



Town of Sudbury

Zoning Board of Appeals

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MINUTES

MAY 28, 2019 AT 7:30 PM

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

Members Present: John Riordan, Chairman; Jonathan Gossels; Frank Riepe; and Nancy Rubenstein

Members Absent: William Ray and Benjamin Stevenson

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

Mr. Riordan opened the hearing by noting the presence of a quorum and the appointment of Board Member Mr. Gossels to act as Clerk in place of William Ray who was not in attendance. Mr. Riordan then asked Mr. Gossels 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.

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

Mr. Riordan made a brief statement informing the audience, that the Board was in receipt of a Notice of Constructive Approval for Cases 19-3 and 19-4, received by the Board on February 5, 2019. Mr. Riordan stated the board has exceeded the time limit for reviewing this application and the applicant intends to file for a constructive variance approval with the Town Clerk on or before May 30, 2019 which will be 14 days from the 100-day limit in the statute.

The Board of Appeals has worked collaboratively with the Applicant and the Board thinks the process can continue to see if it can come up with the best possible project under the present circumstances. Constructive variances can be appealed and there is a 20-day period that will run from the time the constructive grant of the variance is claimed by the Applicant.

The hearing record will remain open at the conclusion of this meeting, and Board consideration will be continued to June 11, 2019. It is expected that deliberation will take place on June 11, 2019 and a vote by the Board on or after that date.

Mr. Gossels stated two Board members are missing at this meeting, and technically the Board has a quorum but they will not be able to take any vote this evening.

Attorney Effren stated he has discussed the procedural circumstances with his client, Anne Stone, Michael Riley and Quentin Nowland from Lynch Tree and he intends to file the constructive approval in the next two days. Mr. Effren added they would like to proceed with the process to obtain a grant of a variance from the Board based on the merits of the applications. He stated they have submitted a 2nd supplemental memorandum on May 28, 2019 that responds to certain legal arguments. In response to questions as to whether the building could be re-designed, they have reduced the square footage of the storage area, and reduced parking spaces, the total square footage was reduced to under 100,000 square feet and they have reduced the foot print of the building in length and width.

Attorney Effren stated the Applicant, and her Attorney Michael Riley have filed an affidavit stating they never received any purchase offers in writing for the subject parcel, the present offer received by Lynch Tree is the only offer received in writing. There have been other verbal offers for agricultural use combined with the APR land located in the back of the three-acre parcel.

Attorney Effren presented a letter from Mr. Cavicchio confirming he has shown interest in the property to use the land for green houses. In addition, they submitted letters from a structural engineer that states that the existing condition of the tavern and the barn are not fit for human habitation and a recommendation to demolish the tavern and barn building.

Attorney Effren stated the present project calls for the substantial adaptive rehabilitation and re-use of the Stone Tavern. Regarding Mr. Fred Taylor's suggestion at a previous meeting of preserving this property under the Historic District Commission's jurisdiction and the structure itself constitute an historic district, Attorney Effren stated the developer Mr. Nowland agrees he will reasonably and timely provide access and input to members of the Historic Districts Commission in connection with plans to renovate the historic tavern building, to determine to the extent possible artifacts in the interior of the tavern that could be preserved, to also preserve the self-standing cupola and to locate it in a prominent and viewable portion on the property and to register the tavern building and the cupola as a historic district zoned structure.

Mike Sullivan from Sullivan Connors and Associates, Inc. presented a revised engineering site plan for the property, and stated there have been some modifications to the site, the size of the building is 160 feet by 235 feet, originally, they had 10 interior parking spaces, with this recent update they will have 8 interior parking spaces. With the reduction of the size of the building, the parking requirement of the town's bylaw has also decreased, instead of 10 parking spaces inside they have 8, and 6 parking spaces on the front and 6 on the back of the building, the required number of spaces is 19 and the proposed plan shows 20 parking spaces. The amount of impervious surface area was slightly reduced therefore increasing the green space on the east side of the building.

Mr. Riordan asked if the height of the proposed building remains the same.

Mr. Sullivan replied they have established the medium grade around the building and it remains a half of foot under the maximum height aloud of 35 feet.

Mr. Riordan stated there is a significant change in elevation as they go to the back of the building.

Mr. Gossels asked if the applicant could take advantage to the change in grade, to have the street scape be a little lower by sinking the building 2-3 feet, it might make a positive visual impact.

Mr. Sullivan stated they would not be able to do that because the ground water in the back is 3-4 feet below surface, and will not be possible to put a foundation drain.

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

Saeid Borghani, 57 Highland Avenue, stated this building will be much bigger than Whole Foods, he stated the lighting at Whole Foods is a nuisance, as well as the noise of delivery trucks, he believes the storage facility will not bring any enhancement to the town and it opens the door for other farms around to follow the same path, he stated he was against the project.

Paul Bisson, 55 Highland Avenue, asked for the front setback of the facility from Route 20.

Mr. Sullivan replied 105 feet to the front of the property.

Mr. Bisson asked if the property was ever listed by a residential real estate agent.

Mr. Riordan reply that it is his understanding this property was not listed as residential, but essentially it is located in between two commercial-industrial zoned properties, this question was raised at a previous hearing, and the engineer for the project stated you could at best build two residences on the parcel.

Attorney Effren stated Michael Riley, Attorney for Anne Stone, had made inquiries to real estate residential brokers and none of them indicated it was feasible.

Mr. Bisson stated that he has made inquiries to real state brokers in town and they have indicated there could be potential buyers for this property as residential, and as a residential zoned property this should have been the first avenue to look at, rather than moving to commercial, and the request of this applicant is in opposition to the vision under the 2015 Route 20 Corridor report and study. This was not a use that was identified in that report, within four miles there are four storage facilities in the Marlboro area and within 10 miles there are 20 storage facilities., As a matter of precedence there are other single-family homes in the general corridor of Rt. 20, and how many other homes may request a change on zoning and how many different businesses will show up if these variances are granted.

Diana Warren, asked if the Board consulted with Town Counsel and if it was the legally correct process to continue the hearings based on the 100-day notice.

Mr. Duchesneau stated they have consulted with Town Counsel and this was one of the viable options the Board could pursue, the unfortunate lack of time tracking was an oversight on the part of staff due to transitions in personnel at the time of the filing of the applications.

Mr. Riordan stated they have consulted with Town Counsel and the Board was advised on how to proceed with this matter, proceeding with the hearing could be a viable option for the Board.

Ms. Dineen, 14 Fire Cut Lane, submitted an email with photographs showing the cupola under construction and stated it was a replica built around 1986.

Ann McAdam, who stated she grew up at 925 Boston Post Road, stated the project proponents have presented and modified the plans to address every concern the public had.

Christopher Hagger, Chair of the Historical Commission clarified the Historical Commission does not approach residents to purchase their properties, the Commission does not acquire properties, the Commission upon request of home owners will provide historical heritage information about their home, when sometimes they see the Commission under the demolition delay Bylaw process. He added that back on 1995 The Sudbury Historical Commission identified this property as significant, the photographs of the cupola actually add to the value and historic significance, earlier photos of the barn show the cupola.

Mrs. Holland, 31 Woodland Road commented on the most recent application changes, mentioned case law, and stated this property has never been listed for sale and this should not be one of the reasons for the applicant to request a variance. Mrs. Holland asked if photographs were submitted with the engineer reports, for older homes it is not uncommon to not meet building code.

Mr. Gossels made a motion to continue the public hearings for the Variance applications for 554 Boston Post Road, Cases 19-4 and 19-5, to the Zoning Board of Appeals meeting on June 11, 2019 at the Police Station Meeting Room, 75 Hudson Road at 7:30 PM. Mr. Riepe seconded the motion. The vote was unanimous, 3-0.

Review of Fee Waiver Request for 554 Boston Post Road Variance Applications.

Mr. Riepe stated he did not see any basis for this request.

Mr. Gossels stated the Board in the past has waived fees for advertising only.

Motion made by Mr. Gossels and seconded by Mr. Riepe, all in favor 3-0 against the fee waiver request.

Interview and Recommendation of Candidates for Associate Member Positions

Nancy Rubenstein joined the Board for the interview of Jennifer Pincus from 25 Blueberry Hill Lane for an Associate Member position.

Ms. Pincus was present at the hearing to meet the Zoning Board of Appeals. She has been a Sudbury resident for approximately 19 years and has practiced as an architect for the past 20 years.

Mr. Gossels stated the Board works collaboratively with neighbors and treats every neighbor with courtesy.

Mr. Rubenstein added the Board has lots of “cut and dry cases”, and mentioned members drive by the properties prior to the meetings to see what the abutting neighbors will be seeing, and mentioned the necessary time commitment.

Mr. Gossels made a motion and Mr. Riepe seconded the motion to recommend the appointment of the two interviewed candidates for Associate Member positions, Jennifer Pincus and David Booth.

Administrative Report

Mr. Gossels made a motion to adjourn the meeting. Mr. Riepe seconded the motion. The vote was unanimous, 4-0. The meeting was adjourned at 9:37 PM.