

SUDBURY ZONING BOARD OF APPEALS
MINUTES
April 3, 2017

Board Members present:

Jonathan F.X. O'Brien, Chair; John Riordan, Clerk; Nancy G. Rubenstein; Jeffrey P. Klofft; Benjamin Stevenson, Alternate; Jonathan W. Patch, Alternate and William Ray, Alternate.

Town Staff present: Mark Herweck, Building Inspector and Zoning Enforcement Agent.

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. CONTINUATION - 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.

Attorney Steve Grande and Mr. Michael Coutu were present for the hearing. Mr. Coutu was raised in Sudbury and has been involved with the community. "Sudbury Design Group" has been in business for more than 20 years and has expanded overtime. For a number of years, he had an agreement with an abutting hotel where employee's cars could park in exchange for landscape maintenance. The hotel sold and the agreement expired.

Mr. Coutu owns the abutting property, known as Lot 2 Lafayette Drive, Mr. Coutu needs parking for approximately 15 park vehicles, including cars and light pickup trucks. He has been utilizing this lot as such over the past few years. As owner of this parcel, he assumed he could use the space for parking for his business, until he received a letter from the Building Department concerning a violation on a residential parcel. This was the first time Mr. Coutu was in violation.

Mr. Grande added that after consulting with Town Planer, Meagen Donoghue and Building Inspector, Mark Herweck they proceeded to submit an application for a Variance.

Mr. Coutu met with neighbors after discovering their concerns and from learning of a petition circulated for signatures against the use of the lot for parking. Mr. Coutu felt bad about the situation and wanted to address their concerns by presenting a landscape plan in addition to the Variance application. The plan included eliminating the semicircular asphalt driveway, closing one entrance, leaving one small entrance to the lot, planting trees and grass, and putting a gravel area and installing a stockade wood fence of about 6 feet high to have 12 parking spaces parked behind the fence.

Mr. Coutu stated the lot will be maintained for employee parking only. He noted he leases land on Marlborough Road for the storage of his commercial vehicles and nursery materials. He added he needs room for about 15 employee spaces between the hours of approximately 6 am in and 5 pm. There will be no weekend activity, no lighting, no storage of materials, and a fence will limit the parking spaces.

Mr. Stevenson asked the applicant to explain the hardship of their application, and if he tried to make other arrangements for his employees' parking needs.

Mr. Grande stated his employees cannot park at Sudbury Farms or any other parking space along Route 20 and walk to the business. He reiterated the agreement with the hotel next door is no longer in place.

Mr. Coutu added there is no public parking in town available for this purpose, he looked and could not find a similar opportunity to have cars parked elsewhere.

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Mr. Klofft stated he is struggling with the Variance conditions. Mr. Klofft noted some of the requirements he could work with, but he was having hard time passing by the first requirement of the Variance.

Mr. Stevenson congratulated Mr. Coutu for the growth of his business, but feels as if he is bringing a new business to this parcel of land and that is something the Board would never aloud. Mr. Stevenson stated he is having trouble getting past the first requirement for the Variance.

Mr. Grande understands their position. He explained they chose this route in order to avoid going to Town Meeting with a request of having this lot re-zoned. He asked the Board to not only look at one parcel, but also consider the abutting lot is the same business and person who owns both lots. Because of the nature of the lot, and the nature of the use, they have the need to encroach into the next lot.

Mr.Klofft stated he does not believe he has the authority to grant this Variance based on the conditions presented in this application.

Mr. O'Brien shared, he was not conformable with the legal standards allowing him to go with the Variance for this proposed project; even if he agrees this is the best idea the applicant could present. Mr. O'Brien would like to have better legal precedent for this Variance. He understands the applicant situation, but he is hearing a case presented for a Special Permit and not a Variance. The Board will need to do further research and a presentation in writing from the applicant.

Mr. Stevenson agrees with the views of Mr. Klofft and Mr. O'Brien, and further states through the Town Bylaws, this Board is given discretionary authority to meet certain uses, which are allowed. A Variance on the other hand, states the zoning rules should not apply in a particular context.

Mr. Coutu addressed the Board and stated the Special Permit was the route he intended to approach because the Board could have more control over crafting conditions, limiting hours, number of cars, etc. In the end could be more appealing to abutters, but he was told he could not do it.

Mr. Coutu asked the neighbors if they ever have any issues or concerns, to please share with him. He has an open door policy, welcoming comments and working with the neighbors.

Mr. Klofft once more stated there is nothing unique about the situation to allow this Variance. In this case, the law does not permit him to vote in favor of this variance.

Mr. Riordan mentioned the case of Sherman v. Board of Appeals of the City of Worcester, and stated the applicant is a little bit right and this request is somehow unique.

The Board asked the applicant to explore every avenue and submit a new application. At this point, the Board is having hard time getting through point one of the variance requirements.

Mr. Grande stated he would like the opportunity to further explore his options and would like to formally request to withdraw without prejudice his request for a Variance.

Motion made and seconded to accept withdrawn without prejudice of variance request 17-2.

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2. Public Hearing, Case 17-5 – Nikhil Bhosrekar, Applicant and Owner, for a Special Permit under the provisions of Section 2313 of the Zoning Bylaws, to raise up to 6 hens, property shown on Town Assessor Map H08-0001, 317 Old Lancaster Road, Residential Zone A-1.

Mr. Bhosrekar was present for the hearing. He explained to the Board his request to have a chicken coop approximately of 4' x 6' and a chicken run of 10' 10'. The coop will be fully enclosed and design for six hens and no roosters.

Mr. O'Brien asked how he intends to handle the waste. The applicant replied that the waste will be double bagged and picked up by a waste management service.

Ms. Rubenstein asked if the hens would be free to roam around the yard. The applicant replied the hens would be kept in the coop at all times.

No neighbors were present for this petition.

Motion made and seconded to approve petition 17-5 with standard conditions for a term of (1) one year.

3. Approval of Meeting Minutes.

Minutes for March 6, 2017 meeting were approved.

4. Board Reorganization.

Mr. O'Brien is stepping down to an alternate member position, leaving an opening for Chair. He also mentioned the Clerk's position is open as well.

Mr. Klofft nominated John Riordan for the Chair position stating he found him to be knowledgeable, thorough, reasoned in his approach, and always has done his homework. If interested Mr. Riordan would do a fine job.

Mr. Stevenson congratulated Mr. O'Brien for the great job as Chair, having guided the Board through very difficult 40B applications, a nice tone at controlling meetings, and giving residents a chance to be heard. Mr. Stevenson seconded the nomination for John Riordan to be the new Chair.

Mr. Riordan added that Mr. O'Brien did a terrific job guiding the Board through the two biggest 40B projects in the history of the town.

Mr. Klofft nominated Nancy Rubenstein for Clerk.

Mr. O'Brien asked William Ray if he would be interested in being a Clerk and stepping up to member. Mr. Ray replied, he would but he is concerned he might be missing meetings when he is traveling for work.

Motion made and seconded to nominate John Riordan as Chairman. The Board voted unanimously to elect Mr. Riordan Chair for a 2-year term.

Motion made and seconded to recommend William Ray to the Board of Selectmen to be a member and with intention to nominate him as a clerk, when approved by the BOS.

Other Business Items.

There being no further business, the meeting adjourned at 9:20 p.m.