



Town of Sudbury

Zoning Board of Appeals

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MINUTES

SEPTEMBER 9, 2019 AT 7:30 PM

LOWER TOWN HALL, 322 CONCORD ROAD, SUDBURY, MA

Members Present: John Riordan, Chair; William Ray, Clerk; Jonathan Gossels; Frank Riepe; Nancy Rubenstein; David Booth, Alternate; and Jennifer Pincus, Alternate

Members Absent: None

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

Mr. Riordan opened the hearing at 7:33 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.

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.

Mr. Koodhathinkal, Applicant and owner, was present to discuss the application with the Board. He indicated he was seeking a renewal of his Special Permit to raise ten (10) hens on the subject property.

Mr. Riordan asked if any complaints had been received by the neighbors and Mr. Koodhathinkal stated there were none.

Mr. Gossels asked how the waste disposed was being handled and Mr. Koodhathinkal stated he had a composter on site.

Ms. Rubenstein noted the request was also to increase the total number of hens at the subject property from six (6) to ten (10).

Mr. Riordan asked if any members of the public would like to speak, 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. Gossels noted the application was consistent with all of the permit conditions.

Mr. Ray made a motion to approve the application as presented with ten (10) hens and a five (5) year permit renewal term with standard conditions. Ms. Rubenstein seconded the motion. The vote was unanimous, 5-0.

CONTINUED 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.

Marcel Maillet, Applicant and owner, was present to discuss the application with the Board. He indicated he was seeking to expand the existing screened porch to the rear and side. There was discussion as to whether the legal advertisement was correct and it was confirmed the proposed additional square footage in the public notice was correct. Mr. Riordan clarified other aspects of the application.

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

Ms. Rubenstein raised questions regarding the 3,400 square foot figure listed on the application form and what the total proposed addition would be in terms of square footage.

Mr. Riordan stated the decision should incorporate the correct amount of square footage for the proposed addition.

Mr. Gossels made a motion to approve the application as presented with standard conditions. Mr. Ray seconded the motion. The vote was unanimous, 5-0.

CONTINUED 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.

Mr. Gossels and Ms. Pincus stated they had watched the video from the previous meeting, had signed Mullin Rule forms, and were prepared to act on the application. Mr. Riordan designated Mr. Booth to act on the application, in place of Ms. Rubenstein, as he had been in attendance at the previous meeting.

Applicant Michael Audette, attorney Robert Dionisi, and architect Aaron Socrat were present to discuss the application with the Board. Mr. Dionisi noted the Board had requested the proposed new building be

located in the central portion of the lot. He then spoke to the findings for Special Permits and discussed how the proposed project met those findings.

Mr. Audette presented revised plans for the proposed project. He noted the plans had been updated to examine the comment of having the gables in the front and rear, as opposed to on the sides of the building.

Mr. Socrat made the case to have the gables on the sides of the building as the massing of the roof would not be visible from the street due to the slope and pitch of the roof. Mr. Audette noted the siding on the building would not be stepped down on the sides of the dwelling because the elevation change was not significant.

Mr. Riepe stated the arguments made by Mr. Socrat were reasonable but noted the small windows on the third story could be full double hung windows.

There was then discussion about retaining vegetation at the subject property. Mr. Gossels noted he was supportive of this, but had concerns about keeping trees which would be susceptible to ice storms.

Mr. Gossels asked if there was any way to push the building back further from the street than the proposed 44 feet. Mr. Audette stated he felt the location of the dwelling as proposed would fit well into the existing streetscape.

Ms. Pincus noted half of the leaching field was under an impervious surface and she asked if this was permissible by the Board of Health. Mr. Audette indicated the Board of Health had approved of this design.

Mr. Riordan asked if efforts had been made to reach out to the abutters and Mr. Audette stated there had been after the hearing on the application in August.

Deb Booras of 602 Peakham Road noted some properties in the area had garages in the back. She felt the proposal was squeezing too much building massing onto a small lot. Ms. Booras believed there would be no way to screen the proposed large building which would loom over her property. She felt the project was detrimental to her property and would set a negative precedent in the community. Ms. Booras asked what her recourse was if she disagreed with the decision by the Board and Mr. Riordan explained, at a high level, the timeframes for filing an appeal. Ms. Booras also asked if the abandoned vehicles at the subject property would be disposed of in a proper manner. Mr. Booth asked Ms. Booras what the square footage of her home was and she indicated it was approximately 2,200 square feet. Mr. Audette stated her dwelling unit was 2,313 square feet according to the property record card.

Nicole Neuman of 610 Peakham Road raised questions regarding visual coverage and the proposed elevations. She indicated some of the trees proposed for pruning were located on her property and she wanted to understand how much pruning would occur. Mr. Audette described which trees would remain as part of the proposed project. Ms. Neuman indicated she was torn on the matter but agreed having a house on the subject property would be a better situation.

Ms. Booras noted she was a realtor and had often seen development pressure on smaller homes. She noted Mr. Audette would need to build a dwelling of a certain size in order to maximize his profit on the property. Ms. Booras indicated she would appeal an approval decision by the Board if the project moved forward as currently proposed.

Mr. Ray stated he was divided on the issue and wondered if the size of the dwelling could be reduced to be more accommodating to the neighbors. Mr. Socrat spoke to market conditions and the programming of houses which were driving the market currently.

At this time Mr. Lewis arrived at the meeting.

Mr. Riepe felt the designer had done a decent job of keeping the proposed dwelling compact. He did not expect a developer to have a successful project by building a dwelling much smaller than the one proposed, but there were some proposed modifications which could be made to improve the design. Mr. Riepe suggested modifying the gable to truncate the peaks of the gable on either side façade.

Mr. Gossels made a motion to approve the revised application and plans with three additional conditions as follows: 1) the Applicant/Owner shall install properly proportioned windows (full windows) on the third story on each side (northeast and southwest) of the building; 2) the Applicant/Owner shall design and implement hipped gables on each side (northeast and southwest) of the building to provide a visual reduction in height and to be visually less imposing; and 3) the Applicant/Owner shall work with the neighbors to install appropriate visual vegetative screening between the properties using native species. Mr. Riepe seconded the motion. The vote was 4-1 with Mr. Riordan, Mr. Gossels, Mr. Riepe, and Mr. Booth, acting in place of Ms. Rubenstein, voting in favor, and Mr. Ray voting against.

Public Hearing, Case 19-26 – ADMV Management, LLC, Applicant, and Lisa Venuto, Owner, seek to amend Special Permit 19-2 under the provisions of Sections 2420, 2440, 2620, and 6200 of the Town of Sudbury Zoning Bylaw to modify a 25 foot by 28 foot addition by adding a cupola and a door, eliminating windows, and modifying a dormer, as well as other changes, at 29 Stonebrook Road, Assessor's Map J06-0312, Single Residence A-1 Zoning District.

Attorney Mark Kablack, and Applicants and owners Lisa and Peter Venuto were present to discuss the application with the Board. Mr. Kablack noted the proposed changes to the design of the project since it had been approved earlier in the year.

Mr. Riepe inquired as to why the addition had not been constructed per the approved plans. Mr. Kablack indicated the side door was added as a second means of egress from the garage and the dormer had been redesigned for architectural style purposes. Mr. Riordan noted the plans in front of the Board were not what had been approved by the Board back in April of 2019. Mr. Riordan asked if the side door for the second means of egress could be moved to the rear of the dwelling and Ms. Venuto stated the grade at the rear elevation was not conducive to this suggestion.

Ms. Venuto stated there was less glass on the proposed modified dormer than what had been originally approved.

Mr. Gossels indicated he believed the upper floor of the addition was being constructed to act as living space and he did not believe this was originally approved. Mr. Kablack noted the various aspects of the project which were still in compliance with original approval by the Board. He contested the changes as proposed were simply field changes and simple modifications. Mr. Kablack noted the tension which existed between the Applicant and the neighbor, and indicated the Applicant was working to resolve the matter.

Mr. Riordan asked for the record to show Building Inspector Andrew Lewis was not present.

Mr. Venuto described the plans which were submitted to the Building Department and the changes which had been implemented as compared to the Board's original approval.

Mr. Riepe stated a new element had been introduced (the side door), the roofline had been adjusted, and the dormer had been modified. He also noted the addition of the cupola on the proposed modified plans. Mr. Riepe stated the process and goals of the decision had been violated. He went on to indicate he would not be in favor of the addition as proposed. Mr. Kablack encouraged the Board to look at the jurisdictional aspects of the application as there was no further encroachment on the side yard setback.

Mr. Riordan went over the findings for Special Permits in the Zoning Bylaw, in particular those which spoke to the impacts on the neighbors. He felt this particular aspect was a very real question for the Board to resolve and it seemed to him the items in the original decision were all pertinent to that approval. Mr. Riordan felt this was a case of someone doing what they wanted and asking for forgiveness later. He felt the Board would be better off with the originally approved proposal. Mr. Riordan stated he was not inclined to approve the application and was a matter which needed to be addressed with the Building Inspector as well. He believed the Building Inspector should be supporting and back stopping the decisions of the Zoning Board of Appeals.

Mr. Kablack asked the Board to parse through the changes which were problematic to understand which of these items were of concern to the Board.

At this time Mr. Gossels left the meeting and the Board took a recess to await his return.

Mr. Riordan suggested the Applicant ask for a continuance to the next meeting of the Board. He recommended the Applicant come back with some kind of compromise between the neighbors, ask for a vote on the application that night, or withdraw the requested modifications. He urged everyone involved in the process to work together on the matter.

Mr. Riepe suggested a stop work order be placed on the project if the Board was not going to act on the application that night. Mr. Riordan stated work should be stopped for all exterior elements but interior work could proceed, and thought this was a good suggestion. Mr. Kablack noted they had already stopped work on the project and would not move forward any further. However, they would like to see a resolution on the matter as winter was fast approaching. Mr. Kablack noted the Zoning Bylaw called for review of the impact of the project on the neighborhood.

Mr. Gossels suggested some Board member should work with the Applicant and neighbors to reach a resolution if possible, and he volunteered for this task. Ms. Rubenstein felt working sessions should be handled before the application hearings. She went on to note most of the structural work for the project was completed, but it should be up to the Building Inspector what type of stop work order should be issued.

Corey Reishtein 26 Stonebrook Road stated he felt what he had heard was all relevant to the proposed project. He indicated he was a direct abutter across the street. Mr. Reishtein stated the project's only detriment was how long it was taking, but in terms of what was being constructed, it was a benefit to the neighborhood. He did not understand some of the objections to the proposal.

Mr. Kablack felt the Board was giving great credence to one neighbor in the neighborhood and he believed the Board had lost sight of its jurisdiction provided to it under the Zoning Bylaw.

Samira Sheth of 21 Stonebrook Road apologized the application was back in this situation as she believed no one wanted to be in the situation. Ms. Sheth stated she felt the decision issued in April of 2019 was fair, but did not understand why the project was being constructed in a manner which was different from the Board's approval. She noted the size of windows, the door and overhang, and a small window at the rear of the building which were not displayed on the approved plans. Ms. Sheth felt her family had lost privacy as part of the proposed project and stated the Applicant had violated the construction terms of the April 2019 decision. She stated these proceedings were contentious but personal. Ms. Sheth indicated she felt the proposed project was already making their property feel cramped. Her biggest concern was the violation of the Board's decision and the precedent these actions set.

Jonathan Jendrzejewski of 21 Stonebrook Road stated he was surprised to see the changes to the approved plans which had already been implemented. He indicated it appeared the Applicant had already built something out of compliance and was now asking for forgiveness.

Mr. Kablack requested a continuance for the application be issued by the Board with the understanding they would work with the neighbors to reach a compromise. He contended not one condition of the April 2019 decision had been violated. Mr. Riordan stated he did not agree with that assessment.

Mr. Venuto asked for Mr. Gossels to be the Board member which would work with the Applicant and the neighbors to reach some sort of compromise.

Ms. Rubenstein asked what the continuance would be used to negotiate as she wanted the Board to be clear about this request. Mr. Kablack stated the goal of the compromise should be to determine which modifications were minor and acceptable, and which changes would be considered major adjustments.

Mr. Ray made a motion to continue the public hearing to the Board's next meeting on October 7, 2019, and to support both mediation regarding the application and implementing a stop work order on the project, with the exception of the installation of the garage doors, the repaving of the driveway, and other site work. Mr. Riepe seconded the motion. The vote was unanimous, 5-0.

Public Hearing, Case 19-27 – Joy Aldrich, Applicant, and Joy and William Aldrich, Owners, seek a Special Permit under the provisions of Sections 2313 and 6200 of the Town of Sudbury Zoning Bylaw to raise up to six (6) hens at 700 Boston Post Road, Assessor's Map K05-0018, Single Residence A-1 Zoning District.

Applicant and owner Joy Aldrich was present to discuss the application with the Board. She described the proposed coop and run which would be implemented.

Mr. Gossels asked what was planned to handle the waste from the hens. Ms. Aldrich indicated they already composted at their property and the waste from the hens would be rolled into the composting.

Mr. Gossels made a motion to approve the application as presented with standard conditions for six (6) hens for a period of one (1) year. Mr. Ray seconded the motion. Vote was unanimous, 5-0.

Public Hearing, Case 19-28 – Kathleen and David DelPrete, Applicants and Owners, seek a Special Permit under the provisions of Sections 5500 and 6200 of the Town of Sudbury Zoning Bylaw to create an Accessory Dwelling Unit at 65 Wagonwheel Road, Assessor’s Map M09-0320, Single Residence A-1 Zoning District.

Applicant and owner Kathleen DelPrete was present to discuss the application with the Board. She noted the proposed Accessory Dwelling Unit would be created for her mother to reside in when she was in Massachusetts, as she was a full time Florida resident now.

Mr. Riordan asked how the new garage would be accessed and Ms. DelPrete stated they would be seeking a new driveway access off of Wagonwheel Road.

There was then discussion regarding the square footage of the proposed project and the proposed elevations. Mr. Gossels stated he would not feel very comfortable voting on the application with the materials before him.

Mr. Riordan recommended elevations and additional information be submitted to assist the Board in making a determination on the application.

Mr. Gossels made a motion to continue the public hearing to the Board’s next meeting on October 7, 2019. Mr. Ray seconded the motion. The vote was unanimous, 5-0.

At this time Mr. Gossels left the meeting.

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

Mr. Riordan indicated responses to the questions from the consultant for the Master Plan update project could be sent individually to Mr. Duchesneau.

Approval of Meeting Minutes for June 21, 2019

The Board decided they would take this matter up at their October 7, 2019 meeting.

Administrative Report

There were no matters to be discussed under this item.

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 11:05 PM.