

STURBRIDGE ZONING BOARD OF APPEALS

MINUTES OF

Wednesday, May 9, 2012

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

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

Mr. Creeden opened the meeting at 6:30 PM.

The Board introduced themselves.

Mr. Creeden read the agenda.

APPROVAL OF MINUTES

Motion: Made by Mr. Casaubon to approve the minutes of April 11, 2012

2nd: Mr. Young

Discussion: None

Vote: 5 – 0 – 1 (Ms. Cooney)

Ms. Banks arrived at 6:35 PM

PUBLIC HEARING – PETER & REBECCA MIMEAULT ARE REQUESTING A VARIANCE TO PERMIT THE CONSTRUCTION OF A TWO STORY STALL GARAGE 24'X36' WITH HOME NON-LIVING SPACE AND STORAGE ABOVE, ACCESSORY TO A FAMILY HOME. THE PROPERTY IS LOCATED AT 76 SOUTH SHORE DRIVE.

Materials Presented:

Application for a Variance – Peter & Rebecca Mimeault – received 4/9/2012

Plot Plan for Garage – Peter J. Mimeault & Rebecca Gould Mimeault – 76 South Shore Drive – prepared by Jalbert Engineering – 54 Main Street, Sturbridge MA – plan date 8/3/09 – DWG #09240 & plan date 8/26/2010 – DWG #09240 – revision 1

Quality Project Plan from HDA, St. Louis, Missouri – project plan # Mimeault -15032

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. Lindberg, Building Inspector/Zoning Enforcement Officer

Attorney Neal spoke on behalf of the applicant. He stated that the applicant is proposing to build a detached 865 sq. ft. two stall garage with storage on the second floor on an existing non-conforming lot accessory to an existing single family home. The proposed building will conform to all dimensional regulations of the zoning bylaw except for frontage and area. The combined lot has 100 ft. of frontage and 23,540 sq. ft. of area located in Rural Residential.

Attorney Neal also stated that due to the size of the lot where the house is located, the topography of the land, the elongated shape of the lot, its frontage on South Pond, the location of the pre-existing septic system and structures on the property as well as the location of the private road, a garage cannot be attached to the house.

Attorney Neal stated that the garage as proposed will comply with all setbacks and lot coverage requirements. Additionally, the garage location has been shifted in location and set back into the hillside more than the original proposal to help alleviate the rear abutters concerns with blocking her view.

The Board had the following concerns and question:

- Questioned the wooden stakes – Mr. Mimeault stated that those stakes have nothing to do with the proposed garage
- Visual impact on abutters – Mr. Mimeault stated that the proposed garage will be built off to the side – no obstruction straight on and will see trees to the side – will only see part of the roof
- Questioned the large boulders – Mr. Mimeault – they will be moved
- Questioned the hardship – Attorney Neal stated that due to the size of the lot where the house is located, the topography of the land, the elongated shape of the lot make it a hardship
- Question the quitclaim deed – Attorney Neal stated is legal and recorded

Ms. Krochmalnyckyj of 23 South Shore Drive stated that her view of the lake will be obstructed and that is why she moved to the neighborhood because of the view.

Ms. Sequin of 35 South Shore Drive stated that the Mimeaults' have tried to accommodate the neighbors by not obstructing their view. They have beautifully landscaped their property and have enhanced the view for the neighbors.

Mr. & Ms. Allard of 31 South Shore Drive stated that the garage looks like a house. Why can't Mr. Mimeault make it a one story.

Ms. Smith of 82 South Shore Drive stated that Mr. Mimeault enhanced the property.

Ms. Banks gave a brief history of the Mimeault case.

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

2nd: Mr. Fairbrother

Discussion: None

Vote: 7 – 0

Motion: Made by Ms. Cooney to grant the Variance to Chapter 19 as requested by Peter and Rebecca Mimeault to construct a detached two stall garage with non-living storage area on the second floor on a lot with less than the required frontage and area as shown on the plan submitted entitled "Plot Plan for Garage – Peter J. Mimeault and Rebecca Gould Mimeault, 76 South Shore Drive, Sturbridge MA. The plan is dated August 3, 2009 – Plan Date 8/26/10 DWG #09240 Revision 1. The Variance is granted subject to the condition that habitable residential use of the garage shall be prohibited.

2nd: Mr. Casaubon

Discussion: Mr. Creeden stated that he had no problem with a garage being build but the elevation should be lower.

Vote: 5 – 2 (Mr. Creeden & Ms. Banks)

CONTINUATION OF THE PUBLIC HEARING – 179 MAIN STREET, LLC ARE REQUESTING A SPECIAL PERMIT & 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 BUILDING. A VARIANCE TO ALLOW CONSTRUCTION OF THE 10'X12' ENTRY WITHIN THE FRONT SETBACK. THE PROPERTY IS LOCATED AT 179 MAIN STREET.

Ms. Cooney stated that she watched the DVD of the Public Hearing for 179 Main LLC which was held on April 11, 2012, as she was absent. Ms. Cooney signed the certification pursuant to G.L.c.39, Section 23D of Participation in a Session of an Adjudicatory Hearing Where the Undersigned Member Missed a Single Hearing Session.

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 – revision #2 – dated 5/1/2012 – received 5/4/2012

Ms. Banks acknowledged receipt of the following department memos:

- Ms. Bubon, Town Planner – dated 5/4/2012
- Mr. Morse, DPW Director – dated 5/4/2012

Mr. Loin of Bertin Engineering spoke on behalf of the applicant. Mr. Loin stated that the plans have been modified in a manner that satisfies staff concerns related to the parking layout and other criteria required for Special Permit.

Mr. Loin stated that the applicant requests a Variance to construct a 10’X12’ addition within 13.87’ of the front property line. The variance has been requested by the applicant in large part due to the shape of the lot and location of the existing building and parking lot. The MassDOT layout comes within 13.04’ of the existing building at its closest point although the distance to the actual sidewalk area is just over 60’ away from the building. These are conditions especially affecting the locus and are not applicable to the zoning district generally. Although there are several instances on Route 131 where the MassDOT Right-Of-Way is situated such that there is some encroachment of existing parking spaces and landscaping within the Right-Of-Way, nowhere is it as pronounced as in the case of 179 Main Street. The proposed addition will not be any closer to the property line than the existing building and will allow for the construction of a covered vestibule that will be handicap accessible; the addition will also add architectural detail to the building.

Mr. Loin also stated that the applicant has indicated that not being allowed to construct the proposed addition at approximately the same setback as the existing building will cause a hardship both physical and financial since the addition will allow the most efficient use of the addition by allowing for enclosed handicap vestibules from three entry points on the building and will also enhance the site from an aesthetic standpoint.

The Board had the following questions and concerns:

- The building is being gutted – why not change the entrance as not to need a variance - Mr. Loin stated because of structural conditions and major expensive
- Question the addition being two story – Mr. Loin stated that it will be open with a cathedral ceiling
- Propane tanks – Mr. Loin stated that the tanks will be underground
- Access from the inside to the different shops – Mr. Loin stated that only access is from the outside

Motion: Made by Mr. Creeden to close the Public Hearing.
2nd: Ms. Thorpe
Discussion: None
Vote: 7 - 0

Motion: Made by Mr. Creeden to deny the Variances to Chapter 19 as requested by 179 Main LLC for the property located at 179 Main Street to allow the expansion of a non-conforming structure within 13.87' of the front property line as shown on the plan submitted entitled "ZBA Plan – Location 179 Main Street, Sturbridge MA 01566", prepared by Bertin Engineering – 39 Elm Street, Southbridge, MA 01550, dated March 2, 2012 and revised through Revision #2, May 1, 2012".

2nd: Ms. Banks

Discussion: Mr. Creeden stated that the new proposed entry way does not need to be two stories – handicap does not have to be in the front – can be fixed without requesting a Variance – needs new design – allowing more building on the Right-Of-Way – going against our standards

Vote: 2 – 5(Ms. Thorpe, Ms Cooney, Mr. Young, Mr. Casaubon & Mr. Fairbrother)

Motion: Made by Mr. Young to grant the Variance to Chapter 19 as requested by 179 Main LLC for the property located at 179 Main Street to allow the expansion of a non-conforming structure within 13.87' of the front property line as shown on the plan submitted entitled "ZBA Plan – Location 179 Main Street, Sturbridge MA 01566", prepared by Bertin Engineering – 39 Elm Street, Southbridge, MA 01550, dated March 2, 2012 and revised through Revision #2, May 1, 2012".

2nd: Mr. Fairbrother

Discussion: None

Vote: 5 – 2 (Mr. Creeden & Ms. Banks)

Motion: Made by Ms. Cooney to find that the proposal by 179 Main LLC for property located at 179 Main Street to allow the expansion of a non-conforming structure as shown on the plan submitted entitled "ZBA Plan – Location 179 Main Street, Sturbridge MA 01566", prepared by Bertin Engineering – 39 Elm Street, Southbridge MA 01550, dated March 2, 2012 and revised through Revision #2, May 1, 2012, will not be substantially more detrimental to the neighborhood than the existing non-conforming structure.

2nd: Ms. Thorpe

Discussion: None

Vote: 6 – 1 (Mr. Creeden)

Motion: Made by Ms. Cooney to grant the Special Permit as requested by 179 Main Street, LLC for property located at 179 Main Street to allow the expansion of a non-conforming structure as shown on the plan submitted "ZBA Plan – Location 179 Main Street, Sturbridge MA 01566", prepared by Bertin Engineering – 39 Elm Street, Southbridge MA 01550, dated March 2, 2012 and revised through Revision #2, May 1, 2012 with the following conditions:

1. Approval is granted subject to the condition that all other necessary state and local approvals be obtained prior to any work on the project.
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 ZBA for review and approval.

2nd: Mr. Fairbrother

Discussion: None

Vote: 6 – 1 (Mr. Creeden)

REORGANIZATION OF THE BOARD

Ms. Banks stated that she did not wish to run for Chair.

Motion: Made by Ms. Thorpe to nominate Mr. Creeden as Chair.

2nd: Mr. Fairbrother

Mr. Creeden accepted.

Discussion: None

Vote: 7 – 0

Motion: Made by Ms. Banks to nominate Ms. Thorpe as Vice Chair/Clerk

2nd: Mr. Creeden

Ms. Thorpe declined.

Motion: Made by Ms. Thorpe to nominate Ms. Cooney as Vice Chair/Clerk

Ms. Cooney declined.

Motion: Made by Mr. Creeden to nominate Ms. Banks as Vice Chair/Clerk

2nd: Ms. Thorpe

Ms. Banks declined.

Motion: Made by Ms. Banks to nominate Mr. Young as Clerk/Vice Chair

2nd: Ms. Thorpe

Discussion: None

Vote: 7 - 0

CORRESPONDENCE

None

OLD/NEW BUSINESS

None

NEXT MEETING

June 20, 2012 at 6:30 PM at the Center Office Building.

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

