



# Town of Sudbury

## Zoning Board of Appeals

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### MINUTES

MARCH 9, 2020 AT 7:30 PM

LOWER TOWN HALL, 322 CONCORD ROAD, SUDBURY, MA

**Members Present:** Chair John Riordan, Clerk William Ray, Jonathan Gossels, Frank Riepe, Associate, David Booth, and Associate Jennifer Pincus

**Members Absent:** Nancy Rubenstein

**Others Present:** Director of Planning and Community Development Adam Duchesneau, Building Inspector Andrew Lewis, and Planning and Zoning Coordinator Beth Perry

Mr. Riordan opened the public hearing at 7:32 PM by noting the presence of a quorum. Mr. Riordan asked Mr. Booth to sit in place of Ms. Rubenstein, who was absent from the meeting. 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 requirements for Special Permits and Variances as discussed in the Zoning Bylaw.

**Public Hearing, Case 20-03 – David Hoaglin, Applicant and Owner, seeks the renewal of Special Permit 10-5 under the provisions of Sections 2632 and 6200 of the Town of Sudbury Zoning Bylaw to renew the permit for a 70 foot tall amateur radio tower at 73 Hickory Road, Assessor's Map K05-0181, Single Residence A-1 Zoning District**

Applicant David Hoaglin of 73 Hickory Road was present to discuss the application with the Zoning Board of Appeals. He noted the Zoning Board of Appeals had issued a renewal of the permit ten years ago and there had been no changes to the tower since that time. Mr. Hoaglin also indicated he was not aware of any complaints regarding the tower.

Mr. Gossels raised questions about periodic maintenance of the tower. Mr. Hoaglin stated periodic maintenance inspections were conducted to ensure the stability of the tower.

Mr. Riordan stated another ten year Special Permit would seemed to be warranted in this instance.

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

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

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 proposed use would not be detrimental or offensive to the adjoining zoning districts or 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. Riordan indicated the Zoning Board of Appeals would be including a condition in the decision which called for periodic inspections of the tower to be conducted.

Mr. Ray made a motion to approve the application for the renewal of the Special Permit as presented with a ten (10) year expiration date. Mr. Riepe seconded the motion. The vote was unanimous, 5-0.

**Public Hearing, Case 20-04 – Michael Audette, Nu-Home Contractors, Inc., Applicant, and 604 Peakham Road Realty Trust, LLC, Owner, seek to amend Special Permit 19-25 under the provisions of Sections 2460B and 6200 of the Town of Sudbury Zoning Bylaw to finish the interior space of the lower level walkout at 604 Peakham Road, Assessor’s Map H08-0017, Single Residence A-1 Zoning District**

Applicant Michael Audette of Nu-Home Contractors, Inc. was present to discuss the application with the Zoning Board of Appeals. He noted he was seeking approval to finish the lower level walkout space of the dwelling unit.

Mr. Riordan confirmed there would be no changes to the building footprint and Mr. Audette indicated that was correct.

Mr. Riepe noted he felt the “office” room on the plans appeared to actually be a bedroom and wondered if the Board of Health would have an issue with the addition of another bedroom, or if there would be any septic system regulation issues. Mr. Audette stated there was no legal means of secondary egress from the room and therefore it could not be classified as a bedroom. He further clarified by noting the window in the “office” room did not qualify as a secondary means of egress.

Ms. Pincus raised concerns the “office” room would still be used as a bedroom even though it could not be legally used as one. Mr. Audette, in turn, offered to remove the closet from the room.

Mr. Riepe felt the “office” room should not have a closet nor should there be a full bathroom in the lower level walkout space.

Mr. Ray questioned the square footage indicated for the dwelling unit in the listing and asked Mr. Audette if he had always intended to finish the lower level. Mr. Audette indicated, yes, it was always his intention to finish this space but he had not formalized the details of how that would occur.

Mr. Booth took issue with Mr. Audette returning before the Zoning Board of Appeals less than one year after the original Special Permit approval asking for an increase in the livable space to the dwelling unit.

Members of the Zoning Board of Appeals raised concerns over the accuracy of the square footage of the proposed new livable space.

Mr. Riepe did not want the “office” room to be a bedroom or apartment, and wanted further confirmation on the square footage of the dwelling unit for it to be accurate in the permit and documented correctly.

Mr. Audette stated he felt it made sense to remove the closet in the bedroom and the tub in bathroom from the lower level plans.

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

Mr. Riepe made a motion to continue the public hearing to the Zoning Board of Appeals next meeting on April 6, 2020 at 7:30 PM. Mr. Gossels seconded the motion. The vote was unanimous, 5-0.

**Public Hearing, Case 20-05 – Sign Techniques, Inc., Applicant, and Union Post LLC c/o CGI Companies, Owner, seek a Special Permit under the provisions of Sections 3261.a), 3290, and 6200 of the Town of Sudbury Zoning Bylaw to install awning signage which would exceed the maximum allowable amount of total sign face area at 424 Boston Post Road, Assessor’s Map K08-0079-0-A, Business-5 Zoning District**

John Lemanski of Sign Techniques, Inc., the Applicant, was present to discuss the application with the Zoning Board of Appeals. He described the proposed signage the business was seeking to add to the awning and how the proposed awning would be shortened slightly. Mr. Lemanski indicated the proposal would add an additional 24 square feet of signage to the business.

Mr. Ray confirmed the only aesthetic change was the proposed white lettering and business logo on the awning. Mr. Lemanski noted the style of the new awning would be changed as well.

There was then discussion regarding examples of other types of business signage in town.

Mr. Ray stated the proposal seemed in line with something the Zoning Board of Appeals would have granted a Special Permit for in the past.

Mr. Gossels felt the proposed awning lettering was attractive and well done.

Mr. Riordan noted the Zoning Board of Appeals always attempted to make signage lighting dark sky compliant.

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

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

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 proposed use would not be detrimental or offensive to the adjoining zoning districts or 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 application as presented with the plans submitted on February 10, 2020, with a maximum amount of 24 square feet of additional signage, the removal of the existing backlighting for the existing canopy, and a prohibition on the backlighting of the new canopy. Mr. Riepe seconded the motion. The vote was unanimous, 5-0.

**Public Hearing, Case 20-06 – Kenneth Salvin, Applicant, and Fifteen Union Avenue Corporation, Owner, seek a Variance from the provisions of Section 2240 under Section 6130 of the Town of Sudbury Zoning Bylaw to allow for incidental storage outside of the building at 15 Union Avenue, Assessor’s Map K08-0071, Business-5 Zoning District**

Kenneth Salvin, Applicant and owner of Sudbury Rug and Home, and property owner Dan Kenn of Fifteen Union Avenue Corporation were present to discuss the application with the Zoning Board of Appeals. Mr. Salvin noted he had been keeping storage containers at the property for the businesses he operated. He stated the junk removal business had been relocated from the premises and now there was only one storage container at the rear of the site. Mr. Salvin indicated the remaining storage container was vital to the operation of their business and he was not sure how their business would operate without this container.

Mr. Riordan inquired as to what was stored in the container and Mr. Salvin stated only rugs.

Mr. Salvin stated he had been receiving a number of enforcement letters from the Building Department in response to concerns from the Fire Department regarding the storage containers on the premises.

Mr. Riepe questioned as to why a Variance was needed as opposed to a Special Permit for this request. Mr. Duchesneau explained the reason for the need for a Variance was because the property was located in a Business Zoning District as opposed to an Industrial, Limited Industrial, or Industrial Park Zoning District.

There was then discussion regarding the provisions for awarding a Variance and the specifics of the particular proposal.

Mr. Kenn noted there were other properties in the area which contained these same storage containers and there did not appear to be any enforcement action being taken against them.

Discussion ensued regarding the former state of the premises where there had been significant amounts of junk being stored outside. Mr. Lewis indicated that since the recent enforcement letters had been issued, a substantial amount of cleanup had been conducted. He also stated this issue had been ongoing for approximately the last five years. Ms. Salvin indicated the junk on-site was from the junk removal business which had been operating on the premises, but which had since been relocated out of town.

There was then discussion of other possible options on how to adjust the Zoning Bylaw to accommodate the proposal as a Special Permit request or to rezone the property entirely. The Zoning Board of Appeals evaluated their options on how to proceed forward.

Mr. Lewis indicated he would prefer the last remaining truck being stored on-site be parked next to the remaining storage container on the property.

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

Mr. Ray made a motion to continue the public hearing to the Zoning Board of Appeals next meeting on April 6, 2020 at 7:30 PM and to authorize the Chair to speak on behalf Zoning Board of Appeals regarding the 15 Union Avenue matter to other Town boards, committees, or commissions. Mr. Booth seconded the motion. The vote was unanimous, 5-0.

#### **Approval of Meeting Minutes for January 6, 2020 and February 3, 2020**

Mr. Gossels made a motion to approve the minutes of January 6, 2020 and February 3, 2020. Mr. Booth seconded the motion. The vote was 4-0, with Mr. Ray abstaining from the vote.

#### **Administrative Report**

Mr. Riordan noted the Planning Board's proposed Solar Energy Systems Zoning Bylaw amendment which was being brought forth to the May 2020 Annual Town Meeting.

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 9:55 PM.