

STURBRIDGE ZONING BOARD OF APPEALS
MINUTES OF
WEDNESDAY, MAY 15, 2019

Present: Elizabeth Banks
Margaret Cooney
Fidelis Onwubueke
Diane Trapasso
Michael Young
William Zelenak

Absent: Thomas Earls

Also Present: Jean M. Bubon, Town Planner

Ms. Banks opened the meeting at 6:30 PM and read the agenda.

APPROVAL OF MINUTES

Motion: Made by Ms. Trapasso to approve the minutes of March 20, 2019 with corrections.
2nd: Ms. Banks
Discussion: None
Vote: 5-0-1 (Young)

DETERMINATION – MARK AND BARBARA SMITH – 186 LAKE ROAD

Zachary Gless from Existing Grade, Inc. was present to represent the application. Barbara Smith, the owner was also present.

Mr. Gless presented the project to the Board. The applicant is proposing to add a roof over the existing deck and to install screens to enclose the new structure. Mr. Gless indicated that the Conservation Commission had approved this proposed project last year and they added stormwater management features to control the runoff. A cultech unit would be installed. They would also be installing native plantings. There would be no new encroachments of any kind.

The Board had the following questions, comment, or concerns:

- Would the new space be heated? It would not.
- The Assessor's records show two parcels which total 0.73 acres not in accordance with the plan presented. The applicant should bring that to the attention of the Assessor's office.
- How would runoff be controlled? With the cultech unit.
- Would stairs be added? No the stairs were existing.

- What was the size of the deck? It is 450 square feet.
- Would the upper deck be covered? No, just this deck.

Ms. Banks acknowledged correspondence from the Town Planner, BOH, Building Inspector, DPW Director, Conservation Agent and Chief of Police.

Motion: Made by Ms. Trapasso to grant the Determination to Mark and Barbara Smith of 186 Lake Road to allow a roof to be erected over the existing deck and for that area to be screened as shown on the plan entitled “Proposed Screening of Existing Deck for 186 Lake Road, Sturbridge, Massachusetts 01518” prepared by Existing Grade, Inc. – 62 Riedell Road, Douglas, MA 01516 – Project No. 1782, Date 03/14/18.

2nd: Ms. Banks

Discussion: None

Vote: 6 – 0

SPECIAL PERMIT – THE HYNES FAMILY REVOCABLE TRUST – 80 WALKER POND ROAD

Ms. Banks recused herself from the public hearing because she is a neighbor and abutter of 80 Walker Pond Rd.

Mr. Young read the legal notice.

Leonard Jalbert from Jalbert Engineering, submitted the legal and abutters notices and presented the project to the Board. The applicant is requesting a Special Permit to allow for the construction of a single family home on a non-conforming lot. Mr. Jalbert explained that the properties of 80 & 82 Walker Pond Road were combined and transferred into a family trust, the owners relied on unreliable sources in this decision and are now looking to sell their home and use the other lot to build a new house (three bedroom raised ranch). A plan was created and in December the septic plan was brought to the Board of Health. The Board of Health’s determination was that the frontage conforms but the lot does not, and is buildable relative to the Board of Health regulations. The owners are looking for a reversion of the estate, they were unaware that the two lots would become one under the trust and would like relief.

Abutter, Rosalie Sokol of 73 Walker Pond Road, came before the Board and stated that the reason she moved to that area was because it was so rural and the neighborhood doesn’t have much land to develop. Her main concern is the water and septic systems on each lot and not having enough space for repairs. She also stated she is concerned that if this special permit is approved it will set a precedence and someone will eventually clear Old Village Road and start building more houses there and will impact the lake.

The Board had the following questions, comment, or concerns:

- The lots are under common ownership now
- Doesn't think the Board can do anything to relieve the owner's situation because the lot were merged under the Hynes Family Revocable Trust and it doesn't qualify for a variance.
- The property doesn't qualify for a variance either.
- Was the lot size requirement 1 acre at the time the lots were merged? Yes
- Are all lots in the subdivision non-conforming? All the lots are about the same, anyone in the subdivision that would like to work on their house would have to apply for a special permit.

Mr. Young acknowledged correspondence from the Town Planner, Building Inspector, Conservation Agent, and DPW Director.

Motion: Made by Ms. Cooney to close the Special Permit Public Hearing.
2nd: Ms. Trapasso
Discussion: None
Vote: 5 – 0

Motion: Made by Ms. Cooney to find that the proposal by the Hynes Family Revocable Trust, a property located at 80 Walker Pond Road, to construct a new home will be substantially more detrimental to the neighborhood in accordance with Section 24.09 a through e and Section 20.05 of the Sturbridge Zoning Bylaws, as the lots were merged and the parties merged them by The Hynes Family Revocable Trust therefore they became one parcel. Plan prepared by Jalbert Engineering, 54 Main Street, Sturbridge, Ma 01566 Dated: 12/6/18. Job Number: 18189.
2nd: Ms. Trapasso
Discussion: Mr. Zelenak stated that he thinks the owners should have another avenue to follow.
Vote: 4 – 1 (Mr. Zelenak Opposed)

The Board discussed the legal standing of the trust and the owner's next steps with their situation. The owners have a right to appeal and go to the Land Court.

Motion: Made by Mr. Zelenak to find that the proposal by the Hynes Family Revocable Trust a property located at 80 Walker Pond Road, to construct a new home will not be substantially more detrimental to the neighborhood.
2nd: None
Motion Fails

Motion: Made by Ms. Trapasso to deny the Special Permit on the grounds that 80 Walker Pond Road is not a buildable lot pursuant to 20.11 of the Zoning Bylaws, to the Hynes Family Revocable Trust.
2nd: Mr. Onwubueke
Discussion: None
Vote: 4 – 1 (Mr. Zelenak Opposed)

Mr. Young read the correspondence from CHAPA into the record.

Ms. Banks rejoined the Board.

Ms. Cooney asked Ms. Bubon if there is any updates on the 40B project, “Five Leaves”. Ms. Bubon stated that she hasn’t heard anything new from “Five Leaves”. Ms. Cooney inquired when the next ZBA meeting was scheduled for. Ms. Bubon stated June 19th.

Motion: Made by Ms. Trapasso to adjourn.

2nd: Ms. Banks

Vote: 6 – 0