

STURBRIDGE ZONING BOARD OF APPEALS
MINUTES OF
Wednesday, July 9, 2014

Present: Elizabeth Banks
Thomas Creeden, Chair
Margaret Cooney
Donald Fairbrother, Vice-Chair/Clerk
Chris Mattioli
Michael Young

Also Present: Diane M. Trapasso, Administrative Assistant

Absent: Maryann Thorpe

Mr. Creeden opened the meeting at 6:30 PM and read the agenda.

The Board introduced themselves.

APPROVAL OF MINUTES

Motion: Made by Mr. Fairbrother to accept the minutes of June 18, 2014.
2nd: Mr. Mattioli
Discussion: None
Vote: 5 – 0 – 1 (Mr. Young)

PUBLIC HEARING – VARIANCE – OM SHRI AMBIKA, LLC IS REQUESTING A VARIANCE TO PERMIT PARKING IN THE SETBACK. THE PROPERTY IS LOCATED AT 21 NEW BOSTON ROAD.

Materials presented:

Application for Variance – Om Shri Ambika, LLC – 21 New Boston Road– received 5/15/2014

Topographic Survey Map 25 Block 42 Lot 21- prepared by VHB – project #41931.00 – drawing #Sv-2 – received 5/15/2014

Conceptual Site Plan – prepared by MidPoint Engineering – Om Shri Ambika, LLC – project #xxx – drawing #CP-14 – received 5/15/2014

Also present: Mr. Doherty – MidPoint Engineering + Consulting, LLC
Mr. Patel - property owner

Mr. Fairbrother read the legal notice.

Mr. Creeden acknowledged the following department memos:

- Mr. Ford, Police Chief
- Ms. Bubon, Town Planner
- Lt. Marinelli, Fire Inspector
- Mr. Burlingame, Building Inspector
- Mr. Colburn, Conservation Agent

Mr. Doherty of MidPoint Engineering spoke on behalf of the applicant. Mr. Doherty stated that the goal is to replace the antiquated hotel with a new, modern hotel with all conveniences expected by today's standards. In addition to hotel rooms, the new building would include meeting rooms, a business center, pool and a large lobby/gathering area. It is not economically feasible to construct only a hotel building on this site due to excessive site development costs posed by the existing site conditions. It is also not economically feasible to relocate the existing Mobil pipeline or its right of way (preliminary estimates received from Mobil Pipeline indicate cost to relocate is approximately \$800,000). The property has many unique constraints to redevelopment of the site that increase construction costs significantly. These include requirements for placement of structure fill, construction of retaining walls, construction of off-site roadway improvements, reconditioning and protection of the existing petroleum pipeline.

The applicant has received interest from bank and restaurant users that would allow the project to proceed and would allow the property to be more fully utilized during non-peak hotel use periods of the year. The applicant's proposal includes construction of a 77 room hotel with the mentioned conveniences, a 5700 sq.ft. restaurant and a 4500 sq.ft. bank building with two drive-up lanes. A 200space parking area would be constructed to support the new buildings and new utility services would be installed.

The applicant requests that relief from Chapter 20, Section 20.22 (n) be granted in the form of a variance to allow parking to be set back a minimum of 28 feet from Cove Drive right of way and a minimum of 12 feet from the Route 20 right of way.

Granting the variance from the above noted zoning requirements will not be a substantial detriment to the public good as the redeveloped project site will increase tax base, provide additional local job opportunities, provide additional tourism opportunities in a modern hotel building, protect the environment through construction of a modern stormwater management system and provide recommended buffers to resource area. The redevelopment will also provide additional dining and banking opportunities for residents and visitors to Town.

Granting of a variance from the above noted zoning requirements will not be a substantial derogation from the intent and purpose of the Zoning Bylaw as the existing open space adjacent to Route 20 will provide a similar set back to what is required in the Bylaw and the proposed setback to Cove Drive will be sufficient to provide adequate screening of the project to adjacent residential uses.

Mr. Creeden acknowledged the following department memos:

- Ms. Bubon, Town Planner
- Mr. Ford, Chief of Police
- Lt Marinelli, Fire Inspector
- Mr. Colburn, Conservation Agent

The Board had the following concerns and questions:

- Does the applicant have an agreement with MassDOT to take care of the landscaping – Mr. Doherty stated that the paper work for the permit is finished and will be sent to MassDot – Mr. Patel stated that MassDot is in favor of them taking over the landscaping
- Any thought of having the restaurant in the hotel - Mr. Doherty “Stated No”
- Will there be solar panels – Mr. Patel stated that no solar panels but may have solar heat
- Some Board members feel the project is exceeding the use of the land
- Some Board members feel the project meets the three criteria for the Variance - the Mobil pipeline cuts thru the property – vernal pool - topography of the land – the different grade levels of the land
- Drive-thru is not allowed – Mr. Doherty stated it is allowed by Special Permit from the Planning Board
- Do you have a firm commitment from MassDOT from the landscaping – Mr. Doherty stated that they are working on getting the permit
- Any abutters against the project – “No”
- Traffic Study gave the intersection at Rout 20 and New Boston a Level F – Mr. Doherty stated that the Level F is at peak time – making the left turn causes the back-up – MassDot is in favor of a U-turn at the Route 131 lights
- When was the vernal pool discovered – Mr. Doherty stated in April, 2014
- The Village Gateway requires a 50’ setback from the roadway – were you aware of this prior to the original site design – Mr. Doherty stated that when the vernal pool was discovered, it changed the whole site design

Ms. Peabody of 4 Wildwood Lane stated that this project meets all the criteria for the variance, the pipeline, the vernal pool and the different land levels. She also stated that Mr. Patel will make the MassDOT very beautiful. Remember, the Board is only looking at the Variance.

Ms. Hart of 520 Leadmine Road questioned why haven’t you gone to MassDOT for approval and if they have thought about purchasing the land from MassDOT.

Mr. Doherty stated that they are waiting for Planning Board approval before asking for an access permit for landscaping the Route 20 right of way. Mr. Doherty stated the State and Federal do not want to sell their land.

Mr. Cunniff of 97 Fiske Hill Road stated that at the Planning Board meeting there was one abutter from Cove Drive having a concern about the ducks hatching in the Spring. The new design is a better view for Cove Drive. He supported the project.

Ms. Dumas of 136 Walker Pond Road stated that she worked on this bylaw to protect the Town and goals of the Master Plan. She felt that the intent of the bylaw will not be fulfilled. She felt that the hardship is self-imposed. She felt that the ZBA should not grant the Variance.

Mr. Suhoski, Town Administrator stated that the land constraints of the project cause a hardship and a Variance should be granted. The Town voted Mr. Patel a TIF for the project. The Town residents are in favor of this project.

Ms. Waters of 38 Farquhar Road stated that the applicant has been forthcoming with this project, there has never been any surprises. This project will be an asset to the Gateway to Sturbridge. She is in favor of the project.

Ms. Goodwin of 19 Orchard Road stated that it is the responsibility of ZBA to follow the wishes of the Town's residents who voted for the Village Gateway District.

Ms. Gimas of 38 Farquhar Road stated that the Town residents supported the TIF and there are no abutters in opposition to the project. ZBA should grant the Variance. Mr. Patel has worked with the Town to make an attractive Gateway to Sturbridge.

Motion: Made by Mr. Mattioli to close the Public Hearing.
2nd: Mr. Fairbrother
Discussion: None
Vote: 6 – 0

Motion: Made by Mr. Fairbrother to Find that the request for a Zoning Variance submitted by OM SHRI AMBIKA, LLC for the property located at 21 New Boston Road to relieve constraints identified in Sturbridge Zoning Bylaws (amended 2013) Chapter 20, section 20.22 (n) to allow for parking within the applicable set back requirements. In accordance with MGL Chapter 40A, section 10, this variance is granted based on the Zoning Board of Appeals affirmation of the following three required findings:

Required Finding #1 - Soil Conditions, Shape or Topography: This property is bounded on three sides by streets, hence requiring a 50 foot setback on these three sides. The fourth side of the property is bounded by Cedar Lake and vegetative wetlands. Normal zoning requirement setbacks would be 30 feet, but the Conservation Commission requirements imposed a 25 foot no-touch and a 50 foot no permanent structure requirement. Additionally, an area originally identified as an isolated wetland area subject to flooding during wet seasons has now been identified as a vernal pool requiring a 100 foot no disturb and 200 foot buffer zone in accordance with the Town of Sturbridge Wetland Regulations. The property is also bisected by a large underground gas pipeline right-of-way (Registered on February 21, 1931) that requires unanticipated constraints and

additional construction efforts to accommodate. Topography challenges include a 30 foot rise across the site. Although this property is currently the only property in the Village Gateway District (VG), a comparison of properties in the Commercial Tourist District shows these constraints to be unique to this property.

2nd: Ms. Cooney
Vote: 4 – 2 (Ms. Banks & Mr. Mattioli)

Required Finding #2 – Hardship: The summary of the aforementioned constraints of 30 foot grade change across the area, the wetland soils including the additional vernal pool and the gas pipeline company restrictions imposed uniquely on this property limit the usable space of this 8 acre plot to be approximately 50%. The gas pipeline company gave Mr. Doherty a preliminary estimate of \$800,000 to relocate the pipeline, coupled with additional construction requirements to accommodate the gas pipeline constraints made the project economically unfeasible. With the pipeline remaining as it exists now, no parking is allowed over the pipeline. The impact of requirements for placement of structural fill, construction of retaining walls, construction of off-site roadway improvements, and reconditioning and protection of the existing pipeline create a unique hardship for this reconstruction project.

2nd: Mr. Young
Vote: 4 – 2 (Ms. Banks & Mr. Mattioli)

Required Finding #3 – Public Good: This project has endeavored to fully comply with the established the image the town desires for the Village Gateway District as detailed in the Master Plan but due to the above constraints imposed on this property the owner has worked copiously to minimize the setback variance impact to the Town’s desired Village Gateway District image. Additionally, this redevelopment project will increase the Town’s tax base, tax receipts from rooms and meals, provide local job opportunities, enhance tourism, protect the environment through construction of a modern storm water management system and provide recommended buffers to resource areas.

2nd: Mr. Mattioli
Vote: 6 - 0

Motion: Made by Mr. Creeden to grant the Variance to Chapter 20 Section 20.22 (n) as requested by Om Shri Ambika to allow parking to be setback a minimum of 28’ from the Cove Drive right of way and a minimum of 12’ from the Route 20 right of way as shown on the plan submitted entitled “Hotel Redevelopment Plan – 21 New Boston Road”, prepared by MidPoint Engineering + Consulting – 826 Southbridge Street – Suite 120, Auburn, MA 01501. Plan dated – February 27, 2014 and revised through Revision 2 – 5/8/14”.

2nd: Mr. Fairbrother
Discussion: None
Vote: 4 – 2 (Ms. Banks & Mr. Mattioli)

DETERMINATION – PAUL ALGER IS REQUESTING A DETERMINATION TO CONSTRUCT A DECK BEHIND THE IN-LAW APARTMENT. THE PROPERTY IS LOCATED AT 20 SHEPARD ROAD.

Materials presented:

Application for Determination – Paul Alger – received 6/12/2014

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

Mr. Alger, the property owner spoke on his own behalf.

Mr. Creeden acknowledged the following department memos:

- Ms. Bubon, Town Planner
- Mr. Burlingame, Building Commissioner
- Mr. Colburn, Conservation Agent
- Mr. Morse, DPW Director
- Mr. Ford, Police Chief
- Lt. Marinelli, Fire Inspector

Mr. Alger, the home owner stated that he is proposing to construct a deck for the in-law apartment.

The Board had the following concerns and questions:

- What size is the deck – Mr. Alger stated that the deck will 12’X8’
- The Board complimented Mr. Alger on his in-law apartment being in full compliance of the bylaw

Motion: Made by Mr. Fairbrother to find the application submitted by Paul Alger to request a determination to allow the construction of an additional 12 foot by 8 foot deck on the back of the home located at 20 Shepard Road, a non-conforming lot, and as shown on the plan submitted by Mr. Alger identified as “Sketch of Survey Monuments, 20 Shepard Road”, dated August 14, 2013 does not intensify the existing non-conformity nor create any additional non-conformities and the owner may apply for a building permit for the described activities as detailed on the request and the above cited plan forthwith.

2nd: Ms. Banks

Discussion: None

Vote: 6 – 0

DETERMINATION – MATTHEW & JULIE DONOVAN ARE REQUESTING A DETERMINATION TO INSTALL AN IN-GROUND POOL WITH FENCE. THE PROPERTY IS LOCATED AT 50 OLD FARM ROAD.

Materials presented:

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Application for Determination – Matthew & Julie Donovan – received 6/23/2014

Proposed Pool Plot Plan for Matthew & Julie Donovan – 50 Old Farm Road – prepared by Jalbert Engineering - plan date 6/16/2014 – job #14114

Mr. Creeden acknowledged the following department memos:

- Ms. Bubon, Town Planner
- Mr. Colburn, Conservation Agent
- Mr. Burlingame, Building Commissioner
- Lt. Marinelli, Fire Inspector

A representative from Juliano’s Pool spoke on behalf of the applicant. He stated the proposal is for an in-ground pool with surrounding fence

The Board had the following concerns and questions:

- The Board questioned on the plan the writing on the plan that of one foot fence – Mr. Schilling stated that the one foot is not the height of the fence but the fence setback from the property line

Motion: Made by Mr. Fairbrother to find the application submitted by Juliano’s Pools of 321 Talcottville Road, Vernon CT on behalf of Matthew and Julie Donovan to request a determination to allow for the construction of a 16 foot by 33 foot in-ground pool with concrete surround and fence behind an existing home located at 50 Old Farm Road, a non-conforming lot, and as detailed in Jalbert Engineering’s “Proposed Plot Plan, Job No. 14114”, dated June 16, 2014 does not intensify the existing non-conformity nor create any additional non-conformities and the owner may apply for a building permit for the described activities as detailed on the request and the above cited plan forthwith.

2nd: Ms. Cooney

Discussion: None

Vote: 6 – 0

RE-ORGANIZATION OF THE BOARD

Rescheduled to August 20, 2014

CORRESPONDENCE

None

OLD/NEW BUSINESS

None

NEXT MEETING

August 20, 2014 at the Center Office Building

On a motion made by Mr. Mattioli, seconded by Mr. Fairbrother, and voted unanimously, the meeting adjourned at 8:56 PM.