

SUDBURY ZONING BOARD OF APPEALS

MINUTES

September 11, 2017

Board Members Present: John Riordan, Chairman; Jeff Klofft; Jonathan Gossels; William Ray, Clerk and Benjamin Stevenson, Alternate.

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.

- 1) *Public Hearing Case 17-21– Pezhmon Sadjady, Applicant and Owner, 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 348 s.f., property shown on Town Map F10-0009, at 551 Concord Road #1, Residential Zone A-1.*

The owner Pezhmon Sadjady was present to discuss the request for an existing Accessory Dwelling Unit (ADU), Mr. Sadjady gave the Board a brief history on the property which he purchased in 2015. The house was built around 1960, and was originally a two-family house. A couple of months ago, he refinanced his home and was told by the bank that the downstairs kitchen was not described in the plot plan. He would like to update the record for his property and, in the near future, he intends to renovate the kitchen for safety and aesthetic reasons. At the same time, he would like to have the paperwork up-to-date on his property in the event that he decides to sell.

Mr. Riordan mentioned that part of the application packet for this petition includes a letter from the Building Inspector dated 1979, making a reference of an action taken on 1964, allowing a second unit in the house.

Mr. Gossels asked the applicant if the intention of this unit will be to house family members or for rental purposes. The applicant replied this unit is occupied by his in-laws 6 months out of a year and his intention is to keep it that way.

Mr. Stevenson asked if the 348 s.f. was the size of the accessory dwelling unit or only the kitchen?

Mr. Sadjady responded the whole unit was 348 s. f. He noted there is a separate side entrance; the accessory dwelling unit is part of the whole unit he lives in. Apparently, the builder's intention originally was to build a three-family home, based on the three garages and three patios incorporated into the property.

Mr. Stevenson appreciated the background information on this property, and stated it does bring the petition into context. He added the petition is straight forward and the Board should consider a vote. He also asked if there is any reason in the bylaw as to why accessory dwelling units could not have tenants.

Mr. Gossels clarified that under the bylaw people can have tenants.

Mr. Stevenson added he thinks it might not be appropriate for this Board to include as a condition that the accessory dwelling units should be for family members only.

Mr. Gossels noted that this is the appropriate time to have the second unit properly defined as a legal accessory dwelling, instead of a two family home inconsistently described in the town documents.

Mr. Riordan asked whether there were any members of the public present who wished to be heard. No neighbors were present for this petition.

SUDBURY ZONING BOARD OF APPEALS

MINUTES

September 11, 2017

Motion made and seconded to approve petition 17-21, Vote All in favor.

- 2) *Public Hearing Case 17-22– Janice M. Poole & Robert G. Poole, Applicant and 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 930 s.f., property shown on Town Map L11-0012, at **24 Pelham Island Road**, Residential Zone A-1.*

The owner Janice M. Poole & Robert G. Poole were present to discuss the request for an existing Accessory Dwelling Unit (ADU). They recently purchase this property and moved in the past three weeks, the plan is for them to live in the accessory dwelling unit and for their daughter, husband and two children to occupied that main house.

Mr. Klofft asked if this is an existing accessory dwelling unit.

Mr. Poole answered this is an existing accessory dwelling unit built about 7 years ago.

Mr. Riordan welcomed the applicant to Sudbury and noted the size of the ADU was over the maximum 850 s.f. and noted for the record that the Board is waving the size requirement of 850 s.f.

Mr. Gossels stated the he is completely in favor as this is the intent of the bylaw.

Mr. Poole shared that in the future their intention is to sell this home to their daughter. Mr. Poole asked if and when that happens, is he required to come in in front of the Board. The answer from the Board was yes, that they will need to re-apply.

Mr. Riordan asked whether there were any members of the public present who wished to be heard. No neighbors were present for this petition.

Motion made and seconded to approve petition 17-22, waiving physical constraints under Bylaw section 5522a, to get to minimal threshold, allowing 930 s.f. and with the condition that the accessory dwelling unit must be occupied by family members only. Vote All in favor.

- 3) *Public Hearing Case 17-23 – Edyta & Nicole Szatkowski Applicants and Steve J. Cusano Owner, for a Use Variance under the provisions of Section 6120, 6130 & 6140 of the Sudbury Zoning Bylaws, for a Use Variance to operate an organic airbrush tanning salon, property shown on Town Map C11-0300, at **142 North Road**, Research District Zone.*

Edyta Szatkowski was present to discuss an airbrush-tanning salon at 142 North Road.

Mr. Riordan opened the discussion for this Variance reading the four specific criteria which must be satisfied before this Board may grant it.

The Board thanked the applicant for her patience because at the last meeting the Board could not approved this petition as a Special Permit and therefore she decided to withdraw and submit an application for a Variance instead.

The applicant described her request for a spray tan airbrush salon with 3 rooms in which customers will have a tanning solution applied to the body with the use of spray machines designed to be quiet.

Mr. Stevenson was updated on the Board's previous discussion at the last hearing, noting their reasoning for not granting the special permit for this petition.

SUDBURY ZONING BOARD OF APPEALS

MINUTES

September 11, 2017

Mr. Riordan added that this type of business is a better fit in the category of a nail salon or a hair salon rather than as a professional services business. Tanning salons that use tanning beds are regulated and controlled by the state and local Health Department. Instead, the proposed use is more of a personal service establishment and will not be regulated as a tanning salon as it uses no radiation devices.

Mr. Stevenson asked the applicant if she is already set up at this location.

Ms. Szatkowski replied that she has not signed a lease yet and is waiting to get the approval from the Board.

Mr. Riordan stated that this business will be low intensity, by appointment only, and spread throughout the week.

Mr. Stevenson asked the applicant if she had the opportunity to visit other spaces around town.

Ms. Szatkowski replied she had looked at other options, but the spaces available were either too big or in need of expensive remodeling for the type of set up that she has in mind and needs for her business.

Mr. Gossels stated that this is a commercial business in town and is no different than a commercial area on route 20, but it happens to be in an area zoned as Research Business.

Mr. Stevenson asked about the business that currently operate at this location.

Mr. Riordan replied presently there is a home health care office, Broccoli Hall School, Montessori School, and other smaller businesses located therein including a tax preparer's office.

Mr. Klofft and Mr. Stevenson reviewed the use table for this zoning classification at the same time. Mr. Gossels stated that the Board is trying to balance the use of this property and trying to avoid abandonment of the property.

Mr. Klofft listed the present use table for this property and noted, funeral home, nursing home, kennel, farm and education could be use by right, as well as light industrial use, medical center and laboratory.

The Board discussed point by point the Variance criteria and finds that this is a unique use for this building, and the following requirements are met:

A.

- 1) Expiration of the time limit specified for a previously granted use variance.
- 2) Existence prior to January 1, 1978, of uses of the same general classification as the use variance applied for, on lots adjoining the lot in question on both sides, or, if the lot in question is a corner lot, on both sides and the rear;
- 3) Existence on an adjoining lot of a lawful use of such nuisance characteristics as to render unreasonable any conforming use of the lot in question, and;
- 4) Existence on the lot in question of a lawful structure or structures in good repair and, of appearance compatible with its vicinity which can reasonably be maintained as a visual and taxable asset only if some non-conformity of use is permitted.

The Board finds that the taxable value of this property benefits when the units are occupied.

B.

SUDBURY ZONING BOARD OF APPEALS

MINUTES

September 11, 2017

1) The extent of the use non-conforming as to floor space, bulk, number of occupants or other relevant measure shall be no greater than the minimum necessary to provide relief from the statutory hardship.

This is a relatively small office space. The Board finds requirement number one is satisfied.

2) The operation of the use-non-conformity as to hours, noise, level of activity or other relevant ways shall be so restricted as to assure compatibility with conforming uses in the vicinity.

The Board agrees that this is already a commercial business use property and hours of operation will be stated in the Board's decision as follow: Hours of operation will be 7am to 10pm on weekdays, 10am to 6pm on Saturdays, and 10am to 4pm on Sundays.

3) If the use is authorized under A, subparagraphs 2 or 3 above by the prior existence of adjoining non-conformance or incompatibility:

a) The use non-conformity of the lot in question shall be permitted no further from such prior adjoining conditions as the width of the lot or 100 feet, whichever is less; and,

b) The use non-conformity shall be terminated within one year of the time when such adjoining conditions have been terminated, except that the board of Appeals may grant a special permit for a further delay of no more than five (5) years.

The Board finds the proposed business does not rely on the adjacent businesses, and the applicant has no control over the other businesses located in the same building, therefore the Board waves this condition.

The Board considers this a non-conforming use because of the particular layout permitted in this property under the use table for the research district. The Board determines that they can authorize the non-conforming use for this building and will not be detrimental to the adjacent neighborhood, the proposed use will be entirely consistent with the existing uses on this building and furthers the town's goal and purpose of maintaining this building and generating economic activity. The Board finds elements of the use variance, puts on the record the unique conflict with the use table and intent of use of this building, and have put limitations on the hours of operation.

Mr. Riordan asked whether there any members of the public present who wished to be heard. No neighbors were present for this petition.

The Board of Appeals of the Town of Sudbury acted as follows in the above matter:

John Riordan voted to APPROVE THE USE VARIANCE

Jonathan Gossels voted to APPROVE THE USE VARIANCE

Jeffrey Klofft voted to APPROVE THE USE VARIANCE

William Ray voted to APPROVE THE USE VARIANCE

Benjamin D. Stevenson voted to APPROVE THE USE VARIANCE

MOTION: To approve 17-23 petition.

VOTED: In favor: 5 Opposed: 0 MOTION CARRIES

SUDBURY ZONING BOARD OF APPEALS

MINUTES

September 11, 2017

- 4) *Public Hearing Case 17-24 – Seth Hardy & Jenny Sorblom Applicants and Owners, for a Special Permit under the provisions of Section 6200, 2300 & 2313 of the Sudbury Zoning Bylaws, for a Special Permit to raise a swine as a pet, property shown on Town Map K09-0001, at 41 Concord Road, Residential Zone A-1.*

Applicants and Owners Seth Hardy & Jenny Sorblom were present to request a special permit to raise a swine as a pet at 41 Concord Road. The applicants recently purchased this property and moved to Sudbury to raise their pet Linus, a combination of a potbelly and kun-kun pig, weighing approximately 250 pounds. Linus will be the only pet pig at their home and is a well-cared for and loved family pet. He will be fed an organic grain diet and sometimes strawberries. The waste will be similar to a dog's waste and will be picked up and disposed in the trash. Linus does not get out and he is comfortable in his fenced area. He is a trained house pet, is castrated, sleeps a lot, and he is quiet. Linus sometimes likes to dig the ground with his nose, though his tusks are trimmed as needed, and he sees a vet regularly.

The applicants will meet with the Historic Districts Commission on September 14 for an approval to install a fence.

Mr. Ray asked the applicants if they contacted the neighbors about their petition.

The applicant replied at a recent neighborhood gathering she was able to answer questions about their petition and at the time her impression was that the neighbors had no objections.

The Board asked the applicant to dispose of waste in an appropriate and sanitary way.

Mr. Riordan asked whether there were any members of the public who wished to be heard. No neighbors were present for this petition.

The Board finds that the use is in harmony with the general purpose and intent of the Bylaw.

That the use is in an appropriate location and is not detrimental to the neighborhood and does not significantly alter the character of the zoning district.

Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

That the proposed use would not be detrimental or offensive to the adjoining zoning districts and neighboring properties due to the effects of lighting, odors, smoke, noise, sewage, refuse materials or other visual nuisance.

That the proposed use will not cause undue traffic congestion in the immediate area.

Motion made and seconded to approve petition 17-24 for one-year term to expire on September 11, 2018.
Vote All in favor.

- 5) Approval of Meeting Minutes for July 10, 2017 & August 7, 2017 meetings.

No Minutes approved at this meeting.

Motion to adjourn at 8:59 pm