



# Town of Sudbury

## Zoning Board of Appeals

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### MINUTES

OCTOBER 7, 2019 AT 7:30 PM

LOWER TOWN HALL, 322 CONCORD ROAD, SUDBURY, MA

**Members Present:** John Riordan, Chair; William Ray, Clerk; Jonathan Gossels; Nancy Rubenstein; David Booth, Associate; and Jennifer Pincus, Associate

**Members Absent:** Frank Riepe

**Others Present:** Director of Planning and Community Development Adam Duchesneau and Building Inspector Andrew Lewis

Mr. Riordan opened the public hearing at 7:32 PM by noting the presence of a quorum and 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 requirements for Special Permits and Variances as discussed in the Zoning Bylaw.

Mr. Riordan asked Mr. Booth to sit in place of Mr. Riepe who was absent from the meeting.

**CONTINUED Public Hearing, Case 19-28 – Kathleen and David DelPrete, Applicants and Owners, seek a Special Permit under the provisions of Sections 5500 and 6200 of the Town of Sudbury Zoning Bylaw to create an Accessory Dwelling Unit at 65 Wagonwheel Road, Assessor's Map M09-0320, Single Residence A-1 Zoning District**

Applicant and owner Kathleen DelPrete was present to discuss the application with the Board. She noted the revised plans had been submitted earlier that day to the Planning and Community Development Department. Ms. DelPrete indicated the proposed accessory dwelling unit would be 850 square feet. She then presented the new floor plans and elevations which displayed the proposed addition in context with the existing single-family dwelling.

Ms. Rubenstein asked if a new septic system would be installed for the accessory dwelling unit. Ms. DelPrete indicated she had a septic system company coming out in the next two weeks to conduct testing to see if the existing system would need to be expanded or replaced to accommodate for the additional dwelling unit.

Mr. Riordan asked if there were any members of the public who wished to speak, but no one came forward.

Mr. Ray made a motion to approve the application in the words of the proposal. Mr. Gossels seconded the motion. The vote was unanimous, 5-0.

**CONTINUED Public Hearing, Case 19-26 – ADMV Management, LLC, Applicant, and Lisa Venuto, Owner, seek to amend Special Permit 19-2 under the provisions of Sections 2420, 2440, 2620, and 6200 of the Town of Sudbury Zoning Bylaw to modify a 25 foot by 28 foot addition by adding a cupola and a door, eliminating windows, and modifying a dormer, as well as other changes, at 29 Stonebrook Road, Assessor's Map J06-0312, Single Residence A-1 Zoning District**

Applicants and owners Peter and Lisa Venuto were in attendance to discuss the application with the Board. Ms. Venuto stated the items which had been agreed upon as part of a meeting with the neighbors on September 26, 2019 included removing the cupola, retaining the door on the side of the garage, and maintaining the rectangular windows on the dormer. Mr. Venuto noted he was proposing to include some Azek PVC panels underneath the windows on the dormer. Ms. Venuto indicated the neighbors also wanted the fencing and vegetation to block the view of the door on the side of the garage.

Mr. Riordan inquired about the window on the east side of the proposed addition which was located towards the rear of the building. Mr. Venuto stated that window and the other portion of the addition at the rear of the building met the setback requirements for the zoning district.

Mr. Gossels noted that even though the portion of the addition to the rear of the main building complied with the setback requirements, it was still under the purview of the Zoning Board of Appeals because it was part of the overall proposal before the Board.

Mr. Riordan asked Mr. Venuto if he had reviewed this other portion of the addition outside of the setback with the Building Inspector. Mr. Venuto indicated he had spoken with and received approval from the Building Inspector.

Mr. Gossels expressed frustration with the fact the addition was not constructed in conformance with the originally approved plans.

Mr. Venuto asked to withdraw his application without prejudice, and felt he and his wife were not getting as much attention from the Board as the abutter who raised objections to the proposal. He reiterated he felt that because the rear addition behind the garage was outside of the side yard setback, it was not within the purview of the Board.

Mr. Duchesneau described the proposed changes to the plans which had been agreed upon as a result of the meeting between the neighbors on September 26, 2019.

Mr. Venuto asserted there were a number of other additions in the immediate area which did not go through the same process which had unfolded for their project.

Ms. Venuto indicated it was their intention to use the space above the garage for storage purposes.

Mr. Riordan asked Mr. Venuto to reconsider his application withdrawal proposal and Mr. Venuto agreed to withdraw his request to withdraw his application.

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

Samira Sheth of 21 Stonebrook Road stated she felt the Venutos had not been honest with them and the project had not been built in compliance with the approved plans. She noted she had been denied access

to view the space over the garage during the meeting on September 26, 2019. Ms. Sheth indicated her primary concern was the space above the garage was going to be used for living space and not storage.

Ms. Rubenstein asked if an agreement had been reached regarding the windows on the dormer.

Ms. Sheth stated she was comfortable with the windows as proposed and felt they had made compromises with the existing project which had a dormer which was now taller than originally approved.

Mr. Riordan noted the condition of the earlier permit which prohibited the installation of a closet or a bathroom in the space above the garage.

Ms. Rubenstein asked if the most recent version of the plans was what had been actually constructed in the field. Mr. Venuto confirmed that was correct.

Mr. Riordan made a motion to approve the request to amend Zoning Board of Appeals Decision 19-2 as shown on the elevations as submitted on October 7, 2019, to include all of the conditions from Zoning Board of Appeals Decision 19-2 into the new approval, to approve Elevation 2 of the revised plans which displays siding below the dormer windows (not Azek PVC panels), and to include the following additional condition:

- Before a Certificate of Occupancy is issued, all dimensional information shown on the plans from October 7, 2019 with a date stamp of October 7, 2019 shall be held in strict compliance.

Discussion ensued regarding the possibility of including additional conditions pertaining to the accessibility of the bathrooms to the space over the garage.

Mr. Ray seconded the motion. The vote was unanimous, 5-0.

**Public Hearing, Case 19-29 – Roberta Henderson, Trustee of Henderson House of Sudbury Realty Trust, Applicant and Owner, seeks to appeal the decision of the Building Inspector issued in a letter dated August 20, 2019 regarding Zoning Board of Appeals Case 16-31 under the provisions of Section 1330 of the Town of Sudbury Zoning Bylaw and also seeks to amend the decision for Zoning Board of Appeals Case 16-31. Both of these items pertain to the wastewater treatment facility on the property at 642 Boston Post Road, Assessor’s Map K06-0004, Limited Business-1 Zoning District**

Attorney Matthew Watsky and Kevin O’Leary from the Jillson Company were present to discuss the application with the Board. Mr. Watsky provided a bit of background and history on the proposal. He noted the project was regarding the replacement of the wastewater treatment facility for the Sudbury Pines Extended Care Facility. Mr. Watsky stated the condition of the existing Variance which indicated if there was any increase of impervious surface on the site, it would require a new Variance from the Zoning Board of Appeals. He noted the final plans which were approved by the Planning Board called for an increase of impervious surface for a driveway, a small treatment building, and the top of the tank for the wastewater treatment system. Mr. O’Leary stated the increase in impervious surface area was less than 5% of the original approval.

Mr. Riordan indicated he viewed the proposed change as somewhat de minimus in nature to the overall proposal. He then discussed the process of how an application such as this would go before both the Zoning Board of Appeals and the Planning Board, and the difficulties of navigating that process. Mr.

Riordan then cited Section 6333 of the Zoning Bylaw which called for the incorporation of any conditions issued by the Planning Board to be included into any Special Permit or Variance issued by the Zoning Board of Appeals. Mr. Riordan believed this increase in impervious area could be interpreted to be incorporated into the Zoning Board of Appeals Variance decision. However, if other members of the Zoning Board of Appeals were not comfortable with this interpretation, he would recommend the existing Variance application simply be amended.

Mr. Gossels indicated he agreed with the interpretation of Section 6333 of the Zoning Bylaw by Mr. Riordan.

Mr. Lewis stated the project needed to move forward and encouraged the Board to make a decision which allowed the project to keep proceeding.

Ms. Rubenstein read the existing wording from the original approval and recommended the language of the condition be amended.

Mr. Duchesneau advocated for the Zoning Board of Appeals to simply modify the existing condition to only require a Variance if triggered by a threshold in the Zoning Bylaw.

Discussion ensued regarding possible amended wording for Condition 2 of Zoning Board of Appeals Decision 16-31 to only require the need for a Variance if so triggered by a threshold of the Zoning Bylaw.

Ms. Rubenstein recommended modifying the Variance by simply eliminating Condition 2 from Decision 16-31.

Mr. Riordan made a motion to remove Condition 2 from Zoning Board of Appeals Decision 16-31 and to make the modification of the decision retroactive to the original approval. Mr. Booth seconded the motion. The vote was unanimous, 5-0.

Mr. Riordan made a motion to deny the Applicant's request to overturn the decision of the Building Inspector issued in a letter dated August 20, 2019 regarding Zoning Board of Appeals Case 16-31. Mr. Gossels seconded the motion. The vote was unanimous, 5-0.

**Public Hearing, Case 19-30 – Nancy Wyrebski, Applicant, and Richard and Jerome Tuck, Owners, seek a Special Permit under the provisions of Sections 2313, 6200, and 2230, Appendix A, C.5 of the Town of Sudbury Zoning Bylaw to operate a dog grooming business/kennel at 621 Boston Post Road, Assessor's Map K06-0028, Business-15 Zoning District**

As requested by the Applicant, Mr. Ray made a motion for the application to be immediately continued to the Zoning Board of Appeals meeting on November 4, 2019 with no discussion. Ms. Rubenstein seconded the motion. The vote was unanimous, 5-0.

**Approval of Meeting Minutes for June 21, 2019 and August 5, 2019**

Mr. Ray made a motion to approve the minutes of June 21, 2019 and August 5, 2019 as amended. Mr. Gossels seconded the motion. The vote was 4-0-1, with Mr. Riordan, Mr. Ray, Mr. Booth, and Mr. Gossels voting in favor, and Ms. Rubenstein abstaining from the vote.

**Administrative Report**

Mr. Duchesneau provided an update on the status of the proposed self-storage facility project for 554 Boston Post Road (Stone Farm). He noted the project had received its Site Plan Review, Stormwater Management Permit, and Water Resource Protection Overlay District Special Permit from the Planning Board in September of 2019. Mr. Duchesneau noted the Board of Selectmen and Planning Board had upcoming Executive Sessions to discuss this matter and to determine how to proceed with the pending litigation.

Mr. Ray made a motion to adjourn the meeting. Mr. Gossels seconded the motion. The vote was unanimous, 5-0. The meeting was adjourned at 9:30 PM.