

**Sturbridge Zoning Board of Appeals
Meeting Minutes
Wednesday, August 17, 2022
Center Office Building**

Present:

Fidelis Onwubueke
Michael Young
Tom Welch
Diane Trapasso
David Zonia
Elizabeth Banks
Marge Cooney
Jeneé Lacy, Administrative Assistant
Jean Bubon, Town Planner



Also Present:

Seth Mansur, 148 Cedar Street
Cheryl Wood Creeden, 14 Westwood Drive
Thomas Creeden, 14 Westwood Drive
Anthony Brunetti, 11 Westwood Drive
Pete Engle, McClure Engineering

Chair Banks called the meeting to order at 6:30pm and read the agenda.

Approval of Minutes

July 20, 2022

Motion: To approve the minutes of July 20, 2022 as amended.

By: D. Trapasso

2nd: F. Onwubueke

Vote: 5-0-2 (M. Cooney & E. Banks - Abstained)

Town Planner Update

J. Bubon discussed the following:

- J. Bubon on vacation next 2 weeks – Planning Office will be closed on Monday 8/22;
- Next meeting dates:
 - September 21st

Public Hearing – Variance – 25 Westwood Drive – Russell Corriveau

D. Trapasso read the legal notice that was posted in the Southbridge Evening News.

T. Welch recused himself from the meeting since he is an immediate abutter to 25 Westwood Drive.

J. Bubon read an email sent to her from Russell Corriveau stating that he would not be able to attend the meeting and that his engineer Peter Engle has his consent to represent him during the public hearing.

E. Banks stated that the Board had received comments from the Department heads along with letters from some abutters.

M. Cooney asked if the certificates of mailing had been returned, it was confirmed that they were.

P. Engle presented to the Board stating that the applicant is requesting a variance in reference to Section 300-15.13 of the Zoning Bylaws which requires "All driveways shall access on the way on which legal frontage for that lot is established." The lot in question has frontage on both Westwood Drive and Cedar Street, the legal frontage is on Westwood Drive, although access and a driveway are possible from Westwood, the topography of the lot and municipal utilities available suggest a driveway on Cedar Street would be the preferable means of accessing the site. He also discussed another house located on Cedar Street that had a similar driveway situation.

M. Cooney asked who the house is being built for. P. Engle stated that there is an interested party that will be buying the house.

M. Young asked if there is ledge located under the soil on the Cedar Street side. P. Engle stated that it was shallow bedrock for four or five feet, and stated that another house was built down the street and they didn't hit any ledge so they are hoping they will not have to blast since it is more expensive and will require more permitting.

F. Onwubueke asked what the difference in elevation was between the two roads. P. Engle stated that the road elevation at Westwood is 720 feet and the house would be at 778 feet so there would be 58 feet of elevation change. The road elevation at Cedar Street is 745 so there would be 25 feet of elevation change. F. Onwukueke asked how they plan to compensate for run off on both driveways. P. Engle discussed the run off mitigation for both driveway options and stated that the DPW will require a driveway permit and will review the plans and add requirements regarding run off.

E. Banks asked if anyone from the public had any questions or comments.

Thomas Creeden, 14 Westwood Drive, discussed concerns with blasting on Cedar Street and asked about safety precautions for children in the neighborhood, since the construction would create an "attractive nuisance". P. Engle stated that safety regulations for a construction site will be taken and that the property is private.

Anthony Brunetti, 11 Westwood Drive, stated that he was concerned with runoff and erosion, if the driveway went in on Westwood he is concerned about the cut through that will compromise his driveway.

Seth Mansur, 148 Cedar Street, stated that he is concerned the builders will hit ledge and that the blasting is of concern for his foundation, he stated that he is also concerned with runoff and erosion onto his property.

P. Engle discussed the requirements to minimize runoff from Cedar Street and that the builders would work with the DPW to maintain the proposed run off mitigation plan.

The Board discussed the line of site images provided by the applicant and discussed driveway visibility from each street.

E. Banks read the departmental memo provided by the DPW Director and the DPW Operations Manager.

T. Creeden discussed cars speeding on both Cedar and Westwood.

D. Zonia stated that he had concerns regarding the potential blasting and the neighborhoods wellbeing.

E. Banks discussed blasting regulations.

T. Creeden stated that previous blasting damaged his house.

The Board discussed the potential for blasting.

Cheryl Wood Creeden, 14 Westwood Drive, stated her concerns with blind driveways and cars sliding around the curve in the road.

S. Mansur asked the Board to look at the history of the lot and the area and is worried allowing the Variance will set a precedence for future developers.

J. Bubon asked the Board to discuss the findings before closing the public hearing to determine if the request meets the three variance criteria.

T. Creeden stated that he will appeal the decision if the driveway is built off of Westwood.

M. Young stated that it was within the abutter's right to do so but stated that for the record, speed limit enforcement, road pitch and grade and how homeowner's plant on their property is not within the purview of the ZBA.

The Board discussed Finding #1: "Soil Conditions, shape or topography of the property, which condition especially affects the property, but does not generally affect other property in the zoning district". The Board all agreed that the request meets finding #1.

Finding #2: "That there is a hardship". E. Banks stated that she believes there is a hardship because there is more than a 12% slope off of Westwood also the difficulty of putting in sewer on Westwood. The Board discussed financial hardships of the applicant.

The abutters discussed the need for a fence and asked that it be added as a condition. J. Bubon stated that if the Board found the condition reasonable they could condition it.

E. Banks stated that another hardship would be the length of the driveway and the amount of clearing that would have to be done.

M. Cooney asked J. Bubon if they voted to continue the meeting could they request that the applicant and current owner of the property come to the meeting. J. Bubon stated that she can make the request but cannot coerce them to come.

E. Banks asked if anyone on the Board disagreed that the request meets Finding #2. The Board all agreed that the request meets Finding #2.

Finding #3: "That the variance could be granted "without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such by-law". The Board discussed the measurement of substantial detriment. M. Cooney stated that she believes it meets the criteria because it is unique to the district it is located in. D. Trapasso stated that if the driveway came off of Westwood it would affect more people in the neighborhood than off of Cedar, and stated that the DPW has issues with the potential of the driveway off of Westwood and it is there expertise. E. Banks asked if everyone agreed that the request meets Finding #3. The Board agreed.

Motion: To close the public hearing.

By: M. Young

2nd: D. Trapasso

Vote: All in Favor (7-0)

Motion: Finding #1: To find that the variance request meets criteria #1 that states that soil conditions, shape or topography of the property, which condition especially affects the property, but does not generally affect other property in the zoning district.

By: D. Trapasso

2nd: M. Cooney

Vote: All in Favor (7-0)

Motion: Finding #2: To find that the variance request meets criteria #2 that states that there is a hardship.

By: D. Trapasso

2nd: M. Cooney

Vote: All in Favor (7-0)

Motion: Finding #3: To find that the request to construct a single family home and a driveway off of Cedar Street, will not create a detriment to the public good or a substantial derogation from the bylaw. The lot is developable and will contain a single family home, the only issue is where the driveway will be located.

By: D. Trapasso

2nd: M. Young

Vote: 4-1-1 (F. Onwubueke opposed & D. Zonia abstained) – The vote fails

Clarification was asked for on the final required Finding regarding the definition of “detrimental”. J. Bubon discussed the state statute. After the explanation F. Onwukueke and D. Zonia indicated that they now had a better understanding and would consider a new vote on this criteria.

Motion: To rescind the original vote for Finding #3, after further discussion.

By: D. Trapasso

2nd: E. Banks

Vote: All in Favor (7-0)

Motion: Finding #3: To find that the request to construct a single family home and a driveway off of Cedar Street, will not create a detriment to the public good or a substantial derogation from the bylaw. The lot is developable and will contain a single family home, the only issue is where the driveway will be located.

By: D. Trapasso

2nd: M. Cooney

Vote: All in Favor (7-0)

Motion: To approve the variance requested to allow the driveway to be constructed on the Cedar Street frontage for the purpose of constructing a Single Family Home as shown on the plan entitled “ZBA Variance Request Plan Set – Lot C Westwood Drive, Sturbridge, Massachusetts by McClure Engineering, Inc. dated July 15, 2022; and supporting documents submitted with the following conditions:

- 1. All work to be in accordance with the plan submitted.**
- 2. Limits of clearing as shown on the plan shall be marked prior to the construction and adhered to throughout the construction process except that a variance not to exceed 15’ from what is shown may occur.**
- 3. An erosion control plan and stormwater management plan shall be submitted to the Planning Department and DPW Director for review and approval prior to the start of construction. All erosion control measures must be installed and inspected by the DPW Director or her designee prior to the start of construction.**
- 4. Construction fence shall be added to the plan along the length of the proposed driveway and the location shall be reviewed and approved by the DPW Director or her designee prior to installation. All construction fence shall be in place prior to the start of construction.**
- 5. The applicant shall investigate options to implement traffic calming measures for the driveway and if that can be achieved the footprint of the home may change to accommodate this change provided limits of clearing shall not deviate by more than fifteen feet.**
- 6. There shall be no further subdivision of Lot C in perpetuity.**

7. **All other necessary state and local permits shall be obtained prior to the start of construction.**
8. **The Variance Decision shall be recorded in the Worcester District Registry of Deeds prior to applying for a driveway or building permit.**

By: D. Trapasso

2nd: F. Onwubueke

Vote: All in Favor (7-0)

Documents Reviewed:

- *Cover Letter dated July 15, 2022 (includes photographs of the frontage along Cedar and Westwood);*
- *Completed application for Variance dated July 13, 2022;*
- *Certified list of abutters;*
- *Legal Notice posted in the Southbridge Evening News on July 28, 2022 and August 4, 2022;*
- *A plan entitled "ZBA Variance Request Plan Set – Lot C Westwood Drive, Sturbridge, Massachusetts by McClure Engineering, Inc. dated July 15, 2022;*
- *Correspondence dated August 7, 2022 from Mr. Daniel and Dr. Kathryn Clark – 146 Cedar Street;*
- *Correspondence dated August 8, 2022 from Mrs. Samantha and Mr. Seth Mansur – 148 Cedar Street;*
- *Email dated August 8, 2022 from Abigail and Alex Angell;*
- *Email dated August 9, 2022 from Mr. Obi and Mrs. Chichi Agonmoh.*

Old/New Business

- Next meeting – September 21st – Nothing has been filed yet.

Adjournment

Motion: To adjourn.

By: D. Trapasso

2nd: M. Cooney

Vote: All in Favor (7-0)

The meeting adjourned at 8:48 PM

Minutes prepared by: Jeneé Lacy