peabody stated that she would like the Board to make a motion on each individual business that is on the property.

The Board agreed.

G. Peabody listed what businesses are on the property now:

1. Syl's Auto Sales
2. Sturbridge Service Storage
3. Randy Wilbur Storage (3 bays – lower level – toward Southbridge)
4. Status Limo
5. R & R Auto Repair
6. Sturbridge Automotive

The Board agreed all those businesses are on the property.

Motion: Made by M. Blanchard that all six businesses listed above are located at 109 Main Street.
2nd: P. Jeffries
Discussion: R. Cornoni wanted to know the number of employees. G. Peabody stated the number of employees is not relevant.
Vote: 7 – 0

G. Peabody asked if these businesses, listed above, agree with the Table presented by Attorney Neal.

Motion: Made by P. Jeffries that the businesses listed above are the same as presented to the Board by Attorney Neal.
2nd: T. Beaudry
Discussion: None
Vote: 7 – 0

The Board agreed that these were also the same businesses cited by the Zoning Enforcement Officer.

G. Peabody wanted to list each individual business and determine if, under current Zoning Bylaw, Commercial District 7.01 (d) is the business conforming or non-conforming:

1. Syl's Auto Sales – non conforming
2. Sturbridge Service Storage – non-conforming
3. Randy Wilbur Storage – non-conforming
4. Status Limo – non-conforming
5. R & R Auto Repair – non-conforming
6. Sturbridge Automotive – non-conforming

Motion: Made by M. Blanchard that all six businesses listed above are all non-conforming according to Chapter 7.01 (d) Sturbridge Zoning Bylaws.
2nd: M. Cooney
Discussion: None
Vote: 7 – 0

The Board stated that Syl's Auto Sales is the only business that is grandfathered.

Motion: Made by M. Blanchard that Sly's Auto Sales is the only business that is grandfathered.
2nd: P. Jeffries
Discussion: None
Vote: 7 – 0

Motion: Made by M. Blanchard that Sturbridge Service Storage established in 2007 is not grandfathered and is a primary use.
2nd: P. Jeffries
Discussion: None
Vote: 7 – 0

G. Peabody read the definition of junk yard according to the Sturbridge Zoning Bylaws.

Motion: Made by P. Jeffries that Randy Wilbur Storage established in 2007 is not grandfathered and is a primary use.
2nd: M. Cooney
Discussion: None
Vote: 7 – 0

G. Peabody stated the “ Powers test” – whether the resulting use reflects the nature and the purpose of the non-conforming use prevailing when the zoning use took affect, whether there is a difference in the quality of character as well as the degree of the resulting use, and whether the resulting use is different in kind in effect on the neighborhood.

Motion: Made by M. Blanchard that Status Limo established in 2002 is not grandfathered and is a primary use.
2nd: P. Jeffries
Discussion: None
Vote: 7 – 0

Motion: Made by M. Cooney that R & R Auto Repair established in 1995 is not grandfathered and is a primary use.
2nd: M. Blanchard
Discussion: None
Vote: 7 – 0

Motion: Made by G. Peabody that Sturbridge Automotive established in 2006 is not grandfathered and is a primary use.
2nd: K. Kelley

Discussion: None
Vote: 7 – 0

M. Blanchard stated that a letter sent to the Building Inspector, from the law office of Philip B. Evans, representing Mr. Burny, d/b/a Sturbridge Automotive stated he was a tenant.

The Board agreed that this is a hard decision to make and not a pleasant one. They do not want to put anyone out of business but their jobs are to enforce the Zoning Bylaws of the Town.

The Board stated that it was up to the landowner not the Town to pursue getting the right permits for the businesses.

Motion: Made by M. Blanchard to uphold the Cease and Desist issued by the Zoning Enforcement Officer for the property located at 109 Main Street on October 12, 2007.
2nd: P. Jeffries
Discussion: None
Vote: 7 – 0

NEXT MEETING

March 12, 2008

Motion: Made by P. Jeffries to adjourn at 8:50 PM.
2nd: M. Blanchard
Discussion: None
Vote: 7 - 0