

SUDBURY ZONING BOARD OF APPEALS
MINUTES
MAY 23, 2016

The Board consisted of:

Jonathan F.X. O'Brien, Chair; Jonathan G. Gossels; Nicholas B. Palmer, Clerk; Nancy Rubenstein; Jeffrey P. Klofft; John Riordan (Alternate) and William Ray (Alternate).

Also present at the meeting on behalf of the Town were: Barbara Saint Andres, Jonathan Silverstein Cooperman and Page, Clifford Boehmer Davis Square Architects

7:35 hearing called to order

Mr. Palmer read the Hearing Notice published in the Sudbury Town Crier.

1. Public Hearing Case 16-14 – Deborah and David Gordenstein, Applicants and Owners for a Special Permit under the provisions of Section 2313 of the Zoning Bylaw, to raise up to 8 hens on the premises, property shown on Town Map E08-0019, 208 Marlboro Road, Residential Zone A-1.

Mr. Gossels will be the Chair for this case, as Mr. O'Brien stated he has a conflict of interest and must recuse himself from voting or discussing this case.

Mr. Gordenstein was present at the hearing. He plans to have convert a portion of an existing shed to a chicken coop with a trap door leading into a small run, he would like to have 8 hens and proposes to put up a fence to block the view from the neighbors. Mr. Gordenstein said the current lighting would be used for the coop, and waste will be disposed of using composting methods.

Natalie Haight from 275 Morse Road was present and she shared that in the past she had many problems with Mr. Gordenstein that have not come to a resolution, especially with regard to barking dogs and leaves falling from a tree that borders both properties. Ms. Haight stated that she fears that the noise will increase, and that the current outstanding issues show that the Gordensteins have not shown themselves to be good neighbors.

Wayne Thomas from 203 Marlboro Rd. further opposed granting of this permit due to outstanding concerns with the Gordensteins as neighbors and he shared an email from Catherine Picciotto from 200 Marlboro Rd., also an abutter, who opposes this application but who cannot attend the hearing due to her age.

The Board stated that it would like to see a plan that shows where the chicken coop will be located, how the run will be situated, and which outlines where the compost will be maintained and where the dogs will be kept. The plan should also show these elements positioned in relation to the existing pool.

Mr. Klofft, Mr. Ray and Mr. Palmer agreed that barking dogs and hens are not a good combination. Ms. Rubenstein shared the same concerns and suggested that perhaps a small number of hens will be a good idea to start off.

Mr. Riordan reminded the Board that one of the guidelines in the Bylaw is that the proposed use would not be offensive to the neighbors due to the effects of odors or noise.

Motion was made, seconded and voted unanimously to continue Petition 16-14 to June 20, 2016 at 7:30 PM.

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2. Public Hearing Case 16-15 – Lenna Minassian, Applicant and Owner, for a Special Permit under the provisions of Section 2420 of the Zoning Bylaw, to permit the extension of a non-conforming lot for the construction of a 16' x 16' square foot addition with a 13' x 8' square foot deck to be added to the existing dwelling, which will result in a front yard setback deficiency of 3 feet and a side yard deficiency of 1.5 feet, property shown on Town Map F04-0709, 564 Hudson Road, Residential Zone A-1.

Ms. Minassian was present at the hearing requesting to replace an existing deck with an addition of basically the same foot print 16 x 16 square foot with a 13' x 8' square foot deck.

Mr. Klofft asked if the addition will be one story, the applicant replied yes.

Mr. O'Brien asked about the roof line, the applicant replied that the roof line will be lower than the house roofline.

Harry Chase from 556 Hudson Road was present and in his opinion the proposed addition is not on the same foot print of the house as stated, but after clarification he was fine with this application.

Motion was made, seconded and voted unanimously to approve Petition 16-15 with the standard Special Permit conditions.

3. CONTINUATION - Public Hearing Case 16-4 – Sudbury Station LLC, Chris Claussen, Applicant and JOL TRUST, JRH TRUST, Matthew and Molly Gilmartin, Owners, for a Comprehensive Permit pursuant to Massachusetts General Laws, Chapter 40B, Sections 20-23, and 760 CMR 56, for the construction of a 250-unit rental apartment community, 25% of which will be affordable units, on approximately 40 acres, (13.45 buildable acres), property shown on Town Assessor Map G09-0100, G09-0004, G09-0300 and H09-0068, Peters Way and Peters Way Extension, Zoned Residential A-1 and Residential C.

The Board opened the hearing by providing a summary of the May 17th working session between the applicant and two members of the board, Jonathan O'Brien and Jeffrey Klofft. During the working session, the board members noted that the applicant presented a slightly different plan than the plan the board had been provided with during the regular board hearings. The board also noted that because the working sessions were not official board hearings, that everything presented and discussed during the work session was for discussion purposes only. The applicant discussed reducing the units to 226 units and by doing so would create more open space. Frank Riepe, who is a local architect and a member of the Sudbury Historic Commission came to the working session with a plan that the Board liked and his comments were submitted to the Board. They asked the applicant to work with that plan but noted that these changes would raise a lot of questions as it was an entirely different concept using the same space. The next session is scheduled for June 1, 2016. Mr. Klofft and Mr. Claussen felt that the meeting was constructive. Mr. Gossels met with the applicant prior to the work session to walk through the site.

Mr. Henchy introduced John Connery, author of the Fiscal Impact Report filed in April as well as Donald Provencher, designer of the wastewater treatment facilities. Mr. Provencher submitted the results of the perk test in February and last week submitted a summary of what will be presented tonight. Finally, he introduced Steve Cecil, from the Cecil Group who will provide a presentation on the interior of the project.

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Mr. Connery stated that his fiscal impact analysis studies the increase in costs to be borne by town departments as a result of the proposed project. He approached the fiscal impact on a project by project basis. He does not use a model or assign a proportional cost/factor. Mr. Connery did not assign children to 1-bedroom units. He focused on general service costs. He found an increase in cost to the town of \$89,000 in police and fire services by using the run and cost data from the Town for the past couple of years. He used an average bedroom size of 1.7 units.

For school numbers, Mr. Connery had to use numbers from outside of Sudbury. Mr. O'Brien asked why he didn't use the numbers from other projects in Town, like Villages on Old County Road, which has 150 units. He believes there are comps in Town. Mr. Connery stated that townhouses are different because the ownership pattern is different, as the local townhouses would have a higher number of students.

Mr. Connery used the Concord Muse 40B project as a comparable development which has 70 students. He stated he removed the 1 bedroom units and for the 2 and 3 bedrooms the aggregate rate was 321. This was then applied to Sudbury Station's unit count and he found that there would be an addition 43 students or an addition of between 35-50 operational students at any given year. Sudbury's school numbers are dropping and in the last couple of years the school population dropped by 350 students and it is projected to drop by 500 students in the next couple of years. Mr. Connery stated that physically putting more children back in the system will not require additional buildings. He did not deduct operations and maintenance from his budget because there are a lot of other facilities. He added a 15% cost component to accommodate students with special needs. He reported that the cost to educate a student for one year in Sudbury is \$12,500. To find the cost he multiplies the cost component by the \$12,500 and then by the 43 additional students which yielded a cost of about \$613,000. Mr. Connery estimated that 60-65% of the increased in student population will enter the elementary grades. He then put the costs together and found a result of \$700,000 per year of additional costs to the town for the students.

Mr. Connery used the income method to find the annual tax revenue from the project after adjusting for a 5% vacancy rate, a 30% operation and maintenance deduction, and an 8% cap rate. He noted that these are his estimates, and not the assessors. He then applied the tax rate and found an assessed value of \$52,950,00. He added the excise tax that would be available to the town to the real estate tax revenue and found a total revenue of \$989,000. Mr. Klofft asked how much was the excise tax. Mr. Connery stated that he applied a rate of \$100 to each vehicle at the site. Mr. Klofft stated that it isn't fair to add the excise tax into revenue but not add the DPW expense into the cost.

Mr. Connery used a cost to revenue ratio of .71 and determined that at stabilization Sudbury would generate \$289,000. He found that this project will be moderately fiscally valuable. He stated that a \$289,000 could easily accommodate 60 children and the project will essentially be revenue neutral.

Mr. Gossels stated that externalities were not included in the analysis and impacts to the Town that are off-site were not accounted for. Mr. Connery responded that he doesn't usually include such an analysis. Mr. Gossels added that there was no discussion on the impact on property values. Mr. Connery responded that a study out of MIT found that the property values didn't decrease.

Ms. Rubenstein asked if he only considered students through 8th grade. Mr. Connery stated he did and that only one student attends the vocational school. He added the turnover rate in development is 3 years. Mr. Palmer asked where the closest vocational school is. Mr. Connery stated that vocational schools are a catchment and mirrors the population of the towns.

Mr. O'Brien opened the discussion to the public on the fiscal analysis.

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David Hornstein, 22 Candy Hill Road, was concerned with the vacancy rate of 5%, he stated that the vacancy rate over time was more around 8-10%. He asked how Mr. Connery came up with the 5%. Mr. Connery stated that he talked to the assessor about the rate but didn't go back and do a regional analysis. Mr. Hornstein asked why a weighted average wasn't used. Mr. Klofft stated that demographics are different and the rental market is projected to be stronger over the next 10-15 years. Mr. Hornstein was also concerned that if property values go down then the tax revenue will also decrease.

Kristen Salerno, 564 Peakham Road, was concerned that there is no data to compare this analysis to. Mr. O'Brien stated that it was his concern too and added that this analysis took the approach that there aren't any rentals in Town. Ms. Salerno asked if you can estimate state budgets why can't we estimate students and vehicles. Mr. O'Brien asked if the Town was using a peer review. Ms. Saint Andre stated we could do a peer review. Mr. Klofft added that in terms of having a significant discussion this will not make or break the project.

Taryn Trexler, 253 Concord Road stated that there are significant differences in the data from the Avalon Bay 40B project. In the other project it was estimated that there would be an increase of 63 kids. She was concerned with only one comp being used. Mr. Henchy stated that Concord was a regional comp and he did discuss it with the Planning Department. Ms. Trexler also noted that she couldn't find another analysis by Mr. Connery that only used one comparable property. Ms. Trexler asked if the costs to the Town for additional staff hours to oversee this project are paid by the developer. Mr. Klofft stated that they do not fully cover the additional staff time.

Craig Gruber, 187 Goodmans Hill Road stated that the peak enrollment of 2005 -2006 appears to be strategically picked and in 2013-2014 only the Nixon school was under capacity and in the 2 years since both kindergarten classes have been larger.

Mr. Henchy introduced Donald Provencher, the designer of the wastewater facilities. Mr. Provencher looked at soil maps and found that the coarsest soils at this site are located near the APR land. Mr. Klofft asked if the soil at the APR land is similar to where they are proposing locating the leaching fields. Mr. Provencher stated that there will be two leach fields below the parking surface. It was estimated that the development will produce 48,000 gallons a day and will need a groundwater discharge permit. The permit is not an individual permit or subject to MEPA. In December they had a pre-scoping meeting with DEP and they presented where they were going to do the testing and the proposed investigation. The DEP agreed and the public was noticed in the Environmental Monitor in February. On December 22 they excavated 9 or 10 test pits and completed several percolation tests. They found that as you approach the railroad beds the soil is sandier, they found no ledge 10ft down, and the perk tests were all less than 2 mins. Mr. Palmer asked how far down the ground water was. Mr. Provencher responded that it was 3-4 feet at the highest and some cases 8 feet. They observed the ground water in some test pits but it was mostly observed by mottled soil in the test pits.

Mr. Gossels asked how does the water not accumulate. Mr. Provencher stated that the soils are coarse enough that the water continues to flow to the wetlands and the ball field. Mr. Gossels asked if that area would turn into a swap. Mr. Provencher stated that the existing groundwater is taken into consideration in the model. He added that they will do an analysis on the mounding to determine the height of the leach field, which is standard in all ground water permits. Mr. O'Brien asked about the retaining wall. Mr. Claussen stated that the retaining wall was taken into consideration in the calculations.

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Mr. Provencher described the type of system that the applicant was planning. The leach fields are sized in accordance with the DEP guidelines for wastewater treatment. They will be using plastic infiltrator chambers that are low profile. It will be gravity discharge so there will be not excessive pumps. Mr. Palmer asked about the storage tank. Mr. Provencher said it will be pumped to the distribution boxes. He proposed a membrane bio reactor, similar to reverse osmosis that brings the discharge to near-drinking water standards. They will be required to test the effluent.

Mr. Palmer asked about the dosing. Mr. Provencher said the effluent tank will be around 10,000 gallons and will be dosed 6 times and have a flow rate of about 40-50 gallons a minute.

Mr. Henchy stated that all of the permits will be done through the DEP under their general programmatic permit. Mr. Henchy acknowledged the letter from the BOH and will formally respond, but he argued that the permit needed is a DEP permit and not a BOH permit.

Mr. O'Brien asked the public for comments.

Kevin Tighe 36 Hudson Road, is concerned with the location of the treatment plant because it is outside his office window. He asked about the need for a clarifier and if the solids will have to be moved out. Mr. Provencher stated that the tanks are in the ground and there is no need for a clarifier. The raw sewage will go into a screen room. One of the tanks will have an aeration process where the air will be drawn from the screen room so the odors in the screen room get drawn through the aeration process. Mr. Klofft asked about the displaced air. Mr. Provencher stated that the air will be run through a carbon filter if odors become an issue. The sludge generated will be in stored in a tank and have to be pumped out about once a month and taken to a municipal treatment plant. That process will take about 15 minutes.

Mr. Palmer asked if the Town has a peer reviewer on wastewater. Mr. O'Brien answered that they don't and followed up by asking which plant the sludge would go to. Mr. Provencher did not know which plant. Mr. Palmer and Mr. Klofft discussed having to provide for conditions around the wastewater treatment to ensure that the air quality isn't affected.

Mr. Klofft asked if the aeration fence could be moved. Mr. Provencher said there are measures they can take to direct the aeration process. Mr. Henchy stated that he disagrees, and that they will not be stinking up anything near the site. Mr. Palmer added that they have had bad situation with pumping the sludge and they need to discuss methods to eliminate it.

Jason Bernard 35 Wake Robin Road: Had concerns with the characterization that the water from the sewage will be near drinking water. Mr. Palmer stated that the bottom line is yes, the process takes it to the point that it is almost drinkable and is not a concern for animals. Mr. Klofft added that there is ongoing monitoring by the State DEP and some of it is outside of the Boards purview.

Jonathan Silverstein on behalf of the BOS, asked if Mr. Provencher could state the threshold for an individual permit from DEP. Mr. Provencher stated that it is 50,000 gallons and their system will be designed for an estimated flow of 48,000. Mr. Silverstein asked how many units will have dens. Mr. Claussen stated they haven't done the exact layouts. Mr. Henchy stated that Title 5 mandates that rooms that can be closed off will be counted towards units. He added that if they go above the 50,000 gallons/day they will lose their wastewater discharge permit. Mr. O'Brien asked if the applicant would be ok with a restriction on the number of residents. Mr. Henchy said they would be open to that but would have to see it first.

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Mr. Silverstein suggested the Board would be well served if they got a peer review of the system design and operation. He encouraged the board to retain a hydrologist to look at the concerns of hydrostatic pressure behind the retaining wall. He is concerned that the water would become surface water on the far side of the retaining wall.

Mr. Tighe added his concerns about the hydrostatic pressure coming off the hill. His parking lot has springs from the hydrostatic pressure behind the stone wall past the railroad tracks.

Mr. Hornstein asked if there is a generator dedicated to the wastewater treatment plant. Mr. Provencher stated that if the backup generator fails the reserve capacity in the storage tank is about 15,000-20,000 gallons. The dosing chamber has a days' worth of storage. If it persisted longer than that they could truck out the sludge. Mr. Provencher reiterated that he is describing a failure of the backup generator.

Mr. O'Brien asked if they are going to use natural gas at the site to fuel a backup generator. Mr. Claussen stated they have talked about using natural gas.

Ms. Salerno asked where the water and sewage would go after it is leached. Mr. Provencher stated that a portion of the groundwater goes to the north, some goes under the railroad past the ballfield. Ms. Salerno asked where the water goes in an emergency. Mr. Klofft said it would go in the same direction in emergency. Ms. Salerno stated that she is not comfortable with the term "near-drinking water". Mr. Palmer stated that it is cleaner than what is coming out of your septic system. He said there is added filtration as the water leaches down to the water table.

Amrita Nichols, 220 Old Lancaster Road asked how the wetlands are affected if the natural course of the water is changing. Mr. Provencher stated that they are not changing the natural course. Mr. O'Brien added that they are adding water and asked what those effects will be. Mr. Henchy stated they have a negative determination of applicability for the construction and stormwater. He believes the leaching fields are some 300 feet from the boundary of the wetlands and 750 feet from Minnoway Brook. Mr. Provencher added that as the effluent goes into the leach field and hits the water table it increases the water table. The mound also exists away from the leach field and as it goes away it gets smaller. So at the ballfield the mound will only be inches. He stated that they have to prove to the DEP that the effluent does not break through the ground.

Mr. Palmer suggested doing deep well tests to determine the ground water table at the ball field. He also suggested, with Kevin Tighe's permission, some testing on his property to investigate the artesian well effect. Mr. Klofft stated there are two issues, determining where the ground water is and the pressure on the retaining wall. Mr. O'Brien asked if they had time to get this done. Mr. Palmer stated it is quick but they will have to call dig safe.

Mr. Claussen stated he would like to do the deep wells but would suggest waiting until after the next working session and asked for authorization. Mr. Provencher stated that in their scope of work they suggested putting a monitoring well past the railroad beds to monitor but they couldn't commit to it because it is not owned by the applicant. Mr. Palmer stated it is a good idea.

Mr. O'Brien asked if Mr. Tighe would allow the test and he said yes.

Craig Gruber, Goodmans Hill Road stated the leaching field is under the parking lot and the mound is under the parking lot. Mr. Klofft stated that the wall might have to be changed and the wall is not 20 ft. He stated that there is a number of steps that are need to be taken before it is determined. Mr. Palmer

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clarified that the water mounds up the water level it is not anything that anyone will build. The mound is an activity that happens. Klofft shares the concern about the need of a hydrologist.

Mr. Hornstein had concerns about the hydrologist's scope. He believes they need accurate information about the flow of the water and that there is a need to map the hydrology of the site. Mr. Palmer stated that the intent of the deep holes was for locating the water under the ball field and not every hydrology concern.

Mr. Henchy stated that as a predicate for DEP to grant the permit a detailed hydrologic study needs to be completed first. The findings of the study have to state that there will be no public health or safety issue from the granting of the permit. Mr. Henchy stated that in regards to the deep well test his understanding from the workshop was the ballfield was general municipal land and represented by the Selectmen. He requested that the selectman grant that permission. Mr. O'Brien asked Mr. Silverstein if he could request permission to do the deep well tests on the ballfield from the Selectman. Mr. Silverstein said he would request it. Mr. Palmer suggested that the tests would be completed by the applicant as opposed to the Town sending their backhoes and then have it witnessed by the Town. Mr. Henchy said they might also want it witnessed by DEP.

Steve Cecil from the Cecil Group presented on the visual impacts. He developed a 3D model to take a look at the site from the inside. Mr. Cecil stated that he submitted aerial view plans to the Board to verify that the diagrams were from a complete model and to show context. He followed up by generalizing the slopes and used images to replicate some of the planning. He then showed diagrams from inside the development. View 1 was the entry drive approaching the clubhouse. View 2 showed the roadway between building 5 and townhouse 11. Mr. Gossels asked why the parking spots are green. Mr. Cecil stated that the diagram need to be interpreted as a sketch and the model has not been completed. Mr. Klofft added that he is not sure how helpful the model is. View 3 is the roadway between building 4 and townhouse 12. The APR land can be seen from that view. View 4 is at building 4 looking towards Peter's Way. View 5 is from building 4 looking between building 2 and building 3. View 6 is at building 1 looking across the central green. Mr. Gossels stated that one view looks like a college campus and that concept could be used to reimagine and redesign the proposal. He mentioned Williams College and Amherst Colleges as dense developments that complement and enhance rather than destroy their respective historic town centers.

Mr. Riordan stated that on some of the buildings there is an extra level of windows and asked if they were just light wells. Mr. Klofft stated that a similar discussion happened at the workshop and that there might be ways to reduce some of the extra height.

Ms. Nichols asked what the building heights were and asked if the Town ladder truck is high enough to reach it. Mr. O'Brien stated that they are going to invite the Fire Chief to the next hearing.

Mr. Hornstein stated that he is confused as to if the presentation was the model or a sketch. If it is a model, he would like to see on the plan where the views were cut and the actual elevations. He is also concerned that because of the parking space he doesn't think the trees will be able to grow.

Mr. Claussen stated that they will have a presentation on traffic at the June 20th meeting.

Mr. Gossels thanked the neighbors for their letter this afternoon. Mr. O'Brien noted the following correspondence received since the last hearing:

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Items received since Public Hearing on April 25, 2016

- 1. Frank Riepe comments, dated April 26, 2016 and received May 17, 2016.
- 2. Email from Chris Claussen, Traffic; dated May 17, 2016.
- 3. Email from Jody Kablack, future meeting dates; dated May 17, 2016.
- 4. Board of Health, Memorandum; dated May 18, 2016.
- 5. Provencher Engineering, LLC. Summary of Wastewater Treatment & Effluent Disposal Design; dated May 18, 2016.
- 6. CUBE3 Studio 3D perspectives of the proposed typical 3-Story, 4Story and Townhouse Buildings; received May 19, 2016.
- 7. CUBE3 Architecture and Exterior Materials Narrative; received May 19, 2016.
- 8. CUBE3 LEED and Environment Narrative; received May 19, 2016.
- 9. CUBE3 Exterior Light Example; received May 19, 2016
- 10. The Cecil Group 3-D model screenshots; dated May 18, 2016; received May 19, 2016.
- 11. Sudbury Water District letter; received May 20, 2016.
- 12. Email from Nicholas Tritos, 46 Hudson Road; April 25, 2016.
- 13. Email from Christina Granahan, 95 Shadow Oak Drive; April 25, 2016
- 14. Email from Taryn Trexler, Concord Road; April 25, 2016
- 15. Email from David Hornstein; 22 Candy Hill Road; April 26, 2016.
- 16. Email from Sue Abrams; 24 Hudson Road; April 29, 2016.
- 17. Email from William LoVerme, 295 Concord Road; April 30, 2016.
- 18. Email from Betty Mecler, 7 Pennymeadow Road; May 2, 2016.
- 19. Email from David Hornstein; 22 Candy hill Road; May 4, 2016.
- 20. Email from Linda and Kermit Dubois, 18 Lafayette Drive; May 9, 2016.
- 21. Email from Don Stein, 17 Oakridge Road; May 9, 2016.
- 22. Email from Samantha Karustis; May 12, 2016
- 23. Email from Laurie Roberts, 411 Concord Road; May 13, 2016
- 24. Email from Alex Smith. 90 Pelham Island Road; May 16, 2016.
- 25. Email from William Mack, 51 Hudson Road; May 18, 2016.
- 26. Email from Roberta Glass; dated May 19, 2016.
- 27. Email from Rebecca Chizzo, 21 Whitetale Lane; dated May 19, 2016
- 28. Email from Jamie Simeone, 200 Mossman Rd; dated May 23, 2016.
- 29. Email from Oppose Sudbury Station Steering Committee; dated May 23, 2016.

Motion was made, seconded and voted to continue them to June 20, 2016 at 7:30 pm.

4) Approval of Meeting Minutes

No Minutes to approve.

There being no further business, the meeting was adjourned at 10:37pm.
