

SUDBURY ZONING BOARD OF APPEALS
MINUTES
SEPTEMBER 14, 2015

The Board consisted of:

Jonathan F.X. O'Brien, Chair; Jonathan G. Gossels; Nicholas B. Palmer, Clerk; Benjamin Stevenson and John Riordan (Alternate) and William Ray (Alternate).

The meeting was open at 7:34 p.m.

Mr. Palmer read the hearing notice published on the Sudbury Town Crier.

1. CONTINUATION: Public Hearing, Case 15-25 –Sudbury American Legion Post 191, Inc., applicant and owner of property, for renewal of Use Variance 12-21, granted under the provisions of Section 2230 of the Zoning Bylaws, to use the building and property as a private clubhouse and meeting hall, property shown on Town Assessor Map K05-0020, 676 BOSTON POST ROAD, Residential Zone A-1.

Jim Wiegel was present for the Applicant explained to the Board that the American Legion Post 191 sent letters to neighbors on August 14, 2015. The chair asked if the Legion had received any complaints from neighbors. Mr. Wiegel replied that since he is the Finance Director of the Legion has not received any complaints, he also stated that he is one the abutters of the property. The bartenders are TIPS trained and the alcohol bottles have automatic pours to prevent over-serving

Mr. Palmer stated that he had contacted the police department and was informed that for the past two years they have not received any complaints about this establishment.

No neighbors were present to comment on this application.

The Board reviewed the Special Permit criteria from section 6220 of the Zoning Bylaw, and the Use Variance criteria from Section 6140 of the Zoning Bylaw, and the Variance criteria from Section 6130 of the Zoning Bylaw, and finds that:

- The use is in harmony with the general purpose and intent of the bylaw.
- The use is in an appropriate location and is not detrimental to the neighborhood and does not significantly alter the character of the zoning district.
- Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- The proposed use will not be detrimental or offensive to the adjoining zoning districts and neighboring properties due to the effects of lighting, odors, smoke, noise, sewage, refuse materials or other visual nuisances.
- The proposed use will not cause undue traffic congestion in the immediate area.

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- There will be no substantial detriment to the public good if the Use Variance is granted.
- The Use Variance is granted to the minimum extent necessary to provide relief from the Bylaw.
- The operation of the facility has been restricted by restrictions imposed by the Board.

A Motion was made, seconded and voted to approve Petition 15-25 for a renewal of 3 years. Renewal will expire on September 22, 2018.

Members of the Board Benjamin Stevenson and Jonathan Gossels left the meeting, and Associate Members John Riordan and William Ray joined the Board.

2. Public Hearing, Case 15-29 – Todd and Andrea Jewett, applicants, for a Variance under the provisions of Section 2600 of the Zoning Bylaw, to reduce the lot area and frontage of the property below the minimum requirements for the zoning district, property shown on Town Assessor Map H09-0049, 308 Concord Road, Residential Zone A-1.

Mr. Jewett, owner and Jody Kablack, Director of Planning and Community Development were present at the hearing.

Ms. Kablack explained to the Board that this is a non-conforming lot. The intersection project is widening the road in front of the Jewett's house slightly, therefore the plans required the walkway to move towards the house.

Mr. Jewett's preference is to deed the lot portion to the town, which reduces the lot area and frontage.

No neighbors were present to comment on this application.

The Board reviewed the Variance criteria from section 6130 of the Zoning Bylaw, and finds that:

- The special conditions related to the lot, and not generally to the zoning district in which it is located, is the shape and size of the lot, and the width of the Town right of way in relation to the lot. Generally, walkways are constructed within the Town right of way, which in many areas in Sudbury is adequate for both the road and the walkway. Concord Road is an older, narrow road which in some areas cannot accommodate both the road and the walkway. Along Concord Road to the south of the property, the exiting walkway is within easements on some properties, but not on others. On Hudson Road to the north, the walkway is almost entirely within the town's right of way and not on private property.
- There will be no detriment to the public good, and no derogation from the intent of the Zoning Bylaw with the approval of the variances requested. The property is currently developed, and has no subdivision potential. It will remain a single family residence. A reduction in the lot frontage will have no impact as the new lot line abuts Concord Road and is still usable and passable. The public good will be increase with the granting of the variances so that the walkway can be legally constructed and used by the public.

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- The hardship resulting from denial of the requested variance will be the inability of the Town to complete its plans for a contiguous walkway along Concord Road. This walkway is a critical link to the Peter Noyes School and Heritage Park, and is widely used by the public.

A Motion was made, seconded and voted to approve Petition 15-29.

3. Public Hearing, Case 15-26 – Joakim Monstad, applicant, for a renewal of a Special Permit 14-20, under the provisions of Section 2313 of the Zoning Bylaws, to raise up to 8 hens, property shown on Town Assessor Map G04-0501, 563 Hudson Road, Residential Zone A-1.

Mr. Monstad, the applicant was present at the hearing. For a renewal of a Special Permit, applicant stated that the same chicken coop structure will be used and he is asking for the number of hens to increase to 8. Mr. Monstad shared that the smell is not a problem because he is using saw dust.

No neighbors were present to comment on this application.

The Board reviewed the Special Permit criteria from section 2313 of the Zoning Bylaw, and finds that:

- The use is in harmony with the general purpose and intent of the bylaw.
- The use is in an appropriate location and is not detrimental to the neighborhood and does not significantly alter the character of the zoning district.
- Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- The proposed use will not be detrimental or offensive to the adjoining zoning districts and neighboring properties due to the effects of lighting, odors, smoke, noise, sewage, refuse materials or other visual nuisances.
- The proposed use will not cause undue traffic congestion in the immediate area.

A Motion was made, seconded and voted to approve case 15-26 for three years and increasing the number to 8 chickens.

4. Public Hearing, Case 15-30 – Anne Stone, Sharon Sutherland and Jamie Denn applicants, for Renewal of Special Permit Case 12-35 under the provisions of Section 2313 of the Zoning Bylaw, to continue to operate a kennel on the premises, property shown on Town Assessor Map K06-0602, 554 Boston Post Road, Residential Zone A-1.

Jamie Denn and Sharon Sutherland were present at the hearing, requesting a renewal of Case 12-35. No changes to present use and capacity of kennel were requested.

No neighbors were present to comment on this application.

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The Board reviewed the Special Permit criteria from section 2313 of the Zoning Bylaw, and the conditions of the previous Special Permit and finds that:

- The use is in harmony with the general purpose and intent of the Bylaw.
- The use is in an appropriate location and is not detrimental to the neighborhood and does not significantly alter the character of the zoning district.
- Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- The proposed use will not be detrimental or offensive to the adjoining zoning districts and neighboring properties due to the effects of lighting, odors, smoke, noise, sewage, refuse materials or other visual nuisances.
- The proposed use will not cause undue traffic congestion in the immediate area.

A Motion was made, seconded and voted to approve Petition 15-30 for five years.

5. Public Hearing, Case 15-27 – Min Li, applicant, for a Special Permit under the provisions of Section 2420 of the Zoning Bylaw, to construct an attached 2 stall garage measuring 24' x 24' on a nonconforming lot resulting in a front yard setback deficiency of approximately 3'4'', property shown on Town Assessor Map M10-0230, 4 Brooks Road, Residential Zone A.

Lucy Zhang and Min Li were present; Miss Zhang explained to the Board the intention to build a 2 stall garage at their property located on 4 Brooks Road.

No neighbors were present to comment on this application.

The Board reviewed the Special Permit criteria from section 2420 of the Zoning Bylaw, and finds that:

- The use is in harmony with the general purpose and intent of the bylaw.
- The use is in an appropriate location and is not detrimental to the neighborhood and does not significantly alter the character of the zoning district.
- Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- The proposed use will not be detrimental or offensive to the adjoining zoning districts and neighboring properties due to the effects of lighting, odors, smoke, noise, sewage, refuse materials or other visual nuisances.

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- The proposed use will not cause undue traffic congestion in the immediate area.

A Motion was made, seconded and voted to approve Petition 15-27.

6. Public Hearing, Case 15-28 – Rosalind Morville, applicant and owner, for a Special Permit under the provisions of Section 2460B of the Zoning Bylaw, to demolish and reconstruct a 2 stall garage measuring approximately 576 square feet on a nonconforming lot that would exceed the total area of the original structure and result in a side yard deficiency of 13'6'', property shown on Town Assessor Map F04-0619, 43 Pinewood Avenue, Residential Zone A-1.

Ms. Rosalind Morville and her little son were present at the meeting. The applicant shared with the Board that she has submitted this application because there was a measuring error done by the contractor Gerry Maki who measured from the fence and not from the property line. The foundation has been laid approximately 30 inches closer to the property line. Mark Herweck, Building Inspector issued a letter to the applicant noting the error after reviewing the foundation as-built plan. The applicant stated that she has checked with her next door neighbor and they have no issues with this application.

No neighbors were present to comment on this application.

The Board reviewed the Special Permit criteria from section 2460B of the Zoning Bylaw, and finds that:

- The use is in harmony with the general purpose and intent of the bylaw.
- The use is in an appropriate location and is not detrimental to the neighborhood and does not significantly alter the character of the zoning district.
- Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- The proposed use will not be detrimental or offensive to the adjoining zoning districts and neighboring properties due to the effects of lighting, odors, smoke, noise, sewage, refuse materials or other visual nuisances.
- The proposed use will not cause undue traffic congestion in the immediate area.

A Motion was made, seconded and voted to approve Petition 15-28.

7. Public Hearing, Case 15-31 – Peter Kendall, applicant and owner, for a Special Permit under the provisions of Section 2420 of the Zoning Bylaw, to expand a porch on a nonconforming lot resulting in a front yard setback deficiency of approximately 6', property shown on Town Assessor Map H06-0310, 112 Pratts Mill Road, Residential Zone A-1.

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Peter Kendall, applicant was present at the hearing; he explained that his property has a porch and he is looking to expand the structure to make the transition of walking outside a little bit easier and safely. They would like to fix the porch, the porch is on the side of the house, and measures about 12 feet long it is almost a breeze way.

No neighbors were present to comment on this application.

The Board reviewed the Special Permit criteria from section 2420 of the Zoning Bylaw, and finds that:

- The use is in harmony with the general purpose and intent of the bylaw.
- The use is in an appropriate location and is not detrimental to the neighborhood and does not significantly alter the character of the zoning district.
- Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- The proposed use will not be detrimental or offensive to the adjoining zoning districts and neighboring properties due to the effects of lighting, odors, smoke, noise, sewage, refuse materials or other visual nuisances.
- The proposed use will not cause undue traffic congestion in the immediate area.

A Motion was made, seconded and voted to approve Petition 15-31.

8. Public Hearing, Case 15-32 – Eric Becker, applicant, for a Special Permit under the provisions of Section 2420 of the Zoning Bylaw, to construct a shed measuring 12' x 18' on a nonconforming lot resulting in a front yard setback deficiency of approximately 11' and a side yard setback deficiency of approximately 11', property shown on Town Assessor Map B07-0137, 6 Maybury Road, Residential Zone A.

Mr. Eric Becker present for the application, and explained to the Board that this structure will not be used as a garage, it will be used for storage. The shed will be painted the same color of the house, same type of roof currently used on the main house will be used on the shed . Mr. Becker is a landscape architect and will screen properly with vegetation on the side of the house. There is a 7 foot fence that Mr. Becker installed soon after he purchased this property because the house next door was condemned and did not look presentable.

No neighbors were present to comment on this application.

The Board reviewed the Special Permit criteria from section 2420 of the Zoning Bylaw, and finds that:

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- The use is in harmony with the general purpose and intent of the bylaw. The property is developed as a single family residential lot which will not change with this proposal. The shed is for residential storage of recreation equipment and gardening tools. Zoning in this district is Residential A.

- The use is in an appropriate location and is not detrimental to the neighborhood and does not significantly alter the character of the zoning district. The shed is well screened from neighboring properties with existing vegetation.

- The proposed use will not be detrimental or offensive to the adjoining zoning districts and neighboring properties due to the effects of lighting, odors, smoke, noise, sewage, refuse materials or other visual nuisances. The proposal will have minimal impacts.

- The proposed use will not cause undue traffic congestion in the immediate area.

A Motion was made, seconded and voted to approve Petition 15-32.

9. Approval of Meeting – Minutes August 3, 2015.

A motion to approve August 3, 2015 Minutes made and seconded.

There being no further business, the meeting was adjourned at 8:25 p.m.

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