

SUDBURY ZONING BOARD OF APPEALS
MINUTES
August 7, 2017

Board Members Present: John Riordan, Nancy Rubenstein, Jeff Klofft, Jonathan Gossels, William Ray

Staff present: Meagen Donoghue

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.

Mr. Riordan requested to take the cases out of order asking to take the 17-18 case last. There was no objection.

1. Public Hearing Case 17-19 – Dorothy Collins, Applicant and Terrence McCarthy & Anne Marie McCarthy Owners, for a Special Permit under the provisions of Section 5500 of the Sudbury Zoning Bylaws, to allow an existing Accessory Dwelling Unit that is no greater than 888 s.f., property shown on Town Map G07-0326, at 68 Churchill Street, Residential Zone A-1.

The owner Dorothy Collins was present to discuss the request for an Accessory Dwelling Unit (ADU) for her 88 year old mother. Ms. Collins recently moved to town and subsequently closed on the property. She noted the ADU was preexisting under the previous owner, but the Board had not approved it.

Mr. Klofft noted the ADU is slightly over the threshold as it is 31%, so the Board will also vote on 5,522. After discussion ensued, Mr. Klofft requested to wave 5522.

Mr. Collins noted that her mother does not have a car and the house has a perfect entrance in terms of access.

Mr. Klofft asked if marketed as a two-family. Ms. Collins noted the house was marketed as having an in-law apartment. Mr. Gossels noted that it is a family member and noted that this is the type of requests that this Board likes to approve.

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

No neighbors were present for this petition. There were no further comments.

Motion made and seconded to approve petition 17-19, waiving physical constraints 5522 a to get to minimal threshold, and must be for family members only. Vote All in favor.

2. Public Hearing Case 17-20 – Adam Kolloff, Applicant and Stephen E. Grande III Owner, for a Special Permit under the provisions of Section 2230 of the Sudbury Zoning Bylaws, to operate an indoor commercial recreational use, specifically for indoor golf training, property shown on Town Map K08-0045, at 60 Union Ave, Industrial District Zone #2.

Applicant Adam Kolloff, was present to discuss 60 Union Avenue for an indoor golf training center with 5 golf simulators. Additional features include golf lessons, a retail section to sell golf equipment, and a physical fitness area as it pertains to golf to maintain 12 months out of the year. Mr. Kolloff will own and operate the business.

Mr. Riordan asked if Mr. Kolloff is utilizing most of the building and if the landlord/owner is taking part of the building. Mr. Kolloff answered he will be using 2700 s.f. to 3200 s.f. on the first floor, and will not be using second floor.

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Mr. Gossels asked if the facility will serve alcohol. Mr. Kolloff said he will not be serving alcohol. Instead, he is targeting golfers that want more instruction. They will differentiate from facilities that involve drinking. This one involves more training and playing virtual golf.

Ms. Rubenstein asked of the hours. Mr. Kolloff indicated the hours would be from 8:00 a.m. to 6:00 p.m., Tuesday through Sunday.

Mr. Riordan asked how many customers at a time, and how would they accommodate parking. Mr. Kolloff indicated 8-10 people at a time, including staff. However, they have 46 parking spaces.

Mr. Riordan asked if the golf screens used for virtual games and lessons were strong enough to not break through windows. Mr. Kolloff said he is working with developers to have tough ones.

Mr. Riordan asked if also a store? Mr. Kolloff said the facility will have retail space.

Mr. Ray asked if the owner was moving to Sudbury from Hoboken, NJ where he lives. Mr. Kolloff noted he and his family are moving to Sudbury and will own and physically operate the building.

Mr. Riordan asked if owner will be the instructor. Mr. Kolloff indicated he would be. Mr. Riordan ask about prices for an hour/half. Mr. Kolloff indicated approximately \$80-150.

Ms. Rubenstein asked if Mr. Kolloff had run a facility like this before. He said owns a golf school at Liberty National Country Club in New Jersey. He is proposing what he does at an actual golf course at this facility.

Mr. Gossels indicated it is a seasonal sport, and asked should the permit be more general to make it broader during the slow months. Mr. Kolloff noted he will have a space for fitness and will partner with trainers to and sell equipment.

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

No neighbors were present were present for this petition.

Motion made and seconded to approve petition 17-20 to approve the Special Permit. Vote all in favor.

3. Public Hearing Case 17-18 – Edyta & Nicole Szatkowski Applicants and Steve J. Cusano Owner, for a Special Permit under the provisions of Section 2230 of the Sudbury Zoning Bylaws, for a Special Permit to operate an organic airbrush tanning salon, property shown on Town Map C11-0300, at 142 North Road, Research District Zone.

Applicants, Owners Edyta, and Nicole Szatkowski were present to discuss an airbrush-tanning salon at 142 North Road.

Mr. Riordan stated the Board may have a problem with the case. He noted the location is zoned Research District and this application is for special permit under 2230. Based on our permitted uses, the use is not permitted, even with a Special Permit.

Klofft said could go through the variance process but there is a difficult process. We could waive the fees.

Mr. Riordan indicated there is no definition under the Sudbury Bylaws as to what this business is. The issue is that it could be considered a personal services establishment. Mr. Riordan would like it to come to Sudbury, but cannot grant a Special Permit because we are constrained in our bylaw.

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Discussion ensued about whether the case should be a Variance or not. Mr. Gossels indicated in his view it cannot meet the variance standards, however, Mr. Klofft disagreed. He noted the applicants could meet the use variance standards.

Mr. Riordan indicated they should look at Zoning Bylaws 6130, 6140, Use Variances. He further noted there is currently an eclectic mix of businesses, even though it is in a Research District.

Mr. Riordan asked if anyone in the audience wanted to speak. Mr. Bruce Steinart who lives in the Northwoods development requested to speak. He stated that the facility is mostly devoted to schools and thought the addition of a tanning facility would involve a substantial change in character. Mr. Riordan listed off the businesses in the complex next to Northwoods noting the diversity.

Mr. Steinart noted there is no business on the weekend. Mr. Riordan described the property's alphabetical layout and noted not everything is observable. Mr. Riordan opined the site is a commercial hub, but he does not believe it would substantially change the neighborhood.

Mr. Gossels asked about the number of clients the tanning facility would see. Ms. Edyta Szatkowski said it would be a slow start, initially. She indicated there would be a maximum of three rooms in use for 30 minutes, and added they may have six people in one hour. She noted usually the peak season is prom season, so it may be busier then. She intends to be open between 10:00 a.m. and 9:00 p.m. Mr. Gossels noted that this case is de minimis. He opined an extra three cars is nothing. Mr. Riordan asked if by appointment only. Ms. Edyta Szatkowski indicated it is an appointment business only.

Mr. Riordan stated the property is a very isolated location and wonders if it would be best to go elsewhere in town. Ms. Edyta Szatkowski said she looked at other spaces but they are either too big or would require too much expensive construction. She said this space is best for their needs.

Mr. Gossels noted that this is as good a place as any since the proposed business is by appointment only. Mr. Klofft noted that there are possibilities to have other things like manufacturing, and other commercial areas so it will not change the character.

Ms. Rubenstein asked about the chemicals, odors, and fumes. Ms. Nicole Szatkowski noted that things have changed since 10-15 years ago. The technique is eco certified. Mr. Gossels asked if there would be any impacts into the septic system. Ms. Edyta Szatkowski indicated there would not be and there would be no odor. Mr. Riordan asked how the spray tan is applied. Ms. Nicole Szatkowski stated it is a high velocity low pressure with a gun with compressed air; like a power washer. She added there were no compressed gasses or such.

Mr. Riordan said he talked to Bill Murphy with Board of Health and indicted the practice is not certified by the State. He added one condition they would like to have when they come back would be to satisfy the Board of Health and the Fire Department if they are using something combustible.

Mr. Gossels noted he is still struggling between a Special Permit and Variance. Mr. Riordan indicated it is a personal services establishment and not listed on the Use Table of the Sudbury Zoning Bylaw. Mr. Klofft challenged that if there are home salons, which there are many, they are only required obtain a Special Permit.

Mr. Riordan looked at Bylaw 7000, Definitions to look for "business/professional office" or "personal services establishments." Mr. Klofft indicated they have given a number of Special Permits in homes

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when not permitted in those areas, so it all fits within. Discussion ensued among the Board about the difference between Special Permits and Variances.

Mr. Riordan asked about consistency with Special Permits. Mr. Gossels asked to make a request to the Planning Board to clean up the Use Table Bylaw.

Ms. Rubenstein said this application is not the same because not allowed in a residential district.

Ms. Nicole Szatkowski noted that they would be conducting skin cancer screenings, and asked if they could be then defined as a medical clinic, which is allowed.

Mr. Klofft asked if everyone was OK to meet the Special Permit. Then he looked at the Use Variance requirements. He added that the Board would ask the Planning Board to change the Use Table to meet the current standards in town, and to allow this application to meet this particular use. He also indicated it met the use variance requirements.

Mr. Riordan is worried about the Board setting a precedent. He added it is a Use Variance and must be advertised as such. In addition, he requested to instruct the Code Enforcement Officer to advise current Special Permit holders in areas where the use is not allowed to have to submit to a Use Variance for any renewals. He noted, we have to do this under the right law.

Mr. Gossels indicated the Board should write a one-page letter to the PB to have clarification in the bylaw. Mr. Klofft noted we should clean up the table altogether.

Ms. Rubenstein requested to allow the neighbors to finish their conversation. Mr. Steinart noted that he still feels that this will change the character and didn't know when he moved in that the adjacent property would turn into a commercial area.

Mr. Klofft noted that there is not that much difference between the services from this company would build more traffic than there is now. He added he has a hard time differentiating how the intent of the bylaw would change the character. Mr. Steinart noted that a salon would really change the character, noting now it is like a research laboratory and not a lot of commercial traffic. Mr. Riordan said it is an appointment business, not a drop-in facility. Mr. Steinart noted there is nothing now there on the weekends.

Mr. Klofft requested to ask the Code Enforcement officer to get the list of businesses in the facility and their hours.

Mr. Riordan said there is only a small portion of the building adjoining Northwoods, and the relative impact of this specific location is de minimis, and would not be a detriment to the neighborhood.

Mr. Riordan recommended the applicants consider withdrawing their application without prejudice so they can be able to return to the Board with a Use Variance, and to waive the application fee for the Use Variance application. Applicant thus requested to withdraw the application without prejudice. The Applicant agreed.

Motion made and seconded to withdraw the petition 17-18 without prejudice. Vote all in favor.

Mr. Riordan Table the vote for approval of the minutes.

Motion to adjourn at 8:57 pm.