

CASE 13-30  
Gail McNeill  
21 Union Avenue

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
Monday, October 21, 2013

The Board consisted of:

Benjamin D. Stevenson, Chair; Jonathan G. Gossels, Acting Clerk; Jeffrey P. Klofft; and Elizabeth T. Quirk

Notice was published in the *Sudbury Town Crier* on October 3 and October 10, 2013, posted, mailed and read at this hearing.

Prior to opening the hearing Jeff Klofft disclosed that he has in the past used the services at McNeill Veterinary Clinic and Kennel.

ZBA Chairman Benjamin Stevenson, 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.

Dr. Gail McNeill, applicant, was present to request a modification to special permit #12-15 for her veterinary clinic and kennel. Specifically Dr. McNeill was requesting that the condition related to restricted hours during which animals are allowed outdoors and the condition requiring windows to be closed year-round for noise reduction be eliminated from the special permit. Dr. McNeill said that in her opinion the conditions as written do not take the animals' health into consideration. Dr. McNeill had most recently been granted a renewal for that special permit on June 2, 2012. The original special permit for the Veterinary Clinic was issued on August 14, 1984 and renewals have been issued since.

Mr. Stevenson noted that the Board was in receipt of a memo dated July 9, 2013 from Animal Control Inspector Jennifer Condon, describing the investigation of a complaint about temperature conditions at the facility. The Board was also in receipt of a follow-up Kennel Inspection Report dated August 7, 2013 stating that conditions were acceptable and problems had been remedied. He asked Dr. McNeill whether the issues that occurred over the summer led to the request for modification.

Dr. McNeill said that she had been fine with the conditions as imposed since 1984 until this recent complaint brought issues with the conditions to light. She said that the facility's use is permitted in the zoning district where it is located but she said that the conditions were put in place so as not to disturb nearby businesses that she did not think are still in existence. In regard to the complaint from the summer, she explained that a patron had contacted Animal Control during the heat wave because that patron felt the facility was too hot and she thought some parakeets were in trouble. Dr. McNeill said that during hot days she keeps the windows open for air flow and runs the animals when they need to go out. She said that while the Animal Control Inspector was at her facility she had to let some animals out at a time that was not listed within the hours on the permit and that is what the Animal Control Inspector noted in her report.

Mr. Klofft said that the special permit specifically states that air conditioning must be used and the dogs can only be run during certain hours.

Ms. Quirk noted that the applicant agreed to the conditions just a year ago and she did not rectify problems with them at that time. Ms. McNeill said that she feels the conditions are nonsensical being thirty years old, so she is now coming to ask for the changes. She said that she needs to let the dogs out when they have to go out.

Mr. Stevenson said that it appeared that the conditions were imposed to address noise. He did not get the sense from the Animal Control Officer's report that there was a noise issue at the facility. As such he said that he would have no problem taking out the conditions as they relate to noise, but safety is a concern. He said that the Animal Control Office wanted air conditioning used when it was hot.

Ms. Quirk asked how many animals the kennel kept at a time. Ms. McNeill said that it varied, but it could be between 35 to 40 animals.

The Board discussed the fact that condition number three of the special permit references a Site Plan dated March 5, 1984. The Board felt that it would be beneficial to review the terms of the site plan before agreeing to eliminate conditions one and two. Therefore the Board made a motion to allow Dr. McNeill to have a 90-day special permit for the kennel and veterinary clinic while they reviewed the original 1984 site plan from the Board of Selectmen. The hearing on the modification to the special permit was continued to an upcoming meeting. All were in favor, including Dr. McNeill.

No one from the public wished to speak about the proposed modification.

The hearing was therefore continued until Monday, November 4, 2013 at 7:30 p.m. in the Lower Town Hall.

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Benjamin D. Stevenson, Chair

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Jeffrey P. Klofft

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Jonathan G. Gossels, Acting Clerk

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Elizabeth T. Quirk

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CASE 13-31  
Scott Goldman  
6 Checkerberry Circle

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
Monday, October 21, 2013

The Board consisted of:  
Benjamin D. Stevenson, Chair; Jonathan G. Gossels, Acting Clerk; Jeffrey P. Klofft; and Elizabeth T. Quirk

Notice was published in the *Sudbury Town Crier* on October 3 and October 10, 2013, posted, mailed and read at this hearing.

ZBA Chairman Benjamin Stevenson, 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.

Scott Goldman, applicant, was present to request a special permit to raise up to eight hens at his property located at 6 Checkerberry Circle. Mr. Goldman was not requesting a rooster. He explained that the coop itself would measure up to four by eight feet. Additionally, Mr. Goldman said that the family wanted to raise chickens for educational purposes and they were not particularly interested in egg production or any commercial ventures. He also did not intend to heat the coop, however the Board did discuss that a low-watt light source would be allowed if desired.

The Board discussed conditions that have been imposed on special permits for chicken coops in the past and Mr. Goldman was amenable to each.

Mr. Stevenson explained to Mr. Goldman that special permits for chickens are typically given a one-year term initially so that the applicant can reconvene with the Board to request a renewal in a year's time. Anyone wishing to comment or express concerns about the chickens can do so then.

There were no further comments from the Board or audience. The hearing was closed.

The following motion was made and seconded:

MOTION: "To grant Scott and Lisa Goldman, applicants and property owners, a Special Permit granted under the provisions of Section 2313 of the Zoning Bylaws, to raise up to eight (8) hens on the premises, property located at 6 Checkerberry Circle, Residential Zone A-1, subject to the following:

1. The chickens shall not become a nuisance.
2. The maximum number of chickens allowed on the property is eight (8). No roosters shall be kept on the premises.
3. The chicken coop and pen area may be no greater than 4'x8' in size.

4. One low-watt light no greater than 75 watts will be allowed inside the chicken coop. The light may be turned on 24-hours per day.
5. Composting of waste litter shall be allowed on-site, provided that odor does not become a nuisance.
6. No commercial activity consisting of the sale of eggs, chickens, or chicken products will be allowed on the property.
7. This permit is non-transferable and will expire in one (1) year on October 21, 2014, and the Board will consider renewal upon receipt of proper application on or before that date.”

VOTED: In favor: 4    Opposed: 0

REASONS: The petitioners seek a special permit to raise chickens on the premises. The use is allowed in all districts by Special Permit from the Board of Appeals. The Board finds the use to be in harmony with the general purpose and intent of the Bylaw. The coop is situated in an appropriate location, is not detrimental to the neighborhood, and its presence does not significantly alter the character of the zoning district. Adequate and appropriate facilities will be provided for proper maintenance. The permit will expire in one year at which point the applicant may seek renewal and the Board can then assess whether the coop has impact on the neighborhood.

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Benjamin D. Stevenson, Chair

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Jeffrey P. Klofft

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Jonathan G. Gossels, Acting Clerk

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Elizabeth T. Quirk

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CASE 13-32  
Amy Noyes and Carl LeGuia  
72 Plympton Road

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
Monday, October 21, 2013

The Board consisted of:

Benjamin D. Stevenson, Chair; Jonathan G. Gossels, Acting Clerk; Jeffrey P. Klofft; and Elizabeth T. Quirk.

Notice was published in the *Sudbury Town Crier* on October 3 and October 10, 2013, posted, mailed and read at this hearing.

ZBA Chairman Benjamin Stevenson, 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.

Applicants Amy Noyes and Carl LeGuia were present to request a special permit for a special permit for an 802 square foot accessory dwelling unit at their property at 72 Plympton Road. Ms. Noyes explained that they intended to have her parents move into the accessory dwelling unit to be closer to her and for help with raising their young daughter. An addition does not need to be built onto the house because there is enough room to include the unit within the existing footprint. Two rooms and a bathroom already exist. Mr. LeGuia said that some minor alterations need to be made only on the interior of the house.

Mr. Gossels said that the application supported the intent of the bylaw. Mr. Klofft said that the accessory dwelling fit within the parameters of the size allowed. There was agreement from the rest of the Board.

Mr. Stevenson listed the standard conditions that have been imposed for accessory dwellings in the past and the applicants were amenable to each.

There were no further comments from the Board or audience. The hearing was closed.

The following motion was made and seconded:

MOTION: "To grant Amy Noyes and Carl LeGuia, applicants and property owners, a Special Permit under the provisions of Section 5500 of the Zoning Bylaws in conformance with the application for the Special Permit dated September 25, 2013 and the plans submitted by the Applicants, to allow a 802 square foot Accessory Dwelling Unit for property located at 72 Plympton Road, Residential Zone A-1, as follows:

1. The Accessory Dwelling Unit shall be occupied by no more than four persons.
2. Adequate provision shall be made for the disposal of sewage, waste and drainage generated by the occupancy of the Accessory Dwelling Unit in accordance with all requirements of the Board of Health.
3. There shall be at least two off-street parking spaces for the principal dwelling unit and at least one off-street parking space for the Accessory Dwelling Unit.

4. The property owner shall file a sworn affidavit with the Town Clerk, with a copy to the Board of Appeals, certifying such occupancy is consistent with the Special Permit, every four (4) years.
5. This permit shall be recorded at the Middlesex South District Registry of Deeds prior to issuance of a building permit for the accessory dwelling unit.
6. This permit will automatically terminate upon the sale, transfer, or other change in ownership of the principal dwelling unit.
7. This Special Permit shall lapse if construction has not begun, except for good cause, within twelve (12) months following the filing of the Special Permit approval, plus such time required to pursue or await the determination of an appeal under M.G.L., Chapter 40A, Section 17.
8. Construction must be completed no later than one year after commencement.”

VOTED: In favor: 4    Opposed: 0

REASONS: The petitioner requires a Special Permit to allow a single-family accessory dwelling unit. The Board finds that the petitioner has fulfilled the requirements of the Bylaw for the granting of a Special Permit.

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Benjamin D. Stevenson, Chair

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Jeffrey P. Klofft

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Jonathan G. Gossels, Acting Clerk

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Elizabeth T. Quirk

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