# STURBRIDGE ZONING BOARD OF APPEALS <br> MINUTES OF 

Wednesday, D ecember 12, 2012

Present: Elizabeth Banks<br>Joel Casaubon<br>Thomas Creeden, Chair<br>Marge Cooney<br>D onald Fairbrother<br>Maryann Thorpe<br>Michael Y oung, Vice Chair/ Clerk

$\begin{array}{ll}\text { Also Present: } & \text { Jean Bubon, Town Planner } \\ & \text { Diane Trapasso, Administrative A ssistant }\end{array}$
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.
$2^{\text {nd }}: \quad$ Mr. Fairbrother
Discussion: None
Vote: $\quad 5-0-2$ (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 O wner's A ssociation - 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 D irector
- 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 ( $25^{\prime}$ required, $12.5^{\prime}$ existing), and rear yard setback for the existing building ( $10^{\prime}$ 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 questions:

- 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

[^0]Mr. Creeden read the Special Permit criteria for approval the Board voted on each of the criteria for Special Permit A pproval.

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) Surhuseis not d\&rimetal to thepemittedusesin thezoneinuhidit isloateed

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
$2^{\text {nd }}: \quad$ Mr. Young
Vote:
7-0
(b) Thenatureof theqperations shall besurh that it will not behezardaus $\alpha$ c ceateany danger to pulicheolth 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
$2^{\text {nd }}$ :
Vote:
Ms. Thorpe
7-0
(c) Theuseshall beconsistent, insofar as pradicable, with theCompenensivePlanfor the futuredadquent of thearea.

The proposed use is consistent with the Master Plan for the town as this is an area that is zoned Commercial Tourist D istrict which allows for this type of use.
Motion: Made by Mr. Young
$2^{\text {nd }}: \quad$ Mr. Fairbrother
Vote:
7-0

## (d) Provisionfor roads and parkingareas shall belaid ait soas to preent traffichezards and nuisanes

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

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Motion: Made by Mr. Casaubon
2 nd; Ms. Thorpe
Vote: 7-0
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(e) Theloation natureandhigt fobildings, walls, fences, andlandsapaingshall besuh
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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.

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Motion: Made by Mr. Young
2nd}\quadMr. Fairbrother
Vote: 7-0
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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. $2^{\text {nid }}: \quad$ 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 A ssociation - 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:

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. D ocumented 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.
$2^{\text {nd }}: \quad$ 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 O rchid - 505 Main Street - received 11/ 14/ 2012
Architectural D esign - Addition/ Remodel - 505 Main Street - prepared by Trifone D esign Associates, Inc. - dated 11/ 13/ 2012 - job \#287-047

D evelopment 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. Y oung 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 Attomey G eorge dated July 20, 2012, stating permission to park up to four vehicles at 509 Main Street.

Mr. Jabert 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 ( $150^{\prime}$ required, $99^{\prime}$ existing), and side yard setback for existing building ( $10^{\prime}$ 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 D esign 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 BO S.

The Board had the following concerns and questions:

- D oes 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.
$2^{\text {nd }}$ : $\quad$ 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 A pproval.
(a) Surhuseis not darimertal tothepamitted uses in thezoneinuridit islocated

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
$2^{\text {nd }}$ : $\quad$ Mr. Fairbrother
Vote: 7-0
(b) Thenature of theqpeations shall besurh that it will not behezardaus $\alpha$ c ceateany danger to puldichealth and saftey.

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.

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Motion: Made by Ms. Thorpe
2 nd: }\quad\mathrm{ Mr. Fairbrother
Vote: 7-0
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(c) Theuseshall beconsistent, insofar as praticade, with theCompenensivePlanfor the futuredadqperet of thearea.

The proposed use is consistent with the Master Plan for the town as this is an area that is zoned Commercial Tourist D istrict which allows for this type of use.
Motion: Made by Mr. Young
$2^{\text {nd }}: \quad$ Mr. Fairbrother
Vote:

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7-0
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(d) Provisianfor roads and parkingareas shall belaid ait soas to peent traffichezards and nuisances

The parking lot is not being altered as a result of this proposed addition.
Motion: Made by Mr. Fairbrother
$2^{\text {nd }}$; Mr. Young
Vote: 7-0
(e) Thelocation, natureandheigt of buildings, valls, fences, andlandscapingshall besurh that theusevill not hindr or discourage theappropiatededqumet of adacent land or adesdy affet the harader of thezoneinuhichit islocated

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
$2^{\text {nd }}: \quad$ 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.
$2^{\text {nd }}: \quad$ 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 "D evelopment 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 D PW D irector 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 A pproval 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. D ocumentation of parking agreement as part of the Site Plan A pproval.
$2^{\text {nd }}: \quad$ 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. Cooney, seconded by Mr. Casaubon and voted unanimously, the meeting adjourned at $8: 25 \mathrm{PM}$.


[^0]:    Motion: Made by Mr. Fairbrother to close the Public Hearing.
    $2^{\text {nd }}$ : $\quad$ Ms. Cooney
    Discussion: None
    Vote: 7-0

