



# Town of Sudbury

## Zoning Board of Appeals

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### MINUTES

AUGUST 5, 2019 AT 7:30 PM

LOWER TOWN HALL, 322 CONCORD ROAD, SUDBURY, MA

**Members Present:** John Riordan, Chair; William Ray, Clerk; David Booth; Frank Riepe; and Benjamin Stevenson

**Members Absent:** Jonathan Gossels and Nancy Rubenstein

**Others Present:** Adam Duchesneau, Director of Planning and Community Development and Building Inspector Andrew Lewis

Mr. Riordan opened the public hearing at 7:30 PM by noting the presence of a quorum and 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.

Mr. Riordan noted the appointment of Associate Board Members Mr. Stevenson and Mr. Booth to sit in place of Mr. Gossels and Ms. Rubenstein, who were not in attendance.

**CONTINUED Public Hearing, Case 19-17 – Binoy Koodhathinkal, Applicant, and Binoy Koodhathinkal and Nima Kalathil, Owners, seek the renewal of Special Permit 18-20 under the provisions of Sections 2313 and 6200 of the Town of Sudbury Zoning Bylaw to raise up to 10 hens at 77 Churchill Street, Assessor's Map G06-0339, Single Residence A-1 Zoning District.**

As requested by the Applicant, Mr. Riordan made a motion for the application to be immediately continued to the Zoning Board of Appeals meeting on September 9, 2019 with no discussion. Mr. Stevenson seconded the motion. The vote was unanimous, 5-0.

**CONTINUED Public Hearing, Case 19-18 – Janice Ritter, Applicant, and Janice and Scott Ritter, Owners, seek a Special Permit under the provisions of Sections 2313 and 6200 of the Town of Sudbury Zoning Bylaw to raise up to 6 hens at 14 Russet Lane, Assessor's Map M10-0110, Single Residence A-1 Zoning District.**

Janice Ritter, Applicant and owner, was present to discuss the application with the Board. She indicated she wanted to build a 4 foot wide by 6 foot long chicken coop with a winterized run. Ms. Ritter stated the hens would always be inside the run and would not be free range.

Mr. Riordan called to Ms. Ritter's attention the standard conditions which the Board applies to applications of this nature.

Mr. Stevenson asked if Ms. Ritter had spoken with the neighbors about her application and also asked if there would be a rooster on the subject property. Ms. Ritter stated she had called some of her neighbors about her request, and noted roosters were not allowed in Sudbury and she would not be having one.

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

Louis Ferro of 20 Russet Lane stated he felt he had a better relationship with his neighbors and was expecting his neighbors to reach out to him before coming forth with this application. He understood Sudbury was a right to farm community but felt Russet Lane was a unique neighborhood as the homes are fairly close together. Mr. Ferro indicated he felt the size of the coop was too small for the number of hens which would be kept on the premises. Mr. Riordan noted a standard condition of any Special Permit of this nature was that all Board of Health regulations must be met. Mr. Ferro stated he felt Russet Lane was not a "farm" street or neighborhood.

Ms. Ritter apologized for not speaking first with all of her neighbors, but noted she had read through the Board of Health Regulations. She indicated the poultry would be vaccinated prior to coming onto her property. Ms. Ritter also stated she was seeking to keep the hens as pets.

Fran Ferro of 20 Russet Lane stated the Applicant has dogs and prior to the erection of a fence, there was an intense odor coming from the property. She noted that if the chicken waste was not picked up, they would be the ones to suffer.

Dorothy Cabral of 9 Russet Lane stated animals smell from great distances and felt the odor from the chickens might bring more coyotes to the area. Ms. Ritter indicated she had found evidence of coyotes in the area already.

John Korman of 21 Russet Lane asked what would happen if there was a problem with the chickens before the one (1) year expiration of the awarded permit. Mr. Riordan noted complaints could be registered and handle with the Board of Health and the Building Department.

Mr. Riordan and Mr. Stevenson noted these types of Special Permits had been issued for a number of years and when the Applicants had come back for their renewals, they had never had anyone indicate there were issues with the permits.

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 request in the words of the application for a one (1) year permit to raise six (6) hens at 14 Russet Lane. Mr. Stevenson seconded the motion. The vote was unanimous, 5-0.

**CONTINUED Public Hearing, Case 19-19 – Elizabeth Geisinger, Applicant, and Joseph Arcuri, Owner, seek a Special Permit under the provisions of Sections 2313, 6200, and 2230, Appendix A, C.5 of the Town of Sudbury Zoning Bylaw to operate a kennel at 271 Boston Post Road, Assessor's Maps K09-0063 and K10-0038, Single Residence A-1 Zoning District.**

Applicant Elizabeth Geisinger and attorney David Himmelberger were present to discuss the application with the Board. Mr. Himmelberger noted the application was for a dog day care which would bring the dogs onto the subject property to a fenced-in area where they would be allowed to exercise. He stated the dogs would never be outside of the fenced area because the vehicles would pull into the fenced area before releasing the dogs from the vehicles and then usher them to the respective playpens.

Mr. Riordan inquired if the operation would be a lease from the property owner and Ms. Geisinger confirmed that was correct. Mr. Riordan also noted there were residential homes to the north but they seemed to be a considerable distance from where the playpens would be located.

Ms. Geisinger stated she had spoken with the Animal Control Officer about the proposal who encouraged her to apply for an operation with up to 15 dogs. Ms. Geisinger also stated the dogs only exercised for 45 minutes at a time and they would be on site no longer than 3:30 PM each day. Ms. Geisinger confirmed there would be no boarding of dogs on the subject property.

Mr. Riepe asked what the property was currently being used for and Ms. Geisinger stated there was one residential dwelling on the site where the property owner lived, but the rest of the property was vacant.

Mr. Ray asked for an expanded explanation regarding the bark control practices such as bark boxes and citronella collars. Ms. Geisinger stated the bark boxes emitted a noise which humans could not hear but dogs are able to which discourages them from barking. She also noted the citronella collars spray the dogs when they bark. Ms. Geisinger stated bark boxes would be used as a default practice to keep the barking to a minimum. She also indicated they had reached out to a number of the neighbors in the surrounding area to see if they had any concerns.

Mr. Booth asked if any of the business's other facilities had received any complaints at those locations and if so, what was the nature of them. Ms. Geisinger noted a neighbor at one of the other properties had complained about noise, but upon investigation it was shown the business operation was below ambient noise levels. She also stated another location had received complaints from neighbors because of the total number of car trips (18) a day from her business on a quiet residential roadway.

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

Russell Kirby of 244 Boston Post Road inquired as to the location of the proposed driveway to access the subject property. He stated the proposed access roadway to the playpens was currently very overgrown. Mr. Kirby felt the sight distances from this proposed driveway and along this stretch of Boston Post Road/Route 20 were very poor. Mr. Kirby also inquired about the nature of the application and confirmed the required approvals which would be needed.

Jane Kirby of 244 Boston Post Road also raised concerns about visibility of the driveway. She noted the state plowed Boston Post Road/Route 20 and piled the snow along this roadway which would further decrease visibility in the winter.

Mr. Kirby noted there has been encroachment of Boston Post Road/Route 20 onto the residential properties. He pointed out the intersection of Boston Post Road/Route 20 and Landham Road would be reconfigured in the near future.

Mr. Stevenson noted the Zoning Bylaw allowed kennels in certain areas of town if they were able to obtain a Special Permit from the Zoning Board of Appeals.

Discussion occurred regarding the amount, speed, and nature of traffic along Boston Post Road/Route 20. There was further discussion about the visibility from the proposed access roadway to the property across from 250 Boston Post Road.

Steve Garofalo of 250 Boston Post Road raised questions about the findings the Board would need to make in order to award the Special Permit. He stated the proposed driveway which was going to be used had not be used in 10 to 15 years and he was concerned about the safety aspect of this access roadway. Mr. Garofalo inquired as to how long the permit would be valid for and Mr. Riordan responded it would typically be valid for one year. Mr. Garofalo also asked if there would only be one entrance/exit location and Mr. Himmelberger confirmed the kennel operation would only use the one proposed entrance/exit location.

Mr. Garofalo stated he would like to see a condition which required the proposed business to obtain a Driveway Permit from the Engineering 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. Ray made a motion to approve the request in the words of the application to operate a kennel at 271 Boston Post Road, with the following conditions:

- Hours of operation shall be from 8:45 AM to 4:00 PM, Monday through Friday. There would be no business operations on Saturday or Sunday.
- Access to the property shall be limited to employees and subcontractors of the business.
- No more than three (3) employees or subcontractors of the business shall be permitted on the subject property at any one time.
- The number of dogs permitted on the premises at any one time shall be no more than 16.

- There shall be no more than three (3) exercise sessions per day. Each session shall last no longer than 45 minutes.
- The Applicant shall obtain any necessary approvals from the Department of Public Works Engineering Department. The proposed driveway access shall be reviewed by Town Engineer.
- No signage for the business is permitted on the subject property.
- There shall be no excessive barking.
- The Special Permit is non-transferable and will expire in one (1) year. The Board will consider renewal upon receipt of proper application on or before the date of expiration.
- There shall be no overnight boarding of dogs on the subject property.

Mr. Stevenson seconded the motion. The vote was unanimous, 5-0.

**CONTINUED Public Hearing, Case 19-20 – Lisa Tursi, Applicant, and Lisa and Francis Tursi, Owners, seek the renewal of Special Permit 18-23 under the provisions of Sections 2313 and 6200 of the Town of Sudbury Zoning Bylaw to raise up to 8 hens at 61 Maynard Farm Road, Assessor’s Map B08-0446, Single Residence A-1 Zoning District.**

Applicant and owner Lisa Tursi was present to discuss the application with the Board. She stated the neighbors have been very receptive to the hens and bring them food waste. Ms. Tursi indicated she was seeking a five (5) year renewal of the permit.

Mr. Ray noted he would like to see some consistency in terms of the submitted materials for each application.

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 request in the words of the application for a five (5) year renewal of the permit to raise eight (8) hens at 61 Maynard Farm Road. Mr. Stevenson seconded the motion. The vote was unanimous, 5-0.

**Public Hearing, Case 19-21 – Lori Arthur, Applicant, and Lori and Daniel Arthur, Owners, seek the renewal of Special Permit 16-17 (previously 15-17) under the provisions of Sections 2313 and 6200 of the Town of Sudbury Zoning Bylaw to raise up to 6 hens at 68 Hopestill Brown Road, Assessor’s Map M09-0707, Single Residence A-1 Zoning District.**

Applicant and owner Lori Arthur was present to discuss the application with the Board. She indicated she was seeking her second renewal of her permit to raise six (6) hens on her property. Ms. Arthur described the maintenance operations to address the waste produced by the chickens and noted she was seeking a renewal of the permit for five (5) years.

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 request in the words of the application for a five (5) year renewal of the permit to raise six (6) hens at 68 Hopestill Brown Road. Mr. Ray seconded the motion. The vote was unanimous, 5-0.

**Public Hearing, Case 19-22 – Marcel Maillet, Applicant and Owner, seeks to amend Special Permit 12-14 under the provisions of Sections 2460B, 2620, and 6200 of the Town of Sudbury Zoning Bylaw to add approximately 256 square feet to a rear screened porch at 94 Butler Road, Assessor's Map F05-0719, Single Residence A-1 Zoning District.**

As requested by the Applicant, Mr. Riordan made a motion for the application to be immediately continued to the Zoning Board of Appeals meeting on September 9, 2019 with no discussion. Mr. Ray seconded the motion. The vote was unanimous, 5-0.

**Public Hearing, Case 19-23 – Ava Vernooy, Applicant and Owner, seeks a Special Permit under the provisions of Sections 2420, 2440, and 6200 of the Town of Sudbury Zoning Bylaw to construct an approximately 5 foot by 7 foot portico on the front of the dwelling at 17 Allene Avenue, Assessor's Map G06-0573, Single Residence A-1 Zoning District.**

Applicant and owner Ava Vernooy was present to discuss the application with the Board. She indicated she was seeking to install a portico on the front of the dwelling to match the addition.

Mr. Riordan asked if the portico would extend out any further than the stairs on the front of the building and Ms. Vernooy confirmed that was correct.

Mr. Riordan asked if any members of the public would like to speak on the matter, but no one came forward.

Andy Goldberg of 23 Allan Avenue asked for confirmation as to where the portico would be erected and Ms. Vernooy provided verification.

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 request in the words of the application to construct a portico on the front of the dwelling at 17 Allene Avenue. Mr. Riepe seconded the motion. The vote was unanimous, 5-0.

**Public Hearing, Case 19-24 – Eric Fitzgerald, Applicant, and Eric and Katherine Fitzgerald, Owners, seek the renewal of Special Permit 18-28 under the provisions of Sections 2313 and 6200 of the Town of Sudbury Zoning Bylaw to raise up to 8 hens at 14 Massasoit Avenue, Assessor's Map K09-0409, Single Residence A-1 Zoning District.**

Applicants and owners Eric and Katherine Fitzgerald were present to discuss the application with the Board.

Mr. Riordan asked if any members of the public would like to speak on the matter, but 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 request in the words of the application for a five (5) year renewal of the permit to raise eight (8) hens at 14 Massasoit Avenue. Mr. Riepe seconded the motion. The vote was unanimous, 5-0.

**Public Hearing, Case 19-25 – Nu-Home Contractors, Inc. c/o Michael Audette, Applicant, and Mary Thompson, Owner, seek a Special Permit under the provisions of Sections 2460B and 6200 of**

**the Town of Sudbury Zoning Bylaw to construct an approximately 2,800 square foot single-family dwelling which exceeds the total floor area of the original pre-existing nonconforming structure at 604 Peakham Road, Assessor's Map H08-0017, Single Residence A-1 Zoning District.**

Michael Audette was present to discuss the application with the Board. Mr. Stevenson stated he was recusing himself from the matter as he was a direct abutter to the subject property and he remained seated in the audience. Mr. Riordan informed the Applicant, with Mr. Stevenson recusing himself, all four remaining present members of the Zoning Board of Appeals would need to be in support of the application in order for it to be approved. Mr. Audette indicated he would still prefer to move forward with the proceedings. Mr. Duchesneau stated it was his recommendation Mr. Stevenson leave the room since he was going to recuse himself from the proceedings.

Mr. Audette noted the existing structure would be razed and a new single-family dwelling would be constructed in its place. He also noted he had revised the plans since the original application submission in July.

The Board discussed the proposed location of the proposed new dwelling unit and the location of the stockade fencing on either side of the property. There was discussion regarding the possible centering of the proposed single-family dwelling on the lot. Members of the Zoning Board of Appeals were all in agreement this could be done via a Special Permit process and a Variance process would not be needed.

Mr. Audette displayed another version of the proposed project which would center the building on the lot, create a building with front yard setback compliance, and would also reduce the impervious area on the subject property.

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

Deb Boras of 602 Peakham Road stated the subject property was a mess and had been a detriment to the neighborhood. She also indicated larger homes on the street were on larger lots. Ms. Boras indicated she felt this proposed project would profoundly change how she lived on her property. She asked the Board to consider the design and scale of the project, and how it related to the lots on either side of it.

Nicole Neuman of 610 Peakham Road agreed the property needed to be cleaned up but the proposal seemed a bit disproportionate for the lot. She indicated she would like to see the proposed dwelling moved further from the northern property line.

Mr. Riordan asked Mr. Audette to consider different landscaping and screening options for the proposed project to help it fit into the existing neighborhood.

Mr. Riepe asked Mr. Audette to consider a way to reconfigure the roof line for the gable to be on the front and back of the building, as opposed to the sides. Mr. Riepe stated this would help to give the building a more modest feel.

Mr. Riepe made a motion to continue the public hearing for the application to the Zoning Board of Appeals meeting on September 9, 2019. Mr. Ray seconded the motion. The vote was 4-0 with Mr. Stevenson recused from the vote.

**Master Plan Update – “Meeting In A Box” Questions – Understanding Current and Future Needs of Sudbury**

Mr. Duchesneau noted the public outreach which had been occurring as part of the Master Plan update process.

Mr. Ray felt this item might be better served if the Zoning Board of Appeals took some time to think about the questions being asked and reconsidered them at the September 9, 2019 meeting.

Mr. Riordan asked the members of the Board to submit their comments to Mr. Duchesneau who would compile those comments in time for the September 9, 2019 Zoning Board of Appeals meeting.

**Approval of Meeting Minutes for May 13, 2019, May 28, 2019, June 11, 2019, and July 8, 2019**

Mr. Ray made a motion to approve the minutes of May 13, 2019, May 28, 2019, June 11, 2019, and July 8, 2019 as amended. Mr. Riepe seconded the motion. The vote was unanimous, 5-0.

**Administrative Report**

Mr. Ray made a motion to adjourn the meeting. Mr. Riepe seconded the motion. The vote was unanimous, 5-0. The meeting was adjourned at 10:32 PM.