

**STURBRIDGE ZONING BOARD OF APPEALS**  
MINUTES OF  
Wednesday, September 18, 2013

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

**Also Present:** Diane M. 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 Mr. Fairbrother to approve the minutes of August 21, 2013.  
**2<sup>nd</sup>:** Ms. Thorpe  
**Discussion:** None  
**Vote:** 6 – 0 – 1(Mr. Young)

**PUBLIC HEARING – PAUL E. ALGER IS REQUESTING A SPECIAL PERMIT TO PERMIT CHANGE IN A NON-CONFORMING USE AND STRUCTURE BY ALLOWING THE CONSTRUCTION OF A 594 SQUARE FOOT ACCESSORY DWELLING UNIT WITHIN THE EXISTING STRUCTURE. THE PROPERTY IS LOCATED AT 20 SHEPARD ROAD.**

**Materials Presented:**

Application for Special Permit – Paul E. Alger – received 8/16/2013

Alger Residence – 20 Shepard Road, Sturbridge MA – Proposed Floor Plan – project #2013104 – plan date 7/2/2013 – received 8/21/2013

Sketch of Survey Monuments – 20 Shepard Road, Sturbridge MA for Paul E. Alger – plan date 8/14, 2013 – prepared by Para Land Surveying, Inc. – received 8/21/2013

A notarized letter from Mr. Alger attesting that he will be living in one of the units – dated 9/10/2013

Mr. Young read the legal notice.

Mr. Creeden acknowledged the following department memos:

- Lt. Marinelli, Fire Inspector
- Ms. Rusiecki, BOH Agent
- Mr. Ford, Police Chief
- Ms. Bubon, Town Planner

Mr. Alger spoke on his own behalf. Mr. Alger stated that he is proposing to convert a portion of his existing structure into an accessory dwelling unit. His home is owner occupied and he would like to construct this unit for the reasons stated in Chapter 18.03 of the Zoning Bylaws which would allow him rental income to stay in his home for retirement. His proposal will meet the criteria stated in the bylaw and will be located in the existing structure on a lawfully non-conforming lot. There is an existing paved driveway and two car garage that will insure adequate off-street parking.

The Board had the following concerns and questions:

- Is there a second egress – Mr. Alger stated that there is a slider in the back to a deck – stairs will be installed
- Will the driveway remain – Mr. Alger stated it will
- Is work proposed for the second floor – Mr. Alger stated no work proposed
- Half the garage, mud room and hallway will be the new unit – Mr. Alger stated that the new unit will be his unit and his niece and family will take the main house.

**Motion:** Made by Mr. Casaubon to close the Public Hearing.

**2<sup>nd</sup>:** Ms. Banks

**Discussion:** None

**Vote:** 7 – 0

**Motion:** Made by Ms. Cooney to find that the proposal by Paul E. Alger of 20 Shepard Road to construct an Accessory Dwelling Unit in a pre-existing home with garage on a non-conforming lot will not be more detrimental to the neighborhood than the existing structure. The proposal is in accordance with section 20.05 and all Special Permit criteria in Chapter 18 – Accessory Dwelling Units must be adhered to as stated.

**2<sup>nd</sup>:** Mr Fairbrother

**Discussion:** None

**Vote:** 7 – 0

**Motion:** Made by Ms. Cooney to grant the Special Permit requested by Paul E. Alger of 20 Shepard Road to allow the construction of an Accessory Dwelling Unit in an existing home/garage as outlined in the application and documentation provided as shown on plan entitled Sketch of Survey Monuments – 20 Shepard Road, Sturbridge for Paul E. Alger –

dated 8/14/2013 – prepared by Para Land Surveying, Inc. 349 Ashland Avenue, Southbridge MA 01550 and plan entitled – Alger Residence – 20 Shepard Road, Sturbridge MA – proposed Floor Plan – dated 7/2/2013 – prepared by Clinton Richmond, Drafting & Design Service, 343 Freedly CT 06359-1206 – with the following conditions:

1. Property must remain owner occupied
2. Owner(s) shall file a “Declaration of Covenants” with the Worcester District Registry of Deeds, stating the Right to Rent a temporary Accessory Dwelling Unit ceases upon the transfer of title. The “Declaration of Covenant” will be provided to the applicant by the Sturbridge Planning Department.
3. All permits must be obtained before any construction can take place.

2<sup>nd</sup>: Mr. Fairbrother

**Discussion:** None

**Vote:** 7 - 0

**CONTINUATION OF THE PUBLIC HEARING – GERALD A. & CYNTHIA J. GIROUX ARE REQUESTING A SPECIAL PERMIT TO ALLOW THE DEMOLITION OF THE EXISTING RESIDENTIAL STRUCTURE AND CONSTRUCTION OF A NEW SINGLE FAMILY RESIDENCE WITH AN ATTACHED GARAGE. THE PROPERTY IS LOCATED AT 89 SHORE ROAD.**

**Materials Presented:**

The Giroux House – 89 Shore Road – prepared by Trifone Design Associates, Inc.- plan date 1/10/2012 – job #287-050 – revision – reduce garage size date – 5/1/2012 – received 7/22/2013

Email from Attorney Neal dated August 20, 2013 requesting a continuation of the Public Hearing for Gerald A. & Cynthia J. Giroux for the property located at 89 Shore Road to September 18, 2013 @ 7:05 PM

Mr. Trifone of Trifone Design Associates, Inc. and Attorney Neal were also present.

Mr. Giroux stated that this whole process has taken too much time and his proposal should have been underway by now. Mr. Giroux stated that he had the plans revised to make the garage one car but stated that he needs a garage for his boat.

Mr. Giroux stated that he is appalled that the Board and Conservation took so long to make a decision and not understanding what he needs.

The Board had the following questions and concerns:

- Lot coverage is the main concern – the proposed plan is 34.8% - over burden of the lot
- The house is covered under the protection of Gale vs Gloucester court decision
- The Board asked the question to Mr. Giroux – would you take the approval of the house without the garage – Mr. Giroux stated that he needs the garage

for medical issues – there are no zoning exemptions for medical conditions, except when making a home ADA

Attorney Neal stated that the applicant is now asking for a small one car garage that is why we are asking for a Special Permit to make the exception.

**Motion:** Made by Ms. Cooney to close the Public Hearing.  
**2<sup>nd</sup>:** Mr. Fairbrother  
**Discussion:** None  
**Vote:** 7 – 0

**Motion:** Made by Mr. Fairbrother to Find that the proposal by Gerald A. & Cynthia J. Giroux to demolish the existing structure and to reconstruct a new single family home and attached garage at 89 Shore Road as shown on the plan submitted entitled “Proposed ZBA Site Plan for property located at 89 Shore Road prepared by Trifone Design Associates, Inc. 55 Crane Street, Southbridge, MA dated 9/18/12 Revised through 7/10/13 Revision F would be substantially more detrimental to the neighborhood than the existing structure because the mass of the structure is not in harmony with the other much smaller structures in the neighborhood, the square footage is much greater than other homes in the neighborhood and would not be in keeping with the neighborhood and the percent of lot coverage is excessive and would not be in keeping with the intent of the bylaw coverage requirements and the groundwater protection district.

**2<sup>nd</sup>:** Mr. Creeden  
**Discussion:** None  
**Vote:** 6 -1 (Mr. Young)

**Motion:** Made by Mr. Casaubon to Find that the proposal by Gerald A. & Cynthia J. Giroux to demolish the existing structure and to reconstruct a new single family home excluding the garage at 89 Shore Road would not be substantially more detrimental to the neighborhood than the existing structure because the mass of the structure is very similar to other structures in the neighborhood, the square footage is comparable to other homes in the neighborhood and the structure does not appear that it will be detrimental to the adjoining properties due to the position of the home excluding the 286 sq. ft. garage shown on the plan.

**2<sup>nd</sup>:** Ms. Banks  
**Discussion:** Mr. Young stated that Mr. Giroux is trying to improve his lot and was impressed by the rain garden and landscaping he is proposing.  
Mr. Fairbrother stated that the members of the ZBA are upholding the zoning bylaws that were voted on by the residents of the Town.  
**Vote:** 6 – 1 (Mr. Fairbrother)

**Motion:** Made by Mr. Young to grant the Special Permit requested by Gerald A. & Cynthia J. Giroux to allow the extension, change or alteration of a pre-existing non-conforming home by allowing the demolition of the existing structure and the construction of a new single family home without the one car garage on the property located at 89 Shore Road as shown on the plan submitted entitled “Proposed ZBA Site Plan for property located at 89 Shore Road prepared by Trifone Design Associates, Inc. 55 Crane Street,

Southbridge, MA dated 9/18/12 Revised through 7/10/13 Revision F. Approval shall be subject to the following condition:

1. A new revised plan excluding the one car garage shall be submitted to the Planning Department prior to applying for a Building Permit.

**2<sup>nd</sup>:** Ms. Thorpe

**Discussion:** None

**Vote:** 6 – 1 (Mr. Fairbrother)

### **RE-ORGANIZATION OF THE BOARD**

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

**2<sup>nd</sup>:** Mr. Young

**Motion:** Made by Ms. Cooney to nominate Mr. Fairbrother as Chair.  
Mr. Fairbrother accepted.

**2<sup>nd</sup>:** Ms. Banks

**The vote for Mr. Creeden was:** 4 – 0 – 3 (Ms. Cooney, Ms. Banks & Mr. Fairbrother)  
Ms. Cooney stated that she abstained from voting because she cannot vote for a Chair that has not taken any classes in three years pertaining to ZBA and she feels members should be taking classes.

**The Vote for Mr. Fairbrother was:** 3 – 1(Mr. Creeden) -3(Ms. Thorpe, Mr. Young & Mr. Casaubon) –

**Mr. Creeden was voted as Chair.**

**Motion:** Made by Ms. Thorpe to nominate Mr. Casaubon as Vice-Chair/Clerk  
Mr. Casaubon declined

**Motion:** Made by Mr. Casaubon to nominate Mr. Fairbrother as Vice-Chair/  
Clerk.

Mr. Fairbrother accepted.

**2<sup>nd</sup>:** Ms. Cooney

**Vote:** 7 - 0

### **OLD/NEW BUSINESS**

None

### **CORRESPONDENCE**

None

### **NEXT MEETING**

October 16, 2013 at the Center Office Building

On a motion made by Ms. Cooney, seconded by Ms. Banks voted unanimously, the meeting adjourned at 8:12PM.