

SUDBURY ZONING BOARD OF APPEALS
DRAFT MINUTES
APRIL 4, 2016

The Board consisted of:

Jonathan F.X. O'Brien, Chair; Jonathan G. Gossels; Jeffrey P. Klofft; Nicholas B. Palmer, Clerk; Jonathan W. Patch; Nancy Rubenstein and Benjamin Stevenson (Alternate).

Also present at the meeting on behalf of the Town were: Mark Herweck, Building Inspector and Zoning Enforcement Agent, Jody Kablack, Planning & Community Development Director.

The meeting was opened at 7:30 p.m.

Mr. O'Brien opened the hearing by asking the Clerk to read the notice as published in the newspaper.

Mr. O'Brien noted that Cases 15-39, 15-40 and 15-41 National Development, Grocery signs will not be discussed tonight at the request of the applicant, and a motion was made and seconded to continue Cases 15-39, 15-40 and 15-41 until May 9, at 7:30 pm.

1. At 5pm – Raytheon site walk was cancelled due to snow.
2. Public Hearing Case 16-9 – Christina Gill, Applicant and 429 Dutton Road LLC., Owner for a Special Permit under the provisions of Section 2460B of the Zoning Bylaws, to construct a dwelling of approximately 3,773 s.f. after demolition, which will exceed the total floor area of the original structure, property shown on Town Map H05-0257, 429 Dutton Road, Residential Zone A-1.

Ms. Gill and Thomas Rovero, AIA were present at the hearing. Mr. Rovero stated that the Applicant shared with him feedback from the Board at the last hearing. He worked on the design and reduced the massing by about 14.5%, reduced the height from 34 feet down to 31 feet, recessed the basement level into the grade, added a stone wall, and incorporated a farmer's porch in the front.

Mr. Patch agreed that the new plan presented was improved since the previous hearing.

The Chairman asked if any neighbors were present for this application.

Matthew Wallis of 417 Dutton Road expressed concern about the construction of this home and he asked for the location of the septic tank. Ms. Gill replied that the septic tank will be located behind the home.

There were no further comments. A motion was made, seconded and voted to approve Petition 16-9 with the standard Special Permit conditions.

3. Public Hearing, Case 16-7 – Margaret Espinola, Applicant and Owner, for a Special Permit Renewal under the provisions of Section 2340 of the Zoning Bylaw, to conduct a Home Business, specifically for private psychotherapy, property shown on Town Map J09-0039, 224 Goodmans Hill Road, Residential Zone C-1.

Ms. Espinola was present at the Hearing. She stated that she is not taking on new clients and she is reducing her business activity. Mr. O'Brien is sympathetic to the applicant, noting that this is consider a "quiet business".

There were no questions or comments from residents on this application.

A Motion was made, seconded and voted to approve Petition 16-7 for a term of ten (10) years. Renewal will expire on April 4, 2026.

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4. Public Hearing Case 16-8 – Seaver Properties, LLC Applicant and Owner for a Special Permit under the provisions of Section 2460B of the Zoning Bylaws, to construct a dwelling of approximately 2,176 s.f. after demolition, which will exceed the total floor area of the original structure, property shown on Town Map B07-0138, 12 Maybury Road, Residential Zone A-1.

Mr. Paul Carter was present at the meeting. He noted that the existing house was demolished because it was condemned by the Board of Health.

The Chair noted concern with the 34.7 feet height of the proposed construction. The Applicant replied that he is willing to consider reducing the height of the house and that at this point he would like to withdraw the application.

Motion was made, seconded and voted to approve the withdrawal without prejudice of Petition 16-8.

5. Hearing, Case 16-10 – Patricia McCart, Applicant and Owner, for a Special Permit under the provisions of Section 2313 of the Zoning Bylaw, to operate a kennel on the premises, property shown on Town Assessor Map C08-0023, 232 Mossman Road, Residential Zone A-1.

The Board was in receipt of an email dated April 4, 2016 from Ms. McCart withdrawing her application.

Motion was made, seconded and voted to approve withdrawal without prejudice of Petition 16-10.

6. CONTINUATION - Public Hearing Case 16-5 - Sudbury Avalon, Inc., Applicant and BPR Sudbury Development LLC, Owner, for a Comprehensive Permit pursuant to Massachusetts General Laws, Chapter 40B, Sections 20-23, and 760 CMR 56.04, for the construction of a 250-unit rental apartment community, 25% of which will be affordable, on a 17.4 + acre parcel, property shown on Town Map K07-0011 and 0013, 526 and 528 Boston Post Road, Zoned Limited Industrial District and Residential A-1.

Mr. O'Brien began the hearing by stating that the applicant will discuss massing, density, and fiscal impact. Mr. O'Brien explained that the fiscal impact findings had already been presented to the Board of Selectmen and that the Board would hear a summary of that discussion. It was also stated that the fiscal impact study was for the entire Meadow Walk development and not just Avalon Bay. Mr. O'Brien stated that the Board's major concern regarding massing and density was in the rear of the property and the quantity of buildings. Mr. Gossels added that he was concerned with the western side of the property.

Mr. Dale began his presentation by introducing Stephen Schwartz, Attorney from Goulston & Storrs, Ed Bradford, The Architectural Team, and Karen Staffier, VHB. He then gave a status update on the project. The MEPA certificate was received on March 22, 2016 and no further environmental review is needed. The state is comfortable with the mitigation proposed relative to the environmental impacts. This allows the applicant to get other state approval/permits which will be an ongoing process. Other permits include the DOT Access Permit and DEP Superseding Order of Conditions.

Mr. O'Brien asked about concerns regarding potential contamination of the property, and asked if there will be any deep wells proposed on the property for drinking water and if there will be a health and safety issue. Mr. Dale stated that the drinking water supply is coming from the Town and the applicant is putting in new water pipes. Mr. O'Brien asked if there will be an irrigation system for landscaping. The applicant is proposing to put in 8 irrigation wells and they will be put in areas that have never been tested, but the wells will be deep wells. Mr. O'Brien asked what is in the ground. Mr. Dale responded that testing was done by Raytheon and the applicant has submitted an extensive memo on it to the Planning Board and will submit it to the Board. In the 1990's volatile organic compounds (VOCs) were found down-stream and some contamination was found on this site. Raytheon put DEP on notice and they decided that no remedial action was needed. Since 1990 testing on the site has been done for

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VOCs. The testing is done 50-90 feet underground, as this is the depth of the contamination. Mr. O'Brien asked if there was an Area of Use Limitation (AUL) on the property. Mr. Dale confirmed that there is no AUL, and added that there is one other small area of contamination on the site containing Freon remnants, but there is not any building proposed near that location.

Ms. Kablack stated commercial properties are not required to have irrigation wells and they can hook into the municipal water supply. The regulations for irrigation wells require them to be over 100 feet deep so they do not have an effect on the Town's aquifers. She requested a clarification in their list of waivers on this subject as to which provisions of the Irrigation Bylaw they will not be able to comply with. Mr. Dale said he will get recommendations from their consultants on the best place to locate the wells so they will not impact the historic issues on the site. The applicant does not like to use municipal water for irrigation.

Mr. Stevenson asked how the historical contamination will be dealt with in the future. Mr. Dale stated that Raytheon will continue testing (during the temporary solution period) and once the levels subside to a certain level, DEP will issue a permanent solution. Mr. Stevenson asked what the permanent solution would likely look like. Mr. Dale responded by saying no one can really predict that right now, however it is naturally attenuating. Mr. Gossels asked if the applicant can show a graph of the where the contamination started, where it is now and where it is expected to be over time. Mr. Dale will provide historic information on it. Ms. Kablack said there is significant information about this topic on the Town's website.

Mr. Dale gave an overview of the local permitting. The Notice of Intent will be submitted to the Conservation Commission in about 3 weeks and the Whole foods application was approved.

Mr. Dale gave a brief overview of the current master plan. There will be 80,000 SF of retail anchored by Whole Foods, 48 units of memory care senior living, 60 units of active adult residential, and 250 residential apartments. The main entrance of the site will contain a traffic signal at Route 20, aligned with the westerly driveway of the Shaw's Plaza. The main internal intersection has been rearranged and is now more of a T-intersection where previously it was a roundabout. The commercial buildings on RT 20 have been rearranged to allow for better street frontage. Some parking has been eliminated due to the loading requirements of Whole Foods, which allows for more open space. There will be a very organized circulation pattern throughout the site. The internal intersection has been approved through the Planning Board as part of the Whole Foods application.

The Avalon Sudbury development is about 19 acres and includes 30 residential buildings, a club house and amenities, a maintenance and recycling building, and a waste water treatment facility. The residential buildings are small with 4-16 apartments in each building. There is only one building that has 16 units. The roof lines are varied and there are a lot of different colors and design materials. Each apartment has its own front door and garage.

The roadway network has two grids, A and B. The A grid is comprised of the primary streets which face the building fronts. The B grid is the network that faces the parking areas and back of the buildings. Each street type has a different character. The A grid is designed to be the primary network.

The pedestrian circulation is also designed as two different networks and corresponds to the street network. The primary network allows people safe and efficient access to the club house and primary retail. There are smaller sidewalks located in the open space to connect it to the larger sidewalk network.

Four types of parking are proposed on site; parallel, perpendicular, tandem and garage parking. Avalon determined an effective parking ratio and then subtracted out 20 spaces for resident guests and maintenance staff, to determine the effective real parking number of 465 space. This yielded a parking ratio of 1.9 spaces/unit.

Ms. Rubenstein asked how guest parking is handled. Mr. Dale stated there will be about 15-20 guest parking spots near the club house for events and potential tenants. He predicts that guests will also park in the perpendicular

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spots dispersed throughout the development. Mr. O'Brien asked about parking near particular buildings. Mr. Dale responded that there is 1 private garage spot/unit inside each the building, as well as parking outside in unreserved areas. Ms. Kablack asked if every unit has a tandem garage spot associated with it. Mr. Dale responded that the tandem spaces are limited to the 54 townhouse units. Mr. Stevenson asked about reserved parking spots. Mr. Dale responded that there are not reserved spots outside the buildings. Mr. Klofft asked what Avalon's experience has been with tenants using the garage for storage and not parking. Mr. Dale said that is not their experience.

Mr. Dale continued by presenting the snow storage plan. This plan does not take into account the snow that piles up on the side of the side walk, it focuses on the snow storage areas. There is about 32,000 SF of snow storage areas on site. This plan will be submitted to Board. There are notes on the plan that state that Avalon will be obligated to truck snow off site if it cannot fit it in the designated areas.

Ms. Rubenstein asked if there are any guidelines for snow storage based on the square footage of impervious surface. Ms. Staffier stated that there are no standards but the DEP has guidelines. Mr. Gossels asked about children play areas and amenities for kids. Mr. Dales responded that there is a common area within the development and they will follow-up with an approximate square footage. The area by the sand beds will be more passive recreation space. Avalon will follow-up with a more detailed lighting and signage plan.

Mr. Dale began to explain the edge conditions regarding screening of the development. The extreme north of the development has an 8-foot fence that will remain or be replaced in-kind, for security purposes. There will be a berm and arborvitaes hedge row installed on the development side of the existing fence. Gaps in the fence will be closed. The berm and fence will be about 15 ft. above the finished floor height of the adjacent building. The intent of the berm and fence will be so the neighbors will only see the top of the buildings and not directly into the windows. They have also reduced the number of stories from 3 to 2 on buildings O and P to create mutual privacy. Avalon has been meeting with the neighbors about this plan.

Mr. Gossels asked what the berm will be made of. Mr. Dale said the berm will be earthen and will have some ground cover. He believes that the neighbors are comfortable with these modifications. Mr. O'Brien asked what material the fence will be. Mr. Dale responded that it will be cedar stockade.

Mr. Stevenson asked if there was any discussion with the neighbors about plantings along the berm and wall. Mr. Dale stated that he doesn't think the neighbors will be able to see the fence, they are essentially screening the screening. The berm will be on the Avalon site.

Mr. Klofft asked what effect the reduction in stories will have on the number or distribution of units. Mr. Dale said they are looking into it now and believes that some of the 2-bedroom units might become 1-bedroom units. Overall the number of units will not change.

Mr. Klofft asked about the total bedroom count. Mr. Dale stated that there are 124 1-bedrooms, 101 2-bedrooms, and 25 3-bedroom units. For a total of 401 bedrooms.

Mr. Dale began to describe the western boundary. There is one line of buffer located between the Horse Pond Road and proposed development. The distance from the Horse Pond Road to the development property is about 1550 feet.

Mr. Gossels stated that the tree buffer depends on someone else keeping the trees intact and believes that the buffer should be located on the applicant's property. Mr. Dale responded that the applicant shouldn't be responsible for making their buildings completely invisible. He added that they could add additional trees on the property behind the townhouse units. Mr. O'Brien asked who owns of the land that the buffer is on. Ms. Kablack stated it is owned by the Stone Farm. Mr. Dale said he has met with Mrs. Stone and she wants Avalon to acknowledge the right to farm bylaw and her pet care business. They have agreed to put provisions in their leases referencing those uses.

Mr. Klofft understands Mr. Gossels point but understands that the new development is so far away from the road that the buildings will look smaller. He agrees that the applicant should screen the buildings to the best of their ability but the conditions here are a little unique. Mr. Palmer asked what could happen to the Stone Farm in the future. Mr. Kablack stated the Farm is preserved in perpetuity under an Agricultural Preservation Restriction. Mr. Gossels stated the Town spent 7 million dollars to protect the views of Pantry Brook Farm. Mr. Dale stated he will take a look at the landscaping behind the townhouse units to provide additional screening on site.

Mr. O'Brien asked about what plantings are available to create a new buffer. Ms. Kablack stated that the applicant has a vegetation plan that proposes a mixture of trees and shrubs behind the units, and she imagines they will take another look at that. Mr. Dale said he thinks they have adequate room for additional screening.

Mr. Dale described the building design. There will be 30 buildings; 20 direct entry buildings and 10 townhouse style buildings. The 20 direct entry building work well with the A and B grid street configuration. The clubhouse will have a 24-hour gym, the leasing office, back office space, a covered patio and common area space.

Mr. Herweck asked about accessible units. Mr. Bradford stated that per Massachusetts code, 5% of the units will be fully accessible, group 2 units. The 2% communication accessible units will be distributed among all the units, some will be handicap units and some will be standard units. Multi-level units are exempt from the barriers code. So 5% of the ground floor units are fully accessible Group 2 units, and the remaining 95% of ground floor units are accessible to the Group 1 standards. Mr. Dale added that Mr. Bradford will do a code review and then a 3rd party will also review it.

Mr. Dale described the building program. 80% of the units will be direct entry and buildings range from 8-16 units. All of the townhouse buildings will be different and range from 4-7 units. The large 16-unit building will overlook the park that is open to the public.

Mr. Klofft asked if the open space will have dog waste bags. Mr. Dale said yes and they are considering constructing a small dog park on site. The Avalon development will be dog friendly. Mr. Palmer asked about the plans for public park amenities, like a chess board. Mr. Dale responded that they are still looking at programing and might incorporate something like that but haven't designed the open space to that level of specificity at this time.

Mr. Dale described the proposed floorplans. The eight-unit direct entry buildings have three 1-bedroom units (800 SF) and five 2-bedroom units with a den (1800 SF). These units allow for more privacy because they only share one wall with neighbors. There are walk-in closets and island kitchens. Ms. Rubenstein asked how many units are completely on the ground floor. Mr. Dale said 62. He added that they do need to add a 3-unit apartment that is completely accessible and on the ground floor.

The townhouse units operate like a tradition townhouse; with a den and garage on first floor, living area on main level, and bedrooms on third level. The townhouse apartments are all 2 and 3-bedrooms. There are two types of townhouses, a rear load and front load.

50% of the units will be 1-bedroom, 40% will be 2-bedrooms, and 10% will be 3-bedrooms. There is a lot of variability in unit types to target many demographics.

Mr. Klofft asked about the specifics of the affordable units. Mr. Dale stated that the affordable will have the same finishings and will be located throughout the development.

Mr. Palmer asked about the heating source. Mr. Dale stated that the system will use an independent hydraulic forced hot and cool air system and they are under the stretch energy code. Each unit will be separately metered.

Mr. Herweck stated that the new code changes might require an electric charger in each garage. Mr. Dale said in the past they have included electric chargers in their developments, but not in every garage. Mr. Palmer asked where the BBQ area will be located. Mr. Dale said there will be a common BBQ area near the pool and they are looking at doing multiple BBQ areas.

Next, Mr. Dale presented the Fiscal Impact Study completed by Judi Barrett, RKG. The study looked at the entire development not just Avalon's portion. It focused on the benefits of a mixed-use of the development. Assumptions were based on the master plan of the entire site; 80,000 SF of commercial space, 48 assisted living units, 60 age restricted units, and 250 mixed income units. Ms. Barrett created a population multiplier by looking at the unit types and sizes and then created a school student multiplier. Ms. Barrett found that 65 school age students will live in the development, and a total population relative to the Avalon proposal of about 448.

Mr. Gossels asked if school age students are a net increases to the Town or if this development will serve divorced parents who already have children enrolled in the school. Mr. Dale said that there really isn't any data on that so it's tough to analyze. Ms. Kablack added the report acknowledges that demographic trend but the numbers used in the analysis don't account for that and assumes everyone is new.

Mr. Dale reviewed the findings:
Total recurring local revenue: \$1,712,900
Total cost of services: \$1,031,500 (attributed to the kids/students)
Net revenue: \$681,400 to the Town (Total Development)
Cost revenue ratio: .6

He summarized the finding as for every \$1 of revenue generated by Meadow Walk, the Town will spend 60 cents on service for residents and businesses in the development

Mr. Dale also stated that the student population is decreasing and it is projected that Sudbury will lose about 300 students. So you can argue that you are filling empty space. He added that Ms. Barrett would likely contradict him and say that those empty spaces are still costing the Town money. Also, he stated that the apartments are essentially break even and the other portions of the development add the revenue.

Mr. O'Brien asked what the difference is between the commercial and residential tax rate. Ms. Kablack stated that it is about \$5/\$1000 more. She added that the Board is trying to hire a peer reviewer for the fiscal analysis but having trouble finding a firm.

Mr. Stevenson asked what the current tax bill is for the Raytheon site. The Board answered that the gross tax revenue is \$625,000. Mr. Dale added that if you applied the same analysis to the gross revenue of the Raytheon site it would decrease because of the municipal costs associated with it.

Mr. Palmer asked if there will be access to the potential rail trail. Mr. Dale stated that they will try to encourage that. They have spoken to the neighbors of the site and they will try to push the access to the back right part of the site.

Ms. Rubenstein asked about bike accommodation onsite. Ms. Staffier stated that a bicycle review was done for the National Development permit. Ms. Kablack added that it will be discussed during the traffic discussion next meeting. Mr. Klofft asked if a school bus would enter the site. Mr. Dale responded that it is up to the school department and if they did, they would build a bus stop area. They are also going to include mail kiosks and bike storage throughout the site.

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Mr. Palmer asked about security at the development. Mr. Dale said they won't have any video monitoring. Some of their developments have private security or a police detail for a couple of weeks to show a presence on site.

Mr. Herweck asked for more information about trash disposal on site. Mr. Dale stated they will have a small recycling center that looks like a shed where residents drop their trash and recycling off through a window and it drops down into a hopper. Maintenance people will compact it. It will be up to the individual tenant to drop off their trash. Then the trash is disposed of offsite by the developer.

Mr. Stevenson asked about similar developments located in the Metrowest region. Mr. Dale stated that they have one in Marlborough, but that is a different community. Hingham and Westborough are an older generation of this version. He will get some examples to the board. This typical style hasn't been built in MA yet, only in Texas.

There was no public comment.

Ms. Kablack said she thinks it would be beneficial if the applicant went to the Design Review Board, although she knows that this is a comprehensive permit and they should be bringing their comments to the developer, but they have been very busy with the other National Development applications. Mr. Dale stated they are willing to do that. Ms. Kablack will arrange that before the next ZBA meeting and then give comments to the ZBA. Mr. O'Brien wants the Design Review Board to give the comments directly the Board and not to the applicant.

Mr. Kablack added that the subdivision plan needs more detail. She is working with VHB on all the different components of stormwater. Horsley and Whitten will be the stormwater peer reviewer and Vanasse and Associates will be the traffic peer reviewer.

Mr. Klofft asked if the stormwater management report is for the entire site. Ms. Kablack stated that a master stormwater plan has been prepared, but each individual site will have its own stormwater management plan containing more details, and there will be some redundancies.

Mr. O'Brien asked if the applicant can get the stormwater management plan done in time. Mr. Dale stated that they will have enough time because the building plans have now been reviewed and they can adequately site the stormwater features.

Mr. Dale will respond to Ms. Kablack, the Fire Chief, and BOH letter in writing.

Mr. O'Brien added that his concern with the ladder access is he doesn't want to see everything turn into a giant parking lot so trucks can reach every window. The layout presented tonight was liked by the Board. Mr. Dale added that each building has sprinklers. Mr. Palmer asked who was doing the landscaping plan. Mr. Dale said VHB.

A motion was made, seconded and voted to continue the Avalon Sudbury Comprehensive Permit public hearing to Monday, May 9th, 2016 at 7:30 pm.

Approval of Meeting Minutes – March 7, 2016

Minutes were not approved

There being no further business, the meeting was adjourned at 9:42 p.m.