

SUDBURY ZONING BOARD OF APPEALS

MINUTES

December 4, 2017

Board Members Present: John Riordan, Chairman; Jonathan Gossels, William Ray, Clerk; Benjamin Stevenson and Frank Riepe.

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 read the guidelines with respect of appeals according to the Town Bylaws and under Chapter 40A.

Mr. Stevenson and Mr. Riepe, alternate members will be voting members at this hearing.

1. Public Hearing Case 17-31 – Roberta Kanarek, Applicant and Owner for a Special Permit under the provisions of Section 2420 of the Zoning Bylaw, to construct an additional bay to a garage and add a second story over existing and proposed construction to a pre-existing, non-conforming structure and non-conforming lot, resulting in a front yard setback deficiency of approximately 17 feet, property shown on Town Assessor Map F14-0104, 58 Lincoln Lane, Residential Zone A-1.

Ms. Kanarek, Owner and Peter C. Sugar, Architect were present at the hearing. Ms. Kanarek described her house having one garage, since her husband fell twice last winter while walking on ice, she decided to add another bay to avoid accidents. She began to explore the least disturbing alternatives to achieve her goal and to be in keeping with the house and the neighborhood, working with the Conservation Commission and Debbie Dineen. Her property is located across the street from Sudbury River and wetlands. A hearing with the Conservation Commission took place and she received a series of conditions to follow. Ms. Kanarek spoke with her neighbors and they are ok with the project and she would like to follow through with her construction.

Mr. Riordan asked for clarification about the setbacks.

Ms. Kanarek reply that it is 34.9 and it will go to 16 feet. and it is on hill and soil is very porous.

Mr. Riordan shared he drove by the property and asked if a dormer was being added.

Ms. Kanarek reply that it is not exactly a dormer but an extension to the gable roof line.

Mr. Sugar described to the Board the architectural elevations on the east elevations with a roof line going across.

Mr. Gossels was glad for the clarification because when he was looking at the plans he was concerned about the volume of the proposed addition.

Mr. Sugar reply that it is in keeping with the architectural volume and in keeping with the character of the building as it is today, the addition will extend the structure to be 12 feet from the road.

Mr. Stevenson expressed the same concern of the addition being tall, elevated and may result in a looming structure, he asked for clarification of the location of the driveway.

Mr. Riordan commented that it seems to him that the major impact of the addition will not be height but closeness to the road, and he does not think it will be a looming issue.

Mr. Riepe stated that this is an already non-conforming structure and it seems like a reasonable request.

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Mr. Gossels commented from hearing the discussion he does not see any harm on this application.

Mr. Stevenson and Mr. Ray stated that they have no concerns about the application

On this discussion and decision, the Board is not passing judgment on the location of the fence.

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

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

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 seconded and voted, to approve petition 17-31.

2. Public Hearing Case 17-32 – Kassouf Management and Honey Dew, Stony Brook Market & Honey Dew, Applicant and Salim Kassouf Owner for a Special Permit under the provisions of Section 3261 and 3290 of the Zoning Bylaw, to allow for a 60 square foot exterior wall sign, Town Map H09-0002, 29-2 Hudson Road, Limited Business Zone.

The Board briefly summarized what was discussed at the last Board of Appeals meeting on this matter at an appeal hearing that took place on October 2, 2017.

Mr. Kassouf was present at the hearing he stated that he followed all town's procedures meeting with DRB and HDC.

Mr. Riordan asked about the total cost of the sign.

Mr. Kassouf answered that it cost around \$8,000.

Mr. Gossels stated that it would not be appropriate to ask Mr. Kassouf to take down the sign, especially because he got the approval from town committees and building inspector. Mr. Gossels suggested to permit this sign for a period of time with conditions and when it is time to fix the sign, the sign should be made to comply with the town bylaw.

Mr. Stevenson agreed that the suggestion from Mr. Gossels is a good compromise and it is consistent with the Board's discussion at the last hearing.

Mr. Riordan stated special permits can be granted with reasonable conditions and safeguards, including limitations on time for the permit.

Dan Martin, Chairman of the Design and Review Board was present and stated this business was considered as a two businesses because of Honey Dew Donuts and Stony Brook convenience and liquors,

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and in retrospect at the time of approving the sign request the DRB probably allowed more area than was wise, however it seem to grow once it got to the HDC. He added that he truly detested the sign because of the materials and he has the application that came back to the DRB and the description still states cut-metal letters and there was never a description of the materials that became the sign subject to this permit request. Mr. Martin regrets not been present at a follow up meeting and checked with the other members and again the materials did not come up in the conversation. He added that he finds the shining acrylic sign and letters in a historic district is completely inappropriate, all the other surrounding signs are carved, but this is a high gloss, ugly sign. If the Board fits to approve a special permit for this sign, he asked for this period not to be long.

Mr. Stevenson asked about the materials the DRB asked for the sign.

Mr. Martin stated the original application described cut-metal letters to be affixed to the wall.

Mr. Kassouf did not recall any specific details, he clarified he is not disagreeing with Mr. Martin, and he added the residents are not complaining about the materials, but the shape and the size of the sign. The bottom line for Mr. Kassouf as he put it is that he went through the proper channels and approvals. Personally he does not care if the sign is made of plastic or metal, the cost would be pretty much the same. All he knows is that this is a sign that the town approved, he hired a sign company and they installed the sign. Mr. Kassouf agreed that his sign looks different than the signs in the same plaza, he agrees it is large, but because of it now his business is noticed and customers know he exists.

Mr. Fred Taylor, Chairman of the Historic Districts Commission shared the members of the HDC have seen pictures of the sign and they approved the sign, he remembers the commission members having discussions about the size of the sign and the applicant stated that it needed to be large so the public can see it and draw business in.

Mr. Kassouf interrupted and stated he did not recall saying that, he added the letters have not changed in size, adding the background is what made the sign grow larger.

Mr. Taylor continued and stated that he seems to recall it was somewhere along those lines but it was fine. The HDC discussed the color of the sign and research was done about the colors of the Honey Dew logo because there were concerns about it, in terms of the colonial nature of the sign there is no real guideline, normally the commission votes and relies on esthetics, it was after the sign was up they noticed the sign was larger than expected. The HDC does not have guidelines for signs, only esthetics. Size of a sign is reviewed and approved by the DRB.

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

David Hornstein from 22 Candy Hill Road expressed concern about the changes that the sign went through from letters against the wall to having a white background and how this Board allowed it to happen.

Mr. Stevenson clarified the ZBA did not approve this sign, the approvals were given by DRB and HDC and finally by the Building Inspector. The ZBA at the November 6 meeting heard an appeal from the owner of Honey Dew, because he was notified that his sign did not comply with the town bylaw, the appeal was denied and now Mr. Kassouf is here asking for a special permit to keep the sign.

Mr. Riepe stated what was approved was the color, size and layout not the materials.

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Mr. Stevenson added the materials were not discussed in a meaningful way at previous meetings.

Mr. Riepe agreed it did not come up at previous meetings.

Mr. Gossels added it is a lesson learned for future.

Mr. Hornstein expressed the sign cost is a shock for him speculating that a similar sign would cost approximately \$1,500 and he suggested considering that inasmuch as the town approved this sign at a historic area the town should pay to replace the sign to make it right.

Mr. Stevenson added the issue with the Historic District concerns are very real but, the site is much better than it was years ago.

Mr. Ray stated the invoice for the sign shows a cost of \$4,000.

Mr. Kassouf clarified there is more to the cost of the sign, design costs and meeting with the designer, the \$4,000 on the invoice is more than he paid for the sign and he has invoices to show this, he noted that the investment on this store so far is about \$500,000.

Mr. Riordan added the Board needs to find a reasonable accommodation for the applicant because of what he has been through and he understands his frustration because he has done everything that he was asked in the prior sign approval matters.

Jane Zeytoonian from 16 DeMarco Road voiced she was completely against the sign and surprised it was approved by the town without public knowledge.

The Board acknowledges receipt of emails and pictures from Ms. Zeytoonian stating her dislike for the sign.

Mr. Riordan clarified the sign did go through a public review process, the sign request was presented to the DRB and HDC, and those two Boards represent the public.

Mr. Stevenson added the Board should allow the applicant some reasonable time to use the sign in which he has already invested with the approval of the town. He acknowledges tension and concerns around the room.

Mr. Hornstein opined if it is a question of money the town should find out the real cost of the sign and find funds to replace it, he added there is ill will for the sign from neighbors and some do not frequent this establishment because they think is an eye sore.

Mr. Gossels suggested perhaps CPC funds under historic preservations funds could be an idea but it is a complicated process needing a person to proposed it and it goes to Town Meeting vote.

Mr. Riordan observed that the Board has no authority to commit the Town to spend money for such a purpose, even if it was a good idea, and suggested issuing a special permit for the sign with a time limit, perhaps for a period of three years. He asked other Board members for their input in this regard.

Mr. Kassouf commented he has a 15-year lease on the property, his investment is planned to last the term or the lease and he does not seem it is fair to have the sign for only couple of years, he asked for the special permit to be the length of the lease. Mr. Riordan objected to the rationale regarding linking the lease period and the time limitation on the special permit request.

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The Board discussed the most appropriate term for the special permit.

Mr. Riepe agrees it is reasonable to put a time limit for the sign and stipulate the special permit is granted to this business owner only.

Mr. Kassouf stated that he wants to be reasonable and work with the town, at the same time if the town finds a way to pay for the cost of replacing the sign he is willing to work with the town with the clarification that might not be possible to please every resident with the looks of the sign, he would agree to any material and colors as long as customers can see the sign and it will not be a financial burden on him.

Mr. Gossels agrees 4 to 5 years would be an appropriate limited time.

Everyone at the hearing agreed they are willing to work together. In the event of funds becoming available the applicant agrees to work with town Boards to re-place the sign.

Mr. Ray feels 3 years would be appropriate, 5 years seems too long.

Mr. Riepe opines 4 years would be an appropriate term for the special permit. A consensus amongst the Board members emerged that a four-year term limit on the special permit for the oversized sign would be fair and appropriate considering all the circumstances.

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 for the time been 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.

In granting this time-limited Special Permit the Board encourages and welcomes an earlier resolution for the sign to conform with Town's Bylaw and Historic District Guidelines.

Motion made and seconded and voted to approve petition 17-32 with the following conditions:

This permit will automatically terminate upon the sale, transfer, or other change in ownership of the business. This Special Permit is non-transferable and shall not run with the land, or be considered an asset of the business.

Sign lighting shall be turned off after business hours; there shall be no lighting from 11pm to 6am.

Sign should be properly installed and kept in good condition.

This permit is non-transferable and will expire in four (4) years on December 31, 2021. The Board will consider renewal upon receipt of proper application on or before that date.

3. Condominium Documents Review for 278 Maynard Road.

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Liz Rust, representing the Sudbury Housing Trust was present at the hearing to review condominium documents for 278 Maynard Road.

Mr. Riordan felt the documents are still drafts and personally would like more time to review the latest updated version.

They agreed to meet with Ms. Donoghue to refine details. The Board received a draft last revised 11.4.17 but they needed the last revised version dated 11.30.17.

Motion made, seconded and voted to authorized Mr. Riordan to review the document together with Ms. Donoghue and Ms. Rust at a later time, and then to have the authority to approve on behalf of the Board.

4. Approval of Meeting Minutes for October 23, 2017 and November 6, 2017 meetings.

Motion made, seconded to approve Minutes for October 23, 2017 and November 6, 2017 meetings. All voted in favor.

5. Administrative Report.

The Board will discuss reorganization at the next meeting. Members voiced they would like Mr. Riordan to continue as Chairman.

Other Business Items.

Motion to adjourn at 10:08 pm.