



# Town of Sudbury

## Zoning Board of Appeals

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### MINUTES

MAY 11, 2020 AT 7:30 PM

### VIRTUAL MEETING

**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 and Planning and Zoning Coordinator Beth Perry

Mr. Riordan opened the meeting at 7:40 PM by noting the presence of a quorum. Mr. Riordan asked Ms. Pincus 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 20-08 – Joshua and Meredith Phelps, Applicants and Owners, seek the renewal of Special Permit 19-9 under the provisions of MGL Chapter 40A, Section 9, and Sections 2313 and 6200 of the Town of Sudbury Zoning Bylaw to raise up to ten (10) hens at 20 Linden Road, Assessor’s Map H05-0512, Single Residence A-1 Zoning District**

Applicants and owners Joshua and Meredith Phelps of 20 Linden Road were present to discuss the application with the Zoning Board of Appeals.

Mr. Riordan asked how many chickens were currently on the property and Mr. Phelps noted they currently had five hens on the property.

Mr. Riordan suggested the Special Permit renewal be good for 5 years.

Mr. Riordan asked if any members of the public would like 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 is in an appropriate location, is not detrimental to the neighborhood, and does 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. Riepe made a motion to approve the application as presented with ten (10) hens and a five (5) year permit renewal term with standard conditions. Mr. Ray seconded the motion. Roll Call Vote: Riordan – Aye, Ray – Aye, Gossels – Aye, Pincus – Aye, and Riepe – Aye.

**Public Hearing, Case 20-09 – Daniel DePompei, Applicant, seeks to appeal the Planning Board’s Site Plan Review decision dated March 11, 2020 under the provisions of MGL Chapter 40A, Section 8, and Section 6390A of the Town of Sudbury Zoning Bylaw, for the property at 113 Haynes Road, Assessor’s Maps D09-0002 and D09-0300, Single Residence A-1 Zoning District**

Applicant Daniel DePompei was present to discuss his appeal of the Planning Board’s March 11, 2020 Site Plan Review decision for 113 Haynes Road. He indicated his appeal of the Planning Board’s decision was regarding two items. The first was that he desired to appeal the ruling made by the Building Inspector that the proposed use, an event space, did not fall within the definition of the use of land for the primary purpose of agriculture, and therefore should not be allowed. Mr. DePompei stated he believed this event space activity was actually a restaurant use and should be regulated as such. The second item of Mr. DePompei’s appeal was the Planning Board’s determination regarding parking for the proposed use.

Mr. Riordan asked what Mr. DePompei’s standing was for appealing the Planning Board’s decision. Mr. DePompei stated he was an aggrieved abutter and did not agree with the ruling. After some discussion, Mr. Duchesneau noted and confirmed Mr. DePompei did not reside within 300 feet of the subject property and was therefore not abutter to the proposal.

Mr. Riordan stated if Mr. DePompei was not an aggrieved abutter he could not bring forth an appeal to the Zoning Board of Appeals. Mr. Riordan also noted the proposal was extensively considered by the Planning Board. Mr. Riordan asked Mr. DePompei if he had attended any of the Planning Board meetings for the Site Plan Review application or raised any of these questions with the Planning Board. Mr. DePompei stated he was not at the meetings, but the abutters were and raised the same questions he had.

Mr. DePompei asked for clarification as to where he should take his appeal of the Building Inspector’s opinion that the proposed event space use fell within the definition of the use of land for the primary purpose of agriculture.

Mr. Riordan noted food and even meals are often served on properties which are primarily used for agricultural purposes.

There was then discussion regarding Mr. DePompei’s standing to file an appeal against the Planning Board’s decision, and whether or not the event space use fell underneath the definition of the use of land for primary purpose of agriculture.

Mr. Riordan then asked if any members of the public would like to speak.

Radoslaw Tomala of 23 Dunster Road noted he was a direct abutter to the subject property and fully supported Mr. DePompei’s appeal. He disagreed with the assessment the Building Inspector had not

issued a formal determination regarding the proposed use and how it fit within the definition (or not) of agriculture. Mr. Tomala noted they have safety and privacy concerns as a direct abutter to the subject property.

Ms. Pincus inquired if there was any record of a formal determination in writing from the Building Inspector regarding the proposed use. Mr. Tomala noted statements were made at the Planning Board meetings that the Building Inspector had issued an opinion on the matter. Mr. Duchesneau clarified a formal determination from the Building Inspector had not been issued regarding the proposed use. He noted a formal determination could only be issued through the issuance of a Building Permit for the project (which had not yet been issued) or if zoning enforcement action was requested against an activity on the property, but activity related to the proposal had yet to take place.

Stephen Grande of 91 Haynes Road indicated he understood the issue of standing but noted the abutters had chosen Mr. DePompei to file the appeal because he had drafted the language for the appeal. Mr. Grande stated he had spoken with the Building Inspector and requested a determination regarding the proposed use. Mr. Grande indicated he did receive a response via email from the Building Inspector on the matter which stated the opinion on the proposed use was only advisory until a Building Permit had been issued or the Planning Board had issued a decision on the matter.

There was then discussion whether the proposed use needed a common victualler license from the Board of Selectmen as well as the reasoning as to why the Farm Act was put in place.

Charles Mickey of 15 Dunster Road noted he had also requested a formal determination from the Building Inspector on the matter and received the same response as Mr. Grande. He asked for clarity as to who would make a formal determination on the matter. Mr. Mickey asked for someone or some entity to issue a formal determination on the matter.

Ms. Pincus requested more background information as to how the opinion regarding the proposed use was arrived at.

Building Inspector Andrew Lewis indicated he was not required to make a determination unless there was a violation of the Zoning Bylaw or there was a Building Permit application before his office. He noted he had not issued a formal determination in writing on this particular matter.

Mr. Riordan noted the Zoning Board of Appeals had received the full Planning Board file materials on this matter just before the meeting and he thought it would be a good idea if members took some time to review these materials to make an informed decision on the matter.

The Board members then discussed the options they could take regarding the application that evening.

Chris Kurth of 4 Puffer Lane and Siena Farms stated he believed the Planning Board's Site Plan Review decision was a thoughtful result of a thorough and successful public process. He stated he believed the proposal as discussed in the Planning Board's decision did not constitute a restaurant use, but was a proposal to hold seasonal farm events and ones which have been done before.

Mr. Riepe made a motion to continue the public hearing to the next meeting of the Zoning Board of Appeals on June 8, 2020 at 7:30 PM. Mr. Ray seconded the motion. Roll Call Vote: Riordan – Aye, Ray – Aye, Gossels – Aye, Pincus – Aye, and Riepe – Aye.

**Public Hearing, Case 20-10 – Herb Chambers of Sudbury, Inc, DBA Jaguar Sudbury, Applicant, and Land Rover Metro West, LLC, Owner, seek a Special Permit under the provisions of MGL Chapter 40A, Section 9, and Sections 3290 and 6200 of the Town of Sudbury Zoning Bylaw to replace the existing building signage and freestanding signage at 83 Boston Post Road, Assessor’s Map K11-0015, Industrial-4 Zoning District**

Attorney Joshua Fox of Rollins, Rollins, & Fox, P.C. was present on behalf of Herb Chambers of Sudbury, Inc. to discuss the application with the Zoning Board of Appeals. He indicated the business was seeking to update their existing signage as part of the ongoing remodeling of the current building. Mr. Fox presented the proposed new signage for the front and east facing facades, as well as numerous other proposed freestanding signs.

The members of the Zoning Board of Appeals indicated they wanted all of the proposed signs to be halo lit and there was discussion as to whether the Approved Customer Promise signage was necessary.

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. Riepe made a motion to approve the application as presented with the conditions that all lighting for all signage shall be halo lighting, and the two (2) proposed “Approved Customer Promise (Certified Pre-Owned)” signs shall be removed from the proposal and not be included as part of the approval. Mr. Gossels seconded the motion. Roll Call Vote: Riordan – Aye, Ray – Aye, Gossels – Aye, Pincus – Aye, and Riepe – Aye.

**Public Hearing, Case 20-11 – Marielle Delnomdedieu, Applicant and Owner, seeks a Special Permit under the provisions of MGL Chapter 40A, Section 9, and Sections 2240 and 6200 of the Town of Sudbury Zoning Bylaw to extend an approximately 450 square foot addition on a pre-existing nonconforming single-family dwelling further into the front yard setback at 66 Pinewood Avenue, Assessor’s Map F04-0723, Single Residence A-1 and Water Resource Protection Overlay District Zone III Zoning Districts**

Applicant Marielle Delnomdedieu was present to discuss the application with the Zoning Board of Appeals. She explained the proposed extension would be 28 feet by 16 feet for a living room on the main floor and 6 foot by 16 foot porch.

Mr. Riordan noted the proposed addition would bring the entire building closer to the street. Mr. Riepe

agreed and also stated that as a two-story structure the addition on the front would appear closer to the roadway.

Mr. Riepe suggested Ms. Delnomdedieu obtain more formalized drawings from an architect who could also help the proposed addition mesh more congruently with the existing structure.

Ms. Delnomdedieu stated she was under the impression this hearing was regarding her ability to obtain the approval to move forward with her proposal. She noted that if she was approved, she would then engage and invest in an architect to develop more formalized plans. However, Ms. Delnomdedieu indicated she did not want to spend the money to hire an architect if she would not be able to move forward with her proposed project.

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

The members of the Zoning Board of Appeals encouraged Ms. Delnomdedieu to revise the design of the proposed addition to ensure it fit within the character of the neighborhood. Mr. Riepe stated the addition should not look as though it was simply added onto the building, but instead, it should appear as though it had been a part of the original construction of the dwelling.

Mr. Riepe made a motion to continue the public hearing to the next meeting of the Zoning Board of Appeals on June 8, 2020 at 7:30 PM. Ms. Pincus seconded the motion. Roll Call Vote: Riordan – Aye, Ray – Aye, Gossels – Aye, Pincus – Aye, and Riepe – Aye.

Mr. Ray made a motion to adjourn the meeting. Mr. Gossels seconded the motion. Roll Call Vote: Riordan – Aye, Ray – Aye, Gossels – Aye, Pincus – Aye, and Riepe – Aye. The meeting was adjourned at approximately 11:22 PM.