



# Town of Sudbury

## Zoning Board of Appeals

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### MINUTES

MAY 13, 2019 AT 7:30 PM

LOWER TOWN HALL, 322 CONCORD ROAD, SUDBURY, MA

**Members Present:** John Riordan, Chairman; William Ray, Clerk; Nancy Rubenstein; and Frank Riepe

**Members Absent:** Jonathan Gossels

**Others Present:** David Booth, Kevin Ten Brinke, and Adam Duchesneau, Director of Planning and Community Development.

Mr. Riordan opened the hearing by noting the presence of a quorum. Mr. Riordan then asked Mr. Ray to read the legal notice as published in the newspaper into the record, which noted the following Zoning Board of Appeals applications and opened all of the public hearings listed below.

Mr. Riordan noted the guidelines for Special Permits and Variances.

**Public Hearing, Case 19-7 – Jin Xia, Applicant and Owner, seeks the renewal of Special Permit 17-28 under the provisions of Section 2313 of the Town of Sudbury Zoning Bylaw to raise up to 10 hens at 40 McLean Drive, Assessor's Map H06-0035, Single Residence A-1 Zoning District**

Mr. Xia was present at the meeting requesting a renewal of Special Permit 17-28 to continue raising hens at his property, he requested to increase the number to 10 hens and to slightly increase the size of chicken run to 40 square feet.

Mr. Riordan asked if any members of the public wished to speak and no one in the audience came forth.

The Board found the use was in harmony with the general purpose and intent of the Zoning Bylaw, and that the use was in an appropriate location, was not detrimental to the neighborhood, and did not significantly alter the character of the zoning district.

The Board also found adequate and appropriate facilities would be provided for the proper operation of the proposed use, and 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.

The Board found the proposed use would not cause undue traffic congestion in the immediate area.

The Board extended the renewal term of the permit to five (5) years because there had not been adverse impacts during the first term of the Special Permit.

Mr. Ray made a motion to approve the Special Permit renewal for 40 McLean Drive, Case 19-7, as presented with standard conditions for a term of five (5) years to expire on May 13, 2024. Ms. Rubenstein seconded the motion. The vote was unanimous, 4-0.

**Public Hearing, Case 19-8 – Haley & Kevin Bush, Applicants and Owners, seek the renewal of Special Permit 18-16 under the provisions of Section 2313 of the Town of Sudbury Zoning Bylaw to raise up to 8 hens at 128 Plympton Road, Assessor’s Map G10-0120, Single Residence C-2 Zoning District**

Ms. Bush was present at the hearing requesting renewal of Special Permit 18-16 and to increase the number of hens to eight.

Mr. Riordan asked if any members of the public wished to speak. No one was present.

The Board found the use was in harmony with the general purpose and intent of the Zoning Bylaw.

The Board further found the use was in an appropriate location, was not detrimental to the neighborhood, and did not significantly alter the character of the zoning district.

The Board also found adequate and appropriate facilities would be provided for the proper operation of the proposed use.

The Board found 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 nuisances.

The Board found the proposed use would not cause undue traffic congestion in the immediate area.

Mr. Ray made a motion to approve the Special Permit renewal for 128 Plympton Road, Case 19-8, as presented with standard conditions for a term of five (5) years to expire on May 13, 2024, Mr. Riepe seconded the motion. The vote was unanimous, 4-0.

**Public Hearing, Case 19-9 – Meredith & Joshua Phelps, Applicants and Owners, seek a Special Permit under the provisions of Section 2313 of the Town of Sudbury Zoning Bylaw to raise up to 8 hens 20 Linden Road, Assessor’s Map H05-0512, Single Residence A-1 Zoning District**

Mrs. Phelps was present at the meeting, she stated they currently have a chicken coop at their home and they would like to get approval from the Board to continue raising their 11 hens, she stated they were not aware of the process. Their intent is to use the chicken coop as part of a science lesson for her kids.

Mr. Riordan asked if any members of the public wished to speak. No one present.

The Board found the use was in harmony with the general purpose and intent of the Zoning Bylaw.

The Board also found the use was in an appropriate location, was not detrimental to the neighborhood, and did not significantly alter the character of the zoning district.

The Board found adequate and appropriate facilities would be provided for the proper operation of the proposed use.

The Board found 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.

The Board found the proposed use would not cause undue traffic congestion in the immediate area.

Mr. Ray made a motion to approve the Special Permit application for 20 Linden Road, Case 19-9, as presented with standard conditions for a term of one (1) year to expire on May 13, 2020, and with a limited grandfather for the eleventh hen. Should the number of hens decline to 10 or fewer the maximum allowed number of hens under the permit would revert to ten (10). Mr. Riepe seconded the motion. The vote was unanimous, 4-0.

**Public Hearing, Case 19-10 – Ellen Hsu-Hung, Applicant and Owner, seeks a Special Permit under the provisions of Section 2313 of the Town of Sudbury Zoning Bylaw to raise up to 6 hens at 19 Raymond Road, Assessor’s Map M08-0203, Single Residence A-1 Zoning District**

Ms. Hsu-Hung was present at the hearing requesting a Special Permit for a raised-up chicken coop for six (6) hens.

Mr. Riordan asked if any members of the public wished to speak and no one in the audience came forth.

The Board found the use was in harmony with the general purpose and intent of the Zoning Bylaw.

The Board found the use was in an appropriate location, was not detrimental to the neighborhood, and did not significantly alter the character of the zoning district.

The Board also found adequate and appropriate facilities would be provided for the proper operation of the proposed use.

The Board found 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.

The Board found the proposed use would not cause undue traffic congestion in the immediate area.

Because of the mobile capacity of the proposed coop the chicken coop is to be located and kept within a 20 feet radius of the location marked on the Board of Health application but in no case less than the required setbacks under the zoning bylaw.

Ms. Rubenstein made a motion to approve the Special Permit application for 19 Raymond Road, Case 19-10, as presented with standard conditions for a term of one (1) year to expire on May 13, 2020, Mr. Riepe seconded the motion. The vote was unanimous, 4-0.

**Public Hearing, Case 19-11 – Rachel & Paul Mandina, Applicants and Owners, seek a dimensional Variance for relief from the front (east) yard setback requirement under the provisions of Section 2600/2620 of the Town of Sudbury Zoning Bylaw to allow approximately 17 feet of encroachment for a proposed addition, and a Special Permit under the provisions of Section 5500 of the Town of**

**Sudbury Zoning Bylaw to allow an Accessory Dwelling Unit at 36 Ledge Road, Assessor's Map D08-0131, Single Residence A-1 Zoning District**

Rachel, Paul Mandina and Kevin ten Brinkle were present at the hearing requesting a dimensional variance for an approximately 17 feet of encroachment. Their home is located on what is considered by the Town as a corner lot, but the front-side of the property is located near a "paper road". If this was considered a side setback the applicant will need a 20 feet setback, but because this is considered a front-side setback, the applicant would be required to keep a 40 feet setback on this side of their property. The Applicant is also requesting a special permit for an addition to be used as an accessory dwelling unit at 36 Ledge Road, such accessory dwelling will be for a family member. The applicant stated the ADU will be built behind the garage, attached to the main house through a breeze way. The septic system will be replaced to increase capacity to accommodate this addition.

Mr. Riordan asked if any members of the public wished to speak and no one in the audience came forth.

The Board found the use was in harmony with the general purpose and intent of the Zoning Bylaw.

The Board found the use was in an appropriate location, was not detrimental to the neighborhood, and did not significantly alter the character of the zoning district.

The Board also found adequate and appropriate facilities would be provided for the proper operation of the proposed use.

The Board found 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.

The Board found the proposed use would not cause undue traffic congestion in the immediate area.

In regards to the dimensional Variance the Board finds that:

There are special conditions relating to the soil conditions, shape, or topography of the land or structures and especially affecting the land or structures, but not affecting generally the zoning district in which the land is located, the Board finds a non-use town right of way that is essentially a wooded lot that in no foreseeable future will be used as a road.

There is a substantial hardship, financial or otherwise, if the provisions of the Ordinance or Bylaw were to be literally enforced; due to the present location of the in-ground pool and irrigation system.

The applicant has demonstrated that there is no substantial detriment to the public good if the Variance is granted; this is a residential wooden area there will not be increase in traffic, noise, lighting or pollution.

The applicant has demonstrated that granting the Variance does not nullify or substantially derogate from the intent or purpose of the Ordinance or Bylaw. The requested variance does not deviate from the intended use of the property under the existing bylaw for this residential district.

Mr. Ray made a motion to approve the Variance application for 36 Ledge Road, Case 19-11, as presented with standard conditions. Mr. Ray seconded the motion. The vote was unanimous, 4-0 via roll call.

Mr. Ray made a motion to approve the Special Permit for an Accessory Dwelling Unit for 36 Ledge Road, Case 19-11, as presented with standard conditions. Mr. Riepe seconded the motion. The vote was unanimous, 4-0.

#### **Interview of Candidates for Associate Member Position**

The Board interviewed David Booth for an Associate Member position.

#### **Approval of Meeting Minutes**

Mr. Ray made a motion to approve the Meeting Minutes for April 1, 2019 as amended, Mr. Riepe seconded the motion. The vote was, 3-0, Ms. Rubenstein abstained inasmuch as she was not present at the meeting.

#### **Administrative Report**

Mr. Ray made a motion to adjourn the meeting. Mr. Riepe seconded the motion. The vote was unanimous, 4-0. The meeting was adjourned at 10:17 PM.