

SUDBURY ZONING BOARD OF APPEALS
MINUTES
June 11, 2018

Board Members Present: John Riordan, Chairman; William Ray, Clerk; Nancy Rubenstein; Jeffrey Klofft and Benjamin Stevenson.

The meeting was called to order at 7:30 p.m.

Chairman Riordan opened the hearing by asking the Clerk to read the notice as published in the newspaper.

Chair Riordan read guidelines for special permit and variance.

- 1) Public Hearing Case 18-16– Haley & Kevin Bush, Applicants and Owners, for a Special Permit under the provisions of Section 2313 of the Zoning Bylaws, to raise up to 8 hens, property shown on Town Assessor Map G10-0120, 128 Plympton Road, Residential Zone Res-C.

Chair Riordan open the hearing at 7:30 p.m. acknowledging quorum was present.

Haley & Kevin Bush were present at the hearing, Mr. Bush described their request for a chicken coop to be located on their property, located in about one and a half acres, well screened with vegetation from abutting neighbors, the coop will be installed on the property, they intent to have the coop for educational purposes, for eggs and for family use only, non-commercial, they will like the approval for up to eight hens, but they will start with 4 hens no roosters.

Mr. Klofft asked if the coop will have heating and what are the plans for waste disposal.

Mrs. Bush stated that a radiant heat device will be used for heating and waste will be composted together with yard debris.

The Board acknowledges receipt of three emails from abutters in favor of this application:

- Email from Daniel Bradford, 136 Plympton Road, dated June 8, 2018
- Email from Jackie Blesso, 120 Plympton Road, dated June 8, 2018
- Email from Shanna Theriault, 125 Plympton Road, dated June 11, 2018

Chair Riordan asked if any members of the public wished to speak.

No neighbors were present for this petition.

There were no further comments.

The Board finds that the use is in harmony with the general purpose and intent of the Bylaw.

That the use is in an appropriate location and is not detrimental to the neighborhood and does not significantly alter the character of the zoning district.

Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

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That the proposed use would not be detrimental or offensive to the adjoining zoning districts and neighboring properties due to the effects of lighting, odors, smoke, noise, sewage, refuse materials or other visual nuisance.

Motion made, seconded and voted, to approve petition 18-16 for one (1) year term with standard conditions in the words of the application for up to 8 hens.

- 2) Public Hearing Case 18-17 – Marc Pepi, Applicant and Owner, for a Variance under the provisions of Section 2600 Appendix B Table of the Zoning Bylaw, to request a dimensional variance for relief of front-yard setback requirements to allow an approximate 12-foot encroachment of a proposed addition, property shown on Town Assessor Map M11-0155, at 60 Brookdale Road, Residential Zone A-1.

Mr. and Mrs. Pepi were present at the hearing, requesting a variance of approximately 12 feet. Mr. Pepi described the request to the Board, he stated the home would look better from an architectural point of view.

Mr. Stevenson asked why this application was submitted as a variance if the lot is 0.78 acres in size.

Mr. Herweck reply that yes, it is a non-conforming lot and he could instead apply for a special permit.

It was noted by the Board that the Applicants submitted a special permit application form, the language use on the request described the petition of a variance and it was advertised as a variance.

Mr. Stevenson explained to the applicants the difference between a variance and a special permit, and how it is much easier for the Board to approve a special permit.

Mr. Klofft suggested that since the request will be a step down from a variance and the request will not be materially different than what the application is requesting that the Board should go ahead and allow the application to go forward at this meeting.

Mr. Stevenson agreed and felt he would feel comfortable reviewing the request at this meeting.

Chair Riordan stated there is zoning case law references that support a Board to review an application when it was advertise for a larger number or impact than what is been presented.

Chair Riordan reminded the Applicants the requirements that they need to meet for a special permit.

Mr. Stevenson asked if the current septic will be able to handle the proposed addition.

Mr. Pepin stated the septic was upgraded years ago, and they will not be adding an extra bedroom, instead they will convert the smallest bedroom into an office and take the closet out.

Mr. Klofft suggested the Board include a condition, in the event the property will change ownership and the new owner would like to demolish the home and build a new one, that the new approved front setbacks will not be the new set boundary, that this request is not re-setting the front setback for future owners.

Chair Riordan asked if the chimney will remain in place.

Mrs. Pepi reply that they are keeping the chimney and that the addition is being designed around the location of the chimney.

Mr. Stevenson asked for the record to reflect that the Board is considering and approving this request for a reduce front setback in light of the design been a one story high.

Mr. Klofft asked for a condition that the special permit will not be transferable and it will expire upon the sale of the property.

The Board is allowing this set back considering that it is only one story building.

Ms. Rubenstein commented it might look nicer if the garage is pushed back and both elevations are in line and pointed out all of the houses on the streets are further back, and asked if the applicant had consider having both gables aligned.

Mr. Pepi reply that if the two gables are bring together they create a valley down and he might have a problem with water concentrating there, he added that the front porch gives the design a more artistic look otherwise the structure will look flat and it might look like a train.

The Board acknowledges receipt of three emails from abutters in favor of this application:

- Letter from Prudence Dansereau, 68 Brookdale Rd., dated June 10, 2018
- Letter from Maureen McHugh, 48 Brookdale Rd., dated June 11, 2018

Chair Riordan asked if any members of the public wished to speak.

Maura Moran, 59 Brookdale Road spoke very highly of their neighbors and expressed she is in support of this application.

There were no further comments.

Mr. Stevenson, commented he agreed with Ms. Rubenstein opinion about the garage and the location, but considering the neighbors support the proposed design, the applicants having their own reasons, and the Board supporting the application stated again that this application works because it is a modest design in size and it is a one story building. If the structure were to be changed the Board would reconsider this decision.

The Board finds that the use is in harmony with the general purpose and intent of the Bylaw.

That the use is in an appropriate location and is not detrimental to the neighborhood and does not significantly alter the character of the zoning district.

Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

That the proposed use would not be detrimental or offensive to the adjoining zoning districts and neighboring properties due to the effects of lighting, odors, smoke, noise, sewage, refuse materials or other visual nuisance.

Motion made seconded and voted, to approve petition 18-17.

- 3) Public Hearing, Case 18-18 – Global Tower Assets III, LLC (formerly GTP Acquisition Partners II, LLC and Tower Assets Newco II, LLC,) Applicant, and Sudbury Research Center, Inc., Owner, for renewal of Special Permit 15-12 (previously issued ZBA Cases 11-28 & 08-13), for the continued operation of a 120-foot flagpole style, 2-carrier monopole, including associated equipment, Assessor's Map C11-0300, 142 North Road, Research District #1.

David Allen was present at the hearing representing Global Tower Assets III, LLC.

The tower is located at 142 North Road, at the present time it holds Metro PCS as the only carrier, the Applicant is requesting renewal of the special permit 15-12 for a term of 10 years, Mr. Allen stated the tower was built on 1999 and since then was renewed three times, on 2008, 2011, and 2015, the renewal if approved will simply keep the status quo.

Chair Riordan recap some of the history regarding the last renewal and structure deficiencies identified then, he asked the Applicant if that was remedy.

Mr. Allen replied yes and added that a structural analysis was submitted to the Building Inspector, dated March, 2018 and it was included with the application.

Mr. Riordan asked a question about page 14 of the report.

Mr. Allen could not give detail, but offered supplying the Board with a letter from an Engineer explaining those technical details.

Ms. Rubenstein, clarified the information on page 14, since she is a structural engineer.

Mr. Klofft stated that he does not support a renewal for 10 years, because of the history, maintenance issues and age of this tower.

Ms. Rubenstein marked that the renewals had been on the shorter term for this tower.

Mr. Stevenson expressed that in the past with different owners of the cell tower they had some issues with maintenance, he suggested to keep the renewal on a shorter term.

Chair Riordan also shared a concern that a term of 10 years might not be applicable to this renewal.

Mr. Allen stated that a structural report is done annually, and they also have site technicians that visit the site at least once a quarter. No later than October every year an inspection report will be

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sent to the building inspector and they will make sure an emergency contact information is clearly posted on the site.

Chair Riordan asked if any members of the public wished to speak.

No neighbors were present for this petition.

There were no further comments.

The Board finds that the use is in harmony with the general purpose and intent of the Bylaw.

That the use is in an appropriate location and is not detrimental to the neighborhood and does not significantly alter the character of the zoning district.

Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

That the proposed use would not be detrimental or offensive to the adjoining zoning districts and neighboring properties due to the effects of lighting, odors, smoke, noise, sewage, refuse materials or other visual nuisance.

Motion made, seconded and voted, to approve petition 18-18 with a three (3) year term with standard conditions in the words of the application.

- 4) Public Hearing Case 18-19 – Gaston Safar Applicant and Owner, for a Special Permit under the provisions of Section 5500 of the Sudbury Zoning Bylaws, to allow a detached Accessory Dwelling Unit that is no greater than 850 s.f., property shown on Town Map K10-0003, at 267 Landham Road, Residential Zone A-1.

Mr. Safar was present requesting a special permit for a detached accessory dwelling unit at 267 Landham Road.

The Board asked the applicant about the current situation with conservation.

Mr. Safar reply that he is working with conservation and has hired the help of an environmental engineer.

After some discussion, the Board explained to the applicant that he needs to work with conservation first, resolve the issue and then come back to ZBA for the accessory dwelling.

Mr. Safar withdrew his application without prejudice and the Board accepted the withdrawal.

There were no further comments.

Motion made, seconded and voted, to accept withdrawal without prejudice of petition 18-19.

- 5) Public Hearing, Case 96-15- Drumlin Development, LLC/Orchard Hill owner/applicant for a modification of an existing Comprehensive Permit pursuant to Massachusetts General Laws, Chapter 40B and 760 CMR 56.04 & 56.05. The project is known as

Orchard Hill and it is identified at Assessor's Map K05-0031, 761 Boston Post Road. The Board will discuss and vote to determine whether the proposed modification is substantial pursuant to 760 CMR Regulations 56.05(11).

Attorney David Wallace and Clifford Hughes were present at the hearing.

Mr. Hughes presented a letter from Samiotes Consultants with a narrative regarding stormwater and septic capacity at 761 Boston Post Road.

Mr. Klofft asked if the applicant will need to do more tree clearing to install the additional trenches.

Mr. Hughes stated the soil condition is great and they have enough capacity at the lower end at the driveway entrance of the house, he added soil conditions are substantially porous to accommodate more load and the reserved area has additional space.

Mr. Riordan asked about the detention basin experience and performance so far.

Mr. Hughes stated that the detention basin performs beautifully and it is never more than 2 inches deep.

Mr. Stevenson asked for any legal criteria that might make this a substantial vs insubstantial.

Mr. Hughes reply the main threshold is the 10% number of units been proposed, and added that Samiotes Consultants are very familiar with the site, the Town and the process.

Mr. Ray stated that at the last meeting the Board requested more information from the Applicant to feel more comfortable making that determination.

Chair Riordan recapped the three things asked from the Applicant: wetlands delineation on the property, style of the addition and break down of massing, and stormwater and septic, with the knowledge that they will be building an additional parking spot.

The Board discussed in length whether this request is insubstantial or substantial

Chair Riordan stated that these four units will add to the housing inventory and he strongly recommended to the Board to approve this request as an insubstantial change.

Mr. Klofft stated he speaks no ill about this application, he stated that many things that the Board puts out there does set a precedent, he felt inclined to support this request but would like to have full engineer drawings.

Mr. Hughes reply he will not do anything, he will not spend a dime until he knows and he is warranted to move forward.

Mr. Riordan felt the information provided by the Applicant was sufficient for the Board to make a determination.

Ms. Rubenstein asked if the Applicant was able to check with the Fire Department, to make sure they will have access to the new proposed addition.

Mr. Hughes reply that this will be part of the permitting process. He added that the four units added will contribute and count as part of the affordable units in town.

No neighbors were present for this petition.

There were no further comments.

The Board discussed and voted on the nature of the modification, identifying that with the addition of the four residential units it determines the modifications to the permitted Project as “insubstantial” as outlined below:

A “Yes” vote would deem the project modifications “insubstantial.”

The Board of Appeals voted as follows:

John Riordan, Chair	Yes
Jeffrey Klofft	Yes
Nancy Rubenstein	Yes
William Ray	Yes
Benjamin Stevenson	No

Accordingly, the Sudbury Zoning Board of Appeals determines proposed permit modifications of an addition of four (4) units to be “**insubstantial**” under Massachusetts General Laws, Chapter 40B and 760 CMR 56.04 and 56.05. This vote signifies that the proponent may move forward with developing the four (4) units and one (1) parking space at Orchard Hill without the need for a public hearing and determination by the Board under Massachusetts General Laws, Chapter 40B, §21.

The proponent must file for a Stormwater Management Permit prior to filing a Building Permit with the Building Commissioner.

The Zoning Board of Appeals does not have the authority to waive certain state law requirements, even under a Comprehensive Permit. Therefore, the Conservation Commission retains jurisdiction when a project requires permits under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, § 40. The applicant and counsel, working with the Conservation Commission, will have to determine the applicability of c. 131 in the case of this modification and thus whether the project requires permits under ch. 131, § 40 beyond those that have already been issued for the existing project.

6) Approval of Meeting Minutes for February 6, 2017 and Regular & Executive Session

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Meeting Minutes for April 30, 2018.

Minutes of February 6, 2017 and Regular & Executive Session Meeting Minutes for April 30, 2018 approved by four members present. Four members voted to release Executive Sessions of April 9 and April 30, 2018, Mr. Stevenson abstained from voting.

7) Administrative Report

Motion to adjourn at 9:34 p.m.