

SUDBURY ZONING BOARD OF APPEALS

MINUTES

January 8, 2018

Board Members Present: John Riordan, Chairman; Nancy Rubenstein; William Ray, Clerk; Jonathan Gossels; and Benjamin Stevenson ((Alternate).

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

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

Chairman 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 17-33 – Jeanne Rosier Smith, Applicant and Owner, for a Special Permit under the provisions of Section 2340 of the Zoning Bylaw, to conduct a Home Business, specifically for art workshops in pastel at home studio, property shown on Town Map J05-0303, 131 Bent Road, Residential Zone C, Historic District.

Residents and Non-Residents present at this hearing: Emily Cardy, Denise Theodores, Laurie Triba, Cindy Weinberger, Nick Smith, Ally Talerico, Deborah Kruska, Rebeca Capone, Mike Petraglia, Linda Cass, Richard Cass, Cynthia Tunncliffe, Susan Schaub, Andre Ravenelle and Deb Locke.

The Board received the following correspondence prior to tonight's hearing:

- Email from Richard & Linda Cass, 7 Hayden Cir.
- Letter of support from Marla Platt, 144 Peakham Rd.
- Letter of support from Susan M. Andrews, 23 Wagonwheel Rd.
- Letter of support from Susan & John Schaub, 132 Bent Rd.
- Letter of support from Laurie Triba, 26 Bent Rd.
- Letter of support from Rob and Cathy Cohen, 119 Bent Rd.
- Letter of support from Christy A. Clark & Christopher Durall, 14 Hayden Cir.
- Letter of support from Edie Ravenelle, 254 Horse Pond Rd.
- Email of support from Christine Barrett, 151 Peakham Rd.
- Letter of support from Deborah Locke, Concord MA.
- Letter of support from Judith Schutzman, Harvard, MA.

Ms. Rosier Smith was present at the hearing, requesting a special permit to conduct a home business for art workshops in pastel at her home studio, for no more than 12 events per year, Ms. Smith apologized to the Board stating she probably needed to be in front of the Board back in 2007, she did not realize she needed a special permit, her understanding was that she only needed a DBA, she first learned she needed an special permit when she was contacted by the Building Inspector. She added she has run classes for the past 10 years without any issues. Ms. Smith shared the nature of her business is changing going forward, now she teaches around the country and abroad, because of that she is significantly reducing the amount of classes she teaches from home, she would like the option to teach workshops at home occasionally. Her proposal is to teach up to 12 days per year in her home studio, rather than having multiple days workshops, this will be done in one day workshops from around 9:30 a.m. until 3:30 p.m. sometimes it will be one day, sometimes up to 3 days, not to exceed a total of 12 days per calendar year of teaching. Until now she had been teaching around 3 classes on Tuesdays.

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Mr. Gossels opined this is the kind of business needed in town and he will be fine to increase the number of days to 30 teaching days per calendar year, in his opinion only one neighbor is opposed and voiced issues with this request, in Mr. Gossels opinion, this application should be approved. Mr. Gossels was vocal in opining that he did not care for the tenor of the materials submitted to the Board in opposition to the permit request.

Chairman Riordan stated that this is a quiet residential area but the property has a significant, large driveway and one of the conditions that will be taken in consideration will be impact on traffic in the neighborhood.

Mr. Gossels agreed and added that it is a public street and people have the right to park on a public way.

Mr. Stevenson asked the applicant, how she has run a business for 10 years with no complaints and now the room is full of residents.

Mr. Herweck, Building Inspector and Zoning Enforcement Agent reply he received a complaint and he contacted Ms. Smith stating that perhaps she was not aware she needed a special permit to conduct the business, that is why everyone is here today.

Ms. Rubenstein asked about the days Ms. Smith is planning in holding the workshops and if it would be on weekdays she would have concerns about drop off time for school children around 3:30 p.m.

Ms. Smith reply the workshops would probably be on weekdays and she is willing to change the start time to 10 a.m. to finish around 4:00 p.m. to avoid the bus times.

Mr. Stevenson asked for further clarification about the operation that led to the complaint because it sounds different of what it is proposed tonight.

Ms. Smith explained she thinks the issues were around parking, in her original schedule she had a morning and afternoon class, one class ended at noon and one started at 12:30 p.m., there were times the morning class will be leaving few minutes late and or the afternoon students would show up early, with her proposed application that will not be happening.

Ms. Smith added that during the summer she decided she was not going to be able to sustain her weekly classes because of her travel schedule and she was not changing her business model because of this complaint.

Mr. Gossels asked if the Board is creating a rule that does not exist regarding cars driving and parking on public way, in his opinion property values are not affected by traffic.

Ms. Rubenstein clarified to Mr. Gossels the Board always asks the same questions to all applicants regarding traffic.

Mr. Gossels answered he understood, but he stated that he rejects the assumptions on the neighbor's letter stating property values might go down because of traffic.

Chairman Riordan asked the Board members to avoid using pejorative language because the Board does not know all the facts in this case and he would like to keep the hearing in a civil, neighborly tone.

Chairman Riordan asked for the average number of students per workshop.

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Ms. Smith reply the workshop is run with 12 students at a time, all adults, students come in from Maine, Vermont, New York and local towns. Ms. Smith added that in her registration materials, sent to her students a week prior to the class she sends very specific parking instructions and recommendations.

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

Richard Cass, 7 Hayden Circle, stated there is a parking ban on the street during winter time, stating he checked with the Police Chief.

Mr. Gossels disagreed.

Ms. Cass asked for an apology from Mr. Gossels for the tone of his remarks, he added they are here with a legitimate complaint.

Mr. Gossels apologized.

Mr. Cass continued stating they are happy for Ms. Smith's business and success, their concern is the number of cars and safety is their major concern because of the narrowed street, cars parking on the street, and their location in a corner closer to Bent Road and Peakham Road. Mr. Cass is aware there are other artists in town and they hold their business outside of town. They are not trying to negatively affect Ms. Smith's business but they feel it has grown to a point that it does not belong in town.

Ms. Cass, 7 Hayden Circle, shared a visual with photographs demonstrating traffic concerns, showing cars parked on the driveway and a view from their yard, as well as a history in pictures since September, 2017 of cars parked near driveways as well as "live parked" on the street, and cars making a "U" turn and backing into Bent Road. Ms. Cass emphasize these are safety issues, a lot of stuff is happening in a little space that does not belong in a residential neighborhood.

Chairman Riordan asked about the speed limit on the street.

Mr. Cass reply Peakham Road is 25 miles per hour and the default on Bent Road is 25 miles.

Mr. Riordan asked if people are speeding on the street.

Ms. Cass reply people are not racing per say but there is a lot traffic movement, as an example on December 27 there were about 30 cars outside the property.

Ms. Smith clarified it was a holiday party and that she had asked the police for parking permission ahead of time.

There was a back and forth between the applicant and the Casses. Chairman Riordan asked everyone to please address the Chair directly for purposes of the discussion.

Mr. Stevenson asked when Ms. Cass moved to her property.

Ms. Cass reply 2004.

Chairman Riordan asked Ms. Smith when did she purchase her property.

Ms. Smith reply 2006.

Chairman Riordan asked how often she has holiday parties at her home.

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Ms. Smith reply her daughter wanted to have a 10 year of teaching celebration, prior to this date, Ms. Smith added she contacted the police to ask if there are any rules, and she was told cars can park on the street, as long as one lane of traffic can get through it will be fine.

Ms. Christine Barret, 151 Peakham Road, added it appears there are parking regulations and bans starting in the month of November during snow storms.

Mr. Stevenson stated the Board members are Town's residents, they are not here to discuss what happens at an event or a party, the Board is here to evaluate an application for a special permit for a home business, he thinks some of Ms. Cass concerns are valid, on the other hand cars using the street, and some of the concerns can be addressed in a decision. He asked the Board to consider the application that is in front of them.

Ms. Rubenstein added minimizing her business to 12 days will also minimize neighbors' concerns and a lot of these issues expressed will go away as well.

Mr. Ray commented the large number of people present at this hearing, he would like to know how the room is divided upon people for the application or against the application, as well hearing from the other side.

Rebecca Capone, 143 Peakham Road, expressed her concern is about emergency vehicles when there is a snow bank on the side of the road, she is concerned about home business affecting the value of homes, she asked the Board to consider these points, she would like the Board to consider fire trucks coming into the road in case of an emergency.

Ms. Cass asked where the situation with home business in town is going, she showed a map of home businesses all around the area of Bent Road. She added the Board should keep this in mind when approving new applications to avoid overwhelming just one neighborhood.

Mr. Stevenson observed that the residents of Sudbury at Town Meeting voted on the Bylaw and gave the Appeals Board the task of approving home businesses, the job of the Board is just to review the application that was presented to them not to discuss hypothetical situations.

Chairman Riordan added that Massachusetts Law 40A and Town's Bylaw gives this Board the authority to issue special permits with various conditions, it comes down to the discretion of the Board as long as the guidelines by the Massachusetts General Laws and the Town's Bylaws are followed. If someone is aggrieved by the decision of the Board they are more than entitled to appeal to superior court.

Cynthia Weinberger, 175 Greystone Lane, a student of Ms. Smith for several years, shared she received numerous emails with instructions from Ms. Smith about arrival time and parking instructions and students are doing their best to follow the instructions, in some cases stopping classes before their scheduled time so as not to upset the neighbors.

Laurie Triba, 26 Bent Road, a student of Ms. Smith, shared the students received multiple emails with instructions of where to park between the two entrances of Ms. Smith's driveway, Ms. Triba added she is also a neighbor and drives by the property when classes are in session and she never felt the cars parked there were a problem as far as her safety walking or driving.

Emily Cardy, 24 Pheasant Ave., a student of Ms. Smith echoed Ms. Smith's conscientiousness and proactivity sending emails ahead of classes with instructions, and added it is important for towns to

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support small business and artists, that this is a town she wants to live in where people are making a living creating interesting diversity.

Denise Theodores, 23 Marshall Path in Acton, a student of Ms. Smith, expressed she is surprised by this situation and she is very respectful about where to park and she has not noticed any safety concerns and she believes there is plenty of off street parking for cars.

Deborah Kruskal, 136 Lincoln Road, a student of Ms. Smith, mentioned once when she was painting on the lawn she was asked by Ms. Smit to move to the other side because she believed she was on the neighbor's yard, and the allegations that Ms. Smith is not respectful of her neighbor's property is not fair.

Mike Petraglia, 131 Bent Road, stated Ms. Smith is very communicative, added Ms. Cass is very aware of the neighborhood, and he respects that, he added they do not take any safety concerns lightly and they try to be as respectful as neighbors as humanly possible, but he recognizes Ms. Cass does bring legitimate concerns.

Ginny Ravenelle, 254 Horse Pond Road, a student of Ms. Smith, added it is essential for artists to be part of the community. Ms. Ravenelle exercises around this neighborhood and she has never encounter a safety issue on the roads in question.

Nick Smith, 131 Bent Road, added he did not know the Board members were volunteers, noted the vast majority of people in the room are supporters and that these classes are a big part of the students' lives.

Cynthia Tunncliffe, 116 Bent Road, spoke for herself and her neighbor across the street and noted they have no problems with this home business, they love her art work, she is a very talented artist and a wonderful neighbor and friend, the fact that Ms. Smith is changing what she is doing already resolves the issues mentioned prior to the hearing, and Ms. Smith's students are aware of the issues. One time the students painted in her backyard and she took pictures because in her opinion this adds value to her home.

Christine Barret, 151 Peakham Road, supports this business and agrees Bent Road making a left turn is scary, sometimes she avoids making that turn, she feels safety is a valid concern with or without the cars, she asked if would it be safer if cars park on the other side of the road.

Ms. Smith added she avoids having cars parked on the street when there is snow, because it is not safe.

Chairman Riordan asked Ms. Smith about her anticipated workshop scheduled for 2018.

Ms. Smith reply she will be mostly traveling to hold workshops and is planning to have classes out of her home only once this year.

Chairman Riordan explained to the applicant the procedure and reasoning for the conditions, limitation and length of the special permit, he added the Board cannot regulate driving regulations on the road.

Mr. Ray asked about the concern of cars parking to close to the corner.

Ms. Rubenstein opined the issue of parking too close to the corner is irrelevant because the applicant is proposing to have all the students parked on her driveway and not on the street.

Mr. Gossels opined if it is legal to park on the road, it is legal to park on the road.

Mr. Stevenson suggested to move in the words of the application with the conditions presented at the beginning of the hearing. No more than 12 events per year, no more than 12 students and cars per event,

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one single event per day, all vehicles to be park on the property driveways and the term of the special permit will be for one year.

Motion made, seconded and voted to approve petition 17-33 for one year to expire on January 8, 2019 with the following conditions, no more than 12 events per year, no more than 12 students and cars per event, one single event per day, all vehicles to be park on the property driveways and the term of the special permit will be for one year.

Chairman Riordan suggested to the many artists present to contact the Town about future uses of the Melone property suggesting perhaps a potential use might be an arts facility for performing and visual arts.

Ms. Rubenstein thanked Ms. and Mr. Cass for their informative presentation, and noted that the photographs presented were helpful to the Board at this hearing.

2. Application of an Approval Not Required (ANR) for B’Nai B’rith Housing New England at 187 and 189 Boston Post Road, The Coolidge Phase I and II, requiring endorsement from the Board.

Max Glikman, Project Manager for B’nai B’rith and Jacob Lemieue, representing Hancock Associates were present to asked the Board the endorsement of a plan believed not to require subdivision approval. The purpose of this plan is to re-divide lots on Boston Post Road as shown on Plan 1212 of 1998 into lots 1 and 2. Plan titled, 187-189 Boston Post Road, Sudbury, MA, prepared for B’nai B’rith Housing New England, prepared by Hancock Associates, signed by Carlos M. Frias, Land Surveyor, dated January 3, 2018.

Chairman Riordan asked if the Board present tonight or the Board that originally signed the Comprehensive Permit for the Coolidge needed to sign the plan.

The question previously was presented to Ms. Donoghue, Town Planner, and the reply was that the Board present including Alternate members can sign the plan.

Mr. Stevenson reminded the Board that he did not sit on this application and he does not feel comfortable signing the plan.

Mr. Ray agreed with Mr. Stevenson.

Mr. Gossels suggested the members present tonight can sign the plan and the other members not present can stop by the Planning Office at a later time, he opined the names have to line up with the people that signed the Comprehensive Permit.

Mr. Glikman believed this is a separate process from the Comprehensive Permit that is already pre-approved, this subdivision was already approved, therefore does it not require further approval, and feels strongly the current Board of Appeals as present tonight could sign the plan.

Mr. Lemieue commented this is an approval not required (“ANR”) plan and it is needed to complete the plans.

The Board agreed to proceed with signatures from the Board that signed the Comprehensive Permit and to have the other two members not present at this hearing sign at a later date.

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3. Approval of 2017 Annual Reports for the ZBA and ERB.

Motion made, seconded and voted to approve 2017 Annual Reports for the ZBA and ERB. All voted in favor and proceeded to sign the reports.

4. Approval of Meeting Minutes for December 4, 2017 meeting.

Motion made, seconded and voted to approve Meeting Minutes for December 4, 2017. All voted in favor.

5. Board Reorganization.

Chairman Riordan reminded the Board that under the Rules of the Board of Appeals, at the first hearing of the calendar year the Board is required to consider organization, specifically electing a Chair and a Clerk.

Mr. Stevenson nominated Mr. Riordan for Chair and Mr. Ray for Clerk of the Board of Appeals for the 2018-year term.

Moved to nominate J. Patch to Chair of ERB for calendar year 2018.

Motion made, seconded and voted to nominate Mr. Riordan as Chair and Mr. Ray as Clerk to the Board of Appeals and Mr. Patch as Chair of the ERB for Calendar year 2018.

6. Administrative Report.

Update on Sudbury Station.

Chairman Riordan updated the Board about recent developments on Sudbury Station that were in the newspapers.

Motion to adjourn at 9:16 pm.