

SUDBURY ZONING BOARD OF APPEALS  
MINUTES  
March 6, 2017

The Board consisted of:

Jonathan F.X. O'Brien, Chair; Jonathan G. Gossels; John Riordan, Clerk and Benjamin Stevenson, Alternate.

Also present at the meeting on behalf of the Town were: Mark Herweck, Building Inspector and Zoning Enforcement Agent and Elizabeth Rust from the Regional Housing Services Office.

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. Request for transfer of Comprehensive Permit 10-8, 278 Maynard Road, from 278 Maynard Road, LLC. to the Maynard Road 278 Development, LLC and Request for a one-year Extension of Time.

Mr. DiPlatzi, from 278 Development, LLC and Liz Rust from the Regional Housing Services Office were present at the Hearing.

Mr. O'Brien asked Mr. DiPlatzi to update the Board in regards of how he came about purchasing 278 Maynard Road.

Mr. DiPlatzi stated that he purchased the property in foreclosure and he intends to finish the project. He received an approval letter from Mass Housing for the Transfer of Comprehensive Permit and now he is in front of the Board to request their approval for this transfer and for a one-year extension of time.

Mr. O'Brien asked if he was receiving funding from Mass Housing.

Mr. DiPlatzi replied that he purchased the property and it was a cash transaction, therefore he will not need financing.

Mr. O'Brien stated that the Board is concerned about the current condition of the property. He noted that there are boulders piled up in the back of the property, there are nails scattered around the front side of the property and debris and concrete remain that needs to be cleaned up. He noted that the Board will be vigilant as to the progress and completion of this property according to the approved plans.

Ms. Rust stated that the approved landscape plan will be followed as part of the conditions for completing the project.

Mr. Gossels underlined the word vigilant, stating that there is some cleanup as result of the construction delay not contemplated at the time of approval.

Mr. Riordan added that there is a lot of construction debris that needs to be cleaned up.

Mr. O'Brien stated that the applicant bought the property in a foreclosure auction and he is happy that finally this project will be completed.

Mr. Riordan mentioned that the final landscape should be maintained in perpetuity. He further asked how the developer would comply with this requirement.

Mr. DiPlatzi replied that this condition will be detailed in the Condominium Trust documents.

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Ms. Rust clarified that a member of the Sudbury Housing Trust will be part of the Condominium Association for five years to make sure that the transition goes smoothly.

Mr. Gossels stated that he is concerned due to the small size of the Association, with only 3 units

Ms. Rust mentioned to the Board that the Trust has a Small Grant Program that could be utilized to maintain this home, in a similar manner that a property by Habitat for Humanity that has requested funds to maintain the landscape of their property located in town.

Mr. Stevenson stated that he has not followed this case closely, since he is an alternate member. He is struck that a new buyer is here requesting a transfer of the comprehensive permit, and he does not feel this is the time to review or comment what was originally approved. The Board is right in saying that what was approved will be closely watched to make sure it is done. However, this is not the time for this discussion.

Mr. Riordan expressed again that is extremely important for the Board to remain vigilant, making sure that the landscape work is done according to plan.

No residents to speak on this agenda item.

Motion made and seconded to approve transfer of Comprehensive Permit 10-8, 278 Maynard Road, from 278 Maynard Road, LLC. to Maynard Road 278 Development, LLC and to approve a one-year extension of time.

2. Public Hearing, Case 17-2 – Applicant Stephen E. Grande III and Owner J.N.G. Realty Trust, Michael J. Coutu, Trustee at 740 Boston Post Road for a Use Variance from Article 2230 of the Zoning Bylaw to use neighboring vacant lot at Lot 2, Lafayette Drive, zoned Residential A to park cars during regular business hours shown on Town Assessor Map K05-0003, Residential Zone A. To be immediately continued to April 3, 2017.

Motion made and seconded to continue to April 3, 2017 at 7:30 pm at Town Hall.

3. Public Hearing, Case 17-3 – Heather Clement, Tails by the Wayside, LLC. Applicant and Owner, for Renewal of Special Permit 09-2, under the provisions of Section 2313 of the Zoning Bylaw, to continue operating a kennel on the premises, property shown on Town Assessor Map L04- 0001, 882 Boston Post Road, Wayside Inn Historic Preservation Zone.

Heather and Richard Clement were present and stated that they have been in business for about 13 years and they are here for a renewal of their special permit granted 5 years ago.

Mr. O'Brien expressed that he has no concerns about this application because of the location of the business and the fact that the Board did not receive any complaints from abutters.

Mr. Stevenson stated that the last time this permit was renewed was for five years and he does not have a problem with a five-year term this time because of the nature of the business.

Mr. Gossels would consider extending the term because there is no reason to assume that the nature of the business will all the sudden change.

No neighbors present for this petition.

Motion made and seconded to approve petition 17-3 for a term of (5) five years.

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4. Public Hearing, Case 17-4 – Warrior Homes, LLC. Applicant and Mark R. Gainer and Susan E. Gainer Owners for a Special Permit under the provisions of Section 2460B of the Zoning Bylaw, to construct a dwelling of approximately 4,400 s.f. after demolition, which will exceed the total floor area of the original structure, property shown on Town Map J06-0027, 196 Horse Pond Road, Residential Zone A-1.

Attorney Joshua Fox and David Wiseman, owner of Warrior Homes and Michael DiModica were present at the hearing.

Mr. Fox described the lot located on Horse Pond Road and explained that it is just shy of one acre in size. The current house on the lot is set to be demolished because it is beyond repair. Mr. Fox indicated it is uneconomic to build the new home on the same location.

The applicant is requesting to build a home that is going to be set back 60 feet from Horse Pond Road, with the exception of a Farmers Porch that will be 54 feet from the front yard setback on Horse Pond Road. By doing this the applicant is eliminating an existing non-conforming house, the current dwelling currently is 7 feet from the side yard setback, and with the new home there will be 20 plus feet side yard setbacks.

Mr. O'Brien expressed concern that as the existing house is built on a berm, the current proposed structure would be built in front of that, which would make the proposed structure loom over the street. He noted that would like to have the house pushed farther back on the lot. He also asked if the house to be torn down was going to be lived in during the project.

Mr. Fox stated that the lot narrows at mid-point, and if the house is pushed back, it would encroach on the side yard setbacks. Additionally, there is a 200-foot river front area in the back of the lot and their desire was to avoid bumping into potential wetlands issues.

Mr. DeModica approached the Board members with a map, showing the most recent survey of the land and which delineated the river front area. He noted that the Conservation Commission is happy the applicant plans to move the house forward toward the front setback.

Mr. Fox stated that the Applicant has no objections if the Board suggests moving the house back, but noted that the proposed building will encroach the side yard setbacks.

Mr. Gossels stated that this house will be in town for a long time and he would like to have it set in the right spot. He also asked the applicant about landscape plans, as abutters will be concerned about changes in landscape and appropriate vegetative screening.

Mr. Fox replied that they have shared with abutters a copy of their application and asked for feedback from them. They have not heard from abutters as of the day of the meeting.

Mary Polito from 195 Horse Pond Road was present and agrees that the house should be moved back on the property. She noted that trees and bushes currently screen the existing house and she would like the new house to maintain appropriate screening. Ms. Polito is also concerned about hazardous materials during and after demolition work. Overall Ms. Polito stated that this new construction would be an improvement to the current condition of the existing house.

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Mr. Herweck replied that during any demolition, the builder would need to comply with all the laws and regulations governing the process and must show a certificate from a hygienist. The Board of Health is also involved in this process.

Mr. Gossels added that one of the conditions of the Special Permit is that the applicant needs to comply with all town and state laws for demolition.

Ms. Polito asked if the new driveway is to be located in the same spot, or relocated to the right of the new construction. Mr. DiModica replied that the driveway would remain in the same curb cut location.

Mr. Riordan understands that if the Board would like to move the house back and sacrifice the side yard setbacks, he is concerned that the landscape on the side yards could be compromised.

Mr. Stevenson added that he would like to memorialize the generous offer by the Applicant to work with the neighbors in regards of landscape. He understands the Applicant is also interested in effective vegetative screening for the new house because it would be more appealing to a potential buyer.

Mr. Gossels asked if the proposed house will have an unfinished attic that could be finished at one point.

Mr. Fox replied that the new house will not have an attic, the 4,400 sq.ft. is including the basement and the height of the house will be a little more than 31.6 feet and this only because the hip roof style.

Mr. Stevenson proposed to move in the words of the application, but including the requirement that the applicant move the current proposed structure 10 feet back on the plan, large trees to be preserved in its current state as much as possible or to be replaced with effective screening, front side yard screening to be consisting with current guidelines and then to be discussed with neighbor across the street.

Motion made and seconded to approve petition 17-4.

5. Approval of Meeting Minutes.  
No Minutes.

Other Business Items.

There being no further business, the meeting was adjourned at 8:30 p.m.