

SUDBURY ZONING BOARD OF APPEALS
MINUTES
May 8, 2017

Board Members present:

John Riordan, Chair; William Ray, Clerk; Jeffrey P. Klofft; Jonathan G. Gossels and Benjamin Stevenson, Alternate.

Town Staff present: Mark Herweck, Building Inspector and Zoning Enforcement Agent.

The meeting was called to order at 7:30 p.m.

Mr. Riordan opened the hearing by asking the Clerk to read the notice as published in the newspaper.

Chair Mr. Riordan explained the requirements necessary to substantiate the granting of a Special Permit. he also explained that if anyone was not satisfied with the Board's decision, they have the right to appeal to Superior Court or Land Court within twenty (20) days after the decision has been filed with the Town Clerk, and that possible other appeals may exist under current law.

1. *Public Hearing, Case 17-6 - HERB CHAMBERS BOSTON POST ROAD, INC., D/B/A HERB CHAMBERS BMW OF SUDBURY, applicant, STANLEY W. SNIDER, owner, for a renewal of Special Permit 11-18 under the provisions of Section 2200/6200/Table of Principal Use Regulations #25 of the Zoning Bylaws, to operate an automobile sales and service facility, property shown on Town Map K11 as Lot 0004, 68 OLD COUNTY ROAD, Industrial District #2, Residential Zones A-1 & C-2.*
2. *Public Hearing, Case 17-7 - HERB CHAMBERS BOSTON POST ROAD, INC., D/B/A HERB CHAMBERS BMW OF SUDBURY, applicant, STANLEY W. SNIDER, owner, for a renewal of Special Permit 11-19 under the provisions of Section 2200/6200/Table of Principal Use Regulations #12 of the Zoning Bylaws, for motor vehicle sales and rental, property shown on Town Map K11 as Lot 0004, 68 OLD COUNTY ROAD, Industrial District #2, Residential Zones A-1 & C-2.*
3. *Public Hearing, Case 17-8 HERB CHAMBERS BOSTON POST ROAD, INC., D/B/A HERB CHAMBERS BMW OF SUDBURY, applicant, STANLEY W. SNIDER, owner, for a renewal of Special Permit 11-20 under the provisions of Section 2200/6200/Table of Principal Use Regulations #13 of the Zoning Bylaws, for motor vehicle, general and body repair, property shown on Town Map K11 as Lot 0004, 68 OLD COUNTY ROAD, Industrial District #2, Residential Zones A-1 & C-2.*
4. *Public Hearing, Case 17-9 - HERB CHAMBERS BOSTON POST ROAD, INC., D/B/A HERB CHAMBERS BMW OF SUDBURY, applicant, STANLEY W. SNIDER, owner, for a renewal of Special Permit 11-21 under the provisions of Section 2200/6200/Table of Principal Use Regulations #14 of the Zoning Bylaws, for motor vehicle light service, property shown on Town Map K11 as Lot 0004, 68 OLD COUNTY ROAD, Industrial District #2, Residential Zones A-1 & C-2.*

Mr. Riordan expressed that he appreciates the collegiality and collaboration from the Board members and he especially appreciates the confidence to have him serve as a Chair. He recognized Jonathan O'Brien for his leadership as Chair; the Town is lucky to have him serve as an Associate Member, he is an invaluable resource to this Board and to the Town. The Board has always been exceedingly professional and kind and that will always be the case as long as he is the Chair. He would like the Board to continue the practice of keeping the focus and attention on matters before them, to avoid roaming off the subject. Mr. Riordan reminded the Board that all communication should be through the planning department.

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Mr. Riordan opened the hearing for Herb Chambers, noting that the Special Permit expired few months ago.

Mr. Gossels suggested discussing all four (4) applications received from Herb Chambers as a whole (17-6, 17-7, 17-8 and 17-9), the Board agreed.

Attorney Joshua Fox, from Rollins, Rollins & Fox and Pranav Gill, General Manager of BMW of Sudbury were present on behalf of the applicant Herb Chambers BMW of Sudbury, to request a renewal of Special Permits 11-18, 11-19, 11-20, and 11-21 to sell new and used cars and repair new and used motor vehicles at property located at 68 Old County Road.

Mr. Fox said the dealership has been operating under a group of expired Special Permits, noting the good news is they have continuously met all of the Special Permit criteria since they opened almost nine (9) years ago. Herb Chambers has been a significant contributor to the community, a good resident and corporate citizen contributing to local non-profits. As far as Mr. Fox is aware, there are no operational issues and there is list of nineteen (19) conditions on their 2011 Special Permit that they have and will continue to adhere to.

Mr. Fox was not aware of any complaints filed about the business. As such, he requested that the Board consider an indefinite time for the Special Permit.

Mr. Gossels stated that in the past, neighbors from Old County Road expressed concerns about the proximity of these facilities to wetlands. In his opinion, BMW has established a track record of handling hazardous materials properly.

Mr. Fox stated there are other mechanisms in place beyond the Special Permit to deal with a situation such as contacting the Building Inspector.

Mr. Stevenson replied that a Special Permit does not automatically required a set time for the applicant to check in. Given the substantial large size of the operation, there is no doubt that they are running a successful operation, and will continue to run it. Combined to the proximity of water supplies, and the level of extend of the activity going, he thinks is a good idea to keep the terms on the Special Permit. He can get behind a seven (7), eight (8) or ten (10) year term if the Board sees that appropriate.

Mr. Klofft felt that occasional check in is warranted, and the Board should not issue any use permits in town that do not have a renewal term.

Mr. Gossels pointed out that a five (5) year permit is a scary short term for business owners, he would argue for the Board to consider a longer renewal term. He added that under Section 6260 of the Zoning Bylaws, the terms are not specified, and it is up to the discretion of the Board. He added that he would feel comfortable with a renewal term of ten (10) years.

Mr. Stevenson asked about the useful life on the filtration equipment at the BMW Sudbury facilities.

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Mr. Gill stated that maintenance services are performed yearly, and the carwash is maintained monthly by dealership and is serviced yearly.

Mr. Riordan felt that ten (10) year term would be too long, considering that technology is advancing rapidly. He opined in ten years we might have flying cars, and the future could be radically different. The Board would be wise not going too far out. He suggested a five (5) year term.

Mr. Ray stated that this is the first exposure to this case. In general, he is against the concept of granting permits in perpetuity, and he would be in favor of five (5) years, but open to a seven (7) year term.

The Board acknowledged receipt of a memo from Mark Herweck, Building Inspector, dated May 8, 2017.

Mr. Riordan asked if any members of the public who wished to speak. None was present. There were no further comments from the Board or audience.

Motion was made, seconded to approve Petitions 17-6, 17-7, 17-8 and 17-9 for a term of seven (7) years to expire on May 8, 2024 with the additional conditions from decision dated April 14, 2011 as corrected #1 to #19 listed on 11-18, 11-19, 11-20 and 11-21 if applicable.

5. Public Hearing, Case 17-10 – Amy Hansen, Applicant and Owner, for a Special Permit under the provisions of Section 2313 of the Zoning Bylaws, to raise up to 4 hens, property shown on Town Assessor Map F09-0403, 114 Morse Road, Residential Zone A.

Amy Hansen, Owner and Applicant appeared at the hearing. The Applicant seeks a Special Permit to raise up to four (4) hens at her home, she recently took a class at Drumlin Farms and couple of her friends are raising hens. Ms. Hansen is interested in raising a few hens, mainly for the eggs.

Mr. Gossels asked about the waste disposal plan. The applicant replied that she would compost the waste in her garden.

Mr. Gossels then suggested it would be a good idea for the applicant to inform their neighbors about her plans to raise hens.

Mr. Klofft understood as part of the application process, neighbors within 300 feet were notified of the application.

Mr. Riordan asked about the screening between properties.

The applicant replied one neighbor has a shed that blocks the view of the chicken coop, and on the other side the property, next door is a slope.

Mr. Riordan asked whether there were any members of the public who wished to speak in regard to the case. None were present.

Motion made and seconded to approve petition 17-10 for one year with the standard conditions.

6. Interview Candidate for Associate Board of Appeals Member

- Frank Riepe

Mr. Riepe was present at the hearing and stated that he was invited to apply for the open position of Associate Member.

Mr. Gossels shared with the Board that in the past, Mr. Riepe did some architectural work for him, his family, and friends.

Mr. Klofft added that he met Mr. Riepe during the 40B application of Snowberry Lane and most recently during Sudbury Station 40B application.

Mr. Riepe expressed he likes the idea of being part of this Board because in his view, as demonstrated, he appreciated the structure of the meeting and the work, leaving no room for vagueness in the decision making.

Mr. Gossels added that the Board is not antagonistic, acts as just neighbors, and always tries to say yes, but in some decisions, their hands are tied. A good example is when they have to decide on a Variance application.

Motion was made, seconded to recommend Mr. Frank Riepe to the Board of Selectmen for the Associate member position.

7. Approval of Meeting Minutes for April 3, 2017 meeting.

Motion was made, seconded to approve April 3, 2017 minutes as amended.

Other Business Items.

There being no further business, the meeting adjourned at 8:45 p.m.