



# Town of Sudbury

## Zoning Board of Appeals

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### MINUTES

**JUNE 11, 2019 AT 7:30 PM**

**POLICE STATION, MEETING ROOM, 75 HUDSON ROAD, SUDBURY, MA**

**Members Present:** John Riordan, Chair; William Ray, Clerk; Jonathan Gossels; Frank Riepe; and Benjamin Stevenson.

**Members Absent:** Nancy Rubenstein

**Others Present:** Adam Duchesneau, Director of Planning and Community Development; and Mark Herweck, Building Inspector and Zoning Enforcement Agent.

Mr. Riordan opened the hearing by noting the presence of a quorum and the appointment of Associate Member Mr. Stevenson to sit in the place of Ms. Rubenstein who was not in attendance. Mr. Riordan then asked Mr. Ray to read the legal notice as published in the newspaper into the record, which noted the following Zoning Board of Appeals applications and opened all of the public hearings listed below.

Mr. Riordan noted the requirements for Special Permits and Variances as discussed in the Zoning Bylaw.

**CONTINUED Public Hearing - Case 19-12 – Kimberly and Ralph Babcock Applicants and Owners, seek a Special Permit under the provisions of Section 2313 of the Town of Sudbury Zoning Bylaw to raise up to 8 hens 3 Greenwood Road, Assessor's Map C07-0116, Single Residence A-1 Zoning District.**

Kimberly and Ralph Babcock were present to discuss their application with the Board. They stated they presently have a chicken coop in their backyard for 6 chickens which they raise for eggs. Mr. Riordan asked if they were aware they needed a Special Permit to have chickens on their property. Mr. Babcock indicated they were originally not aware but were now before the Board in order to achieve compliance. Mr. Babcock stated the chicken coop was located approximately 12 feet from the property line and centered in the backyard.

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

Michael DiModica, the owner and developer of the property at 22 Curry Lane, stated he was presently building a house which abutted the subject property. He indicated the chickens roamed over onto his property and in response he erected a fence to shield the coop and to keep the chickens off of his property. A few days later, this fence was damaged from the Applicants' side of the property. Mr. DiModica stated he would like to be reimbursed for the cost to replace the fence which was damaged. Mr. Babcock confirmed his son in high school had damaged the fence.

The Board requested an enclosed run for the chickens (no free range chickens) and stated the coop must be placed at least 20 feet from all property lines. Further, the Board included as a condition of the permit,

the Applicant shall resolve the fence situation with property owner of 22 Curry Lane and reimburse the builder, Mr. DiModica, for the cost of fixing any damage to the fence. The permit was issued for one year.

The Board found the use was in harmony with the general purpose and intent of the Zoning Bylaw.

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

The Board also found adequate and appropriate facilities would be provided for the proper operation of the proposed use.

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

The Board found the proposed use would not cause undue traffic congestion in the immediate area.

Mr. Stevenson made a motion to approve the Special Permit for 3 Greenwood Road, petition 19-12, as presented with the standard conditions and the other conditions as discussed by the Board for a term of one (1) year to expire on June 11, 2020. Mr. Ray seconded the motion. The vote was unanimous, 5-0.

**CONTINUED Public Hearing - Case 19-13 – Christina Hermos and Paulo Oliveira, Applicants and Owners, seek a Special Permit under the provisions of Sections 2440 and 2445 of the Town of Sudbury Zoning Bylaw to construct an approximately 24 foot by 24 foot addition with a garage and deck on a pre-existing nonconforming structure at 19 Maple Avenue, Assessor’s Map K08-0017, Single Residence A-1 Zoning District.**

Christina Hermos and Paulo Oliveira were present to discuss their application with the Board. Ms. Hermos stated they had owned the subject property for approximately 9 years and pointed out the property did not have a garage. She indicated they had the driveway redone in the recent past with pavers but they would like to have covered parking as well. Ms. Hermos stated they have hired an architect to figure out a solution to this issue, but they have struggled with the setback requirements. In particular, the location of the septic system, leaching fields, and a honey locus tree make it difficult to position a garage on the property. Ms. Hermos indicated they were told by their contractor they could not have a permanent structure over the leaching field, but they could have posts placed in that area.

Mr. Gossels stated he was concerned about the proposed grade at the property and asked were the water would be drained. Ms. Hermos stated they had regraded the lot in the past when they worked on the driveway and there would be no issues with regard to the drainage.

Ms. Hermos stated she had been in touch with her neighbor who expressed no concerns about the proposed project or the encroachment.

Mr. Riepe asked about the present grading and stated his understanding was the grading would not be changing much.

The Board noted the Historic Districts Commission would need to review this application since the property was located in a Historic District. It was also stated the project would need to obtain approval from the Board of Health as well.

At 8:19 PM, the Board took a recess and Jonathan Gossels left the meeting due to illness.

Upon reconvening, Mr. Riordan asked the Applicants if they would like to proceed with the review of their application with only a four member Board, or if they would like to continue the hearing to the next meeting date. The Applicants stated they would like to proceed and seek a vote from the Board that evening.

Mr. Riordan asked if any members of the public wished to speak and no one came forward.

The Board found the use was in harmony with the general purpose and intent of the Zoning Bylaw.

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

The Board also found adequate and appropriate facilities would be provided for the proper operation of the proposed use.

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

The Board found the proposed use would not cause undue traffic congestion in the immediate area.

Mr. Ray made a motion to approve the Special Permit application for 19 Maple Avenue, petition 19-13, as presented with standard conditions. Mr. Stevenson seconded the motion. The vote was unanimous, 4-0, with Mr. Gossels absent from the vote.

**CONTINUED Public Hearing - Case 19-14 – Edward Freedlender, Applicant, and Rachel and Michael Williams, Owners, seek a Special Permit under the provisions of Sections 2440 and 2445 of the Town of Sudbury Zoning Bylaw to construct an approximately 30.5 foot by 24 foot addition with a master bedroom, mudroom, and garage at 280 Goodman’s Hill Road, Assessor’s Map H09-0039, Single Residence C-2 Zoning District.**

Applicant Edward Freedlender and owner Rachel Williams were present to discuss their application with the Board. Ms. Williams stated they would like to tear down the non-functioning, free standing garage and replace it with an attached two-car garage with a master bedroom above it.

Mr. Freedlender noted they were working with the Historical Commission under the Demolition Delay Bylaw. He stated the roofline on a portion of the existing house would be adjusted slightly to connect the existing dwelling to the master suite above the garage.

Mr. Reipe felt the horizontal window on the portion of the façade which would connect the existing building to the proposed addition should be changed to a vertical window.

Mr. Stevenson indicated he was comfortable with the application because it fit well within the neighborhood.

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

Joseph Proud of 15 Brewster Road stated the Applicants were good neighbors and he had no issue with them.

Jonathan Patch of 7 Walkup Road spoke in favor of the application.

Mr. Duchesneau asked that a copy of the updated rendering of the front façade be submitted to the Planning and Community Development Department.

The Board found the use was in harmony with the general purpose and intent of the Zoning Bylaw.

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

The Board also found adequate and appropriate facilities would be provided for the proper operation of the proposed use.

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

The Board found the proposed use would not cause undue traffic congestion in the immediate area.

Mr. Stevenson made a motion to approve the Special Permit application for 280 Goodman's Hill Road, petition 19-14, as presented with standard conditions. Mr. Ray seconded the motion. The vote was unanimous, 4-0, with Mr. Gossels absent from the vote.

**CONTINUED Public Hearing - Case 19-15 – Edward Freedlender, Applicant, and Danielle Cormier and John Ferrick, Owners, seek a Special Permit under the provisions of Section 2460B of the Town of Sudbury Zoning Bylaw to construct an approximately 2,900 square foot single-family dwelling which exceeds the total floor area of the original pre-existing nonconforming structure at 24 Elsbeth Road, Assessor's Map C06-0228, Single Residence A-1 Zoning District.**

Applicant Edward Freedlender was present to discuss the application with the Board along with the potential buyers of the property who have a purchase and sale agreement in place with the current owner. Mr. Freedlender stated the existing house on the property (approximately 1,100 square feet) would be removed and replaced with a new single-family dwelling (approximately 2,900 square feet). He noted the proposed plan for the new dwelling would meet all of the setback requirements, keep the driveway cut in its existing location, and re-use the current septic system.

Mr. Ray stated the size of the proposed dwelling was in harmony with other homes in the neighborhood and confirmed the only reason they were required to come before the Board was because the proposed new dwelling would be larger than the existing dwelling.

Mr. Riepe noted the proposed project would actually be reducing the nonconforming situation at the property.

There was discussion as to whom the Special Permit could be awarded to, the Applicant, the owner, etc.

Mr. Riordan asked if any members of the public wished to speak and no one came forward.

The Board found the use was in harmony with the general purpose and intent of the Zoning Bylaw.

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

The Board also found adequate and appropriate facilities would be provided for the proper operation of the proposed use.

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

The Board found the proposed use would not cause undue traffic congestion in the immediate area.

Mr. Stevenson made a motion to approve the Special Permit application for 24 Elsbeth Road, petition 19-15, as presented with standard conditions. Mr. Ray seconded the motion. The vote was unanimous, 4-0, with Mr. Gossels absent from the vote.

**Public Hearing - Case 19-16 – Marc Pepi, Applicant and Owner, seeks a time extension for Special Permit 18-17 issued under the provisions of Sections 2420, 2440, and 6200 of the Zoning Bylaw to allow an approximately 12 foot encroachment into the front yard setback for a proposed addition at 60 Brookdale Road, Assessor’s Map M11-0155, Single Residence A-1 Zoning District.**

Marc and Lisa Pepi were present to discuss the application with the Board. They explained the delay for the construction of the project was due to the labor strike by National Grid.

Mr. Riordan asked if any members of the public wished to speak and no one came forward.

The Board found the use was in harmony with the general purpose and intent of the Zoning Bylaw.

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

The Board also found adequate and appropriate facilities would be provided for the proper operation of the proposed use.

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

The Board found the proposed use would not cause undue traffic congestion in the immediate area.

Mr. Ray made a motion to approve the time extension for Special Permit 18-17 for one (1) year for 60 Brookdale Road, petition 19-16, as presented with standard conditions. Mr. Stevenson seconded the motion. The vote was unanimous, 4-0, with Mr. Gossels absent from the vote.

**CONTINUATION Public Hearing Case 19-3 – 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**

**and**

**CONTINUATION Public Hearing Case 19-4 – 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**

Attorney Jerry Effren, property owner Anne Stone, and Quentin Nowland of Lynch Landscape & Tree Service, Inc. were present to discuss the applications with the Board.

Mr. Effren asked if the Board would be willing to provide a straw vote on the application or if this action would not be productive. Mr. Riordan noted the application had drawn a significant amount of interest from the community and felt the Board should not provide a straw vote, but should instead seek to continue the matter to the earliest possible date. There was then discussion as to how to proceed forward with only four members of the Board present at the meeting. The Board and the Applicant discussed what possible future date the hearing could be continued until and if this would even be possible.

At 9:18 PM, the Board took a five minute recess.

Upon reconvening, the Board and the Applicant discussed possible future meeting dates for the application discussion to continue. Ultimately, the Board and Applicant agreed to continue the matter to June 21, 2019 at 8:00 AM, but would allow Mr. Effren to make his closing statements on the application that evening.

Mr. Effren then proceeded to make his closing statements on the matter.

Mr. Duchesneau noted the Board of Selectmen, earlier that evening, had voted and made public they would be filing an appeal of the Constructive Approval which had been filed by the Applicant.

Mr. Riordan made a motion to close the public hearings for the Variance applications for 554 Boston Post Road, petitions 19-4 and 19-5, and to continue deliberations on the matter to June 21, 2019 at 8:00 AM. Mr. Ray seconded the motion. The vote was unanimous, 4-0, with Mr. Gossels absent from the vote.

**Approval of Meeting Minutes for April 29, 2019, May 13, 2019, and June 3, 2019**

Mr. Duchesneau noted the draft minutes from May 13, 2019 had not yet been prepared and were not distributed to the Board.

Mr. Ray made a motion to approve the minutes of April 29, 2019. Mr. Riepe seconded the motion. The vote was unanimous, 4-0, with Mr. Gossels absent from the vote.

Mr. Ray made a motion to approve the minutes of June 3, 2019. Mr. Riepe seconded the motion. The vote was unanimous, 4-0, with Mr. Gossels absent from the vote.

### **Administrative Report**

Mr. Riordan noted the Board of Selectmen had not yet taken up the appointment of the two people, David Booth and Jennifer Pincus, recommended to fill the vacant Associate Member seats on the Board. Mr. Riordan also noted a few members of the Board were waiting for the Board of Selectmen to reappoint them to their positions as well.

Mr. Ray made a motion to adjourn the meeting. Mr. Riepe seconded the motion. The vote was unanimous, 4-0, with Mr. Gossels absent from the vote. The meeting was adjourned at 10:03 PM.