

SUDBURY ZONING BOARD OF APPEALS

MINUTES

September 17, 2018

Board Members Present: John Riordan, Chairman; Jonathan Gossels; Nancy Rubenstein; Benjamin Stevenson and Frank Riepe.

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

Chair Riordan read guidelines for special permits and variances.

- 1) Public Hearing, Case 18-29 – Sudbury American Legion Post 191, Inc., applicant and owner of property, for renewal of Use Variance 15-25, granted under the provisions of Section 2230 of the Zoning Bylaws, to use the building and property as a private clubhouse and meeting hall, property shown on Town Assessor Map K05-0020, 676 Boston Post Road, Residential Zone A-1.

Jim Wiegel, Business Manager for The Legion Post 191 was present at the hearing, requesting a renewal of a Use Variance for the Club, he stated there were no changes to the operation of the Club.

Mr. Gossels asked about past issues related to noise and littering and asked if a letter was sent to abutters asking them if at the present time they have any issues with the Club.

Mr. Wiegel replied he was not sure if this letter was sent out, he added he knows Aruna's place and the next door neighbor do not have any issues with the Club and since he is managing the Club after retiring from the Army there have been no issues for the past 12 years.

Ms. Rubenstein noted one of the conditions of the Use Variance decision requested the applicant to contact the abutters with a letter.

Mr. Riordan asked if there were any issues with parking or any issues with neighbors.

Mr. Wiegel replied there have been no issues with parking and no incidents with the neighbor.

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

Barbara Pie, 11 Stone Road shared she received a copy of the hearing notice and reported in overall no issues, only small littering of bottle caps and noise around Veterans Day Parade.

Mr. Gossels asked for the Minutes of this meeting to reflect the discussion and consideration that in the event of management changes at the Legion, the term for the Use Variance could be re-considered by the Board.

Mr. Stevenson added that in his opinion the Use Variance can have conditions regarding management changes within reason, considering no changes in management and no issues from abutters he motioned moving in the words of the Application for a term of five (5) years with the same conditions attached to prior Use Variance.

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.

That the proposed use will not cause undue traffic congestion in the immediate area.

Motion made, seconded and voted to approve petition 18-29 with standard conditions, same conditions as previous decision, noting that a letter to neighbors be sent out before next renewal, the term for the Use Variance will be for (five) 5 years.

- 2) Public Hearing, Case 18-30 – Matthew Hollister, 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 D10-0009, 4 Deacon Lane, Residential Zone A-1.

Mr. Hollister was present at the hearing requesting a chicken coop for 6 hens to be located behind his house for the purpose of teaching his children some responsibility and for the purpose of collecting eggs.

Mr. Gossels mentioned to the applicant standard conditions that the Board typically imposes on the special permittee.

Chair Riordan reminded the applicant the coop will be for hens only, no roosters and asked the Applicant how the waste will be handled.

Mr. Hollister replied waste will be disposed in the trash.

Mr. Herweck, Building Inspector and Zoning Enforcement Agent reminded the Board once approved, the applicant will need a stable permit from the Board of Health.

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

No neighbors were present for this petition.

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.

That the proposed use will not cause undue traffic congestion in the immediate area.

Motion made, seconded and voted to approve petition 18-30 with standard conditions for a term of one (1) year.

- 3) Public Hearing Case 18-31 – Seth Hardy & Jenny Sorblom, applicants and owners, for a Renewal of Special Permit 17-24 under the provisions of Section 6200, 2300 & 2313 of the Sudbury Zoning Bylaws, for a Special Permit to raise a swine as a pet, property shown on Town Map K09-0001, at 41 Concord Road, Residential Zone A-1.

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Mr. Hardy and Ms. Sorblom were present at the hearing, requesting a renewal of their special permit #17-24 to house a pet pig.

Chair Riordan asked if the Applicants have received any complaints from neighbors.

Ms. Sorblom replied no complaints, only few visits from neighbors to meet the pet pig.

Mr. Gossels asked if there have been any issues with waste.

Ms. Sorblom replied the waste is picked up and when they are away, they hired a company to clean the waste.

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

No neighbors were present for this petition.

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.

That the proposed use will not cause undue traffic congestion in the immediate area.

Motion made, seconded and voted to approve petition 18-31 with standard conditions. For a five (5) year term.

- 4) Public Hearing Case 18-32 – Lisa Venuto/ADMU Management, LLC, applicant and owner for a Special Permit under the provision of Section 2620 Appendix B of the Zoning Bylaws, to construct on an existing non-conforming lot a 25'x 28' two car garage that will result in a side-yard setback deficiency of approximately 8 feet, property shown on Town Assessor Map J06-0312, at 29 Stonebrook Road, Residential Zone A-1.

Lisa Venuto and Peter Venuto were present at the hearing, they purchased their home in January 2017, after they purchased the house they renovated the whole house but they did not work on the garage renewal. They are requesting to construct on an existing non-conforming lot a 25'x 28' two car garage that will result in a side-yard setback deficiency of approximately 8 feet.

Chair Riordan shared he drove by the home and noticed the garage looks like a 1955 structure next to a 2017 house. He asked the Applicants if they have considered placing the garage on the other side of the property.

Mr. Venuto replied the septic system is on that side as well as the propane tank.

Ms. Rubenstein asked for the proposed height of the roof on the garage.

The applicant replied the peak of the garage is exactly on the same plane as the house, matching the ridge of the roof of house.

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Mr. Gossels asked if the intent of having a tall garage is to achieve added living space.

Mr. Venuto replied it will be room for storage, because they do not have a large basement.

Mr. Gossels commented that having the gable facing the front of the street gives the optical impression that it is a lot taller.

Mr. Venuto replied he had consulted with Mr. Herweck, the Building Inspector and came to the conclusion that it will be less intrusive to the neighbors next door the way he presented it on his application.

Mr. Riepe stated that the proposed garage in his opinion was made larger than necessary for a two car garage and added the garage could be re-design to be smaller.

Mr. Venuto replied that he intends to park his truck in the garage, perhaps a sedan could be park on a smaller garage but not a large vehicle.

Mr. Stevenson commented the current design looks appropriate and gives the applicant credit for the nice job done to the rest of the house and by pulling the proposed garage forward it reduces the setback deficiency.

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

Samira Sheth and Jonathan Jendrzewski, 21 Stonebrook Road were present at the hearing. They have previously shared their concerns via email with the Board, at this meeting they expressed they are concerned with the proposed size of the two car garage with above living space structure, about noise and lighting, stated there is constant traffic of large trucks and machinery at the property, visually they will be impacted because their bedrooms will face the proposed garage, they expressed concern about the removal of existing vegetative screening that was planted previously along the property line and then removed, the financial impact on the re-sale of their property and how in the future if they decide to build an addition and intrude within the 20 feet buffer, would they be approved?

Mr. Stevenson noted the property at 21 Stonebrook is located on the left side of the lot as well as 29 Stonebrook and added this type of discussions are not uncommon with requests on lots smaller than 40,000 s.f. and typically neighbors compromised and come to a solution but it is typical to have little intrusions in the setbacks.

Mr. Gossels commented that in his opinion there are neighbor issues and zoning issues, some neighbor issues can easily be solved by some compromise, talking about vegetative screening to make sure the applicant can get what they are requesting and the abutter can keep their privacy.

Mr. Stevenson and Chair Riordan agreed with Mr. Gossels observation.

Chair Riordan reminded everyone that the ZBA can impose conditions with the approval to mitigate impacts.

Mr. Venuto commented that 21 Stonebrook was in front of the ZBA for a similar request for an addition, as well as many of his neighbors, because all lots in this area of town are non-conforming, he plans to put a 6-foot-high fence and the reason why he moved the bushes that he planted was because weeds were growing around them.

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Ms. Rubenstein asked if a business was run at 29 Stonebrook Road.

Mr. Venuto stated he borrows or rents equipment to work around the house, and he does not run a construction company out of the house.

Mr. Stevenson asked the Chair if the Board could vote tonight on this petition with a contingency that all parties involved need to come up with an agreement about vegetative screening and or a fence that could be submitted to the Planning Office. Mr. Stevenson then moved in the words of the application with standard construction conditions, conditional upon the applicant and the neighbors at 21 Stonebrook Road reaching an agreement on screening plans consistent with the discussion that took place at this meeting.

Mr. Gossels stated the screening should not be a line of 50 trees, instead 5-6 bushes located in the main sight lines and a fence if necessary.

Mr. Riepe commented it did not seem appropriate to vote on this evening without seeing the plan and making the agreement part of the record.

Mr. Stevenson replied if the plan is mutually agreed by the parties, he would be ok with it.

Chair Riordan suggested continuing this application to October 1, 2018 meeting.

Mr. Riepe agreed that this application should be continued to the next meeting and noted the information submitted with this application is "sketchy" and not clear, the building plans are poorly reproduced and unreadable.

The Venutos agreed to the short continuance.

Motion made, seconded and voted to continued petition 18-32 to October 1, 2018 and the Board requested the applicant to submit clear plans.

- 5) Public Hearing Case 18-33 – Anne Stone, applicant and owner, to request a Use Variance under the provisions of Section 2230 of the Zoning Bylaw to allow for the construction of a self-storage facility in a Residential A-1 District, property shown on Town Assessor Map K06-0602, at 554 Boston Post Road, Residential A-1.
- 6) Public Hearing Case 18-34 – Anne Stone, applicant and owner, to request a Variance under the provisions of Section 2210 of the Zoning Bylaw to allow for more than one principal structure, property shown on Town Assessor Map K06-0602, at 554 Boston Post Road, Residential A-1.
- 7) Public Hearing Case 18-35 – Anne Stone, applicant and owner to request a Variance under the provisions of Section 3144 of the Zoning Bylaw to allow for limited parking in the front of the building for a non-residential use, property shown on Town Assessor Map K06-0602, at 554 Boston Post Road, Residential A-1.
- 8) Public Hearing Case 18-36 - Anne Stone, applicant and owner to request a Variance under the provisions of Section 2600, Appendix B, to allow a structure with more than 2.5 stories and higher than 35 feet in a Residential A-1 District, property shown on Town Assessor Map K06-0602, at 554 Boston Post Road, Residential A-1.

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Chairman Riordan addressed the audience and Board by stating he was going to consolidate the four Variance hearings to one. He then opened the hearing for 18-35 and reiterated consolidating the other cases. Chairman Riordan added that he wanted to discuss cases 18-35 and 18-36 in depth before moving forward with the other cases.

The Chair requested the applicant to come forward and present. Attorney Jerry Effren introduced himself as attorney for Anne Stone, the project proponents, Michael Lynch and Quentin Nowland of Lynch Landscape Company. Both Mr. Lynch and Mr. Nowland are the proposed owners, contingent on all Town Board and Committee approvals they are seeking.

Mr. Effren provided a background on the proposed project, beginning with introducing Anne Stone, current owner of the property. He stated her land comprises of two parcels: a three-Acre parcel in which the proposed project will be constructed on, and the other, which is not part of the project proposal is a 60-acre parcel, under an Agricultural Preservation Restriction (APR) and is a 61A property.

Mr. Effren introduced Mike Sullivan, P.E. from Sullivan and Connors Engineering to provide an engineering perspective and architect Bob Pouliot from Boardwalk Storage Solutions to outline the design aspects of the proposed storage facility.

Mr. Effren outlined the various approvals the applicant is seeking including the four Variances, a Demolition Delay Waiver from the Sudbury Historical Commission, and Site Plan Approval and Stormwater from the Planning Board.

Mr. Effren explained that a feasibility study was performed to determine a compatible use, and it was found that there were no storage facilities in the immediate area, with the closest being a little over three miles away. Within the study, it was determined with the economic and demographic background that the Town can support a ground-up, self-storage facility. The Applicant is prepared to submit a fiscal impact analysis. The desire of the current owner is to keep the Stone Tavern and relocate the barn or re-use the barn materials to reconstruct or be used to build something else. The proposed use for the Stone Tavern will be of a passive use in nature. The Applicant will draft an easement plan for the current owner to gain access to the land located behind the tavern, there will be three easements granted to the Bartlett property. They have met with representatives of Whole Foods to find out if they would be interested in an access from the back of the property. Whole Foods was not interested at this time. Attorney Effren stated the Stone property was put in an isolated position because of the National Development/Avalon Meadow Walk development.

Mr. Sullivan described the present site plan, the topography of the land, stated they have communicated with the Fire Department to make sure the fire apparatus can maneuver around the building. They proposed an office in the front of the structure and 5 parking spaces. Described the soils to be sandy in nature, the plan is for the septic to be located in the front of the property.

Mr. Gossels asked about the sprinklers system capacity or ability to handle considering there is a large development nearby.

Mr. Sullivan replied the Applicant will be prepared to present to Planning Board all of these site plan details.

Chair Riordan asked about the types of vehicles that will be going through the gravel easements.

Mr. Sullivan replied primarily farm equipment, and the Bartlett's family vehicles.

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Bob Pouliot, Principal at Boardwalk Storage Solutions, described the self-storage business and gave a brief history about the nature of the business, he noted that Sudbury does not have a storage facility, the Sudbury population size in his opinion justifies the necessity of the business, he added the nature of this business does not have an impact on the schools and a minimum traffic impact.

Mr. Gossels commented and asked for clarification about the scale of the design, and what is driving the size of the proposed application and will hope the Applicant can clarify this at a future date.

Mr. Stevenson stated the presenter was right stating that the long agriculture history of the Town of Sudbury is cherished, he added he was having trouble seeing how this proposed building will accomplish the agricultural, and historic tradition, since one of the requirements for a variance is to answer whether the proposal will alter the existing character of the zoning district.

Mr. Pouliot reply the proposed design is an homage of the use and tradition and not intended for that use.

Mr. Gossels stated in his own opinion and not speaking for the Board that this parcel has not met the special circumstances called for in the ch. 40A variance statute, no wetlands, not hills, not ledge to passed the test of the variance conditions.

Mr. Effren replied that when they submitted the variance application they sited cases from Route 20 located in Sudbury and approved by this Board, they did that after careful examination the language in each decision.

Mr. Gossels noted the difference in scale, the Board had approved variances for a residential house in a much smaller scale, in his view a three-story building is a completely different project.

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

Diana Warren, 32 Old Framingham Road a member of the Historic Commission was present at the hearing, and spoke on behalf of herself as a resident and not as a HC member, the Commission could not meet ahead of this hearing, she stated she was disappointed to read only the Stone House was significant in the eyes of the Applicant and she is concerned that the preservation of the Stone Tavern and Barn. She stated she was present at this meeting not because she is opposed to storage facilities, but because she is opposed to the location due to the historic importance of this property, and how historic farms in Sudbury are a rare commodity. The Stone Farm, is listed in the Town of Sudbury survey and designated as historical property as well as the property next door, both properties are listed under the Mass Historical listing. In 1986, approximately 60 acres of land located in the back of the property were put under an agricultural preservation restriction. The barn was built around 1850, the building located next door was built by a family member of the Stone's, William Stone. Ms. Warren expressed concern of how this would affect the preservation of these two abutting properties, 556 and 554 Boston Post Road. The Applicant's presentation states their intent to preserve the tavern and they should also preserve the barn, in her view their intent to preserve these structures is not legally binding when the property changes ownership. Sudbury has an agricultural history, the first green house to grow cucumbers was built on 1879 and the Bartlett's are operating since 1911 it has been there and it is part of Sudbury's agricultural history. Ms. Warren presented a handout of re-purposed historic homes along the Route 20 corridor in Sudbury, regarding the proposed design of the storage facility, the intent might have been to pay homage to farming but this is in fact a Midwest look not a New England Barn and it is totally out of place with the character of Sudbury. The Zoning Bylaw serves to preserve the cultural and agricultural heritage of the

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community, and this project is out of sync with that. The ZBA cases presented as comparable are not in fact similar to requested permits.

Lynn McClean asked about why a demolition application was submitted for the barn to the Building Department if in fact the Applicant's intent is to preserve the barn?

Attorney Effren replied that they have submitted a demolition application that affects the barn only and not the tavern.

Ms. Warren added that the Historical Commission had a site visit meeting and the demolition application process already started, and added that in her view the Board should see this property entirely and historically as a whole, the tavern, the barn and the land all makes a statement and evokes the past, just saving the house is not good enough and she is not convinced it is going to be saved.

Mr. Riepe commented that he does not think it is appropriate for the Board of Appeals to entertain a use variance request on this property because it is not an incremental change it is a radical change and it seems to him that this is a matter for Town Meeting to make a zoning change, this property should be in a different zoning district to be develop in the manner that is proposed, and this is purely about procedure. Back in the 1980's Town Meeting voted to purchase the development rights for most of this farm, Town paid for it, and Town Meeting should vote as to what should be the disposition of the balance of the property.

Chair Riordan stated that the Board wants to move forward and give this application a full robust hearing on this project, but in the end all members will reserve their judgment and make decisions using the legal rules and statutes, following the Town bylaws and State law. The burden will be on the applicant to make the case.

Mr. Stevenson shared his hesitation regarding the need for numerous hearings when in his view the standards are very clear regarding the basic variance criteria.

Ms. Rubenstein requested a plot plan that shows the houses across the street.

Motion made, seconded and voted to continue to October 1, 2018.

Meeting minutes approved.

Next ZBA meeting will be on October 4 at 5 p.m., this will be an Executive Session meeting.

Meeting adjourn at 10:26 p.m.

- 9) Approval of Meeting Minutes for February 27, 2017, July 9, 2018 and August 7, 2018.

Motion made, seconded and voted to approve meeting Minutes for February 27, 2017, July 9, 2018 and August 7, 2018, by the members that attended each meeting.

- 10) Administrative Report.

Town Counsel available on November 4, 2018 to meet with the board for an update.

Motion to adjourn at 10:20 p.m.