



Case #: 15-38
Filing Date: January 26, 2016

**TOWN OF SUDBURY
BOARD OF APPEALS
NOTICE OF DECISION**

2016 JAN 26 AM 11:25
TOWN CLERK
SUDBURY, MASS

Location of Property:
526 and 528 Boston Post Road
Sudbury, MA 01776

Owner's Title Reference:
Deed Dated: 12/21/2015
Book: 66564 Page: 354

Name and Address of Applicant:
BPR Development LLC
c/o National Development
2310 Washington Street
Newton Lower Falls, MA 02462

Name and Address of Owner:
BPR Sudbury Development LLC
c/o National Development
2310 Washington Street
Newton Lower Falls, MA 02462

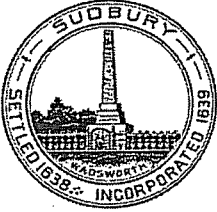
DECISION of the Zoning Board of Appeals (the "Board") on the application of BPR Development LLC as joined by the owner of record BPR Sudbury Development LLC (collectively, the "Applicant") for a Special Permit under the provisions of Section 2230 of the Sudbury Zoning Bylaw, Principal Use Regulations, for a Major Commercial Project to construct a commercial building greater than 20,000 square feet at 526 and 528 Boston Post Road, Sudbury, Massachusetts, identified on Assessor Map K07 as Parcels 0011 and 0013, Zoning District Limited Industrial District and Residential A-1, (the "Property").

This Decision is in response to an Application filed on November 12, 2015. After causing notice of the time and place of the public hearing and of the subject matter thereof to be published in the Sudbury Town Crier on November 19 and November 26, 2015, posted and mailed to the Applicant, abutters and other parties of interest as required by law, the Board opened the public hearing on December 7, 2015 which was continued to January 4, 2016 and, subsequently, to January 25, 2016. The Board closed the hearing at the January 25, 2016 session. The record of the proceedings and submissions upon which this Decision is based may be referred to in the office of the Town Clerk or the Board office.

Steve Senna, of National Development, and Peter Tamm, Esq., of Goulston & Storrs PC, appeared at the hearing for the Applicant. The Applicant seeks approval for a Major Commercial Project to construct a commercial building greater than 20,000 square feet.

Members present and voting at the hearing were: Jonathan F.X. O'Brien, Chair; Jonathan G. Gossels; Nicholas B. Palmer, Clerk, John Riordan and William Ray.

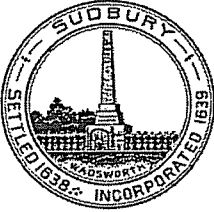
The Board, after considering the materials submitted with the Application, together with the information developed at the hearing, finds that:



Case #: 15-38

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1. The Applicant seeks a Special Permit for a Major Commercial Project under the provisions of Section 2230 of the Zoning Bylaw to construct a commercial building greater than 20,000 square feet.
2. The proposed activity which is the subject of this Decision is described in the Application and plans dated November 10, 2015, including Site Plans entitled "Site Plans, Grocery Store at Meadow Walk Sudbury, 526-528 Boston Post Road, Sudbury, MA," prepared by VHB, dated 11/10/2015, consisting of the following sheets: Sheet C-1, Legend and General Notes; Sheet C-2, Overall Site Plan; Sheet C-3, Site Preparation Plan; Sheet C-4, Layout and Materials Plan; Sheet C-5, Grading, Drainage, and Erosion Control Plan; Sheet C-6, Utility Plan; Sheets C-7.1-7.3, Site Details; Sheet L-1.1, Planting Plan; Sheet L-2.1, Planting Notes and Details; Sheets Sv-1-6, Existing Conditions Plan of Land; Sheet SL-1, Site Lighting Photometric Plan; and Architectural Plans entitled "Grocery Store at Meadow Walk Sudbury," prepared by Jacobs, dated 11/10/2015, consisting of 4 sheets: Sheet A-1, Floor Plan; Sheet A-2, Mezzanine Plan; Sheet A-3, Elevations – East and South; Sheet A-4, Elevations – West and North (collectively, the "Plans"); and Revised Architectural Plans, A-0A Rendering View 1; A-0B Rendering View 2; A-0C Rendering View 3; A-3 Elevations-East and South; A-4 Elevations- West and North; Building Plans; A-6 Exterior Materials; color elevations and materials plans dated January 6, 2016 prepared by Jacobs, which Plans are accompanied by, among others, a traffic memorandum entitled "Traffic Memorandum, Proposed Grocery Store at Meadow Walk Sudbury, 526-528 Boston Post Road, Sudbury, Massachusetts," prepared by VHB, dated 11/10/2015 and a Traffic Impact and Access Study prepared by VHB dated January 6, 2016.
3. The use is in harmony with the general purpose and intent of the bylaw. The proposed retail use of the Property is an allowed use in the zoning district and will replace a portion of an existing industrial complex that will close in phases over the coming years. Redevelopment of a portion of the Property for the proposed grocery store will help to maintain municipal tax revenues generated from the Property while providing a desirable amenity to the surrounding community. Furthermore, as a retail anchor, the grocery store will encourage a higher and better use of the Property through its comprehensive redevelopment for a mix of uses.
4. The use is in an appropriate location and is not detrimental to the neighborhood and does not significantly alter the character of the zoning district. The use is located within a Limited Industrial Zoning District on Boston Post Road, an established commercial and industrial corridor, and is adjacent to several shopping complexes and retail- and service-oriented developments. The use will enhance the prevailing commercial characteristic of the surrounding neighborhood, foster a more active and attractive pedestrian-oriented streetscape, generate new jobs and tax revenues, and encourage the further redevelopment of the Property and this important commercial corridor, which is responsive to the Town's planning goals. Conditions have been placed on the operation of the use to minimize potential impacts to nearby residential properties, including preservation of buffers and restrictions on hours of operation to the public.
5. Adequate and appropriate facilities will be provided for the proper operation of the proposed use. As supported by the Plans, reports, and other materials on file with the Board, the proposed



Case #: 15-38

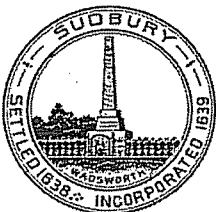
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grocery store will be served by adequate parking, access, vehicular and pedestrian circulation, landscaping, stormwater management facilities and utilities. In addition, the grocery store will be served by the existing on-site wastewater treatment plant on the Property. Additional Town approvals to construct and operate the grocery store, include approval by the Board of Health and Planning Board (Stormwater Management Permit and Site Plan approval).

6. The proposed use will 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 proposal has been designed to mitigate impacts on neighboring properties. Specifically, as supported by the Plans, reports, and other materials on file with the Board, the proposed use will provide adequate spacing and separation from surrounding properties, will incorporate appropriate landscaping, lighting, signage, and other safety and security elements, and will be professionally operated and maintained in accordance with established business hours, thereby adequately mitigating any potential detrimental effects on adjoining properties. Conditions will be placed on hours of operation, construction hours, solid waste disposal, and lighting.
7. The proposed use will not cause undue traffic congestion in the immediate area. A new traffic signal and intersection at the Property and Route 20 (in the location and configuration to be approved by MassDOT) will be installed to mitigate traffic impacts. With access afforded by Boston Post Road/Route 20, the Town's main commercial corridor, the proposed use will not generate undue traffic on surrounding streets, nor will it pose a traffic hazard to the surrounding area. As supported by the reports and analyses on file with the Board, the proposed grocery store will be served by adequate parking, access, vehicular circulation areas and will include appropriate driving lanes, striping, lighting, signage and other related safety and security elements that have been professionally engineered in accordance with best practices and applicable regulations.
8. The Board has imposed restrictions which are necessary for the general welfare of the Town, noted below.

Therefore, the Board, after reviewing the available materials and based upon the above findings, voted unanimously to **GRANT** the **SPECIAL PERMIT** subject to the following **conditions**:

1. The proposed activity shall be conducted substantially in accordance with the Application and Plans submitted and materials contained in the file, with changes required by this Decision.
2. Hours of operation for opening to the public shall be 7:00 AM to 10:00 PM. This Special Permit is granted with the supplemental right for the Applicant to request that opening hours be extended until 11:00 PM, subject to the Board's administrative approval. In the event such an extension is desired, the Applicant shall so notify the Board in writing and provide evidence supporting a reasonable commercial need for such additional hours. The Board shall consider such a request at a regularly scheduled meeting and, if approved, the Special Permit issued shall be automatically amended to include such additional hours without requiring publication or a separate hearing.



Case #: 15-38
Filing Date: January 26, 2016

3. There shall be no construction activities which produce off-site noise before 7:00 AM or after 6:00 PM Monday-Friday, or before 8:00 AM or after 5:00 PM on Saturdays and federal holidays. No construction activities shall occur on Sundays, except as permitted with advance notice and consent of the Building Inspector.
4. A buffer, consisting of fencing and/or vegetation, shall be maintained by the Applicant along the westerly Property line in proximity to the grocery store to limit potential intrusion onto the abutting residential property. The buffer shall be shown on the final Landscaping Plan, which shall be subject to approval by the Design Review Board prior to occupancy.
5. The Applicant shall comply with section 3427(f) of the Zoning Bylaw regarding lighting. Exterior lights shall have shields and be arranged to avoid glare and minimize light spilling over to neighboring properties. Interior lighting, except for security lighting, shall be turned off when the building is not in use. Exterior lighting shall be minimized when the building is not in use, approximately one hour after close of business.
6. A MassDOT Access Permit for the new intersection is required. The Applicant shall complete the construction of the roadway improvements in accordance with MassDOT requirements prior to the issuance of a final certificate of occupancy for the building.
7. An additional pedestrian access route shall be designed and constructed leading from the western property boundary at Boston Post Road into the Property to the main grocery store entrance.
8. All signs on the Property shall either comply with the Zoning Bylaw, or require further approval by the Board. No flags, banners, spinners, pennants or other such display banners shall be displayed on the premises without first obtaining the required approvals.
9. The work described by this Decision requires the approval of a site plan by the Planning Board pursuant to Section 6300 of the Zoning Bylaw. Any conditions imposed in such site plan approval shall also be conditions of this Special Permit. Any modifications to this proposal required by the site plan decision of the Planning Board shall require review of the Board to determine if such changes are consistent with this Decision, or whether a modification of this Decision is warranted.
10. The effectiveness of this Special Permit is expressly conditioned on the granting of all necessary additional approvals by the Board of Health, the Planning Board (Stormwater Management Permit and Site Plan approval), as well as MassDOT (roadway improvements at entrance along Route 20).
11. This Special Permit is non-transferable and shall not run with the land. The Applicant shall notify the Board of any change of the controlling interest in ownership of the Property to an unaffiliated entity, which change shall require administrative approval by the Board.
12. No activity granted under this Decision, or modification or extension thereof, shall take effect until a copy of this Decision has been recorded in Middlesex County South District Registry of Deeds. Such



Case #: 15-38
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Decision shall bear the certification of the Town Clerk that twenty (20) days have elapsed after the Decision has been filed in the Office of the Town Clerk and no appeal has been filed, or that if such an appeal has been filed, it has been dismissed or denied.

13. Any person aggrieved by this Decision may appeal pursuant to Massachusetts General Laws, Chapter 40A, Section 17 within twenty (20) days after this Decision is filed with the Sudbury Town Clerk.
14. The Decision rendered herein is concerned only with the Zoning Bylaw and not with the Building Code or any other Town Bylaw. The Applicant is responsible for determining and complying with Town, State, and Federal regulations in using the authorization granted.

TOWN OF SUDBURY BOARD OF APPEALS

By, *Nicholas Palmer*, Clerk

I certify that copies of this Decision have been filed with the Sudbury Town Clerk and Planning Board on

1-26-2016

Lillian Vert
Lillian Vert, Planning and Zoning Coordinator