



Approved RD Date 2/21/08  
ZBA Minutes January 10, 2008

Board Members Present: Arthur Keown, Richard Deschenes, Jeffrey Fenuccio,  
Gerald Page, Russell Sylvia  
Lynn Dahlin, Secretary

**7:30pm: 107 Boston Road, Sandra Roy-(Public Hearing)**

A.Keown read the hearing notice as it appeared in the Millbury Sutton Chronicle.

Mark Anderson of Heritage Design Group spoke on behalf of the applicant. The applicant requests front and rear setback relief for proposed commercial construction as well as front and side setback relief for proposed parking, maneuvering and driving isles. The applicant intends to relocate Hair Inc. which is currently located within the Sutton Squares Mall complex. Currently on site is a older residence with a garage and barn located to the rear of the property. The new facility will incorporate the hair salon and spa with further health/fitness services located in the lower level. Mr. Anderson stated that in order to have such a facility the building size needed would be approx. 5700 sq.ft. "There is a difficult hardship related to land as it is very long, narrow and rectangular". The old home will be dismantled not destroyed due to its architectural and historical value. Some of the materials will be utilized in the construction of the new complex. The existing Boston Road mile marker currently on site will be incorporated into the landscaping.

A.Keown questioned if the knoll on which the existing house sat would be knocked down to street level and is so how would it affect the pond in the rear. Mark Anderson responded that it would not be dropped down to street level but would be lowered to grade and would not affect the pond whatsoever. The facility would be stepped into the grade.

R.Sylvia questioned the number of parking spaces and was told that required was 23 and they were creating 25 spaces.

R. Sylvia questioned the sight distance for egress areas and was told that a traffic impact study was done and they had in excess of 400 ft. in each direction for entrance and exits. Related to the Waterview Commons petition, these two sites compliment each other in that they provide each other with additional site access for visibility. Low growing shrubs would be used in the landscape design.

J. Fenuccio questioned the number of current employees and was there intent to expand. Sandra Roy responded that there were currently ten and that she hoped to keep the numbers down in order to not interfere with the employees income as well as for insurance reasons.

A.Keown questioned the number of businesses in the basement and was told that there would be possibly two. It was not definite as they did not know how the square footage would break down. It was stated that what ever businesses were placed there they would compliment the hair salon in nature.

G. Page requested that it be stated specifically where the applicant was requesting relief as it had not been addressed. Mark Anderson responded by saying that they were requesting a 42 -ft. front setback, a 38-ft. rear setback for construction and relief for parking and driveways.

J. Fenuccio – Questioned the applicant whether they thought that in the future it would be felt that there would be a need for additional parking for employees and clients and therefore the need to come back in front of the board. Mark Anderson stated that it was a good question and they had actually addressed that with the Town Planner Jen Hager and was told that the formulas that are set forth in the parking bylaws of Sutton include parking for employees. The employees work in shifts and the business has a regular turnover. It was felt that by looking at the business profile they had accomplished what was needed for parking.

J.Fenuccio asked if they were confident that the numbers provided are sufficient for parking and there would not be further requests due to client and employee growth. Mark Anderson stated that with the town regulations as they were, the business profile of Ms. Roy and the site design, he was comfortable that it would work very well and that that he did not believe that they would be back based on an additional hardship for a variance.

All Present in favor or opposition: None

Site inspection to be done individually.

Motion: To continue the hearing to February 7, 2007: R.Deschenes

2<sup>nd</sup>: R. Sylvia

Vote: 5-0-0

Motion carries

(J. Fenuccio stepped down)

**7:50pm: Burbank Road, Wayne and Cheryl Smith-(Public Hearing)**

A. Keown read the hearing notice as it appeared in the Millbury Sutton Chronicle.

Attorney Peter Keenan of 18 Canal St. Millbury, represented the applicants.

The request is for a variance from the 250-ft frontage requirement. A plan drawn by David Lavallee was submitted which shows 51.38 feet of frontage on Burbank Road. It was discovered that the frontage was not all owned by the Smith's. Of the 51.38 feet of frontage, 24 feet is owned by the Smiths and the remaining footage was owned by the abutter to the north. The entire frontage is subject to an easement in both deeds and on an old plan. Atty. Keenan referred to Article III.§N states that the 50 feet of frontage has to be all owned in fee by the owner of the property of which the SFH is to be built on. Because of this the Retreat Lot provision does not apply. If approved, the applicant will approach the Planning Dept with a new plan showing the 24-feet of fee owned frontage and the remaining frontage to be used by way of an easement. That plan will be clearly marked with a deed restriction and plan restriction that it can not be further subdivided. Stated that the hardship was that the 25 acres was totally unusable without a variance. Atty. Keenan stated that the hardship was solely due to the shape of the lot. It consisted of 25 acres which narrows down to 51 feet.

**All present in favor or opposition:**

**Dave Lavallee, 57 Purgatory Road** - stated that the lot was created pre-zoning and that he felt that when zoning came in, the additional frontage (easement) was added in order to protect the integrity of the back land.

**Phil Walsh, 101 Wheelock Road** - Has concerns regarding being allowed to have only 24 feet of frontage. Also has concerns regarding the wetlands on site as well as future development. "There seems to be an ability to change the rules or move things around when it's convenient for

people”. Mr. Walsh questioned the ability for the applicant coming back to change this request and he was concerned that years ahead there would be several houses on the 25 acres. It was understood when he bought his house 25 years ago that due to the lack of frontage the 25 acres could not be built on and now there was that possibility. Mr. Walsh requested that the board take his concerns under consideration. Atty. Keenan responded that the Planning Board will address the new plan and any issues and Conservation will address the wetland issues if any. It was stated that it would be well documented that the property could not be further subdivided in future. “There will be only one house ever built on this lot. Mr. Walsh has nothing to fear and there are no tricks and no efforts to slide anything by anyone.”

**Wilfred Tremblay, 138 Singletary Ave.** – Wetland Concerns regarding a river that is present during the spring thaw, as well as wildlife issues.

**Paul Burrows, 211 Burbank Road** – A direct Abutter to the property in question. Mr. Burrows was upset that he received no mailings or notification for this hearing and that he had to hear about it through another neighbor. It was explained to Mr. Burrows that inadvertently his name was not on the abutters list that was received by the Assessor’s office. A.Keown questioned if other than the issue of non notification, did he have any issues with the application before the board and was told no.

**Lisa Dalrymple, 76 Burbank St.** – Owner of the 27 foot easement. Also a family member who has agreed to allow the Smith’s use of the easement for frontage in agreement that it would be for one SFH as they have the same issue over the town line for abutting back land to be used for their own family in the future.

Site inspection scheduled for 8:00am Saturday, January 12, 2008.

Motion: To continue the hearing to February 7, 2008, R. Deschenes

2<sup>nd</sup>: R. Sylvia

Vote: 4-0-0

Motion carries

(Jeff Fenuccio rejoins the board)

**Alan Gasco, 23 Tucker Lane – Information request**

Not an agenda item, but Mr. Gasco requested a moment of the boards time. Mr. Gasco explained that the board denied his variance request for a rear setback variance 13 months ago and he felt that it was due to a board member’s finding that the request could not be granted based upon safety issues. Mr. Gasco claimed that he did not know the details as he never received the mailings as there were “shenanigans” going on in the neighborhood, though he admitted that he had no proof. He stated that he had brought the structure back 2 feet from the pond. He was hoping that the board would help him by taking another look at the structure.

A.Keown asked Mr. Gasco if he was asking to be reheard and Mr. Gasco stated that he could do that but would prefer that the board after going to see the structure change the decision.

A.Keown stated that the decision could not be changed, and that the board could not allow him to come back in front of the them unless he had a totally different plan. A. Keown stated that if he felt the changes were significant, he could approach the Planning Dept with the new information and if they granted an approval by unanimous vote, it would be possible to refile with this board within the 2 year frame.

Mr. Gasco explained to the board that he did not have the time as he was involved in court proceedings on this and his money was all tied up in his home. A.Keown questioned who brought him to court and was told the Building Inspector. John Couture, Building

Commissioner, was present and explained that due to Mr. Gasco's refusal to remove the addition after the denied variance he had been fined several times without payment to the town. Mr. Gasco responded that he had never received any notices other than one. John Couture stated that actually he missed 5 notices and that was why they were in court.

A. Keown stated that the only way he could come back in front of the board was through the Planning Board otherwise he would have to wait until after the 2 year time frame elapsed and then he could come in with the same application if he chose.

Mr. Gasco was referred to John Couture for further direction.

**8:20pm: Water View Commons, Comprehensive Permit- (Public Hearing Cont'd,)**

Motion: To reconvene the hearing, R. Deschenes

2<sup>nd</sup>: R. Sylvia

Vote: 5-0-0

Motion Carries

Mark Anderson ( Heritage Design Group) Spoke on behalf of the applicant.

A site plan and prototype of the buildings was presented to the board. Buildings are modeled after the Manchaug Mills. It was felt that the site plan submitted was well suited for the project. It was noted that all of the turning radii on the site plan met the requirements of the Fire Chief with the exception of a small landscaped area which would be revised. Though the plan submitted was very extensive, it was noted that it was not the final plan. The board was asked to condition their approval on a final set of plans which would be subject to Engineering review, Conservation approvals, and all other approvals of that nature.

The project abuts the 107 Boston Road project. Both projects together will provide in excess of over 500 feet of site distance in both directions. If the 107 Boston Road project does not move forward at the time that this project does, it was agreed between parties that Jon LeClaire would improve the 107 Boston Road area in order to provide the necessary sight distance.

A.Keown – Questioned if there was a R.O.W. into the Sportsman's Club, and was told that there wasn't one between the projects, but there was one on the other side.

M. Anderson stated that twenty-five percent of the units will be sold as affordable. Sale price of the units had been cut back by the Department of Housing from the \$150,000.00 – \$155,000.00 range to \$129,000.00 for a (2) bedroom unit, and \$142,000.00 –\$145,000.00 for a (3) bedroom unit.

In the location of the courtyard there will be a total underground Infiltration System for storm water management.

Kevin Rabbitt, Explained that this project was originally designed with a hotel along Rte. 146. It was decided to venture into Housing. The project is proposed for 60 units throughout. There will be six units per floor throughout the first three floors. The fourth floor will consist of two (3) bedroom units with 2.5 baths ranging from 1,970 sq.ft. – 2,010 sq.ft.

The first and second floors will consist of (2) bedroom units with (1.5) baths ranging from 1,130 sq.ft. to 1,418 sq.ft. per unit. Some of the (2) bedroom units have a den which can be incorporated into a (3) bedroom unit if need be. Due to being a LIP application there are fifteen affordable units, twelve of which are (2) bedroom units and three of which are (3) bedroom units. Market rated units consist of thirty nine (2) bedroom units and six (3) bedroom units. The affordable (2) bedroom units will carry a \$100.00 per month condo fee and the three bedroom affordable units will carry a \$125.00 per month Condo fee.

Kevin Rabbit explained that the reason for their request for extensions was due to letters of concern received from the Fire Chief and the Building Inspector. There was an issue regarding height and building type and therefore a meeting was held by all parties. It was decided that a

type 5A construction (all wood) would be used. There would be fire ratings involved and a sprinkler system which was what the Fire Chief had requested. It was said that the Building Commissioner agreed that it would meet code, but he felt that more containment had to be added and had requested a 2 hour fire rating between units and common areas. It had been determined that doing so would increase the cost of construction by approximately \$300,000.00. It was felt that it could be done while maintaining the units at an affordable rate and still be able to maintain a profit margin in order to get bank financing.

A.Keown questioned the location of the elevators and stairwells and was told that there were centrally located with an exterior stairway located by the garage. It was also mentioned that the plan was not definitive as there were other issues that needed to be addressed such as an egress problem located in the garage.

R. Sylvia – Stated that he was looking for more detail as there were issues related to safety and lack of fire equipment.

A.Keown stated that he had a conversation with the Building Commissioner regarding the code and the enhanced sprinklers. K. Rabbitt stated that they had a brand new type 5A Report which would be forwarded to the secretary of the board for their review.

G. Page questioned the existing concern regarding the height of the building. John Couture responded that he as well had a difference of opinion regarding the height of the structure and the type on construction used and therefore spoke with a code specialist as well as the Boston D.P.S. and based on his conversation with Boston, this type of structure is built and falls under the “national” code. Based upon the fire loss and life loss of this type structure, none has been documented. It is code compliant as written by the insurance companies. It was stated that his main concern was containment and if agreed to go beyond the minimal standard they would be moving in a positive direction.

G. Page wanted verification that the Fire Dept was going to be able to fight a fire on the 4<sup>th</sup> floor of the building and was told by the Commissioner that the Sprinkler system would not allow it to go beyond that.

G. Page questioned if the Fire Chief felt that was adequate and was told by J. Couture that it met the minimal standard of code though the Chief would prefer a ladder truck. John Couture questioned a failed sprinkler system and a worse case scenario of the ladder truck from Grafton potentially being a half an hour away. John stated that if that did happen, and there was added containment through upgraded separations, it was a positive factor.

G. Page asked again if the Fire Chief agreed to this and was told by J. Couture that it was the best that the town was going to get though he did understand the concern regarding not being able to reach the 4<sup>th</sup> floor. G. Page responded by saying “The town would not even be able to reach the 3<sup>rd</sup> floor never mind the 4<sup>th</sup> floor”.

J. Fenuccio questioned what appeared to be decks off of the units and a concern regarding grills and possible fires and was told that they were not decks but actually wrought iron façades.

J. Fenuccio also questioned the issue of visitor parking and over flow parking. It was stated that it had not been addressed but it would be.

A.Keown stated that each household would have most likely have (2) cars not including their children so there would need to be substantially more exterior parking somewhere on the site.

R. Deschenes questioned the driveway widths and the Fire Chief’s concerns and was told that they meet the subdivision standards and then some as it was (24) feet in width. Regarding the turning radii, it was asked that the turning radii be enough to handle the Grafton truck as it was the largest truck in the area and it was agreed that the changes would be made in order to comply with the Fire Chief’s request.

J. Fenuccio questioned the access road between projects and the concern for the public accessing the retail project through this project and was told that it would be gated with police and fire access only.

A.Keown question John Thomas (ZBA Consultant) on whether or not he had any concerns that he would like to address and it was responded that he agreed that this was a great site for this type of housing and it was the first time that he had attended an open hearing on a 40B application where there were no abutters present. "There is a challenge with this project because there is an adjacent shopping center and there needs to be a created living environment for 60 families. "We need to make sure that the area does not become just a number of sterile buildings without linkages to outdoor space as well as the residents access to such open space." J. Thomas stated that it was felt that there had been substantial progress made regarding the technical matters and that the next step would be for revised plans to come in and then the board's engagement with peer review consultants for all engineering and technical reviews that the boards feels are appropriate. J. Thomas stated that he liked the architecture of the buildings which addressed the character of a mill building which was historic and felt that the project was fitting for the area.

M. Anderson requested the boards permission to meet with J. Thomas to address his concerns on the project and have the opportunity to work with him and possibly incorporate some of his ideas into the next plan. It was felt that in doing so it would speed up the hearing process and take a burden off the board.

J. Fenuccio questioned the (2) bedroom units with the dens and at what point the town would know how many dens would be converted to additional bedrooms. He questioned the potential to have 35-40 more bedrooms after approvals had been given. K. Rabbitt stated that they would have to get back to the board on that but that the board had the ability to place conditions in order to allow the conversion on a number of units or to dis-allow the conversion all together. J. Fenuccio stated that his concern again would be the creation of a parking nightmare.

M. Anderson agreed that a balance was needed and that they would work with the board on that issue. It was noted that the state would require some 3 bedroom units as it was family housing.

M. Anderson stated that it was well known that not a lot of families would be raised in an environment such as this. "This project will attract starter home buyers or empty nesters".

A.Keown stated that due to the complexity of this hearing, the continuance will be placed last on the February 7, 2008 agenda.

Motion: To continue the hearing to February 7, 2008 with applicant agreement that the time will be determined at a later date, R. Deschenes.

2<sup>nd</sup>: R. Sylvia

Vote: 5-0-0

Motion carries

### **Business:**

Minutes

Motion: To accept the December 6, 2007 meeting minutes, J. Fenuccio

2<sup>nd</sup>: R. Deschenes

Vote: 5-0-0

Motion carries

9:00pm: Meeting Adjourned