

SUDBURY ZONING BOARD OF APPEALS
MINUTES
February 6, 2017

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; Mark Herweck, Building Inspector and Zoning Enforcement Agent; and Janet Carter Bernardo from Horsley Witten Group.

The meeting was called to order 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. Public Hearing, Case 16-25 – Justin Oliver, Applicant and owner, for Renewal of Special Permit 15-20 under the provisions of Section 2340 of the Zoning Bylaw, to conduct a Home Business, specifically for music lessons, Assessor's Map G05-0108, 17 Barton Drive, Residential Zone A-1. To be immediately continued to February 6, 2017.

Justin Oliver was present at the hearing requesting renewal of Special Permit 15-20 to teach music from home requesting a renewal of 3 to 5 years.

No neighbors present for this petition, no correspondence received by the Board for this petition.

Motion made and seconded to approve petition 16-25 for a term of (5) five years.

2. Public Hearing, Case 16-26 – Peter Cramer and Ada Vassilovski, Applicants and Owners, for Renewal of Special Permit 11-14 under the provisions of Section 2313 of the Zoning Bylaws, to raise hens at 40 Singletary Lane, property shown on Town Assessor Map K09-0123, Residential Zone A-1.

Peter Cramer and Ada Vassilovski were present at the hearing. The Board is in receipt of pictures of the chicken coop from the Applicant as well as 11 letters from abutters supporting this application.

Mr. Gossels shared that he lived in this neighborhood and that he is happy to see the level of support from neighbors for this application.

The board was in agreement to renew this special permit for (5) five years with standard conditions.

Nancy Rubenstein abstained in the vote on this petition.

Motion made and seconded to approve petition 16-26 for a term of (5) five years.

3. Public Hearing, Case 16-30 – Applicant Pro's Home Services and Owner Christina Gill and Sander Alves for a Modification of Special Permit 16-9 under the provisions of Section 2460B of the Zoning Bylaw to build a 2 car garage on grade level including a mud room measuring approximately 749 square feet on a non-conforming property at 429 Dutton Road, shown on Town Assessor Map H05-0257, Residential Zone A-1.

Christina Gill, Sander Alves and Mr. Charles Rolando were present at the hearing.

Mr. Rolando presented plans titled: "Private Residence 429 Dutton Road Sudbury, MA 01776." Prepared by Domus, Inc., 555 Virginia Road, Suite 203, Concord, MA 01742, and consisting of 6 pages – Basement

SUDBURY ZONING BOARD OF APPEALS

MINUTES

February 6, 2017

Plan/New 2 Car Garage, First Floor Plan, South Street Elevation/ 2 Car Gar, Side East Elevation / 2 Car Garage, North Elevation/New 2 Car Garage, Landscape Plan and Parking Plan; (the "Plan") dated January 11, 2017.

The proposed 2 car garage is flush with the porch in the updated design, and the dwelling is within setback requirements.

Landscape plans were presented the proposal is to plant trees about 12-14 feet tall, 3.5" caliber.

Ms. Rubenstein asked for clarification about the setback showing in the drawings.

Mr. Rolando explained that the engineering drawing previously presented was incorrect, now they have the corrected drawings and this is the reason why the setback is still the same.

Mr. Klofft asked if this time they feel confident about the measurements. Mr. Rolando replied that the measurements were done professionally and these numbers will be double check.

Mr. Riordan noted in the drawing that the windows were eliminated. Mr. Rolando replied that because the garage was move back they are losing one window and one window now becomes a doorway.

Matthew Wallis from 417 Dutton Road was present and asked the Board to make sure that the measurements from the engineering survey presented for the setbacks are correct this time.

Mr. Rolando shared that he asked the engineer to submit a 1-20 scale drawing. The surveyor had the correct data on the field but there was an error while interpreting the drawings and putting the information into the computer.

Mark Herweck stated that before framing is done, he would like to see a certified as-built matching the approved plans.

Mr. Rolando stated they will have a stamped drawing of the foundation done by a certified land surveyor.

The as-built should be provided to the Building Inspector after the pouring of the foundation and prior to framing according to plans submitted; specifically, page S-1, "Landscape Plan & Parking Lot Plan" by Domus, Inc., dated January 11, 2017.

The term for the construction will be (1) one year from the date of this hearing, February 6, 2017.

Motion made, seconded to approve Petition 17-1.

4. 22 Wagon Wheel Landscape Design Agreement. (Case 16-16)

Richard Mattione, Owner of the property; Julie Marobella from 18 Wagonwheel Road and Mike Micciche from 17 Jason Drive were present at the hearing.

Abutters and Owner of 22 Wagon Wheel have reached an agreement on a Landscape Design Plan, presented to the Board by Dana Shock and Associates, Landscape Architecture; job title: "Lot 17-22 Wagon Wheel Road Sudbury, MA"; drawing title: "Proposed Buffer Planting", dated February 6, 2017.

Plants by homeowner's selection by March 15, 2017.

SUDBURY ZONING BOARD OF APPEALS

MINUTES

February 6, 2017

This landscape plan resolves compliance with Special Permit 16-16. The Board accepts this submission dated February 6, 2017.

5. CONTINUATION - Public Hearing Case 16-21 – B’nai Brith 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 Boston 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.

Present: Holly Grace, Susan Gittelman, Joe Peznola, Jim Gish, Josh Fox representing B’nai B’rith, Janet Bernardo from Horsley Witten

Mr. O’Brien continued the hearing and indicated the 180-day deadline for issuing the comprehensive permit was within a month’s time. Mr. O’Brien also referenced correspondence from MassDEP regarding of the proposed septic system. He noted the Zoning Board of Appeals (ZBA) is not comprised of experts on deciphering if there is one or two systems. Mr. O’Brien indicated he reads the letter as though MassDEP has not had enough time to assess the proposed system.

Attorney Joshua Fox indicated it is not the ZBA’s decision to make regarding the septic system. He added the approval authority under C.M.R. Title V is the local Board of Health, applied through the local health director.

Mr. Klofft asked if this issue fundamentally changes the plan. Mr. Fox said yes, and they have to come back to modify the Comprehensive Permit. He added the ZBA may impose conditions within the Compressive Permit referencing Title V.

Mr. O’Brien said the Board needs Board of Heath’s decision and asked for an extension because the matter of whether it is one or two systems will not be solved.

Mr. Klofft asked of the difference between coming back after approval and extension. He added that the Applicant cannot get started on the project until this issue is taken care of, but can work through everything else.

Discussion raised by Mr. Fox about having the Conservation Commission having an interest in this project ensued. Mr. O’Brien indicated the Conservation Commission does have an interest because the quality of water is what is in question. A septic plus with bio-retention chambers worries him, but believes all involved can come up with a plan that creates clean water. He asked what the Board of Health is going to demand and the numbers the ZBA is seeing. Right now, Mr. O’Brien said, he is seeing a lot of back and forth and not decision making a decision on March 6, 2017, and seeks extra time.

Mr. Fox asked to see what the ZBA could accomplish in the next two (2) weeks. He noted his Clients are up against a round of financing.

Mr. Klofft asked if the ZBA changes conditions, does that change the financing. Mr. Fox indicated it does not because the applicant will have the 40 B permit by that time.

SUDBURY ZONING BOARD OF APPEALS

MINUTES

February 6, 2017

Ms. Susan Gittleman stressed they have to have a permit in hand in March because the first round of financing with DHCD is once per year. After discussing the approval process, she added it has been the practice for last three years that they only do annually, and this process is the only way to receive federal and state financing.

Discussion regarding the financing deadline continued. Mr. O'Brien added the deadline to decide on the Comprehensive Permit deadline is March 11, 2017. Mr. Fox indicated the appeal period has to lapse before decision, which ends on March 31, 2017.

Mr. Klofft suggested the ZBA could deal with stormwater tonight and landscaping in two weeks. The ZBA determined that February 27, 2017 to be the next meeting.

Joe Peznola from Hancock Associates presented the landscape plan. He noted Phase I had trouble with salt and trees along the Route 20 end of the property. He added the Applicant will be using native drought tolerant plants and will replace the overgrown evergreens currently exist along the proposed new sidewalk. He added a short retaining wall would be added along where new Manhattan blue junipers are to be planted, and will not disrupt the sidewalk. Mr. Peznola noted the retaining wall make up the grades for the septic system, and added the trees will be on top of the wall and screen Route 20.

Mr. Gossels asked about the rate of growth with the junipers. Mr. Peznola stated a landscape architect has taken into consideration the growth and placed them accordingly.

Mr. Klofft asked about snow management for the fire exits. Mr. Peznola stated that it would be similar to Phase I, having the staff use a Bobcat. He further indicated there was not a set plan for snow removal, but said there was plenty of snow storage space available where the septic is located. Mr. O'Brien requested an operations plan for snow removal submitted to the Board.

Mr. O'Brien asked of the height of the trees along Route 20. Ms. Peznola indicated between 20-25 feet. Mr. O'Brien stated during Phase I, the screening was not filled in, and asked if there are plans to do so with this project. Mr. Peznola said the intention is to incorporate more Manhattan Blue Junipers in the area, and have view corridors similar to Phase I.

Mr. Gossels said that although the project consists of one plot of two buildings, they are separate entities. He added people are going to think the project is one building, and the screening on Phase I is not adequate. Mr. O'Brien said he would like to see more uniformity between the two phases. Mr. Fox indicated he will work with the landscape architect to enhance Phase I to be consistent with Phase II. He suggested intermingling with species.

Mr. Riordan said looking at the plan, page C7, he noticed that plantings 50-feet apart and consisted of 12 plants. He asked how the 12 trees are going to fit within 500 feet. Mr. Peznola indicated it was a mistake in the detail and they will fix it. Mr. O'Brien suggested the plantings should be between 5-10 feet apart.

Mr. Riordan asked of the grass-paved area shown on the plan on the east side of the proposed structure and inquired if this was the fire lane. Mr. Peznola indicated it was not the emergency vehicle access and pointed out the location to the ZBA. Mr. Riordan then referenced to the only point of access for emergency vehicles to get through. Mr. Gossels asked if the proposed structure where to have a fire, would the emergency access area be able to accommodate a ladder truck. Mr. Peznola indicated the Fire Chief looked at it the plans and understands that there is a slope there.

Mr. Gossels asked when will the applicant show the lighting plan. Mr. Peznola indicated the lighting will be similar to Phase I. There will be three proposed fixtures. Mr. O'Brien asked of the height of the lighting be.

SUDBURY ZONING BOARD OF APPEALS

MINUTES

February 6, 2017

Ms. Holly Grace indicated whatever was done in Phase I will be done in Phase II. Mr. O'Brien asked of the lighting will be dark sky compliant? Mr. Peznola said yes, as was the lighting in Phase I and did with shields.

The ZBA reviewed the Stormwater plan proposed by Mr. Peznola. Mr. Peznola also indicated he responded to Horsely Whitten peer review today including the question of volume of water going to wetlands. He explained the conditions during construction, followed by post-development and added that the amount of water in this area will not increase for the neighbors. He added that they will be working with the Conservation Commission for this issue. He further noted the peer reviewer called for additional details to the plans including providing cross sections and a mounding analysis, which he has since added.

Mr. O'Brien stated he communicated with the Conservation Commission about this issue, in which they argued the drawings do not exist yet, so there are no precise numbers. Mr. O'Brien asked if the ZBA will receive the numbers when 40B is granted. Mr. Peznola indicated he would have them for the Conservation Commission, stating the level of detail is not included now, but will with a Notice of Intent.

Ms. Janet Bernardo from Horsley Witten stated as long as in the Decision the Conservation Commission will review the fine details and added that the jurisdiction falls under the local bylaw, not the state bylaw. She added, the increase is not a concern for stormwater, but rather for the wetlands. Mr. O'Brien asked about the open culvert, and she indicated she has not been there, but understands it is an opened, crumbled culvert. Mr. Gossels asked if there is a culvert, is connected with a hydraulic connection? If so, then that is a problem. Ms. Bernardo stated that the Conservation Commission is concerned when there is a connection, but if there is not one, they are more concerned about the plants, habitat. Mr. O'Brien asked who owned it. Mr. Peznola indicated the MBTA and they are treating it as an open culvert. Mr. O'Brien opined that since it cannot be looked over because of who owns it; it has to be left as is.

Ms. Bernardo said the Conservation Commissions jurisdiction does exist. Mr. O'Brien asked if a photograph of the culvert could be provided. Mr. Riordan said it is difficult to get either photos of the culvert or the wetlands due to the steep terrain. However, they may be able to approach it from rail bed.

Mr. Peznola indicated that they are looking at it if the connection exists and they will have further conversation about stormwater with the Conservation Commission. Mr. Peznola added the rate control is appropriate. If were to open it, the volume question is no longer concerned. Water is already going in at that rate and nothing higher

Mr. Riordan asked a question regarding the infiltration basin, while referring to the updated Map C6 plan, noting the reduction into a smaller infiltration basin. Comments in the narrative also talk about the reduction but increases stage of the basin. Mr. Riordan asked about a mounding analysis. Ms. Bernardo stated a mounding analysis is required if they are attenuating for a 10-year storm event. She indicated the Applicant was attenuating at that level, so they put an outlet control structure in. However, the calculations did not match due to elevations. Now, they have remedied this by raising the elevation but still has to be reviewed. Mr. Peznola indicated they would look at it closer now that they have a response from Ms. Bernardo.

Mr. O'Brien stated that Mr. Gossels referenced a letter from director of the water district Rebecca McEnroe regarding the changes to the water connection. He asked Mr. Peznola for a written response. Mr. O'Brien also asked where the water connections are and if he is responding to Ms. McEnroe's comments. Mr. Peznola noted there are hydrants on the plans and there is a report provided by Tata and Howard noting no major issues because of minimal impacts.

Mr. O'Brien questioned what water reuse is. Mr. Peznola indicated water reuse is rainwater, and the applicant cannot do water reuse unless have a treatment plan. Mr. O'Brien asked of when would they need

SUDBURY ZONING BOARD OF APPEALS

MINUTES

February 6, 2017

irrigation. Mr. Peznola reviewed the need for irrigation and determined that during the driest time of the year, they would have to install a well. The cost of that well far exceeded the applicant's budget and determined it was wasteful.

Mr. Peznola asked for a plan for stormwater treatment during the construction phase. Mr. Peznola indicated this would be within a stormwater pollution prevention plan. He added it has to be put compiled for the Conservation Commission. Mr. O'Brien asked that the plan be put together in a cooperative manner as an active participant because activated on a daily basis.

Mr. O'Brien asked Ms. Bernardo if the stormwater review is complete. She indicated she wanted to look at a few things but she is pretty close to completion. She added the applicant still has to apply for a Stormwater Permit and go through the Conservation Commission.

Mr. O'Brien motioned to continue to February 27, 2017 at 7:30pm in Town Hall. Mr. Gossels second. Vote: All in favor.

6. Approval of Meeting Minutes for August 17, 2016; September 12, 2016 and September 20, 2016; October 24, 2016 and November 18, 2016 meetings.

Motion made seconded to approve Minutes for August 17, 2016; September 12, 2016 and September 20, 2016; October 24, 2016 and November 18, 2016 meetings.

Other Business Items.

There being no further business, the meeting was adjourned at 9:14 p.m.