

BERGLUND ENTERPRISES
18 Great Lake Drive
08-20

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
JUNE 16, 2008

The Board consisted of:

Jeffrey P. Klofft, Chairman
Elizabeth A. Taylor, Clerk
Jonathan G. Gossels
Nancy G. Rubenstein
Stephen A. Garanin

Notice was published in the Sudbury Town Crier on May 29 and June 5, 2008, posted, mailed and read at this hearing.

Mr. Klofft, Chairman, explained the requirements necessary to substantiate the granting of a special permit. He also explained that if anyone is not satisfied with the Board's decision, they have the right to appeal to Superior Court or Land Court within twenty days after the decision has been filed with the Town Clerk, and that possible other appeals may exist under current law.

Stephen Poole, Zanca Land Surveyors, and Jay Berglund, Berglund Enterprises, were present to represent a petition for a Special Permit to demolish an existing structure and construct a larger structure at 18 Great Lake Drive, which is a corner lot. The lot is nonconforming in area and frontage.

Mr. Poole displayed a plan of the lot and project. He said the current house does not conform to the setbacks. The intent is to construct a 1,700 s.f. split-style gambrel house siting it so it will be less nonconforming in terms of setback than the existing house. The new house will have a front yard setback deficiency of 2'7" from Beechwood Avenue, a front yard setback deficiency of 20' from Great Lake Drive and a rear yard setback deficiency of 19'3".

Mr. Poole pointed out the paved areas which will be eliminated noting that the driveway will be coming off of Beechwood Avenue. A deck will be constructed to the side of the house. The existing shed will also be demolished.

In response to a question from Mr. Klofft, Mr. Poole said the proposed septic tank would be new and the leaching area is existing. The house is positioned 20 feet away from the tank in order to meet Title 5 requirements and allow for future leaching area. Because of the location of the septic area, the house cannot be located further back from Great Lake Drive.

Jay Berglund distributed copies of the house section plan with elevations. He explained that the grade has been raised slightly to elevate the house and driveway from the street. In addition, it is proposed to plant trees along Great Lake Drive and the rear of the house to provide screening.

The design of the house is a split gambrel which Mr. Berglund said he has constructed in other towns. Photographs of similar homes were submitted for the Board's review. Mr. Berglund felt this style looks more like a 1 ½ story house as opposed to 2 ½ stories. There will be 3 bedrooms, 2 ½ bath and a one-car garage under.

Referring to the house section, Ms. Rubenstein noted that the height of 29.4 ft. is taken from the top of the foundation wall which is higher than grade. She asked what the height would be at grade. Mr. Berglund estimated it to be approximately 31 feet which is the size of a normal colonial.

Mr. Klofft voiced concern with regard to the height of the proposed house. He said a normal colonial coming before this Board with a 10-foot back yard would not be approved as it would be too tight on the lot. He questioned how the house of this height could be maintained with that setback.

Mr. Berglund said the soffit could be reached safely with a ladder. The roof line could be reached from the gable side of the house.

Mr. Gossels felt the applicant was trying to "shoehorn" the house to preserve the septic system and going with 2 ½ stories to be able to get a garage. He said a more appropriate design might be a small colonial or a cape but this proposed style is odd.

Ms. Taylor added that although the location gives some relief for the streetscape, it impacts the neighbor at the rear of the property. While the Board is in favor of reusing lots, she felt this to be a difficult lot, the fatal flaw in design being the 10-foot rear yard setback.

Mr. Gossels suggested the applicant might want to consider coming back with a different design, either a site design, house design or combination of the two - one that does not abut so closely to the neighbor, loom, or artificially raise the grade in order to have a garage.

Ms. Rubenstein agreed. She felt this design looked like a 3-story house.

With regard to height, Mr. Gossels pointed out that the Board has seen colonials with 28-29-foot heights - he felt that height was not unreasonable for this lot.

Suzanne Loverin, 16 Great Lake Drive, abutter, agreed with the Board's assessment of the location and height of the proposed house. She said even though the existing house is closer, it is much smaller and lower - the house, as proposed, being 10-feet from her property line, will adversely impact her. She felt perhaps a different style house might be more appropriate.

Further discussion centered on possibilities for location and design. Given the sense of the Board and their concerns with regard to location, height, size and design, Mr. Klofft suggested the applicant could either proceed with this application or request a withdrawal without prejudice. Mr. Berglund requested he be allowed to withdraw his application.

A motion was made, seconded and unanimously voted to accept a request to withdraw without prejudice and to waive a subsequent filing fee.

Jeffrey P. Klofft, Chairman

Elizabeth A. Taylor, Clerk

Jonathan G. Gossels

Nancy G. Rubenstein

Stephen A. Garanin

GREATER WORCESTER HABITAT FOR HUMANITY, INC.
Dutton Road/Pratts Mill Road
08-21

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
JUNE 16, 2008

The Board consisted of:

Elizabeth A. Taylor, Acting Chairman
Nancy G. Rubenstein, Acting Clerk
Jeffrey P. Klofft
Jonathan G. Gossels
Stephen A. Garanin

Also: Jody Kablack, Planning Director

For the Applicant:

Beth Rust & Amy Lepak, Sudbury Housing Trust
Attorney Joshua M. Fox
Douglas Havens, Habitat for Humanity, Inc.
Kathleen Perregaux, Project Director, Habitat for Humanity, Inc.
Seth Chates, Architect

Bruce Langmuir & George McQueen, Landscape Committee

Notice was published in the Sudbury Town Crier on May 29 and June 5, 2008, posted, mailed and read at this hearing. Ms. Taylor explained that this application has been submitted under M.G.L., Chapter 40B, Section 20-23, as a Comprehensive Permit application.

Ms. Taylor disclosed that she has supported Habitat for Humanity through donations over the years and that she attended an informational session for this project. She did not believe that this would impact her ability to be impartial on this application.

Mr. Klofft also disclosed that he had worked on a Habitat project in Acton and that his wife is a member of the committee for this project working on publicity. He, too, said he did not believe this would impact his ability to be impartial.

Both asked whether there were any comments or concerns from the audience on this matter. There were none.

Ms. Taylor noted the Board was in receipt of the following:

- Application for construction of two townhouse style condominium units, shown on Assessors Map G05 as Parcel 6, Dutton Road/Pratts Mill Road, Residential Zone A-1, together with supporting documentation
- Memo Town Engineer dated May 28, 2008
- Letter from Town Manager dated June 16, 2008
- Email from Board of Health Director dated June 16, 2008 noting approved septic design for project
- Memo from Planning Director dated June 2, 2008
- Letter from Planning Board dated June 13, 2008
- Email from Chairman, Design Review Board dated June 12, 2008 recommending approval
- Email from Conservation Commission dated June 13, 2008 indicating no wetland issues
- Letter dated June 16, 2008 from Community Outreach Committee

Attorney Joshua Fox said this is a Comprehensive Permit application under Local Initiative Program and is supported by the Selectmen. The proposed project is located at the southeast corner of Dutton Road and Pratts Mill Road. Lot size is approximately 4/10s of an acre (18,000 s.f.) which is in keeping with many of the lots up and down Pratts Mill Road. It is proposed to construct two attached townhouse style structures. One will have 1,248 s.f. of area with 3 bedrooms, the other is a 2 bedroom unit containing 1,040 ± s.f. total area.

Mr. Fox said Habitat's mission is to create homes and provide ownership opportunities for those who need it most and who might not otherwise have an opportunity to own a home. It is a non-profit organization that survives because of volunteer work and donations. They assist buyers with interest-free loans and establish the purchase price for each of the units based on the qualified buyers' incomes. In keeping with that Mr. Fox would ask that the ZBA waive any fees within its jurisdiction to waive. He said the Selectmen have already waived fees within their jurisdiction.

Total finished area of the structure is 2,325 s.f., which is significantly smaller than many of the new homes and many of the older homes in town. It will be in keeping with the neighborhood. In addition, the footprint itself is 1,240 s.f., which is also significantly smaller than most of the new tear downs. The height is 28 feet measured from grade which is well below the maximum of 35 feet and is in keeping with the new 40B Guidelines that this Board has enacted.

Each unit will have its own driveway. One will have access to Dutton Road – the other to Pratts Mill Road. The house is designed to present the look and feel of a single-family home from any given angle. The front façade looks like a single entrance colonial with an inside vestibule which splits in two for access to the units. There are no garages - the driveways have a walkway which leads to either side entrance. The rear looks like the back of a modest single-family colonial home. Mr. Fox said the design was reviewed with the DRB and they were supportive.

Landscaping will be coordinated and provide for screening to the direct abutters. There is a southern abutter and an eastern abutter. To the south, along the lot line and 15-20 feet off the lot line on this property are some nice groves of hemlocks, maples and oaks. The intent is to preserve those as it is good natural screening. That would be to the south of the proposed driveway. To the east there are some mature trees but the foliage appears relatively high and doesn't provide any real screening for the easterly abutter. Doug Havens has met and discussed this application with the direct abutter, Ms. Tasker, and Habitat has agreed to put a 6-foot stockade fence along the lot line and, if Ms. Tasker wishes, Habitat would plant some green fencing – evergreens, arborvitae, hemlock, or something to that effect on her side of the fence to provide natural screening from the fence. Mr. Fox said he will continue discussions with the Taskers and try to work with them.

In keeping with the look and feel of a single-family home, Mr. Fox said the applicant is agreeable to limiting other structures on the site to one exterior reasonable and customary shed to house a lawn mower and other necessary landscaping supplies. He felt one shed will be able to serve both units since landscaping would be a communal endeavor.

Mr. Fox said the applicant was requesting 4 waivers: (1) waiver of front yard setback from 40 feet to 36.8 feet; (2) waiver of frontage from 180 feet to 165 feet; (3) waiver of lot area from 40,000 s.f. to 18,000 s.f.; (4) waiver to allow for a 2-family dwelling.

In general, Habitat exercises good faith efforts to incorporate green initiatives. Mr. Fox said a list of some of those initiatives was submitted with the application. While the applicant couldn't guarantee that all could be incorporated into this particular project given the budget and availability of materials, there will be a good faith effort to incorporate most of them.

Habitat's construction schedule generally occurs twice a week – Wednesdays and Saturdays. Wednesday would be skilled labor only and Saturdays would be volunteers with oversight and supervision by licensed contractors. Hours are approximately 8AM-5PM on weekdays for the most part, and the weekends for the volunteer work would be 8AM-4PM. There might be an

occasional Sunday – maybe one or two throughout the entire project to accommodate people of other faiths who may not necessarily be able to work on a Saturday.

Mr. Gossels expressed concern with regard to the size of the shed given the small lot. Mr. Havens said he would be agreeable to a condition limiting the size of the shed.

Bruce Langmuir & George McQueen, Landscape Committee, presented the landscaping from the preliminary plan which was submitted with the application. Mr. Langmuir noted that because of the traffic at the corner of Dutton and Pratts Mill Roads, all the plantings in that corner area will be low - spreading yews, etc. He pointed out the lawn/mulch area and grassed playground area at the rear of the house as well as the stockade fence along the easterly boundary. The pathway from the front door to the parking lot on both sides was also described.

Mr. Langmuir noted that all plantings proposed are indigenous to New England - non-invasive, and will take low watering. There is also the potential of putting rain barrels at the northwest corner and southwest corner for watering the garden to reduce water consumption. The final landscape plan cannot be done until some of the trees are down and there is an idea of how much sunlight is coming in and where. There are a lot of oak trees on the northwest corner that are worth saving.

Mr. McQueen added that the attempt is to retain as much of the natural beauty that is already there and not damaged – ones that require minimum care on the part of the occupants.

Mr. Fox said there could be a potential modification of possibly putting in a walkway out the front main door to Dutton Road because there may be a sidewalk there in the future.

At Ms. Taylor's request, Ms. Kablack summarized her memo of June 2, 2008 acknowledging receipt of the application package which appears to be complete pursuant to the ZBA Rules & Regulations for Comprehensive Permits. The application contains the location of the property, description of the project and list of waivers. The plan indicates that the septic system complies with Title V and the local regulations.

Ms. Kablack noted that the applicant has requested a waiver of review fees for this proposal. Since Habitat for Humanity is a non-profit organization, it falls within the criteria for granting of such waiver. She said a waiver has been granted by the Sudbury Water District and the Board of Health is considering a waiver of fees as well. The Selectmen, in a letter dated June 16, 2008, voted to approve a waiver of building, plumbing and electrical fees. A vote of the ZBA would be required to waive their fees which consist of an application fee and an application escrow fee.

Mr. Klofft requested that documentation indicating Habitat's non-profit status be provided for the record.

As noted in her memo, Ms. Kablack said the final landscape plan should reflect the walkway out to the street, proposed fencing, walkways between the driveways and the units, outdoor lighting, proposed plantings, including size, type and locations. If the homes will be hooked up to the natural gas lines in the street, the plan should indicate this.

There was a question of whether a trailer will be needed during construction. Also, hours of construction should be stated in the permit. No stormwater runoff has been proposed – a drip trench or gutters may be required. Underground electrical are standard.

Ms. Kablack felt a shed within the bylaw limits should be allowed. Mr. Gossels voiced concern with regard to the two parking areas noting there is a lot going on the lot. He would agree to a standard sized shed.

Ms. Kablack felt decks should be prohibited unless the owner seeks a modification to the permit.

Lastly, the Board should consider screening a buffer to the properties to the south. There are a number of nice trees there and there should be a restriction on the plan to insure that those trees there will remain. While the eastern lot line will have a fence, there should be a 15X20 foot buffer along the south lot line.

Robert Smith, 12 Magnolia Road, abutter, said when he came to Sudbury in 1954, lot size was 20,000 s.f. The developer could not develop this lot because it was undersized. He said several times over the years builders have tried to obtain a variance to build and were unable to do so, again because of the size of the lot. He applauded what Habitat is trying to do but said this is not the place to build on. He said Dutton Road is a high-speed road and this is one of the most dangerous intersections in town. There are no sidewalks and he felt there never will be one there.

Robert Lee, 481 Dutton Road, resident, voiced concern with regard to the landscaping noting that it is difficult to make a left turn from Pratts Mill Road to Dutton Road because of the existing shrubbery. In addition, in the winter, the snow is piled up on that corner and it is difficult to see around it.

Mr. Fox said several species that are 4-5 feet tall along that corner will be removed and the sight lines will be improved.

Ms. Kablack said the issue of snow did come up and it would not be piled there if it were not a vacant lot. It would have to be moved to another location.

Robert Rosen, 486 Dutton Road, direct abutter, said he also appreciated what Habitat is trying to do, but there is a lot of activity going on in a small space. He said this lot is smaller than his lot, but the house is bigger than his house, resulting in a smaller piece of property and a larger structure with more going on in the same space to satisfy the requirements of the state. He felt this was the wrong location.

Ms. Taylor said because of the process by which Habitat is coming to the town for this permit, this Board is limited in the grounds by which it can deny this application. Mr. Klofft added that the state is looking to encourage affordable developments within communities which would typically not welcome affordable developments. In doing so, it created a set of regulations

and an advantage to developers looking to put in an affordable development. As a result, towns have less control unless they can show that they have met certain criteria in terms of the amount of affordable housing stock within the town, or that they have built more of a certain percentage over some window of time. Otherwise, a developer can apply to develop under Chapter 40B which means the town's zoning laws don't entirely apply.

Mr. Klofft then listed the 40B applications town for which permits have recently been granted and the number of units for each. He said compared to those, this application is very modest in size.

Mr. Rosen reiterated that this is a small piece of property with a lot going on. It will be very close to his property.

Ms. Taylor said the house will comply with the side yard setbacks. Mr. Fox said the plans indicate the house will be 82 feet off the lot line on each side. Mr. Rosen was not convinced of the feasibility to develop this property given its size.

Mr. Fox said it was his understanding that notices were sent out in advance of this application to everyone in the neighborhood – perhaps everyone didn't receive them. However, he would be agreeable to holding a forum and meeting with some of the neighbors to try and address issues that can conceivably be addressed.

Ms. Taylor felt this was a good idea, adding that despite the fact that the ZBA's hands are tied somewhat by the state regulations, it doesn't mean that Habitat does not want to be a good neighbor and try to do the right thing in terms of screening and ensuring that the existing vegetation remains unaltered. She felt those issues are best resolved person to person rather than in this forum.

Mr. Langmuir said he would be willing to meet with the neighbors.

Mr. Klofft added that to the extent possible the ZBA can condition the permit to address some of those issues.

Joyce Clark, 17 Spring Street, resident, also voiced concern about the snow which she said doesn't melt until May and the issue of the safety at that intersection which is very busy and where cars travel fast. Also, with 4 cars being parked on the property and having to back up onto Dutton Road or Pratts Mill Road, this creates a safety issue.

Ms. Taylor noted that the plan allows enough space for a car to turn around so it won't have to back up to exit either of the driveways.

Mara Huston, 578 Huston Road, resident and member of the Outreach Committee for the Habitat project submitted and read a letter dated June 16, 2008 signed by 9 individuals of Sudbury organizations in support of this project.

Carolyn Hannauer, 48 Old Lancaster Road, member Earth Decade Committee, noted that committee supports this effort and encourages the ZBA and abutters to support it as well.

David Possi, 480 Dutton Road, abutter, said he moved to Sudbury 5 ½ years ago from the city because of the woods. He was disappointed to learn of the plans to take this small lot and develop it. He said there is a lot of traffic at this corner and he has asked the DPW not to pile the snow in the wintertime, but they still do. He said he has a lot of respect for Habitat for Humanity, but to build on this corner was inappropriate.

Mr. Klofft said most of the tear downs which come before this Board would be a minimum of 3,200 s.f. for a single-family house. Although he shares concerns for the number of different things going on this lot with regard to driveways and sheds, in terms of the size of the house and the lot, looking at any of the redevelopment projects that have come before this Board, most of them on this size lot have been significantly larger. He said the Board has on debated whether this is good or bad, and in each case has tried to balance needs of the neighbors with the development rights of the people who own the lot. In this case, the Board is encouraging the neighbors to work with Habitat so that the particular issues involving screening will make it more livable place.

Mr. Possi commented that across the street from him a large house was constructed with one driveway. This house on a small lot will have 2 driveways.

Mr. Gossels said regardless of the fact that there are trees on the lot and that this is an undersized lot, this application came to the ZBA under Chapter 40B which limits what this Board can do. With regard to the design, he felt this to be a clever design which puts one driveway on each street and lessens the impact of trips onto each street.

Ann Kirk, 520 Dutton Road, resident, felt this was something that the town can do which is worthwhile and should be supported. It appeared to her that the ways in which the laws are written do not provide a lot of choice; however, she said there is the ability of choice in attitude. She felt once this house is built, no one will even notice it.

Karl Borg, 14 Village Road, resident, said he has been at various meeting over the past 50 years where someone has tried to build a house on this lot, and each time it was determined to be too small. He felt it is wrong to build on it now.

There appeared to be no new input from the audience at this time. The Board reviewed some of the issues raised earlier by Ms. Kablack.

Waiver of fees - A motion was made, seconded and unanimously voted to waive the ZBA's application fee and application escrow fee.

Landscape plan – possible wording to effect that at applicant's discretion a front walkway can be added from the house to Dutton Road if a sidewalk is constructed along Dutton Road. Landscaping requirements shall be conditioned in the Permit and will include 15-foot buffer along south side, fencing along eastern property line.

Lighting – typical residential lighting, wall mounted, on the front door and the side.

Trailer – Habitat generally has a lock box on the site until construction is complete.

Construction period – Estimate at least one year – would prefer longer period in event of delay.

Hours of construction – 8AM-5PM weekdays (generally Wednesday) 8AM-4PM on weekends (generally Saturday with approximately 2 Sundays over the year)

Temporary construction sign – in accordance with the bylaw.

Stormwater runoff – either drip edge perimeter or gutters.

Electrical service – will take it underground from the closest pole.

Shed - one shed no larger than 120 s.f feet.

Density and cars – no agreement on number at this time

Decks – prohibited without first having to come back to the Board for a modification to the permit.

Historic marker on corner – will be retained.

Selection process – will be part of decision. Sudbury Housing Trust works with Habitat for Humanity which has incorporated a lottery model into their family selection process. One unit will be local preference for Sudbury residents.

Ms. Kablack will prepare a draft decision for review at the next meeting.

The hearing was continued to July 14th.

Elizabeth A. Taylor, Acting Chairman

Nancy G. Rubenstein, Acting Clerk

Jeffrey P. Klofft

Jonathan G. Gossels

Stephen A. Garanin