

STURBRIDGE ZONING BOARD OF APPEALS

MINUTES OF

Wednesday, April 11, 2012

Present: Elizabeth Banks, Chair
Joel Casaubon
Thomas Creeden, Vice-Chair/Clerk
Donald Fairbrother
Maryann Thorpe
Michael Young

Also Present: Diane Trapasso, Administrative Assistant
Jean Bubon, Town Planner

Absent: Marge Cooney

Ms. Banks opened the meeting at 6:30 PM.

The Board introduced themselves.

Ms. Banks read the agenda.

APPROVAL OF MINUTES

Motion: Made by Mr. Creeden to approve the minutes of February 9, 2012
2nd: Ms. Thorpe
Discussion: None
Vote: 5 – 0 – 1 (Mr. Fairbrother)

PUBLIC HEARING – EDWARD MOORE IS REQUESTING A SPECIAL PERMIT TO ALLOW THE CHANGE OF A PRE-EXISTING NON-CONFORMING STRUCTURE BY ADDING A THREE SEASON ROOM IN THE LOCATION OF THE EXISTING DECK AND ADDING A NEW DECK TO THE EXISTING STRUCTURE. THE PROPERTY IS LOCATED AT 18 BIRCH STREET

Materials Presented:

Application for Special Permit – Edward Moore – received 3/8/2012

ZBA Site Plan – Existing Conditions Plan – date 3/5/2012 – project # 12-638 – prepared by Bertin Engineering – 39 Elm Street – Southbridge MA

Proposed Addition for Edward H. Moore – 18 Birch Street – project #030512 – dated 3/5/2012

Mr. Creeden read the legal notice.

Ms. Banks acknowledged receipt of the following department memos:

- Ms. Jacque, Conservation Agent
- Ms. Bubon, Town Planner
- Mr. Ford, Police Chief
- Mr. Morse, DPW Director
- Ms. Rusiecki, BOH Agent

Mr. Loin of Bertin Engineering spoke on behalf of the applicant. Mr. Loin stated that the proposed three season room is proposed in the same area of the existing deck. The proposed deck attaches the new three season room to the garage. The proposed alterations will not change the character of the neighborhood.

Mr. Moore, the home owner was also present.

The Board had the following questions and concerns:

- Applicant also requested a Variance – Ms. Bubon stated that initially the applicant requested a Variance. However, the recent Gale v. Zoning Board of Appeals of Gloucester case determined that a variance is not required for the alteration or expansion of a pre-existing single or two-family dwelling if the Zoning Board of Appeals determines that the project would not substantially more detrimental to the neighborhood. Therefore, a variance is not required in this case. The applicant submitted a letter to withdraw the Variance.
- Has the applicant received approval from Conservation Commission – Mr. Loin stated that the applicant is scheduled on the next Conservation Commission Meeting.

Motion: Made by Mr. Creeden to accept the letter of withdrawal for the Variance of 18 Birch Street.

2nd: Mr. Casaubon

Discussion: None

Vote: 5 – 0 – 1 (Mr. Fairbrother)

Motion: Made by Mr. Creeden to close the Public Hearing.

2nd: Mr. Casaubon

Discussion: None

Vote: 6 – 0

Motion: Made by Mr. Creeden to find that the proposal by Edward Moore to change the pre-existing non-conforming structure to allow the construction of a three season room and a new deck as shown on the plan entitled “ZBA Site Plan Existing Conditions Plan – Project Location Cedar Pond – 18 Birch Street – prepared by Bertin Engineering. Plan dated

3/5/2012 would not be more substantially detrimental to the neighborhood than the existing non-conforming use.

2nd: Ms. Thorpe

Discussion: Discussion

Vote: 6 – 0

Motion: Made by Mr. Casaubon to grant the Special Permit to allow the applicant to change the pre-existing non-conforming structure as provided for by Chapter 20, Section 20.05 and Chapter 24, Section 24.09 of the Zoning Bylaw to allow the construction of a three season room and a new deck as shown on the plan submitted entitled “ZBA Site Plan Existing Conditions Plan – Project Location Cedar Pond – 18 Birch Street, Sturbridge MA 01566” Plan s prepared by Bertin Engineering, Associates Inc., 36 Elm Street, Southbridge MA 01550. The plans are dated 3/5/2012. With the condition that if any changes are made to the plan based upon the Conservation Commission approval, the modification must be provided to the ZBA for review and approval.

2nd: Mr. Creeden

Discussion: None

Vote: 6 - 0

PUBLIC HEARING – MATTHEW ROUSSEAU IS REQUESTING A SPECIAL PERMIT TO ALLOW THE CHANGE OF A PRE-EXISTING NON-CONFORMING STRUCTURE BY ADDING TWO ADDITIONS TO THE EXISTING STRUCTURE. THE PROPERTY IS LOCATED IS LOCATED AT 49 MAIN STREET.

Materials Presented:

Application for Special Permit – Matthew Rousseau – received 3/8/2012

Existing Conditions Plan – 49 Main Street – prepared by Bertin Engineering, 39 Elm Street, Southbridge MA – Dated 10/20/2011 – project # 11-711

ZBA Special Permit Plan – 49 Main Street – prepared by Bertin Engineering, 39 Elm Street, Southbridge MA – dated 2/29/2012 – project # 11-7111

Mr. Creeden read the legal notice.

Ms. Banks acknowledged receipt of the following department memos:

- Ms. Bubon, Town Planner
- Ms. Jacque, Conservation Agent
- Mr. Ford, Police Chief
- Mr. Morse, DPW Director
- Mr. Lindberg, Building Inspector/Zoning Enforcement Officer
- Ms. Rusiecki, BOH Agent

Mr. Loin of Bertin Engineering spoke on behalf of the applicant. Mr. Loin stated that the proposed alterations to the building and the site will be designed to meet the existing

neighborhood. The new building additions will be built in existing paved areas and new green space will be created.

Mr. Loin stated that he has spoken to Mr. Davis of MassDOT and he advises the applicant that the closure of the curb cut and the approval of the existing and proposed landscaping located in the right of way can be accomplished in two ways. The first being the modification of the curb cuts, this can be accomplished by a Modification Access Permit filed thru his permitting office. The landscaping and improvements located within the right of way can be approved by applying for an Adopt-A-Visibility Site thru MassDOT Boston Office. These two approvals may take 4 -6 weeks.

Mr. Loin also stated that the closure of the curb cut will require a revised Access Permit from MassDOT. The curb cut will be modified per MassDOT specifications. The existing split rail fence along Wallace Road will be removed. A zoning block had been added to the plans.

Ms. Robbins of 45 Main Street questioned how close to the property line is the building and will their retaining wall be affected.

Mr. Loin stated that the addition is 12.3' from the property line and the retaining wall will not disturbed and the weight will be disbursed.

The Board had the following concerns and questions:

- Question the number of employees at 17 – Mr. Loin stated that is not a positive number – just not sure yet
- Will the fence on be removed – Mr. Loin stated that it would be taken down and replaced
- Question the number of parking spaces – Mr. Loin stated that during the Site Plan Approval with the Planning Board, it will be done in detail

Motion: Made by Mr. Creeden to close the Public Hearing

2nd: Ms. Thorpe

Discussion: None

Vote: 6 - 0

Motion: Made by Mr. Creeden to find as required by Section 20.05 of the Zoning Bylaw that the proposal by Matthew Rousseau for property located at 49 Main Street to allow the expansion of a non-conforming structure as shown on the plan submitted entitled “ZBA Special Permit Plan – Location 49 Main Street, Sturbridge MA 01566. The plan is prepared by Bertin Engineering – 39 Elm Street, Southbridge MA 01550. The Plan is dated February 29, 2012 and is revised through April 11, 2012 Revision 1” plan # Z-1 will not be substantially more detrimental to the neighborhood than the existing non-conforming structure.

2nd: Ms. Thorpe

Discussion: None

Vote: 6 – 0

Motion: Made by Mr. Creeden to grant the Special Permit as requested under Section 24.09 of the Zoning Bylaw to Matthew Rousseau for the property located at 49 Main Street to allow the expansion of a non-conforming structure as shown on the plan submitted entitled “ZBA Special Permit Plan – Location 49 Main Street, Sturbridge MA 01566. The Plan is dated February 29, 2012 and is revised through April 11, 2012 Revision 1” plan # Z-1 with the following conditions:

1. Approval is granted subject to the condition that all other necessary state and local approval be obtained prior to beginning any work on the project including the permit to modify access to close the curb cut as proposed and copies of the permit submitted to the Planning Office.

2. Failure to gain any required approval or the need to modify the design in any manner based upon any other approval granted shall require a modified plan be re-submitted to the Zoning Board of Appeals for review and approval.

2nd: Mr. Young

Discussion: None

Vote: 6 - 0

PUBLIC HEARING – 179 MAIN STREET, LLC ARE REQUESTING A SPECIAL & VARIANCE TO ALLOW THE CHANGE OF A PRE-EXISTING NON-CONFORMING STRUCTURE BY ADDING A 10’X12’ ADDITION FOR AN ENTRY AND COMPLETE FAÇADE ALTERATION TO THE EXISTING TO THE EXISTING BUILDING. A VARIANCE TO ALL CONSTRUCTION OF THE 10’X12’ ENTRY WITHIN THE 12’ OF THE FRONT SETBACK. THE PROPERTY IS LOCATED AT 179 MAIN STREET.

Materials Presented:

Application for Special Permit & Variance – 179 Main, LLC – received 3/8/2012

Zoning Board of Appeals Plan – 179 Main Street – prepared by Bertin Engineering, 39 Elm Street, Southbridge MA – dated 3/2/2012 – project #12-627

Concept Elevation Plan – 179 Main Street – prepared by Bertin Engineering, 39 Elm Street, Southbridge MA – dated 2/13/2012 – project #11-623

Mr. Creeden read the legal notice.

Ms. Banks acknowledged receipt of the following department memos:

- Ms. Bubon, Town Planner
- Mr. Morse, DPW Director
- MS. Jacque, Conservation Agent
- Mr. Ford, Police Chief
- Ms. Rusiecki, BOH Agent

Mr. Loin of Bertin Engineering spoke on behalf of the applicant. Mr. Loin stated that the plan is gut the building and make the entryway more feasible.

Motion: Made by Mr. Creeden to continue the Public Hearing for 179 Main, LLC until May 9, 2012 at 7:00 PM to allow staff to continue to work with the applicant on the outstanding design issues and to provide a complete report to the Zoning Board of Appeals for consideration.

2nd: Mr. Young

Discussion: None

Vote: 6 - 0

PUBLIC HEARING – PORCHLIGHT INVESTMENT I, LLC ARE REQUESTING A SPECIAL PERMIT & VARIANCE TO ALLOW THE EXPANSION OF A NEW PARKING LOT ON A PRE-EXISTING LOT. A VARIANCE TO ALLOW CONSTRUCTION OF A RETAINING WALL AND PARKING SPACES WITHIN THE SIDELINE AND FRONT SETBACKS. THE PROPERTY IS LOCATED AT 8 HINMAN STREET.

Materials Presented:

Application for Special Permit & Variance – Porchlight Investment I, LLC – received 3/8/2012

Proposed Site Plan – 8 Hinman Street – prepared by Bertin Engineering, 39 Elm Street, Southbridge MA – dated 3/6/2012 – project #12-635

Mr. Creeden read the legal notice.

Ms. Banks acknowledged receipt of the following department memos:

- Ms. Bubon, Town Planner
- Mr. Morse, DPW Director
- Ms. Jacques, Conservation Agent
- Mr. Ford, Police Chief
- Mr. Lindberg, Building Inspector/Zoning Enforcement Officer
- Ms. Rusiecki, BOH Agent

Mr. Loin of Bertin Engineering spoke on behalf of the applicant. Mr. Loin stated that the applicant is requesting approval for the expansion of a new parking lot on a pre-existing non-conforming lot. This lot is required to elevate an existing parking overflow in the area. The lot will be landscaped and fenced in order not to affect neighbors.

The Board had the following questions and concerns:

- What are the dimensions of the retaining wall – Mr. Loin stated the retaining wall will be 10' at the highest point tapering down to nothing by Hinman Street

- What will be used as pavement – Mr. Loin stated that gravel will be used in the new parking lot
- Will there be an ANR done to combine the two parcels – Ms. Bubon stated that after all permits are approved an ANR will be submitted for endorsement and recorded

Motion: Made by Mr. Creeden to close the Public Hearing

2nd: Ms. Thorpe

Discussion: None

Vote: 6 - 0

Motion: Made by Mr. Creeden to grant the Variances to Chapter 19 as requested by Porchlight Investment I, LLC for property located at 8 Hinman Street to allow construction of a parking lot within 4.9 feet of the front property line and within 4.9' of the left side setback and 3.8' of the right side setback as shown on the plan submitted entitled "Proposed Site Plan – Site Address: 8 Hinman Street, Sturbridge, Ma. 01566. Plan prepared by Bertin Engineering- 39 Elm Street, Southbridge, MA 01550. The Plan is dated March 6, 2012 and revised through Revision 2 dated 4/10/12" project # 12-635 – sheets 1- 3.

2nd: Mr. Casaubon

Discussion: None

Vote: 6 - 0

Motion: Made by Mr. Creeden to grant the Variances to Chapter 19 as requested by Porchlight Investment I, LLC for property located at 8 Hinman Street to allow construction of a retaining wall within 7.2 feet of the front property line and within 3.9 feet of the left side property line as shown on the plan submitted entitled "Proposed Site Plan – Site Address: 8 Hinman Street, Sturbridge, Ma. 01566. Plan prepared by Bertin Engineering- 39 Elm Street, Southbridge, MA 01550. The Plan is dated March 6, 2012 and revised through Revision 2 dated 4/10/12 project # 12-635 – sheets 1 -3.

2nd: Mr. Fairbrother

Discussion: None

Vote: 6 – 0

Motion: Made by Mr. Creeden to find that the proposal by Porchlight Investment I, LLC for property located at 8 Hinman Street to allow the expansion of a parking lot for a conforming business on a non-conforming lot as shown on the plan submitted entitled "Proposed Site Plan – Site Address: 8 Hinman Street, Sturbridge, Ma. 01566. Plan prepared by Bertin Engineering- 39 Elm Street, Southbridge, MA 01550. The Plan is dated March 6, 2012 and revised through Revision 2 dated 4/10/12" project # 12-635 – sheets 1- 3, will not be substantially more detrimental to the neighborhood than the existing non-conforming use.

2nd: Mr. Young

Discussion: None

Vote: 6 – 0

Motion: Made by Mr. Creeden to grant the Special Permit as requested by Porchlight Investment I, LLC for property located at 8 Hinman Street to allow the expansion of a

parking lot for a conforming business on a non-conforming lot as shown on the plan submitted entitled “Proposed Site Plan – Site Address: 8 Hinman Street, Sturbridge, Ma. 01566. Plan prepared by Bertin Engineering- 39 Elm Street, Southbridge, MA 01550. The Plan is dated March 6, 2012 and revised through Revision 2 dated 4/10/12” project # 12-635 – sheets 1 – 3.

Approval is granted subject to the condition that all other necessary state and local approval be obtained prior to beginning any work on the project.

Subject to an ANR combining 8 Hinman Street with 502 Main Street and recorded within 7 days after the purchase of the lot.

2nd: Mr. Casaubon

Discussion: None

Vote: 6 - 0

CORRESPONDENCE

None

OLD/NEW BUSINESS

Starting in June the Board decided to meet on the third Wednesday of the month.

The Board welcomed Mr. Fairbrother as a newly voted member.

The Board thanked Mr. Mattioli for his dedication as a Board member.

NEXT MEETING

May 9, 2012 at 6:30 PM at the Center Office Building.

On a motion made by Mr. Young, seconded by Mr. Casaubon and voted unanimously, the meeting adjourned at 9:10PM.