

SUDBURY ZONING BOARD OF APPEALS  
MINUTES  
December 5, 2016

The Board consisted of:

Jonathan F.X. O'Brien, Chair; Jonathan G. Gossels; Jeffrey P. Klofft; Clerk; Nancy Rubenstein and John Riordan, Clerk.

Also present at the meeting on behalf of the Town were: Meagen Donoghue, Director of Planning & Community Development and Beth Suedmeyer, Environmental Planner.

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.

1. Request for modification of local preference categories for Sudbury Avalon, Case 16-5.

Ms. Elizabeth Rust, Regional Housing Coordinator was present at the hearing requesting to include employees of businesses located in Sudbury as a category in the local preference for the Sudbury Avalon development.

After some questions and opinions, the members of the Board decided not to include this category.

2. Review of Sudbury's Sudbury Housing Inventory (SHI) Projections for 2020.

Ms. Rust shared a memo with the Board detailing and analysis of the Sudbury Housing Inventory for 2020 and beyond.

3. Public Hearing, Case 16-28 – Camp Sewataro, Inc., Applicant and Liberty Ledge Real Estate Trust, Owner, for a modification of a Special Permit 15-4 under the provisions of Section 2140 of the Zoning Bylaw, to modify existing permit regarding a change of ownership (formation of a new legal entity to own part of the property, not transfer of property to third parties), Assessor's Map C08-0143, One Liberty Ledge, Residential Zone A-1.

Mr. Mark Taylor, Director of Camp Sewataro, and William Dawi, one of the owners and Trustee of Liberty Ledge Real Estate Trust were present at the hearing. Mr. Taylor explained that their request was due to a technicality in the special permit that the ZBA most recently issued to the camp to operate its business. In the special permit, any change of property ownership in which the camp operates requires approval by the board. Mr. Taylor continued that Liberty Ledge Real Estate Trust is converting from a real estate trust to an LLC for liability issues. Second, that a portion of the camp property is being deeded to him as an individual owner, away from the real estate trust, for estate planning purposes.

Mr. O'Brien asked who owns the Trust presently and who will own the LLC. Mr. Taylor replied the same individuals that that own the Trust will own the LLC. He explained that those members are Chris Taylor, Mark Taylor, Rob Taylor, and the Albert Taylor QTip Trust.

Mr. Taylor pointed out that his home will be transferred, as highlighted in orange on a map he presented to the board; labeled lots 304, 305 and 306. All three lots transferred solely to Mr. Taylor are to be held by the Mark Taylor Revocable Trust. Mr. Taylor explained the land would continue to be used by the camp, subject to the same Special Permit 15-4 conditions, and uses as the camp.

Motion made and seconded to separate the permit to Camp Sewarato, Inc. and Liberty Ledge Real Estate Trust, to allow the permit to continue with the new LLC, but without lots 304, 305 and 306, all in favor.

Motion made and seconded to allow an identical special permit to be created for lots 304, 305 and 306 on the Sudbury Tax Map (highlighted in orange in the application submitted) which if transferred to the Mark Taylor

SUDBURY ZONING BOARD OF APPEALS

MINUTES

December 5, 2016

Revocable Trust, will operate independently but concurrent with and subject to all the conditions of the prior Special Permit.

4. CONTINUATION - Public Hearing Case 16-21 – B'nai B'rith Housing New England, Inc./Covenant Commonwealth Corporation—Post Road Limited Partnership (Owner), Applicants, for a Comprehensive Permit and Substantial Modification of the existing Comprehensive Permit pursuant to Massachusetts General Laws, Chapter 40B and 760 CMR 56.04 & 56.05, to allow construction at 187 Post Road of a second 56-unit senior age-restricted housing building. This application constitutes Phase II of the project originally approved in 2011, and includes the subdivision of the 6-acre parcel into two 3 acre parcels to accommodate the new structure. The project is known as Coolidge at Sudbury, Phase Two, and is identified as Assessor's map and parcel K10-0012.

Chairman O'Brien opened the continuation of the public hearing stating the scheduled agenda focused on stormwater and water-related issues.

Attorney Joshua Fox on behalf of B'nai B'rith introduced his team to include Susan Gittleman, Holly Grace, both of B'nai B'rith Housing, Joe Peznola of Hancock Associates, Sally Cooke and Michael Leo of the Architectural Team. He noted the architectural team had to make drastic changes to the designs to the exterior of the building and as a result to the interior as well. Mr. Fox stated that since the working group meeting, even further refinements have been made to reflect the suggestions of the members present from the Design Review Board and ZBA.

Chairman O'Brien asked Mr. Klofft and Mr. Riordan to summarize the working group meeting on November 4, 2016 on architecture and design to the ZBA. Mr. Klofft stated he and Mr. Riordan met with members of the Design Review Board and the architectural team from Coolidge Phase II. Concerns addressed included: the height of the building, the over-all design not aligning with the site plan, changes of various architectural details to break up the roof massing while maintaining the 56 units, the misalignment of the drop off area to the circular drive, and changes to the side entry where the entrance to the underground garage is located. He opined the design changes fit better than the first iteration. Mr. Riordan stated how well the Design Review Board worked with the group.

Architect Michael Leo provided the scope of new illustrations of the building noting it is to be perceived as two buildings that were connected at some point. He stated the issue was the height at 45.5 feet in elevation from Boston Post Road side in the first set of drawings. He stated Phase I was at 41 feet at Boston Post Road, and has since made changes to the Phase II drawings to match the 41 feet by redesigning the pitches in the rooflines. This was followed by a change of moving the porch entrance to align with the circular drive. Changes also include: refining the gables by changing the elevation and including rafter tails on the eaves, and visually separating the two ends of the building in a more formal way. He did so by using corner board and changes in the vents at the roofline. The large gable on the western side of the building adjustments were made to the proportions and the windows were reorganized.

Mr. Gossels stated he liked the architectural redesigns but asked if the project is overreaching by trying to fit 56 units in. He opined there is a lot of footprint, massing, pavement, etc. Mr. Leo noted since the building is L-shaped, it is designed to conceal the 56 units.

Mr. Gossels noted that he is in agreement with having this type of housing on Route 20. Mr. Riordan noted that it appears to look like there is less parking. Mr. Gossels stated the parking is going underneath which makes the building look higher. Mr. Klofft noted the parking is below grade and doesn't raise the building too high. Mr. Gossels still suggests that the height is still an overreach.

Mr. Klofft said the more he looked that the plans and considered where this building and groups of buildings are, what is appropriate? He asked if it doesn't go here, then another 40 B will go up someplace else in town. Mr. Gossels said we have met our 10%. Mr. O'Brien reiterated Ms. Rust's presentation at the beginning of the

## SUDBURY ZONING BOARD OF APPEALS

### MINUTES

December 5, 2016

evening's meeting where we will be in the year 2020. Mr. Gossels asked if there was a reduction of units, will that make a difference because of the approval of the Avalon project bringing the Town across the threshold for now. Mr. Klofft stated he is more comfortable with more units as an insurance policy. He further noted that he would like a safe harbor protection to be able to negotiate in a much stronger position. He thinks this is the most appropriate place for this and if compared to the property across the street, the property is much denser.

Mr. Gossels noted there were mistakes done across the street and need to learn from them. He stated Phase I is 41 feet tall, but it is in a hole and doesn't read like a 41-foot-tall building. Mr. Leo stated both buildings have the same condition and measure the same on the Boston Post Road side. Mr. Riordan added that both buildings drop very quickly at the back.

Mr. Klofft reiterated this is the most appropriate spot for dense housing. Mr. Gossels is not concerned with location, just height and footprint but is comfortable with dense housing. Mr. O'Brien stated they have to work with the site that they have and he said that it is about as optimal as they have. He noted that it is the job of the board to look at good use of the land and if it serves community need. He added they have a site that they are willing to work with, that is a benefit to the community and that has great added value to the Town.

Mr. O'Brien stated he wishes there would be less parking lot, though not possible. Instead, he would like to see if in the mitigation phase, if the Coolidge would provide a van for transportation to various sites around town; thus a reduction of vehicles.

Ms. Rubenstein noted that the changes to the design since the last meeting looks more like a house, but it is still a pretty massive structure. She asked what is the height of the vegetation at the street (Boston Post Road) and how much can you see of the building as a result. Mr. Peznola noted there needs to be a short retaining wall along the sidewalk on Boston Post Road, and there would be a line of Manhattan Blue Juniper planted along on top of the wall at 6-8 feet and will grow to approximately 15-20 feet. He continued with mentioning the arbor vitae in the front section of Phase I along Boston Post Road, were damaged by salt over the winter months and stated the next best option were the Manhattan Blue Juniper. Mr. O'Brien opined that 15-20 feet is the height he would like to see and more could be done to the western side of the property due to the salt damage. Mr. Klofft asked where the sidewalk goes to the east of the property. Mr. Peznola said it is a continuation of the sidewalk system they have been working on. Ms. Rubenstein asked if the trees will only be on the right side. Mr. Peznola said their primary focus is along Route 20, but would have several different varieties within the interior of the Phase II property. Mr. Klofft asked about the property across Route 20 from Phase II. Mr. Peznola said it was a private residence and they have spoken with the property owners regarding the screening. The neighbors were concerned about the continuation of the screening from Phase I, but Mr. Peznola indicated they were unable to save many of the older trees and their major concern was most screening was being done by the undergrowth. Mr. Riordan opined the retaining wall will raise the screening, and he is OK with this—as long as the trees are not small, and feels ashamed that 16 big trees will be removed. Mr. Gossels opined that the plantings must be of several varieties of species and be staggered so the plan must be more comprehensive for the next 100 years than having 16 trees in a row. Mr. O'Brien agreed. Mr. Riordan noted the building is very attractive so there is no need to completely screen it. Mr. O'Brien stated the plantings create a sense of privacy.

Mr. O'Brien asked to table the discussion and thanked Mr. Peznola for his presentation.

Mr. Fox stated a memo was sent to the Board but wanted to bring them up to speed with an update on what B'Nai B'Rith has done to work with the residence. He further stated his team is collecting statistics in coordination with the fire department, but the nuisance issues were drastically reduced. Mr. O'Brien thanked Mr. Fox for the memo, but was interested in seeing how the process works. He asked Mr. Fox if the new system has been effective internally and with the interaction with the residents. Ms. Gittleman, Director of B'Nai B'Rith Housing noted the residence have responded positively from the increased responses and new staff. Mr. O'Brien asked about the change from using the answering service to using a live response. Ms. Howe, Senior Manager from Barkin Management noted that previously there was recorded service during the week and live on the weekends, but now

SUDBURY ZONING BOARD OF APPEALS

MINUTES

December 5, 2016

it is live 24 hours a day, 7 days a week. Mr. O'Brien asked when a live person was on site. Ms. Howe noted Monday through Friday from 8:00 a.m to 5:00 p.m. and live answering service is on call 24 hours.

Mr. O'Brien asked the applicant to present on stormwater.

Mr. Peznola returned and stated he submitted a stormwater report to the Board. He noted GZA Environmental performed soil testing for the report and for the building site as well. He stated his primary attenuation center is a detention center to the south of the property behind the proposed building. He further stated there were very suitable soils at the site for those purposes. Mr. O'Brien asked if the stormwater numbers were generated from Phase I and building off it. Mr. Peznola indicated yes, when they look at the overall project, there is unique situation with a natural depression in the south and an rail-bed is acting as a dam, and to the east, there is a steep slope that all flows into the primary analysis point is for Phase I and now they are building off of it. Mr. Gossels asked where the Phase I retention basin would be located now that Phase II is proposed. Mr. Peznola noted the area is actually a bio swale that has an under-drain with the parking lot pitching east. Now, the plan is to pitch the parking lot to the west and collecting it into 2 catch basins which will run with 2 pies to a small treatment device to the southern point of the property and will then join root flows and go into a shallow infiltration basin to the south eastern part of the site. Mr. Gossels expressed his concern of the area they propose to run the water to may become a swampy or flooded area because there is no way to get under the tracks to get to the river. Mr. Peznola indicated that they have modeled the area as a closed pond so they understand in all storm events what will happen to the area as an analysis point. They will recharge where they are currently recharging where there is non-impervious surfaces and overflows to contribute the area. Mr. Gossels asked if they will be creating a new pond. Mr. O'Brien stated Mr. Peznola is creating the opposite where they are maintaining the current conditions by having recharge basins and certain mechanisms to avoid change. Mr. Peznola added there is currently a wetland and will remain a wetland and won't change its state. Mr. Gossels asked if there will be a lot more water flowing down. Mr. Peznola stated there will not be more water as a result of the system they are proposing. He added he proposes a dry infiltration basin to the east of the wetlands that is above the water table so that when it rains, the water will infiltrate into the ground within 72 hours and will remain dry.

After a brief pause to hear a discussion about meeting times for 22 Wagon Wheel Road, Mr. Peznola state the proposed system is simple with advantages, including getting more water efficiently off the parking lots. Mr. O'Brien asked if permeable pavement is being used. Mr. Peznola clarified that the water will be going right off the surface now and will re-conform the situation more efficiently to the catch basins.

Mr. Gossels asked how the Route 20 storm drains would influence the Coolidge stormwater. How the stormwater is handled coming off from the roofs and parking lots. Mr. Peznola stated that on Route 20, there is a pitch going easterly and to the north so none of that drainage will affect the Coolidge. In terms of the roof drainage, all of the water will be caught in a parameter of the roof drain system and piped down to the infiltration basin. Mr. Klofft asked if there is any treatment of the roof run-off. Mr. Peznola said that there are no requirements for treating roof run-off.

Mr. O'Brien noted he received a quote from Horsley Whitten to do the peer review for the Board and had already reviewed it for the Planning Board. Sudbury Environmental Planner Beth Suedmeyer indicated that the review had not been done yet, but did prepare a scope and fee and plan on attending the December Planning Board meeting, so they can provide comments to the ZBA. Mr. O'Brien asked if we are doubling the cost with a fee for the planning board and fee for the ZBA. Ms. Suedmeyer noted that it is one fee, split 2 ways in which Planning Board will provide a memo to the ZBA. Ms. Suedmeyer noted the fee was approximately \$5,000. Mr. O'Brien asked if the applicant could pay the expense. Mr. Fox indicated yes, but feels like there are too many of the same meetings. Mr. O'Brien stated the ZBA is the one issuing the comprehensive permit, so the applicant should only have to go to them. Ms. Suedmeyer asked for clarification in which Mr. O'Brien explained the 40B Comprehensive Permit process. Mr. Klofft asked if Ms. Suedmeyer was asking if 40B applicants have gone to the Planning Board in the past. Mr. O'Brien indicated they have not and further said the Board can invite the Planning Board and any other boards to upcoming meetings because of their technical expertise.

## SUDBURY ZONING BOARD OF APPEALS

### MINUTES

December 5, 2016

Ms. Donoghue indicated to the Chairman that in her preparation for this hearing, that she reviewed other 40B projects and Planning Board did provide comments in the form of a memo. Mr. O'Brien said yes, but they do not sit in lieu of the ZBA. Ms. Donoghue said they provided comments from the Planning Board at their own meetings. Mr. O'Brien said he would invite comment. Mr. Klofft said he is aware of 40B applicants presenting at a Conservation Commission and Historic District Commission meetings. Mr. O'Brien indicated that the other Boards should go to the ZBA.

Mr. Fox asked, along the same lines, if the fees for stormwater will also go to Conservation, or would it be a separate account. Mr. O'Brien stated there would only be one fee and the ZBA would be the central organization that the other Boards would go to.

Mr. Peznola asked for clarification on the scope provided from Horsely Whitten, addressed to the Planning Board for the December 28<sup>th</sup> meeting. He asked if the letter could be refined to address the ZBA and have direct contact be between Mr. Peznola and Horsely Whitten to be as efficient as possible. He also clarified that because of the process of 40B, the plans are preliminary.

Mr. Riordan asked to clarify the purpose of the December Planning Board meeting is to develop a record so they can provide a memo to the Board. They are not having a hearing for the purpose of taking action, but rather just to inform themselves. Mr. O'Brien said that was correct, but the applicant does not have to appear at the meeting. Mr. Fox said if they convene on the matter, they would have members of the team present. Mr. O'Brien indicated that the Planning Board should not even convene until there is a report generated. Mr. Peznola noted that if the Planning Board envisioned providing comments through Horsely Whitten, which should be streamlined, a Horsely Whitten report to the ZBA can further discuss any comments from the other Boards. Ms. Suedmeyer indicated that the scope would be updated to be addressed to the ZBA and later have Horsely Whitten come to the Planning Board. She also indicated that the Conservation Commission does have significant jurisdiction. Mr. O'Brien stated that they do not and there is only a short time-line and should only have one hearing—not multiple meetings. Ms. Suedmeyer asked for clarification on discussion at meeting. Mr. O'Brien indicated that it can be discussed, but the applicant does not have to go to defend themselves. Mr. Riordan asked if Horsely Whitten had time to review. Mr. Peznola said there is more than enough time if there is direct interaction between Horsely Whitten and the applicant.

Mr. Fox indicated that concluded the presentation from the applicant.

Mr. Riordan spoke of communication received from Coolidge I resident from Phase I, specifically dealing with stormwater management. Mr. Riordan read about disconnected top-flow downspouts not draining to the right areas. Mr. Riordan wanted to make the applicant cognizant of this issue and everything is captured in Phase II. Mr. Peznola explained the downspout situation, indicating the roof drain system in Phase I was more complex and the disconnection of downspouts.

Mr. Riordan asked about the porous pavement. Mr. Peznola indicated that it was the fire lane with grass pavers flanked on either side with porous pavement in between. He noted they are not using porous pavement on Phase II so they will connect the roof drains down in back.

Ms. Howe stated that the author of the communication received no longer lives in the facility.

Mr. Gossels asked for clarification regarding the boot of a roof drain system. He asked if those boots had fallen off that the communication is referring to. Mr. Peznola said it very well could be.

Mr. O'Brien asked if anyone in the audience had any questions.

Ms. Donoghue asked if the Board is considering any other peer reviews such as waste water. Mr. O'Brien asked if she had any advice. Ms. Suedmeyer asked if the applicant was going to prepare a report on wastewater. Mr. Peznola indicated they are using standard Title V septic and is asking the Board for a waiver from the local Board

SUDBURY ZONING BOARD OF APPEALS

MINUTES

December 5, 2016

of Health. Mr. O'Brien asked if they are presenting anything. Mr. Peznola indicated it was out of the Board's jurisdiction and the responsibility of the Health Agent. Mr. O'Brien asked if there are any plans to work with the Health Agent. Mr. Peznola said no, but presented to the Board location of the tanks, but have not put together a full plan. The applicant envisions putting together the plan post-review of the Comprehensive Permit and go to the Board of Health. They have done on-site soil testing with the Health Agent who has spoken to that to the Board. Mr. O'Brien needs the Board of Health materials indicating that it is OK and a memo from the Board of Health indicating that it fulfills Title V.

Mr. Peznola indicated it was a pumped system with an emergency generator. He further noted that last time they waited until the Permit was approved and moved into final design after.

Mr. O'Brien reiterated the hearing schedule: stormwater, traffic, though there is nothing they can do due to the location of the driveway; phasing, architecture, site design, and landscaping plan and the stormwater.

Mr. Fox noted that there is a memo from the Assistant Fire Chief regarding the access.

Mr. Gossels asked about a maintenance plan for the generator so it works when it is needed. Mr. Klofft asked if there has been enough work done to know if a generator will work. Mr. Peznola said under Title V, there has to be enough capacity for a generator to last a day and the pump chamber to last half a day. Mr. Gossels reiterated a maintenance plan will need to be in place.

Ms. Suedmeyer indicated the stormwater peer review would be done by December 28, 2016.

Mr. O'Brien continued the hearing to January 9, 2017.

5. Approval of Meeting Minutes for November 7, 2016 Regular and Executive Sessions.

Approval of Minutes postponed to January 9, 2017 meeting.

Other Business Items:

22 Wagonwheel Rd.

William Caira, Builder; Richard Mattione, Owner; Linda and Mike Micciche from 17 Jason Drive and Brian Marobela from 18 Wagonwheel, were present at the hearing. The abutters of 22 Wagonwheel Road are not satisfied with the way the vegetation was cleared from the property in violation of the board's special permit, and the tree planting that was done to attempt to resolve the issue is inadequate. After some discussion, the Chairman suggested that with the help of further discussion between the abutters and the builder, a satisfactory landscaping plan could be put together. The builder and the abutters agreed to develop a mutually agreeable landscaping plan, and would return to the next hearing to present the plan to the board.

There being no further business, the meeting was adjourned at 9:48 p.m.