STURBRIDGE ZONING BOARD OF APPEALS

MINUTES OF

Wednesday, December 12, 2012

Present: Elizabeth Banks

Joel Casaubon

Thomas Creeden, Chair

Marge Cooney Donald Fairbrother Maryann Thorpe

Michael Young, Vice Chair/Clerk

Also Present: Jean Bubon, Town Planner

Diane Trapasso, Administrative Assistant

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

The Board introduced themselves.

Mr. Creeden read the agenda.

APPROVAL OF MINUTES

Motion: Made by Ms. Thorpe to approve the amended draft minutes of December 5,

2012.

2nd: Mr. Fairbrother

Discussion: None

Vote: 5 - 0 - 2 (Ms. Banks & Ms. Cooney)

PUBLIC HEARING – BT'S SMOKEHOUSE IS REQUESTING A SPECIAL PERMIT TO ALLOW THE CONSTRUCTION OF A 454 SQUARE FOOT ADDITION. THE PROPERTY IS LOCATED AT 392 MAIN STREET.

Materials Presented:

Application for a Special Permit – BT's Smokehouse – 392 Main Street – received 11/14/2012

Site Plans for Proposed Addition to BT's Smokehouse – Sturbridge Center Condominum Owner's Association – 392 Main Street – prepared by Jalbert Engineering, 54 Main Street, Sturbridge – plan date 11/7/2012 – DWG #12248

Mr. Young read the legal notice.

Mr. Creeden acknowledged receipt of the following department memos:

- Ms. Bubon, Town Planner
- Mr. Morse, DPW Director
- Mr. Colburn, Conservation Agent
- Mr. Meskus, Interim Building Inspector
- Ms. Rusiecki, BOH Agent

Mr. Jalbert of Jalbert Engineering spoke on behalf of the applicant. Mr. Jalbert stated that the applicant is requesting a Special permit to construct a 454 square foot building addition at 392 Main Street. Currently, the existing structure on-site is a multi-tenant commercial retail building. The applicant operates a restaurant out of units 8 & 9 and is proposing to expand the restaurant to a total of 39 seats with 4 employees.

Mr. Jalbert stated that the lot, existing structure and improvements predate any current zoning requirements. The existing lot and structure do not conform to the current zoning bylaw in lot area 1.0 ac required, 0.908 ac. existing), in street setback for the existing building (25' required, 12.5' existing), and rear yard setback for the existing building (10' required, 9.8' existing). The proposal is to add an additional 454 square feet of floor space to accommodate a total seating capacity of 39 seats. This would require a total of 18 parking spaces for the proposed seating and 4 employees. Currently, there are 16 spaces readily available as shown on the plan. There exists an additional 30 spaces on site which do not front the applicants units but may also be used. These parking spaces are paved and well defined and delineated. The proposed addition will conform to all current setbacks and will not create any additional non-conformity. The addition will be constructed in an area which is already paved thereby not adding any additional impervious area to the site.

The Board had the following concerns and guestions:

- Do you have a written document for the shared parking with Motel 6 Mr.
 Jalbert stated that they are working on a written agreement
- Issue with parking can smoker be moved back-up on Main Street &
 Green Street Mr. Jalbert stated that there is plenty of room for cars to turn
 in the parking lot and there has never been an issue of back-up of cars Mr.
 Treitman, owner of BT's Smokehouse stated that the smoker can not be
 moved it is his logo
- Will the picnic tables remain Mr. Treitman stated that one will remain but with the addition, customers can sit at tables inside.
- Snow storage Mr. Jalbert stated that the snow is removed from the area by truck.
- What percentage of orders are take-out Mr.Treitman stated that 50% and turn around time is 15 minutes

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

2nd: Ms. Cooney

Discussion: None **Vote:** 7 - 0

Mr. Creeden read the Special Permit criteria for approval the Board voted on each of the criteria for Special Permit Approval.

According to Chapter Twenty Four .09 of the Zoning By-Law, the Special Permit Granting Authority may issue a Special Permit provided certain criteria are met. The criteria, along with my review comments follow (the criteria are listed in italics with my comments in regular type):

(a) Such use is not detrimental to the permitted uses in the zone in which it is located.

The use is not detrimental to the permitted uses in the zone in which it is located. Restaurant uses are permitted uses within the Commercial Tourist District and this restaurant has been in existence at this location for some time. The proposed development site is within an area that is developed with a variety of business uses.

Motion: Made by Mr. Fairbrother

2nd: Mr. Young

Vote: 7 - 0

(b) The nature of the operations shall be such that it will not be hazardous or create any danger to public health and safety.

The proposed new addition will not be hazardous or create any danger to public health and safety. The addition will be constructed on the paved area and will comply with all setback requirements. The existing parking spaces will not be impacted by this proposal.

Motion: Made by Mr. Casaubon

2nd: Ms. Thorpe

Vote: 7 - 0

(c) The use shall be consistent, insofar as practicable, with the Comprehensive Plan for the future development of the area.

The proposed use is consistent with the Master Plan for the town as this is an area that is zoned Commercial Tourist District which allows for this type of use.

Motion: Made by Mr. Young 2nd: Mr. Fairbrother

Vote: 7 - 0

(d) Provision for roads and parking areas shall be laid out so as to prevent traffic hazards and nuisances.

The parking lot is not being altered as a result of this proposed addition.

Motion: Made by Mr. Casaubon

2nd; Ms. Thorpe

Vote: 7 - 0

(e) The location, nature and height of buildings, walls, fences, and landscaping shall be such that the use will not hinder or discourage the appropriate development of adjacent land or adversely affect the character of the zone in which it is located.

It does not appear that this proposal will in any way hinder or discourage appropriate development of adjacent land, nor will it affect the character of the zone in which it is located. This proposal is consistent with what is permitted in this zoning district and the proposed building and improvements will comply with all zoning requirements. Since the site is nearly completely paved there are no real opportunities to add green space or landscaping since all of the existing parking needs to be retained to accommodate the existing businesses at this location.

Motion: Made by Mr. Young 2nd: Mr. Fairbrother

Vote: 7 – 0

Motion; Made by Ms. Cooney after review of Chapter Twenty-Four .09 of the Zoning Bylaw, Special Permit Criteria, section (a) through (e) the Board finds that the proposal by the applicant to construct a 454 square foot addition to his restaurant will not be more detrimental to the neighborhood than the existing and is in accordance with Section 20:05.

2nd: Mr. Casaubon

Discussion: None **Vote:** 7 - 0

Motion: Made by Mr. Creeden to grant the Special Permit as requested by BT's Smokehouse to allow construction of a 454 square foot addition and site improvements for the property located 392 Main Street as shown on the plan entitled "Site Plans for proposed addition to BT's Smokehouse – Sturbridge Center Condominium Owner's Association – 392 Main Street, Sturbridge, MA. The plan is prepared by Jalbert Engineering, Inc. – 54 Main Street, Sturbridge, MA. 01566; plan date 11/7/2012; DWG #12248; with the following 11 conditions:

- Information regarding fats, oils and grease (FOG) including how the proponent would manage these without discharging into the sewer system must be provided for review by the DPW Director so that an appropriate determination on potential grease trap upgrades may be evaluated.
- 2. The increased sanitary sewer flow required must be submitted to the Board of Selectmen for approval.
- 3. All appropriate Board of Health permits for restaurant remodeling must be obtained.
- 4. All requirements of the Conservation Commission must be adhered to.
- 5. Design Review approval and Planning Board Site Plan Approval must be obtained prior to start of construction.
- 6. All concerns of the Building Inspector shall be addressed through the building permit application phase of this project.
- 7. Any substantial modifications to this plan must be submitted to the ZBA for review and approval.

- 8. All other state and local permits and approvals shall be obtained prior to the start of any construction.
- 9. Documented letter with Motel 6 for a shared parking agreement for four spaces.
- 10. A 4' opening between the adjoining parking lots.
- 11. A new plan showing 17 parking spaces.

2nd: Mr. Casaubon

Discussion: None **Vote:** 7 - 0

PUBLIC HEARING - THAI ORCHID IS REQUESTING A SPECIAL PERMIT TO ALLOW CONSTRUCTION OF ADDITIONS AND SITE IMPROVEMENTS TO ACCOMMODATE A FORTY-FIVE (45) SEAT RESTAURANT. THE PROPERTY IS LOCATED AT 505 MAIN STREET.

Materials Presented:

Application for Special Permit for Thai Orchid – 505 Main Street – received 11/14/2012

Architectural Design – Addition/Remodel – 505 Main Street – prepared by Trifone Design Associates, Inc. – dated 11/13/2012 – job #287-047

Development Plans for Thai Orchid Village Restaurant – 505 Main Street – prepared by Jalbert Engineering – plan date 11/09/2012 – DWG #12023 – received 11/14/2012

Mr. Young read the legal notice.

Mr. Creeden acknowledged receipt of the following department memos:

- Mr. Curtis, Interim Building Inspector
- Mr. Colburn, Conservation Agent
- Mr. Morse, DPW Director
- Ms. Bubon, Town Planner

Mr. Jalbert of Jalbert Engineering spoke on behalf of the applicant. Mr. Jalbert stated that there is documentation from Attorney George dated July 20, 2012, stating permission to park up to four vehicles at 509 Main Street.

Mr. Jalbert stated that the applicant is requesting a Special Permit to construct building additions and parking lot improvements at the site. Currently, the existing building is a vacant restaurant with 2 tenements. The applicant is proposing to keep the existing tenements to the rear and on the second floor and have a Thai Restaurant in the lower front.

The existing lot and structures do not conform with the current zoning bylaw in lot area (1.0 ac. required, 0.39 ac. existing), in street frontage (150' required, 99' existing), and side yard setback for existing building (10' required, 3.1' existing). The existing parking areas generally slope from Main Street to the rear of the site at a varying slope between 3% and 5%. The existing handicap parking is located within the front setback. As part of this project, the

applicant would like to maintain the handicap parking within the front setback, due to the location of the existing building and the topography.

Mr. Jalbert stated on order to improve the safety and traffic flow, provide for the required parking anticipated by the proposed restaurant, and upgrade the existing façade of the building the applicant is seeking a Special Permit to construct the building additions and parking lot improvements as shown on the plan.

Mr. Trifone of Trifone Design Associates, Inc. stated that the new additions will conform to current zoning setbacks and lot coverage. The additions proposed are to expand the existing seating capacity of the restaurant from 18 to 45 seats and to provide sheltered access to the existing apartments.

Mr. Jalbert stated that the applicant will be meeting with Conservation Commission on January 3, 2013 and will have to meet with the BOH and BOS.

The Board had the following concerns and questions:

- Does the applicant meet the parking requirements Mr. Jalbert stated that they do
- Able to work out problems with the abutter (American Legion) Mr. Jalbert stated that an agreement will be worked out.
- Any changes to the plan will need to go to the Planning Office Mr. Jalbert realizes that

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

2nd: Mr. Fairbrother

Discussion: None **Vote**: 7 - 0

Mr. Creeden read the Special Permit criteria for approval the Board voted on each of the criteria for Special Permit Approval.

(a) Such use is not detrimental to the permitted uses in the zone in which it is located.

The use is not detrimental to the permitted uses in the zone in which it is located. Restaurant uses are permitted uses within the Commercial Tourist District and this restaurant has been in existence at this location for some time. The proposed development site is within an area that is developed with a variety of business uses.

Motion: Made by Mr. Young 2nd: Mr. Fairbrother

Vote: 7 - 0

(b) The nature of the operations shall be such that it will not be hazardous or create any danger to public health and safety.

The proposed new addition will not be hazardous or create any danger to public health and safety. The addition will be constructed on the paved area and will comply with all setback requirements. The existing parking spaces will not be impacted by this proposal.

Motion: Made by Ms. Thorpe 2nd: Mr. Fairbrother

Vote: 7 - 0

(c) The use shall be consistent, insofar as practicable, with the Comprehensive Plan for the future development of the area.

The proposed use is consistent with the Master Plan for the town as this is an area that is zoned Commercial Tourist District which allows for this type of use.

Motion: Made by Mr. Young 2nd: Mr. Fairbrother

Vote: 7 - 0

(d) Provision for roads and parking areas shall be laid out so as to prevent traffic hazards and nuisances.

The parking lot is not being altered as a result of this proposed addition.

Motion: Made by Mr. Fairbrother

2nd; Mr. Young **Vote**: 7 - 0

(e) The location, nature and height of buildings, walls, fences, and landscaping shall be such that the use will not hinder or discourage the appropriate development of adjacent land or adversely affect the character of the zone in which it is located.

It does not appear that this proposal will in any way hinder or discourage appropriate development of adjacent land, nor will it affect the character of the zone in which it is located. This proposal is consistent with what is permitted in this zoning district and the proposed building and improvements will comply with all zoning requirements. Since the site is nearly completely paved there are no real opportunities to add green space or landscaping since all of the existing parking needs to be retained to accommodate the existing businesses at this location.

Motion: Made by Ms. Thorpe 2nd: Mr. Fairbrother

Vote: 7 – 0

Motion; Made by Ms. Cooney after review of Chapter 24.09 of the Zoning Bylaw, section (a) through (e) the Board finds that the proposal by the applicant to construct additions and site improvements to accommodate a forty-five seat restaurant will not be

more detrimental to the neighborhood than the existing and is in accordance with Section 20:05.

2nd: Mr. Casaubon

Discussion: None **Vote:** 7 - 0

Motion: Made by Mr. Casaubon to grant the Special Permit to Thai Orchid to allow construction of additions and site improvements to accommodate a forty-five seat restaurant for the property located at 505 Main Street, plan entitled "Development Plans for Thai Orchid Village Restaurant – 505 Main Street (Route 20), Sturbridge, Massachusetts (dated 11/09/12). The plan is prepared by Jalbert Engineering, Inc. – 54 Main Street, Sturbridge, MA. 01566; plan date 11/9 2012; DWG #12023; with the following 9 Conditions:

- 1. Information regarding fats, oils and grease (FOG) including how the proponent would manage these without discharging into the sewer system must be provided for review by the DPW Director so that an appropriate determination on potential grease trap upgrades may be evaluated.
- 2. The increased sanitary sewer flow required must be submitted to the Board of Selectmen for approval.
- 3. All appropriate Board of Health permits for restaurant remodeling must be obtained.
- 4. All requirements of the Conservation Commission must be adhered to.
- 5. Design Review approval and Planning Board Site Plan Approval must be obtained prior to start of construction.
- 6. All concerns of the Building Inspector shall be addressed through the building permit application phase of this project.
- 7. Any substantial modifications to this plan must be submitted to the ZBA for review and approval.
- 8. All other state and local permits and approvals shall be obtained prior to the start of any construction.
- 9. Documentation of parking agreement as part of the Site Plan Approval.

2nd: Mr. Fairbrother

Discussion: None **Vote:** 7 - 0

CORRESPONDENCE

None

OLD/NEW BUSINESS

Ms. Cooney would like the record to show that she was not present at the April 11, 2012 meeting. Ms. Cooney therefore did not and could not have voted to grant the three Variances for 8 Hinman Street

NEXT MEETING

January 16, 2013

On a motion made by Ms. Coon meeting adjourned at 8:25PM.	ney, seconded by Mr.	Casaubon and voted u	unanimously, the