



**Zoning Board of Appeals
Meeting Minutes
May 27, 2014**

Members in attendance: Fran Bakstran, Chair; Mark Rutan, Clerk; Richard Rand; Robert Berger; Brad Blanchette

Others in attendance: Kathy Joubert, Town Planner; Fred Litchfield, Town Engineer; Attorney Marshall Gould; Dave Feitler; Edward Flynn; John Grenier; Sue Brackett; David Duquette; Tammy Noyes Renkawitz; Lynne Silvia; John Reynolds; Horace Turner; Lewis Krouse; Peter Drake; Helen Calverlay; Jim & Bonny Krantz; Janice Hight; Marie-Annette Amato; Scott Miller

Chairman Fran Bakstran called the meeting to order at 7:00pm.

Public Hearing to consider the petition of Paul Gallagher for a Variance/Special Permit/Special Permit with Site Plan Approval/Special Permit, Groundwater Protection Overlay District, to allow construction of a 4-unit residential building with associated utilities, parking and stormwater management facilities on the property located at 16 Hudson Street

Chairman Bakstran explained that the board received a request from the applicant for a continuance to their next meeting. Chairman Bakstran read the letter dated May 16, 2014 into the record.

Mark Rutan made a motion to continue the hearing to June 24, 2014 at 7:00PM. Richard Rand seconded; vote unanimous.

Public Hearing to consider the petition of 51 Southwest Cutoff LLC for a Variance/Special Permit/Special Permit with Site Plan Approval to allow sliding tarp systems to be sold, serviced and installed on trailer, farm and construction trucks or other similar vehicles on the property located at 51 Southwest Cutoff

Attorney Marshall Gould introduced Dave Feitler, Owner and Manager of Cramaro; Edward Flynn, Principal and Manager of the LLC that owns the property; and John Grenier, engineer for the project.

Attorney Gould noted that he was previously before the board for this parcel seeking a variance, a special permit, and special permit with site plan approval. He stated that this application is for a completely different use, and a variance is not being requested.

Attorney Gould explained that Dave Feitler has been in business and operating in Shrewsbury for over 25 years and he will describe the nature of his business during tonight's hearing.

Attorney Gould noted that the property is the site of the former Ritchie Bus Company. He explained that Ritchie Bus used the property for leasing and servicing of their company-owned buses and other buses under a mutual agreement, and for repair of company owned equipment. He also noted that the only sales done were of used buses belonging to Ritchie Bus. Attorney Gould explained that the new use will involve the sale, service, and installation of sliding tarp systems for trailers, farm and construction trucks, and similar vehicles.

Attorney Gould noted that, following a development meeting with Town Staff, it was determined that the new use is most analogous to that of auto repair and auto body shop. He stated that there will be no brake work, no engine work, and no liquid work. He also recalled that, at the previous hearing, one of the major concerns voiced by abutters was the presence of an outdoor, above-ground fuel tank even though the tank was properly permitted and met code. He indicated that, as part of this application, the tank will be removed in accordance with regulations and proper procedures.

Attorney Gould reiterated that the applicant is seeking a special permit.

Attorney Gould explained that the applicant plans to use the existing building with no external changes proposed. He also noted that all work to be done on the vehicles will be done inside the building.

Attorney Gould explained that the parcel has significant slopes off of Route 20, as well as slopes on the northern and eastern sides of the property. He noted that part of the lot is paved, part is gravel, and a portion is mixed, and the proposal will include improvements to the paving on the property.

Attorney Gould stated that the groundwater protection area is located on the most easterly side of the property, and there is no work planned in that area. He also reiterated that there will be improvements to the building but no expansion is planned. He explained that the past use involved a good amount of evening and weekend activity, but noted that this will not be the case going forward.

Attorney Gould voiced his opinion that relief can be sought without derogating from the intent or purpose of the zoning bylaw. He noted that the parcel is located in a commercial zone (Business West), and the use will be similar to the previous use though much less intrusive.

Dave Feitler discussed his business operation, which involves the manufacture, sale and installation of sliding tarp systems for trucks and trailers. He explained that the Northborough site will be a retail installation facility only, with manufacturing being done at his other facilities in Florida, Delaware, and Toronto. He reiterated that the use most closely resembles an auto body repair shop, but his business does not involve excessive noise and does not use noxious gases or chemicals. He anticipates that

there will be no more than 8 to 10 vehicles onsite at a time, and the majority of time they will be inside the building with the doors closed. He indicated that his typical hours of operation are 8AM to 5PM weekdays, with an occasional Saturday shift of 9AM to noon. He stated that deliveries of vehicles will be limited to the hours of 8AM to 5PM. He also agreed to install a gate to limit after-hours access if the need arises. Mr. Feitler explained that there are currently 6 employees for this business.

Attorney Gould noted that, following their meeting, the Town's Zoning Enforcement Officer wrote a letter indicating that the process as he understands it is closest in nature to the two sections referred to in the application. Also, unlike the prior hearing, the applicant invited the neighbors to meet with him to address any questions or concerns. Attorney Gould voiced his understanding that the meeting took place last Wednesday night and all concerns were discussed.

Attorney Gould distributed brochures that illustrate the applicant's product and business. Mr. Feitler also distributed pictures of other Cramaro facilities to demonstrate the cleanliness of his operations.

Attorney Gould offered to answer any engineering-related questions. He noted that the property has always had two access points, with parking spaces available in front of the building for smaller vehicles. He explained that the applicant is proposing screening by means of a three foot berm with 10-foot tall white pines. He also acknowledged that the applicant does intend to install security lighting, but is happy to work with the neighbors to ensure that they are not negatively impacted.

John Grenier noted that there is broken asphalt surrounding much of the building, which will be formalized with curbing. He also explained that the plans call for the installation of a catch basin and a water quality inlet. He stated that the water quality inlet will be similar in size to a septic tank, with multiple chambers to capture any spillage or leakage. In addition, dry wells are proposed to infiltrate runoff into the ground. He explained that, though they are not increasing the amount of runoff on the site, they will be treating it. Mr. Grenier also stated that the parking along the front of the building will be formalized and striped.

Chairman Bakstran questioned if the 6 employees are relocating from the Shrewsbury location. Mr. Feitler confirmed that they are. Chairman Bakstran asked about the two access points. Attorney Gould explained that the curb cut from Southwest Cutoff is already in existence and has been used for 40 or 50 years. Ms. Joubert explained that the applicant will need to apply for a curb cut to MassDOT because this application represents a change in use. Chairman Bakstran asked if the applicant intends to use the Southwest Cutoff access point to the property. Mr. Feitler confirmed that he does. Chairman Bakstran asked about the dumpster location. Mr. Feitler explained that he will only need a 4 yard dumpster, so it is small enough to be located just about anywhere.

Mr. Rutan asked how often product is delivered and how it gets to the site. Mr. Feitler noted that UPS delivers in the morning and picks up in the evening. He also stated that the majority of product, which comes from his own facilities, is delivered by trailer truck

approximately every three weeks. Mr. Rutan asked how the trailers are moved around once they are on the site. Mr. Feitler explained that he uses a yard drop trailer. Mr. Rutan asked if the yard drop trailer is running only when a trailer is being moved. Mr. Feitler confirmed that it is, as it is too costly to leave running when not necessary. Mr. Feitler also reiterated that trailers are dropped off only during the hours of 8AM to 5PM and that they usually remain on the site for no more than 48 hours.

Mr. Berger voiced concern about the potential for a trailer used for sludge runs from a wastewater dump being brought to the site and asked Mr. Feitler if he ever rejects trailers due to odor. Mr. Feitler stated that he has done so numerous times. He explained that he will not ask his people to work on a trailer that he would not be willing to work on himself. He also stated that, if a wastewater trailer were to be brought to his facility, he would require that it be pressure washed, steam cleaned, and deodorized prior to delivery to him.

Mr. Berger asked if oxy acetylene or cutting torches are ever used to make adjustments on any of the metal fittings. Mr. Feitler stated that he will have oxy acetylene onsite and that it will be stored in the appropriate cages. Mr. Berger questioned storage of any scrap metal. Mr. Feitler indicated that scrap is stored in special bins inside the facility.

Mr. Berger asked if there will be a schedule for cleaning the infiltration chambers. Mr. Grenier explained that the Town Engineer requires the applicant to provide annual inspection reports.

Mr. Rand referenced an area adjacent to where the trailers will be parked and asked if it will be vegetated. Mr. Grenier stated that crushed stone may be placed on top of the gravel in that area.

Chairman Bakstran noted that the comment letter from the Town Engineer indicates that the plans do not show how water service will be provided to the building and asked if the matter has been resolved. Mr. Grenier stated that the site is currently serviced by an artesian well, but noted that there is town water service available from Southwest Cutoff.

Ms. Joubert noted that the board has received comment letters from the Planning Board, Town Engineer, Former Building Inspector, and the Fire Chief. She read the Planning Board comment letter into the record, and highlighted their request that the ZBA consider directing the applicant's customers to utilize Route 9 and Route 20 to access his property. Ms. Joubert discussed the Planning Board's desire to limit use of local roads due to the continuing increase in truck traffic. She also noted that the Fire Chief's primary concern is with the removal of the outdoor fuel storage tanks.

Fred Litchfield stated that many of the comments in his letter have already been discussed, but reiterated his request that the water service be shown on the plans. In addition, the dumpster location should be shown on the plan and the dumpster should be properly screened. Mr. Litchfield also stated that the engineer is aware of the other issues that will need to be addressed before a building permit can be obtained.

Mr. Grenier asked Mr. Feitler if he has encountered requests about traffic patterns for any of his other sites. Mr. Feitler stated that he does not recall this issue being raised, but also noted that he does not typically get as involved with these types of details for sites in other locations.

Chairman Bakstran asked if it is possible for Mr. Feitler to request that truck traffic exit his site onto Route 20 instead of using King Street. Though Mr. Feitler did not believe drivers would opt to drive down King Street, he agreed to post a sign indicating that right turns onto King Street are not permitted. Members of the board asked about limiting traffic on other local roads, specifically Crawford Street, Church Street, and Hudson Street. Ms. Joubert explained that Crawford Street already has a truck exclusion. Mr. Feitler stated that his clients will receive an information packet about his new location, and he agreed to include directions about preferred access routes to his property.

Peter Drake, 13 Lexington Drive, commended the applicant for meeting with the neighbors to hear their concerns. Mr. Drake asked about the timeline for construction should the project be approved. Mr. Feitler voiced his opinion that work would take 4 to 5 weeks, and asked the board about the timeline for the approval process. Chairman Bakstran explained that the board will vote on the hearing later this evening, after which the decision is subject to a 20 day appeal period.

Attorney Gould explained that the applicant does not own the building where his business is currently located, and there is some sensitivity with regards to his current landlord. Mr. Feitler briefly explained that he needs to move his business because Tri State Freightliner's application for this same site was denied. He also indicated that he hopes to move in approximately 2 ½ months after the appeal period has passed.

Mr. Drake asked if the applicant's hours of operation can be stipulated in the decision. He also asked if it is possible to reduce the speed limit along this section of Southwest Cutoff. Mr. Rutan explained that the roadway is under the jurisdiction of the Commonwealth.

An audience member questioned the impacts to traffic on Hudson Street from Mr. Feitler's delivery trucks. Mr. Feitler explained that a daily UPS delivery combined with up to four trucks/trailers and four customers should not negatively impact traffic in the area. He also indicated that he expects most of his customers to access his site from Route 9 and Route 20. Chairman Bakstran voiced her opinion that the aqueduct on Hudson Street will also act as a deterrent to truck traffic.

Chairman Bakstran asked for more specifics on the proposed security lighting, and expressed a desire for the applicant to provide lighting without impacting the neighbors. Mr. Grenier stated that the photometric plan included in the packet shows that the proposed security lighting features fixtures mounted on the building with no spotlights spraying over to the neighboring properties. Ms. Joubert asked if there will be any fixtures mounted on poles. Mr. Grenier reiterated that the fixtures will be mounted on the building. Chairman Bakstran asked if the lights will be on all night. Mr. Feitler explained that they will be on a timer set to turn off around 7:30PM. He explained that his only security concern is for when people are leaving the site.

Marie Amato, 10 Lexington Road, voiced her opinion that this business does not belong in this primarily residential area.

Richard Rand made a motion to close the hearing. Mark Rutan seconded; vote unanimous.

Public Hearing to consider the petition of Stirrup Brook LLC for a Variance/Special Permit to allow the location of an existing home to remain less than the required 30 feet from the front property line as part of a subdivision to be proposed on the property located at 29 East Main Street

Attorney Marshall Gould introduced Scott Miller, owner and manager of Stirrup Brook LLC. He explained that Mr. Miller has done a fair amount of local development and is well known in town for building quality projects.

Attorney Gould explained that the applicant is before the board seeking a variance. He introduced Sue Brackett who, along with her husband, owns the property that consists of a house and approximately 3.75 acres of land. Attorney Gould noted that Mr. Miller has come forward with a 5 lot concept for a subdivision as shown in the plans. He indicated that Mr. Miller has not yet filed anything with the Planning Board because he first needs to get a sense of whether the existing house will be allowed to remain. Attorney Gould commented that all 5 lots, including the one that contains the existing house, will satisfy all of the subdivision rules and regulations and zoning with the exception of the one to be discussed this evening.

Attorney Gould noted that lot 5 is where the Brackett's currently live, in the existing home at 29 East Main Street. He explained that a variance is needed because the setback of the existing home will be 16.2 feet from the proposed new roadway (distance from the linear definition of the outline of the 26 foot roadway and not simply from the paved surface). Attorney Gould stated that the 16.2 foot setback does not meet the 30 foot setback that is required in the bylaw.

Attorney Gould explained that the front of the house faces East Main Street, with a setback of 42.4 feet which is considerably more than is required. He commented that, as a result of the subdivision, lot 5 will have its new frontage on the new roadway so he does not believe that this should be considered a true setback violation of the "front" setback by strict interpretation of the bylaw. He noted that the portion of the home that will actually face the new roadway is the side of the house. He also informed the board that the applicant is not squeezing out an extra lot by seeking this variance, and reiterated the need for a variance in order for the existing home to remain. He explained that, by putting in the new roadway, the frontage on East Main Street is reduced below the required 100 feet but the lot will have in excess of 300 feet of frontage on the new roadway.

Attorney Gould confirmed that, based on a meeting with the Building Inspector and Town Planner, it is clear that a dimensional variance is required. He voiced his opinion that the shape of the lot and the existing structure provide justification for granting of the

variance. Attorney Gould explained that the lot has adequate room for the construction of a similar home to those proposed on the other 4 lots, but retaining the existing home is more desirable to maintain the streetscape.

Attorney Gould stated that the subdivision rules and regulations now require a minimum of a 26 foot wide travel way, and the actual way per the plan is 50 feet wide. He explained that the area between the paved surface and the end of the roadway as you approach the house will add another 12 to 12.5 feet, so the homes will end up being at least 28 feet away from what will be the travel way. He also stated that the road is where it is because of a 1997 amendment requiring that rights-of-way be located a minimum of 15 feet from abutting properties and, were that not the case, the home could have been pushed far enough away to meet the 30 foot setback. Mr. Miller clarified by explaining that, in order to meet the Planning Board requirement, he had to shift the road closer to the house. In doing so, it created the need for the variance. Mr. Miller also reiterated his desire to preserve the existing house.

Mr. Rutan confirmed that the applicant could tear down the existing home, build a new home on the lot with the required 30 foot setback, and all 5 lots would be in compliance with zoning regulations.

Lewis Krouse, 22 East Main Street, asked for clarification about the 300 feet of frontage. Attorney Gould explained that lot 5 will have 306 feet of frontage on the new roadway. Mr. Krouse asked if the homes to be built will be single family homes and in keeping with the rest of the neighborhood. Mr. Miller confirmed they will be. Mr. Krouse noted that the other lots show only 50 or 51 feet of frontage. Mr. Miller explained that regulations allow him to reduce the frontage for homes on a cul-de-sac. Ms. Joubert asked Mr. Miller about the size of the proposed homes. Mr. Miller noted that they will be 2400 to 2600 square feet.

Sylvia Reynolds, 10 Kent Drive, asked if there is any intent to keep the area wooded. Mr. Miller stated that the new homeowner will also typically be looking to preserve as much privacy as possible, so his goal will be to keep as many trees as possible. He indicated that he will do heavy plantings to compensate for any trees that must be removed for construction of the septic systems or houses.

John Reynolds, 10 Kent Drive, asked for clarification about the applicant's request for a variance. Attorney Gould explained that the applicant is seeking a variance so that he can determine whether the existing house can remain or will need to be removed. He noted that, either way, the project will go to the Planning Board, but the determination about the existing home will have a financial impact to the proposed project. Ms. Bakstran noted that the board is only considering whether the house currently located on lot 5 can remain or not.

Horace Turner, 6 Kent Drive, commented that he will be impacted by at least two of the potential homeowners, given the location of his home. He asked when the proposal for the subdivision will go before the Planning Board. Ms. Joubert explained that the subdivision has not yet been filed with the Planning Board, but noted that once it has been filed, all neighbors within 300 feet will be notified about the hearing. Mr. Miller

stated that, once he has a better idea of the final plan for the project, he will meet with the neighbors to discuss his plans and attempt to address any of their concerns prior to his meeting with the Planning Board.

Mr. Krouse asked if the homes Mr. Miller intends to build on this parcel will be similar to the homes he built on Bartlett Street near the High School. Mr. Miller indicated they will be smaller. Mr. Krouse commented that larger homes do not fit with the neighborhood.

Jim Krantz, 24 Warren Drive, noted that Mr. Miller has discussed installing septic systems and voiced his understanding that there is a sewer line nearby. He asked Mr. Miller if he would consider expanding the sewer line to service his project. Mr. Miller explained that he has only done some preliminary soil testing for septic systems. Mr. Krantz asked if there has been any thought by the board about extending the sewer line to reach all of these neighborhoods. Ms. Joubert stated that this would be something to address with the DPW.

Bonny Krantz, 24 Warren Drive, asked if the proposed new roadway will be a private road. Mr. Miller indicated that it will be a town roadway.

Ms. Joubert noted that the abutter to the west will end up with a roadway on either side of their property and asked if there have been any discussions with them. Attorney Gould stated that, once the determination is made about whether the existing house on lot 5 can remain, Mr. Miller will then move forward to solidify his plans at which time he will meet with the abutters to discuss the proposed project to address their concerns.

Brad Blanchette made a motion to close the hearing. Mark Rutan seconded; vote unanimous.

Review Minutes of the Meeting of February 25, 2014 – Mark Rutan made a motion to approve the Minutes of the Meeting of February 25, 2014 as submitted. Richard Rand seconded; vote unanimous with Fran Bakstran abstaining.

Review Minutes of the Meeting of March 25, 2014 - Mark Rutan made a motion to approve the Minutes of the Meeting of March 25, 2014 as submitted. Richard Rand seconded; vote unanimous with Fran Bakstran abstaining.

Earthwork Board – Ms. Joubert explained that the ZBA has an appointee to the Earthwork Board, appointed for a term of 3 years. She noted that Janet Sandstrom is the ZBA appointee and is up for reappointment. Ms. Joubert noted that Ms. Sandstrom has been a member of the Earthwork Board for many years, and Mr. Litchfield stated that Ms. Sandstrom is currently that board's Chair.

Brad Blanchette made a motion to reappoint Janet Sandstrom to the Earthwork Board. Robert Berger seconded; vote unanimous.

DECISIONS:

29 East Main Street, Stirrup Brook LLC – Mr. Rutan voiced his opinion that this property is too valuable to remain as a single family property. He also expressed his desire to retain the existing home, and asked if the variance would apply to the existing house only or if it would stay with the property. Mr. Rand agreed that it makes sense to grant a variance to allow the house to remain and suggested that the decision include a condition stipulating that the variance applies to the existing home only. Mr. Berger agreed.

Mark Rutan made a motion to grant a variance to allow a front setback of 16 feet for both the single family dwelling and garage on the property located at 29 East Main Street due to the shape of the lot with the condition that the variance applies only to these existing buildings. Richard Rand seconded, vote unanimous.

51 Southwest Cutoff – Mr. Berger commented that this is a phenomenal use for this property. Members of the board agreed.

After lengthy discussion, members of the board agreed not to include restrictions about the hours of operation in their decision.

Mark Rutan made a motion to grant a special permit and special permit with site plan approval for the property at 51 Southwest Cutoff with the following conditions:

- The above ground storage tank shall be removed in accordance with regulations.
- An Earthwork Permit is required prior to any construction.
- The water line size in Southwest Cutoff and a water service location or a proposed well shall be shown on the plan.
- A permeability test shall be performed in the area of the proposed dry well to verify the infiltration rate.
- The applicant must obtain a curb cut permit to access the State Highway from the Massachusetts Department of Transportation prior to any construction.
- The location of the proposed dumpster shall be shown on the plans. The proposed dumpster should also be screened.
- The applicant shall file a copy of the operation and maintenance report as listed in the Stormwater Management Report with the Town Engineer annually.
- An as-built lighting plan shall be provided with a certification by a Professional stating that the lighting system was built substantially in accordance with the approved plan.

- An as-built landscape plan shall be provided with a certification by a Professional stating that the landscaping was built substantially in accordance with the approved plan.
- Upon completion of the work and prior to the issuance of the certificate of occupancy, the applicant shall submit an as-built plan. The as-built plan shall include, at a minimum, and as applicable to the project, elevation of all pipe inverts and outlets, pipe sizes, materials, slopes; all other drainage structures; limits of clearing, grading and fill; all structures, pavement; contours; and all dates of fieldwork. The drainage system shall also be certified by a Professional Engineer stating the drainage system was built substantially in accordance with the design and will perform as designed. Upon approval by the Town Engineer one (1) mylar and three (3) paper copies of the as-built plan shall be submitted in addition to an electronic copy compatible with the Town's GIS system. The as-built plan shall be based on the 1988 NGVD vertical datum.
- Trucks shall be prohibited from turning right onto King Street

Richard Rand seconded, vote unanimous.

Adjourned at 9:30pm.

Respectfully submitted,

Elaine Rowe
Board Secretary