

Sutton Planning Board
Minutes
January 5, 2015

Approved _____

Present: R. Largess, S. Paul, W. Whittier, J. Anderson
Staff: Jen Hager, Planning Director

General Business:

Minutes:

Motion: To approve the minutes of 12/15/14, W. Whittier

2nd: J. Anderson

Vote: 3-0-1, S. Paul abstained as he wasn't present at this meeting

Form A Plans:

131 Eight Lots Road – Covenant and Form A for Retreat Lot

Motion: To endorse the Form A plan dated 12/29/14 for a retreat lot at 131 Eight Lots Road,
W. Whittier

2nd: J. Anderson

Vote: 4-0-0

Discussion – 211 Worcester Providence Turnpike – additional use: Ron Lukasevich, owner of Route 146 fitness, was present to ask the Board if he could reestablish a home decorating showroom in the lower level of his building at 211 Worcester Providence Turnpike. The fitness business is 5,800 s.f. and the showroom would be 2,800 s.f. He stated at first it will be appointment only evolving to walk ins. He noted they won't sell paint or other cash and carry items, it will be strictly display of things like flooring and cabinets, etc. for reference in design sessions and ordering for off site delivery and installation. The busy hours of the fitness center are between 4:30 and 7:00 PM. He has around 29 spaces and anticipates no more than 2-3 spaces will be necessary for the decorating business, so parking is more than adequate for both uses. He added the acceleration lane for Atlas Box serves as a very beneficial deceleration lane for his business making entering and exiting much safer.

The majority of the Board agreed formal Site Plan Review isn't necessary. They asked Mr. Lukasevich to schedule a time to bring in his site plan and updated floor plans. The Board will notify direct abutters about this meeting to hear any concerns and then decide if everything looks good to proceed. Revised sign design will need to be approved prior to fabrication and installation.

Correspondence/Other:

It was noted there is a quarterly meeting of the Central Mass Regional Planning Commission this Thursday.

Discussion – Chase Road Form A Lots: Attorney Lane and land owner Mark Mariner returned to discuss new information relative to their potential filing of two lots on the right of way previously known as part of Chase Road. The Planning Director reviewed the contents of her research memo including related case law and aerials from 1959 obtained from MassDOT. She noted the Board needs to decide if the portion of Chase Road that serves as frontage for the proposed lots qualifies as a "way in existence" when subdivision control law came into effect in Sutton in about 1958 or 59. Attorney Lane reasserted the way clearly shows on mapping and aerials from the general time period.

It was noted a 1844 town meeting vote established public way status for the portion of Chase Road from Blackstone Street to just shy of the last home on the road, the brick Chase house, the status of the remainder of the way is questionable. Discussion was tabled until after the remainder of scheduled agenda items.

Public Hearing – Accessory Apartment – 95 Leland Hill Road

R. Largess read the hearing notice as it appeared in The Chronicle and the Telegram & Gazette.

Mr. James Arrell, owner of 95 Leland Hill Road explained he has a two car garage with an attached car port that he wants to convert into and accessory apartment for his mother-in-law. The apartment would be a conversion of the two garage bays at just shy of 600 s.f., and the carport portion of the structure at approximately 400 s.f. would remain as is. Therefore, he will need a waiver of the requirement that the apartment be no more than 50% of the overall structure. At a previous meeting he showed the Board photos of his lot demonstrating he can't expand the carport because of a stone wall and slope. Putting a second story on the garage would not work for his mother in law as she can't get up stairs, and it would be prohibitive in terms of cost especially noting the house and apartment will be tied into town sewer at a cost of nearly \$10,000. At that meeting the majority of the Board agreed if Mr. Arrell was asking to have a larger apartment that may be a problem, but what is being proposed is modest and not a stretch of the intent of the regulations. The Board also previously agreed the carport is a portion of the existing structure.

The Board reviewed departmental comments.

No one was present to comment.

Motion: To waive the requirement that the apartment be no more than 50% of the structure having found that the minimal size of the apartment and proposed design meets the intent of the bylaw,
W. Whittier
2nd: J. Anderson
Vote: 4-0-0

Motion: To grant the special permit for the accessory apartment at 95 Leland Hill Road per the plan submitted with the following conditions: W. Whittier
1. Approval of all other local, state and federal departments, boards and commissions, especially the Sewer Department or Board of Health.
2. Clearly number house and apartment on structure and at street.
2nd: S. Paul
Vote: 4-0-0

Motion: To close the public hearing, W. Whittier
2nd: S. Paul
Vote: 4-0-0

Earth Removal Permit Renewal - Pyne Sand & Stone

Normand Gamache, P.E. of Guerriere & Halnon was present to review operations on land of Mary Bedoin operated by Pyne Sand & Stone which is accessed through Douglas.

There is an active permit for the Douglas portion of the operations. This permit is for land in Sutton. The current active excavation area is approximately 5 acres. The base elevation of current proposed excavation is approximately 435'. The water table is estimated at 360' consistent with recent readings in monitoring wells at the neighboring Sutton wastewater treatment plant and the elevation adjacent wetlands as well as site monitoring well readings last taken in 2010.

The Board reviewed departmental comments. No one else was present to comment.

It was noted although this pit is very different than other pits with a substantial separation of operation to groundwater elevation, the Board must be consistent with their procedures and protections. There isn't a current monitoring well adjacent to the active area, and on site readings need to be done in the near future and regularly thereafter.

Motion: To grant a one year extension of the existing earth removal permit with the following conditions: S. Paul

General Conditions:

1. Failure to comply with all Conditions of this Permit, and all sections of the Town of Sutton Earth Removal bylaw, which are a part of this permit, and are attached herewith, will result in a Cease and Desist Order, and fines.
2. Approval/Permitting/Special Requirements of all other applicable local, state and federal agencies, with a copy of said decisions/permits provided to the Planning Board.
3. No Drilling or Blasting allowed in any area of the pit.

Special (or site/operation specific) Conditions:

1. Maintain current bonding in the amount of \$110,000.00 for the duration of January 1, 2015 to December 31, 2015.
2. Maintain a 200-foot buffer along all residential areas.
3. Maintain appropriate dust control measures.
4. All vehicles hauling excavated material must enter and exit via Lackey Dam Rd.
5. Current ground water readings must be performed in the Spring of 2015 from wells adjacent to active excavation as determined by the Board or its Agent including a new well to be installed at the southwest corner of current excavation. **The Planning Board's Agent must observe site readings.**

2nd: W. Whittier

Vote: 4-0-0

Earth Removal Permit Renewal - Worcester Sand & Gravel

Chuck Scott P.E., of CFS Engineering was present with owner Mike Trotta to review operation at Worcester Sand and Gravel off Hatchery Drive. There has been no earth removal in 2014. Some materials have been brought in a stockpiled on the site and portion of some stockpiles have been removed.

Operations on this site are just above the 10' separation to groundwater required by the bylaws. Asphalt grindings were being stored on the site that came from the MassDOT project on Route 146, but these piles have been removed. Similar materials cannot be stored on this site as its too close to the groundwater and adjacent public water supply well head owned by Wilkinsonville Water. A copy of the materials log needs to be submitted to the Board.

Mr. Trotta would like the Board to consider a reduction of the bond as he feels the current bond of over \$130,000 is excessive.

Motion: To grant a one year extension of the existing earth removal permit with the following conditions: W. Whittier

General Conditions:

1. Failure to comply with all Conditions of this Permit, and all sections of the Town of Sutton Earth Removal bylaw, which are a part of this permit, and are attached herewith, will result in a Cease and Desist Order, and fines.
2. Approval/Permitting/Special Requirements of all other applicable local, state and federal agencies, with a copy of said decisions/permits provided to the Planning Board.
3. No Drilling or Blasting allowed in any area of the pit.

Special (or site/operation specific) Conditions:

1. Excavation shall be no lower than the proposed finish elevations shown on the plan and in any case at least ten (10) feet higher than the ground water table as measured at the water table's highest point during the year.
2. Maintain a bond for duration of January 1, 2015 to December 31, 2015 in an amount determined sufficient by the Town's consulting engineer and Planning Director. Sufficient top soil must be remain stockpiled on site to effect a bond reduction that excludes top soil.
3. Current ground water readings must be performed in Spring of 2015 at wells adjacent to the permitted excavation area as determined by the Board or its Agent. **The Planning Board's Agent must observe site readings.**
4. Maintain four (4) foot metal poles with red flags every 50 feet, more or less apart, along the boundaries of those properties owned by the Town of Sutton and the Wilkinsonville Water District. Flagging shall be verified during monitoring annually.
5. Provide log of 2014 materials brought onto and leaving the site. If material continues to be brought into the site, a log shall be maintained with information on the origin of this material and said log shall be readily available to the Planning Board and the Wilkinsonville Water District for inspection. The water district engineer may perform a daily observation of the site during the period when fill is being brought in, and if during that visit, the engineer feels that testing of the material is required, the representative will notify the Planning Board and Worcester Sand & Gravel. With the concurrence of Sutton's Agent and/or consulting engineer, a sample for testing will be taken as soon as possible and before any additional material is brought in. Worcester Sand & Gravel shall then reimburse the appropriate parties for costs related to this testing.

2nd: S. Paul

Vote: 4-0-0

Discussion – Chase Road Form A Lots (Cont.): W. Whittier noted if the Board allowed the approval of these lots the roadway would be well over the 500' allowed dead end road length. Attorney Lane noted the Subdivision Rules & Regulation standards aren't the applicable standard as the exception for "ancient ways" eliminates these standards and reduces them to "adequate access" only. J. Hager added two points in time are important 1) when the Subdivision Control Law became effective in Sutton which is 1958 or 1959 and 2) the point at which Form A endorsement is requested. The road had to be "a way in existence" at the time Subdivision Control Law became effective, and the Board has to judge the adequacy of access at the time Form A endorsement is requested.

J. Anderson stated he feels a “way” has to go somewhere other than just out to farm fields. The Board viewed aerials from 1959 through a stereoscope provided by Attorney Lane that adds three dimensions to the images. It was noted if the applicant could show the frontage for these proposed lots was part of an accepted public way the Board’s potential action would be clearer. As a private way with questionable status and condition, the Board had serious concerns about setting a dangerous precedent for cart paths and woods roads all over town. There were still significant questions as to the definition of “way” and the meaning of “a way in existence”. The Board stated they will need to review materials further and would like input on the definition of “way”.

The Board will take the matter back up at 7:15 PM on January 26th.

Motion: To adjourn, W. Whittier
2nd: J. Anderson
Vote: 4-0-0

Adjourned 8:37 P.M.