

SUDBURY ZONING BOARD OF APPEALS

MINUTES

October 6, 2014

The Board consisted of: Benjamin D. Stevenson, Chair; Jonathan F.X. O'Brien, Clerk; Jonathan G. Gossels; Jeffrey P. Klofft; and Nancy B. Rubenstein, Associate.

MEETING OF THE ZONING BOARD OF APPEALS

ZBA Chairman Ben Stevenson called the meeting to order at 7:20 p.m.

Endorsement of Plans for Comprehensive Permit #10-8, 278 Maynard Road:

Mr. Stevenson explained that the plans for Comprehensive Permit #10-8, 278 Maynard Road, were available for the Board's signature. The Board was in receipt of an e-mail dated October 6, 2014 from Director of Planning and Community Development Jody Kablack explaining that the plans contain all conditions required for endorsement and have been endorsed by the Building Inspector, Town Engineer, Town Clerk, and Town Planner. The 20-day appeal period passed without appeal. Given that the ZBA had voted to approve the plans at their recent Board meeting in September, no one had any additional concerns. The Board the signed the plans.

Discuss the Release of Performance Bond and Substitution of a Cash Bond for Landham Crossing, Comprehensive Permit #11-16, 192 Boston Post Road:

Next the Board discussed the release of a performance bond, which is a Lender's Agreement in the amount of \$102,828.00 between Trask Development, Cambridge Savings Bank, and the Town of Sudbury, with a substitution of a \$25,000 cash bond for Landham Crossing, Comprehensive Permit #11-16, 192 Boston Post Road.

The Board was in receipt of a memo dated October 1, 2014 from Planning Director Jody Kablack stating that the development is complete and the as-built plan has been submitted and reviewed by the Town Engineer for consistency with the original plan. The Town Engineer notes that the as-built plan is in substantial conformance with the approval plan. She said that the decision lists some conditions that must be met prior to reducing the bond below the \$25,000 which the developer is actively working on.

Mr. Stevenson noted that some have expressed concerns about an extra Trask Development sign at the site which most agreed was to be posted during the construction phase of the development. The Board agreed that the second sign should be taken down.

A motion was made to approved the release of the performance bond and substitute it with the cash bond with the condition that the extra Trask Development sign be taken down from the fence.

There being no further business the meeting was adjourned at 7:30 p.m.

Benjamin D. Stevenson, Chair

Jeffrey P. Klofft

Jonathan F.X. O'Brien, Clerk

Nancy G. Rubenstein, Associate

Jonathan G. Gossels

TOWN OF SUDBURY
SUDBURY

14 OCT 29 AM 10:36

CASE 14-27
Northwood at Sudbury Condominium
10-20 Northwood Drive
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MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
Monday, October 6, 2014

The Board consisted of:

Benjamin D. Stevenson, Chair; Jonathan F.X. O'Brien, Clerk; Jonathan G. Gossels; Jeffrey P. Klofft; and Nancy G. Rubenstein, Associate.

ZBA Chairman Benjamin Stevenson explained the requirements necessary to substantiate the granting of a Special Permit. He said that if anyone is not satisfied with the Board's decision, they have the right to appeal to Superior Court or Land Court within twenty days after the decision has been filed with the Town Clerk, and that possible other appeals may exist under current law.

Mr. Stevenson then explained that the purpose of the hearing was to review the ZBA decisions under Cases 10-30 and 12-10 in accordance with the Land Court's decision and remand dated July 8, 2014. He said that Mark Kablack, representing First Colony Northwood LLC, was the applicant that had formally requested the hearing and Mr. Kablack would therefore be the first to speak, but the ZBA would hear from all interested parties who wished to speak on behalf of the property.

Mr. Kablack introduced himself along with the Northwood at Sudbury Condominium Trust representative Cathy Rowan who is a current trustee and who developed a care services package. Also present were John Delli Priscoli, Manager of First Colony Northwood LLC and Stan Gordon, CFO of First Colony Northwood LLC. Mr. Kablack gave a brief overview of the project and the development's litigation history. Excerpts from various decisions from 1997 to present were handed out. Among them were Sections 22A (Limitation of Residency) and 22B (Board of Selectmen's recorded site plan approval dated November 14 1997).

Ben Stevenson asked for clarification on why the issue at hand was not one for the Board of Selectmen to debate and resolve rather than ZBA. Mr. Kablack said that the decisions appealed were ZBA decisions rather than decisions of the Selectmen.

The Board then spent quite a bit of time determining their charge and required action. They discussed the various appeals and decisions made, and whether the matter at hand was within the purview of the ZBA rather than with the Board of Selectmen. In the end the Board determined that since the Board had been instructed by the Land Court to provide a decision on the age restriction issue and the definition of the minimum requirements of a residential care facility as they pertain to Northwoods, the Board would attempt to resolve those issues as directed by the Land Court.

The Board turned to the 1997 Site Plan issued by the Board of Selectmen -- which decision was noted with approval by the Land Court -- as a starting point for a definition of the minimum care requirements necessary under the applicable bylaw.

Discussion ensued about interpreting Sudbury's bylaw for a minimum residential care facility. It was noted that the range in flexibility in age allowance that the Selectmen granted in 2010 was too broad, and that the Land Court had so held. As required by the Land Court, the Board reinstated the 1997 Board of Selectmen decision providing that at least one resident of a given condominium must be 55 years of age or older. The Board noted that despite this age restriction, the spouse of an owner did not have to meet the age restriction, and could be younger than 55 years of age.

Mr. Kablack then gave a brief presentation of care services that were part of the 1997 site plan. He said that many of the 1997 terms are acceptable to the applicant but noted that some do pose a burden for the developer. He said that the Judge determined that the town needs to impose a baseline set of criteria that the Northwood at Sudbury Condominium Trustees would have to provide to residents at the facility.

Mr. Klofft wondered whether this case is setting a precedent for other communities within Sudbury. Mr. Kablack said that this is the only residential care facility in Sudbury to date.

In order to establish what process the Condominium Association had gone through to come up with the list Mr. Kablack presented a memo dated September 26, 2014 that contained a table of services comparing the 1997 services list and the proposed new care services list. Among the things from the 1997 list that were to remain unchanged were: Grab bars; doorways that meet ADA dimensions and are wheelchair accessible; exercise and fitness room; greenhouse; kitchen, dining area; library; lounge; meeting rooms; craft rooms; administrative offices; nurses office; and wellness clinic.

Among the items which the Applicant sought to revisit were the garden area; convenience store; emergency response system (although this would be available on an as-needed basis); staff for the nurses office and staff for the wellness clinic; and an arrangement with a preferred independent living service provider to staff delivery of services.

Among the things that the Condominium Association was proposing to eliminate were the swimming pool; local transportation; housekeeping services; and arrangement with a preferred assisted living health care provider for off-site assisted living and skilled nursing services. A Care Services packet of information listing available services for residents whether on-site or generally within the town was also distributed. Mr. Kablack said that there was a meeting of the Condominium Association held earlier in September where this information was provided to residents for their review.

Mr. Kablack pointed out that all of the services have costs associated with them that impact condominium fees payable by the residents. In regard to the swimming pool he said that there was at one time a pool and through a collective vote of the Condominium Trustees it was closed. The pool was underused, and required a high degree of maintenance with an annual \$20,000 line item in budget. According to Mr. Kablack, the Condominium Association is requesting that the

pool be removed as a minimum requirement and the association wishes to have it eliminated from the list of mandatory minimum residential care services.

Mr. Kablack said that the development has been struggling for fifteen years so not all of the services have been implemented.

Some of the amenities are in the planning stages or have already been implemented. For example Mr. Kablack said that there is currently a greenhouse that can be used for gardening but very few of the residents use it. He said that in the spring they will till a garden plot. The kitchen, dining area, and main function room remain and are frequently used for community dinners. No changes are being sought for those areas. The clubhouse can be reserved by residents and there are rules for use. There is also a library and lounge area.

In regard to a Convenience Store there is a closet next to the kitchen in the clubhouse that the condominium association proposes to stock with pantry staples to assist residents who need such staples before going to a local store. It would operate on the honor system and the Condominium Association would take care of stocking items. Ms. Rowan said that a small store is operational now and is functional.

Spaces for a meeting room, craft room, administrative office, nurse's office, and wellness clinic all exist. A nurse does visit the site on a minimal basis. Ms. Rowan noted that there is no signage on the doors to these rooms so the Condominium Association has ordered signs to differentiate between spaces.

Mr. Stevenson asked how the existing nurse's office and wellness room compare to what was required in 1997. Mr. Kablack said that what is being offered is what was required, which is a separate office with minimal healthcare facilities, but implementation of the services is ongoing. The pamphlet distributed to the Board included images of the facility.

The emergency response system has not been implemented in all apartments but Mr. Kablack said that the Condominium Association is willing to take this on. He noted that not all of the residents want this service but the Trustees will provide it as part of the condo fees moving forward if required. They are in the process of soliciting providers now who offer such systems. The few unit owners that need an emergency system do have them now.

Mr. Kablack said that due to available transportation services in Sudbury through FISH and the Council on Aging, the Condominium Association wanted to eliminate transportation services as a minimum residential care requirement. The Association believes that transportation is not necessary for Northwoods. On-site transportation for driving residents to the store and doctor appointments is too onerous and costly and would raise condominium association fees significantly. Mr. Kablack said that there are services in Sudbury that were not in existence in 1997 that would aid residents who do not drive.

The Condominium Association also suggested eliminating housekeeping services for individual units as a minimum residential care requirement, given that many existing residents have relationships with their own housekeeping services already. Mr. Kablack cited safety and security concerns that the residents had expressed and high fees as reasons that the residents did not wish for one service to serve the entire community. He also noted that some residents do not want weekly housekeeping services for their units. Furthermore the existing unit owners do not collectively want this as a service. He said that the majority of unit owners want to select their own service because the selection of housekeepers coming into individual units is a personal choice. The common areas are cleaned under a service contract, however.

Mr. Kablack said that Parmenter Health Services has been contacted to see what sort of arrangements can be made for residents needing further healthcare and related services on an as-needed basis. The original condition listed New Horizons at Madonna Hall and Wingate at Sudbury as the providers of preferred, assisted living, or Alzheimer's care. The thought was that families of Northwoods Residents may want to make their own choices about the care services for their relatives. The option with Parmenter would allow matching a resident's care with that resident's needs and insurance provider options. Mr. Kablack added that there has been a more concerted effort to provide enhanced services at Northwoods. The Condominium Association is working with Parmenter and they have reached out to the Frost Farm community to see if there is interest in participating in the care services along with Northwoods.

The Board then reviewed the care services brochure that was produced by the Northwoods at Sudbury Condominium Trust and was approved by the majority of its residents.

The Board then discussed next steps. The Board discussed whether the ZBA could revise its decisions regarding age restriction and then accept the 1997 list of minimum care requirements. The Board further discussed the site plan and the Land Court's requirement that the Board keep the site plan in mind in light of any changes to the services at the facility that might impact the site plan. Ms. Rowan noted that the plaintiffs in the case did not challenge any elements of the site plan.

Mr. O'Brien asked whether the Condominium Association had contemplated having any business hours staff that could to serve as a liaison between the residents, such as a site manager to assist with small necessities. Mr. Kablack said that a site manager already does manage common areas. However, through a contract with Parmenter the goal would be to provide access to a health care provider and a coordinator that can be called. However, that on-call concept was never part of 1997 list of services as part of the minimum criteria. Mr. Kablack said that the Condominium Association is trying not to financially burden its residents any more than necessary, so the project might finally become financially successful.

Mr. Stevenson then invited Sidney Bourne, resident at 20 Northwood Drive, to speak. Mr. Bourne noted that he was the Plaintiff in the suit. He said that his perspective was different from Mr. Kablack's which he described as the concept that the developer wants to build. He felt that the development should be tailored to what the Sudbury bylaw says. He then spent time defining

what a residential care facility in Sudbury means and he noted the four levels of elder services: independent living; assisted living; nursing home; and hospice care.

He then provided an analysis of the residents at Northwoods who he said primarily were interested in independent living. Out of the twenty-four occupied units, twenty are single and four are couples.

Of the research that he did for facilities in the Sudbury area he said that key features of independent living consist of on-site full-time management, socialization, and food services.

Mr. Bourne provided the Board with a handout outlining what he felt was the purpose of the hearing, which was to define "what is a residential care facility in Sudbury." He defined it as "the provision of independent and/or assisted living arrangements for persons age 55 or over."

Mr. Stevenson said that he heard where Mr. Bourne was coming from, and understands that Mr. Bourne may have bought into Northwoods and now feel he did not get what he purchased. But Mr. Stevenson said that what the Bournes intended to buy, and should have received, was clearly defined in the 1997 BOS decision. Mr. Bourne said that he will accept that the conditions were outlined in the master deed when he and his wife bought their condo, but he said that the site plan is not well done and he said that the plan will not work in the future. He said that he would take what was conditioned in 1997.

Mr. Gossels asked Mr. Bourne how, if his unit was bought with the understanding of the 1997 terms, more can now be asked of his neighbors. Mr. Bourne said that was not what he was doing. He said that he was asking the ZBA to define what the Sudbury bylaw requires for minimum care. Mr. Klofft asked Mr. Bourne if he was looking for something in addition to the 1997 conditions. Mr. Bourne said that he was asking for something that will work.

Mr. Bourne said that what will work at an independent care facility would work at Northwoods. But he felt that the intention of the Sudbury bylaw was not being met.

Mr. Gossels noted that he remembered when the decision was being worked on and there were always minimal services being discussed. He said that there were multiple reviews throughout the process and he felt that the 1997 conditions were sufficient. He said that all boards passed it numerous times therefore he felt that the bylaw was being upheld.

The Board then debated what was meant by independent living.

Mr. Bourne said that the industry standards include the following for independent living: Weekly housecleaning with maintenance inside units and replacement of appliances; all utilities except telephone, cable, and internet; socialization in common areas and eating meals together; van transportation; food services with at least two meals per day provided to residents; and ongoing management with a full-time on-site manager to direct food services and socialization.

Mr. O'Brien felt that Mr. Bourne's definition is beyond the minimum requirements for independent living facilities. Mr. Klofft agreed. For example, they felt that providing meals is heading toward the definition of assisted living. Mr. Klofft, Mr. O'Brien, and Mr. Gossels all agreed that there were no meals being provided or offered when Mr. Bourne bought his condominium. They asked why Mr. Bourne felt that they should be offered now. Mr. Bourne said that the ZBA is tasked with determining what are the minimum requirements.

Mr. Stevenson said that the ZBA should look at the specific list of proposed services.

Mr. Stevenson added that in terms of socialization a manager could be present to coordinate activities. However, when there is a functioning community the community makes activities itself. That is how socialization happens. The community makes things happen for itself.

Mr. Klofft remained unconvinced on the issue of food services because he felt that was crossing over into assisted living. He agreed, however, that on-site management may be needed. Ms. Rubenstein suggested the idea of a concierge that could serve the purpose of an on-site manager. She said that there was a lot of overlap on both the Condominium Association's list and Mr. Bourne's list.

Mr. Stevenson then asked Mr. Bourne to further express what he wanted to see in the definition of minimum services. Mr. Bourne wanted weekly housekeeping services in individual units, and maintenance for units so that when windows or appliances break they could be fixed. He essentially wanted things to operate more like an apartment. Mr. Stevenson asked about the matter of a budget. Mr. Bourne said that he wants these things taken care of so that he does not have to worry about them. Mr. Gossels questioned why Mr. Bourne made a decision to buy a condo rather than an apartment where things would be taken care of. Mr. Bourne said that he is now eleven years older than when he moved in and he likes idea of an independent living care facility where things are taken care of. He also wanted to have meals together with his neighbors. Mr. Bourne said that in the research he did on independent care facilities in Massachusetts all were built with the idea of ongoing management. The management companies build and run the operations which is different than a developer that builds, sells the property and then leaves. He felt that if management is left to other people then the model is not going to be successful. He added that he felt that the 1997 model was a failed model but he has to accept those conditions as the minimum because that is what he bought.

Mr. Gossels said that through the review process in 1997 everyone in town wanted a residential care facility with nice amenities. The reality of what exists today is a failed development so now the Town is left to deal with that. He said that he didn't think that the residents want another bankruptcy with assets tied up below market value. He asked what Mr. Bourne thought was the best way out. Mr. Bourne thinks that finding another developer who will build a residential care facility is the answer.

Mr. Stevenson then asked for comments from others in attendance.

Barbara Murphy, resident of Northwoods, said that Mr. Bourne wants a lot of things that will result in a large fee increase for the residents. She said that many of the residents chose to live at Northwoods because they did not want the kind of elaborate facility Mr. Bourne defines. They already have amenities such as snowplowing and landscaping. She said that if they wanted more amenities they would choose to pay a higher cost to live elsewhere. She did not feel that it was appropriate for the ZBA to make a decision on something that the majority of residents do not want to pay for and repeatedly voted on. She said that their lives are on hold at Northwoods while litigation is ongoing and the value of all of the condominiums are going down. She said that the extra services being discussed are not what most of the existing residents want but only Mr. Bourne and a few others in the minority.

Hadley Fisk, Resident of Northwood, said that she moved there in 2001. She said that the community started as a positive group. People were friendly and important decisions were made with a majority rule. She said it was a wonderful place to live. The residents elected their own trustees. She said that it could have been a viable community and she is saddened by the negative consequence of an 11 year ongoing litigation process. She said that she moved from Concord to Sudbury because Sudbury was behind the independent living project. She asked the ZBA to help the residents build out the site with the services as proposed. She said that if the development were built it would be better for all residents.

Rhoda Bronstein, Northwoods Resident, talked about communication being key. She spoke in particular of the tremendous support she has received from the Northwoods community after her husband recently passed away.

Ms. Rowan said that Mr. Bourne is proposing that Northwoods become an independent living facility with food, and other management. But she noted that most of those services require licenses and particular insurance, and would require oversight by public health boards, and inspection fees would be costly. She noted that the unit owners had a meeting several weeks prior to the ZBA meeting where they went over the list of proposed services as submitted to the ZBA. She said that the Bournes went to meeting but refused to sign in and they left before the meeting began so they did not participate in the discussion.

Mr. Kablack added that every decision that has been made at Northwoods has been done with the majority vote of Northwoods residents. Mr. Kablack said that he understands where Mr. Bourne is coming from but there are limitations on being able to provide all of those types of services.

Mr. Stevenson then closed the public comment portion of the meeting. Debate ensued about the ZBA's course of action. The Board reviewed the 1997 list of conditions again. The Board felt that the idea of phasing in of services was an important idea because as the development is built out in its entirety there would be more funds available for services and amenities.

Mr. Stevenson allowed one more comment from the audience. Ms. Murphy wanted it noted that Northwoods neighbors help each other out when necessary and they do currently have a management company who can come in and fix what is broken. The manager, Mr. Slovney, was

present. He said that his company is available 24-hours a day. Mr. Slovney said that due to the existing budget he cannot staff the development at all times but there is an arrangement by which residents can call and someone goes to the site to address issues.

After debate and review, the Board moved and voted as follows:

MOTION: "To find that Northwood at Sudbury is a housing community limited to occupancy by seniors fifty-five (55) years of age or older (a "Qualified Person"), their spouses (including the surviving spouse of a deceased Qualified Person), and a relative by blood or marriage of Qualified Person or of such a spouse, provided that such relative must be fifty-five (55) years or age or older (a "Qualified Relative");

VOTED: In favor: 5 Opposed: 0 MOTION CARRIES

MOTION: The minimum services and on-site facilities necessary for independent living arrangements at the residential care facility known and operated as the Northwood at Sudbury, as defined by the Sudbury Board of Selectmen in a Site Plan decision dated November 14, 1997, are hereby reaffirmed and shall apply to the Northwood at Sudbury with the following amendments:

- 1) The requirement that a swimming pool be constructed and maintained on the premises shall be deleted as a minimum on-site facility;
- 2) Transportation shall be a required service on a fully subsidized basis, to be provided by standing, written arrangement with a local livery, transport, taxi or other service for local transportation, for a minimum of two (2) hours per day, Monday through Friday, with the exception of Federal and State holidays; and
- 3) Housekeeping services shall be offered as an on-site service, on an 'opt-in' pay for services basis only.

VOTED: In favor: 5 Opposed: 0 MOTION CARRIES

MOTION: That no modification to the design elements of the site plan approval is required as a result of the above.

VOTED: In favor: 5 Opposed: 0 MOTION CARRIES

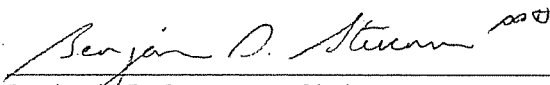
Members present and voting: Benjamin D. Stevenson, Chair; Jonathan F.X. O'Brien, Clerk; Jonathan G. Gossels; Jeffrey P. Klofft; Nancy G. Rubenstein, Associate.

REASONS:

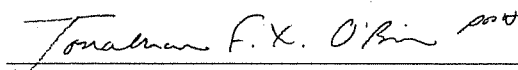
In reaching its decisions as set forth above, the Board determined that the conditions set forth in the 1997 BOS decision generally constituted an appropriate definition of minimum care requirements under the applicable bylaw, with the exception of the swimming pool. The Board noted with approval the Land Court's generally positive reference to the 1997 BOS decision, as well as the fact that the 1997 BOS decision contained all the material elements of the Northwood project as described to prospective buyers, including but not limited to Mr. Sidney Bourne. The

Board was cognizant of the tremendous amount of work and deliberation which went had gone into the 1997 BOS decision. The Board also was mindful of wanting to adopt a definition of minimum care requirements which fairly and fully meets the original intent and purpose of the bylaw, and the legitimate expectations of purchasers such as Mr. Bourne, while also (hopefully) allowing the Northwood development to finally complete development and move forward towards the long term financial stability which all parties, residents, and citizens want and deserve.


Concerning the swimming pool feature as set forth in the 1997 BOS decision, the Board determined that although a pool may have been a nice feature to have, it was a significant expense, was seriously out of favor with a majority of Northwood residents, and most importantly, did not go to the core of independent senior living within the original meaning and intent of the bylaw. The Board thus determined the swimming pool was not a minimum care requirement within the meaning of the bylaw. On the other hand, the Board determined that regular local transportation services for residents to do errands and the like does go to the core of independent senior living at this facility, particularly given its location within a suburban community such as Sudbury with somewhat limited available public transportation services. Similarly, access to housekeeping services on an opt-in fee for services basis, in the event a resident does not have alternative solutions, appeared to the Board to be a minimum care requirement of healthy and enjoyable independent senior living. The remainder of the minimum care requirements as set forth in the 1997 BOS decision did not appear to be in serious dispute between the parties at this time. In any event, the Board determined that such conditions constitute minimum care requirements within the meaning of the bylaw.



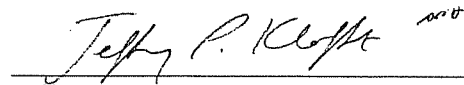
Benjamin D. Stevenson, Chair



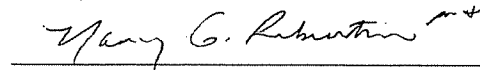
Jonathan F.X. O'Brien, Clerk



Jonathan G. Gossels



Jeffrey P. Klofft



Nancy G. Rubenstein, Associate

14 OCT 31 AM 9:12

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
Monday, October 6, 2014

The Board consisted of:

Benjamin D. Stevenson, Chair; Jonathan F.X. O'Brien, Clerk; Jonathan G. Gossels; Jeffrey P. Klofft; and Nancy B. Rubenstein, Associate.

ZBA Chairman Benjamin Stevenson explained the requirements necessary to substantiate the granting of a Special Permit. He said that if anyone is not satisfied with the Board's decision, they have the right to appeal to Superior Court or Land Court within twenty days after the decision has been filed with the Town Clerk, and that possible other appeals may exist under current law.

Marcel Maillet of Maillet and Son, Inc. was present to request a Special Permit to demolish an existing residence and reconstruct a larger single-family residence measuring approximately 3,100 square feet on a nonconforming lot at 46 Greenwood Road. The location of the new residence will meet zoning setbacks.

Mr. Stevenson noted, however that Mr. Maillet's application did not clearly describe the square footage of the new structure and, from the hearing notice language, he was concerned that neighbors may not have an accurate sense of what is proposed. He said that the ZBA has held strictly to noticing the square footage in the past. He added that the entire Board is sympathetic to Mr. Maillet's building schedule but concerned about proceeding with the hearing on this case if the neighbors were not able to get a clear sense of the new structure's size.

Mr. Maillet said that all of the abutters all got a letter and package with the same plans that the ZBA received. Mr. Stevenson then polled board to determine their preference for continuing the hearing until another meeting notice could be posted with the more accurate square footage. Mr. O'Brien said that if neighbors have been notified beyond the hearing notice sent from the ZBA then that is a mitigating factor. Mr. Gossels felt that knowing the size of the new house was important. Mr. O'Brien asked Mr. Maillet about the construction schedule which would potentially be pushing the closing off a month as well. Mr. Maillet said that he was planning on closing at the end of October.

In the end it was agreed that the hearing should be continued to October 27, 2014 with the ZBA secretary notifying neighbors via certified mail of the meeting with the corrected building size noted of approximately 3,300 square feet.

Mr. Gossels also asked that the new house be moved back ten feet. He also asked Mr. Maillet to note the height of building on the plans.

Mr. Stevenson asked whether any neighbors were present who wished to speak. None were present.

A motion was made and seconded to continue the hearing to October 27, 2014 at 7:30 p.m. at the Town Hall, 322 Concord Road. All were in favor. The hearing was then adjourned.

Benjamin D. Stevenson ^{pm}

Benjamin D. Stevenson, Chair

Jonathan F.X. O'Brien ^{pm}

Jonathan F.X. O'Brien, Clerk

Jonathan G. Gossels ^{pm}

Jonathan G. Gossels

Jeffrey P. Klofft ^{pm}

Jeffrey P. Klofft

Nancy G. Rubenstein ^{pm}

Nancy G. Rubenstein, Associate

TOWN OF SUDBURY
SUDBURY

CASE 14-29
David Bush
8 Concord Road
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14 OCT 22 AM 10:12

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
Monday, June 16, 2014

The Board consisted of:

Benjamin D. Stevenson, Chair; Jonathan F.X. O'Brien, Clerk; Jonathan G. Gossels; Jeffrey P. Klofft; and Nancy B. Rubenstein, Associate.

ZBA Chairman Benjamin Stevenson explained the requirements necessary to substantiate the granting of a Special Permit. He said that if anyone is not satisfied with the Board's decision, they have the right to appeal to Superior Court or Land Court within twenty days after the decision has been filed with the Town Clerk, and that possible other appeals may exist under current law.

David Bush, applicant and owner of Post Road Clothier, was present to request a Special Permit to allow a freestanding business sign measuring up to eight square feet at 8 Concord Road.

He prefaced his request by explaining that he is a small business owner that has been in Sudbury for fifteen years. Since 2006 his store has been located on Boston Post Road however his landlord is expanding her own business and so he is looking for a new home. The N. B. Taylor space is nearby and will offer a similar customer experience. There is parking in the front of the store but visibility for the store itself is reduced because it is pushed back farther on the lot. He said that he will no longer have the distinctive window display that he currently has, for example. Mr. Bush said that he does have the ability to put a sign on the roof, but given that the building is separate from #10 Concord Road, which has a freestanding business sign, he would like to have his own business sign to distinguish it for customers and to draw them to the store.

Mr. Gossels said that the ZBA has a philosophy of helping small businesses that have reasonable requests. The proposed sign fits within the guidelines of total signage allowed.

Mr. Stevenson also felt that the additional sign was appropriate. Mr. Bush said that the landlord is fine with the extra freestanding sign. Mr. Bush had been to the Design Review Board and the ZBA was in receipt of minutes from their September 24 meeting. He will next appear before the Historic Districts Commission.

In terms of a lighting plan it was suggested that Mr. Bush have lighting that is consistent with the lighting bylaw which allows lights to be on during business hours. The Board agreed. Same as usual but with lighting – unanimous.

Mr. Stevenson asked whether any neighbors were present who wished to speak. None were present.

There were no further comments from the Board or audience. The hearing was closed.

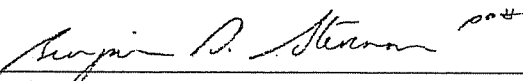
The following motion was made and seconded:

MOTION: "To grant David Bush, Post Road Clothiers, applicant, and Nancy Taylor, property owner, a Special Permit under the provisions of Section 3290 of the Zoning Bylaw, to allow a freestanding business sign measuring up to 8 square feet, property located at 8 Concord Road, Village Business District, provided that:

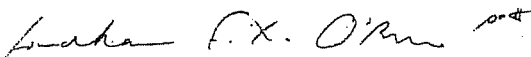
1. The sign will be installed in the location as submitted in the sign application dated September 11, 2014, which is incorporated into and made part of this Special Permit.
2. The double-faced freestanding sign shall measure eight (8) square feet.
3. The colors used for the sign shall be antique blue and white.
4. The sign shall conform to Sudbury's Lighting Bylaw. Illumination shall be maintained at a sufficiently low intensity and brightness so that it shall not affect the safe vision of operators of vehicles moving within the premises or on any adjacent public or private ways."

VOTED: In favor: 5 (unanimous) Opposed: 0

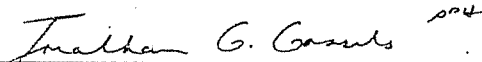
REASONS: The petitioner requires a special permit to install a free-standing business logo sign. The applicant has met with the Design Review Board and incorporated their suggestions. The applicant will also appear before the Historic Districts Commission. The ZBA finds that the sign will not be a detriment to the surrounding area and will not alter the character of the zoning district which is the Village Business District. The ground lights will not cause visual confusion, glare, or offensive lighting in the area, nor will it interfere with traffic safety.



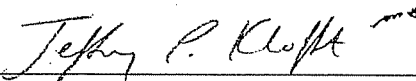
Benjamin D. Stevenson, Chair




Jonathan F.X. O'Brien, Clerk



Jonathan G. Gossels



Jeffrey P. Klofft



Nancy G. Rubenstein, Associate