

STURBRIDGE ZONING BOARD OF APPEALS

MINUTES OF

Wednesday, October 15, 2014

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

Also Present: Diane M. Trapasso, Administrative Assistant

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

The Board introduced themselves.

APPROVAL OF MINUTES

Motion: Made by Mr. Mattioli to accept the minutes of September 17, 2014.
2nd: Ms. Thorpe
Discussion: None
Vote: 6 – 0 – 1(Mr. Creeden)

DETERMINATION – MARK E. & JODIE M. GOSSELIN ARE REQUESTING A DETERMINATION TO CONSTRUCT A TWO STORY BUILDING ADDITIONS ON THE EXISTING SINGLE FAMILY RESIDENCE. THE PROPERTY IS LOCATED AT 77 WESTWOOD DRIVE.

Materials presented:

Application for Determination – Mark E. & Jodie M. Gosselin – received September 9, 2014

Site Plan - Mark E. & Jodie M. Gosselin – 77 Westwood Dive – prepared by Jalbert Engineering - plan date 8/9.2014 – DWG #14144 – revision #2 – 10/15/2014

Floor Plan for Addition – Gosselin – 77 Westwood Drive

Westwood Shores in Sturbridge MA owned by Estate of Mary Paquin

Mr. Fairbrother acknowledged the following department memos:

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

Mr. Bressette of Jalbert Engineering spoke on behalf of the applicant. Mr. Bressette submitted revised plans date 10/15/2014 – revision #2 to address the concerns of Mr. Morse, DPW Director.

Mr. Bressette stated the applicant is proposing to construct two single story building additions on the existing family residence. Associated site work includes the relocation of the shed which is presently off the property and to be relocated to the rear of the residence. The stairs on the westerly and easterly sides of the house will be demolished and new Versalok stairs and walls will be constructed.

Mr. Bressette stated that the lot conformed to zoning when created and the residence conforms to zoning. The existing lot does not conform to the current zoning by law in Lot Area (32,670 sq. ft. required, 22,000 sq. ft. existing and lot frontage of 125 ft. required, 100ft. existing). The applicant is proposing to retain the existing deck located on the northerly side of the house with a side line setback of 11.2 ft. This non-conformity conforms as per Chapter 40A, Section 7. The new construction proposal does not create additional non-conformity to current zoning and does not increase any existing non-conformities.

The Board had the following concerns and questions:

- Deck is in the setback – can it be removed – Mr. Gosselin, the property owner stated that it can, the master bedroom is off of it and has a door that leads out
- Are there stairs off the deck – Mr. Bressette stated (No)

Motion: Made by Ms. Cooney to grant the request for the Determination submitted by Mark E. & Jodie M. Gosselin for property is located 77 Westwood Drive to allow the construction of two single story building additions on an existing single family residence as shown on the Site Plan - Mark E. & Jodie M. Gosselin – 77 Westwood Drive – prepared by Jalbert Engineering - original plan date 8/9/2014 – DWG #14144 – revision #2 – 10/15/2014. The Determination does not intensify the existing non-conformities nor create any additional non-conformities. Approval is granted provided that all issues, concerns and permits deemed necessary by various Departments and Boards be adhered to.

2nd: Ms. Banks

Discussion: None

Vote: 7 – 0

**DETERMINATION – JOHN J. ARGITIS IS REQUESTING A
DETERMINATION TO REMOVE AND REPLACE THE EXISTING GARAGE.
THE PROPERTY IS LOCATED AT 187 – 189 LAKE ROAD.**

Materials presented:

Application for Determination – John J. Argitis – received 9/9/2014

Proposed Site Plan for John G. & Anne Marie Argitis – 187 – 189 Lake Road – prepared by Jalbert Engineering – plan date 9/3/2014 – DWG #14179 – Revision #2 dated 10/15/2014 - received 9/9/2014

Mr. Fairbrother acknowledged the following department memos:

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

Mr. Bressette of Jalbert Engineering spoke on behalf of the applicant. Mr. Bressette submitted revised plans date 10/15/2014 – revision #2 to address the concerns of Mr. Morse, DPW Director.

Mr. Bressette stated that the applicant is proposing to remove and replace the existing garage. The garage will be a single story structure with no storage provisions within the area of the Truss Roof System. The building will be wood framed and the foundation will be pier construction. A paved entrance will be installed as per Town regulations.

The Board had the following concerns and questions:

- Will the applicant be storing hazardous material – Mr. Bressette stated (No)
- Combine the lots – Mr. Bressette stated that there is no need to combine the lots – they are in common ownership
- Will the existing slab be removed – Mr Bressette stated it will be removed

Motion: Made by Ms. Cooney to grant the request for the Determination submitted by John J. Argitis for property located at 187 – 189 Lake Road to allow the removal and to replace the existing garage as shown on the Proposed Site Plan for John G. & Anne Marie Argitis – 187 – 189 Lake Road – prepared by Jalbert Engineering – Revision #2 - plan date 10/15/2014 – DWG #14179. As it does not intensify the existing non-conformity nor create any additional non-conformities. Approval is granted provided that all issues, concerns and permits deemed necessary by various Departments and Boards be adhered to and in compliance.

2nd: Ms. Thorpe

Discussion: None

Vote: 7 – 0

DETERMINATION – ALLEN J. & KATHLEEN LAVOIE ARE REQUESTING A DETERMINATION FOR THE RAZING OF AN EXISTING THREE BEDROOM STRUCTURE AND THE CONSTRUCTION OF A NEW THREE BEDROOM RESIDENCE. THE PROPERTY IS LOCATED AT 33 – 35 RACICOT LANE.

Ms. Thorpe recused herself from this Determination. Ms. Thorpe stated that she is a neighbor of the Lavoies.

Materials presented:

Application for Determination – Allen J. & Kathleen Lavoie – received 9/15/2014

Proposed Site Plan Allen J. & Kathleen Lavoie – 33 – 35 Racicot Lane – prepared by Jalbert Engineering – plan date 3/23/2012 – DWG #12010 – Revision #3 – dated 3/23/2012

Proposed House Plan – Allen & Kathleen Lavoie – 33 – 35 Racicot Lane – date 3/5/2012

Plan of Property Owned by Allen J. & Kathleen Lavoie – 33 – 35 Racicot Lane – prepared by Jalbert Engineering – plan date 2/1/2012 – DWG #12021

Mr. Fairbrother acknowledged the following department memos:

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

Mr. Bressette of Jalbert Engineering spoke on behalf of the applicant. Mr. Bressette stated that the applicant is proposing to raze the existing three bedroom structure and to construct of a new three bedroom one and half story with deck residence. The current residence is located at 35 Racicot Lane while 33 Racicot Lane is a vacant property and in common ownership. A Chapter 81X Mylar, consolidating the two properties into one, has been prepared for recording.

Mr. Bressette stated that the combined lots and structure do not conform to the current zoning bylaws on lot area (0.75 AC. Required, 0.66 AC existing), in front yard setback (30 ft. required, 19 ft. existing).

The Board had the following concerns and questions:

- Question the concrete curb – Mr. Bressette stated to accommodate the catch basin

- Two public ways and a private way all discharge together – always been a problem – Mr. Bressette stated that Mr. Morse, DPW Director, is donating the material and at the time of construction the drainage will be improved
- Can the lots be combined – Mr. Bressette stated that they are in common ownership

Motion: Made by Ms. Cooney to grant the request for Determination submitted by Allen J. & Kathleen Lavoie for the property located at 33 – 35 Racicot Lane to allow the razing of an existing three bedroom structure and the construction of a new three bedroom with deck residence as shown on the Proposed Site Plan Allen J. & Kathleen Lavoie – 33 – 35 Racicot Lane – prepared by Jalbert Engineering – plan date 3/23/2012 – DWG #12010 – Revision #3 – dated 3/23/2012. As it does not intensify the existing non-conformity nor create any additional non-conformities. Approval is granted provided that all issues, concerns and permits deemed necessary by various Departments and Boards be adhered to.

2nd: Mr. Mattioli

Discussion: None

Vote: 6 – 0

Ms. Thorpe returned to her seat on the Board.

Mr. Mattioli recused himself from this Public Hearing, and the rest of the meeting.

PUBLIC HEARING – OM SHRI AMBIKA, LLC IS REQUESTING A VARIANCE TO ALLOW PARKING TO BE SET BACK MINIMUM OF 23 FEET FROM THE ROUTE 20 RIGHT OF WAY. THE PROPERTY IS LOCATED AT 21 NEW BOSTON ROAD.

Also present:

Mr. Doherty, MidPoint Engineering + Consultants

Attorney Neal

Mr. Patel, property owner

Materials presented:

Application for Variance – Om Shri Ambika, LLC – received 9/15/2014

Hotel Redevelopment Plan – 21 New Boston Road – prepared by MidPoint Engineering & Consulting – plan date 2/27/2014 – Revision #3 – date 9/12/2014 – project #xxx

Ms. Cooney read the legal notice.

Mr. Fairbrother acknowledged the following department memos:

- Ms. Bubon, Town Planner
- Ms. Rusiecki, BOH Agent

Mr. Doherty of MidPoint Engineering + Consulting stated that the goal of the project 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 Mobile pipeline or its right of way (preliminary estimates received from Mobile Pipeline indicate cost to relocate approximately \$800,000). The property has many unique constraints to redevelopment increase construction costs significantly. These include requirements for placement of structural fill, construction of retaining walls, construction of off-site roadway improvements, reconditioning and protection of the existing petroleum pipeline.

The Town of Sturbridge Zoning Bylaw Chapter 20, Section 20.22 (n) specifies that "Parking shall not be located within the applicable setback requirements in any District for single residential use. Additionally, pedestrian lanes five feet wide must be located adjacent to the front and sides of such buildings to allow for handicapped passage without parking interference except for buildings for single residential use."

Mr. Doherty stated that 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 setback a minimum of 23 feet from the Route 20 right of way.

Mr. Doherty stated that the applicant meets all the criteria to be issued a Variance.

The Board had the following concerns and questions:

- Has the applicant been to ConCom with the revised plan – Mr. Doherty stated that the applicant wanted to be granted the Variance first – the proceed with ConCom
- Thought about moving the pipeline – Mr. Doherty stated that from an economic stand point it would not be feasible – will provide documentation to the Planning Department
- Approval from MassDot to maintain the right of way – Mr. Doherty stated that they have received an email from MassDot being amenable to the approval
- Right turn only at the corner of Route 20 and New Boston Road – Mr. Doherty stated that they will be working with MassDot to reconfigure the lights at Route 20 and Route 131 to enable a U-turn at the lights

Mr. Cunniff of 97 Fiske Hill Road stated this project is a benefit to the residents making the corner more attractive and bringing more revenue to the Town by taxes by people staying in the area and spending money.

Mr. Galonek of 164 Lake Road stated that he owns property on Route 15 and has the Mobil pipeline runs his property. It is a hardship for him because it cannot be paved over.

Mr. & Mrs. Rosenbloom of 5 Old Brook Circle stated that the corner is an eye sore at present. Having a new hotel and restaurant and bank and landscaped is a win-win solution to everyone.

Mr. Barnes of 6 Old Brook Circle stated that this project will be a great opportunity for residents and visitors.

Ms. Gibson-Quigley of 66 Streeter Road stated that the ZBA needs to look at the criteria for a Variance and realize that this project meets all the criteria to be granted.

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

2nd: Ms. Cooney

Discussion: None

Vote: 6 - 0

Motion: Made by Mr. Creeden 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: 5 – 1 (Ms. Banks)

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: Ms. Thorpe
Vote: 5 – 1 (Ms. Banks)

Ms. Banks stated she needed to see the easements restrictions in writing.

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: Ms. Thorpe
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 23’ 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 3 – 9/12/14”.

2nd: Ms. Cooney
Discussion: None
Vote: 5 – 0 – 1 (Ms. Banks)

Ms. Banks stated that she likes the project but the hardship was not proven as no correspondence was provided between Om Shri Amibika and the Mobil pipeline regarding cost to move the pipeline or easement restrictions.

CORRESPONDENCE

None

OLD/NEW BUSINESS

None

NEXT MEETING

November 19, 2014 at the Center Office Building

On a motion made by Mr. Creeden, seconded by Ms. Cooney, and voted unanimously, the meeting adjourned at 8:00 PM.