



TOWN OF SUTTON ZONING BOARD OF APPEALS
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**ZONING BOARD OF APPEALS
MEETING MINUTES**

November 6, 2008

Approved by: AKP

Date: 2/5/09

Board members Present: Arthur Keown, Chairman; Rick Deschenes, Clerk;
Jeffrey Fenuccio; Gerald Page; Russell Sylvia
Staff: Lynn Dahlin
Board Members Absent: None
Others in Attendance: Marsha Fox; William Fox; David M. Buckley;
Atty. Todd Brodeur

7:30pm

Public Hearing to consider the petition of William Fox of 48 Griggs Road for both a front setback variance and lot coverage variance in order to tear down and rebuild a dwelling on an existing legal non-conforming lot..

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

Atty. Todd Brodeur gave brief history on the previous application denied by the board and noted that the Planning Department had made a finding that the current application represented a substantially revised project and therefore it was not to be considered a repetitive petition.

Atty. Brodeur noted the following:

- ◇ The existing structure's square footage totals 1,844 square feet (18% lot coverage) which currently exceeds the 10% maximum lot coverage allowed within the zoning district. The current site plan shows a structural lot coverage of 2740 square feet rather than the 3,400+ sq feet submitted in the July proposal.
- ◇ The existing site does not have a driveway. The current proposal shows a 700 square foot paved area/ driveway vs. 880 square foot as outlined in the July proposal.
- ◇ Total proposed lot coverage is (3,440) square feet which is 33% of lot coverage. Previously proposed in July was a (4,300+) square foot lot coverage which was 41% of lot coverage.

- ◇ Total square footage of existing residence exceeds 2,800 square feet. Previously proposed and denied square footage (included garage, basement, and porches) was 6,300+ square feet. Current proposed square footage has been decreased to 4,600+ square feet.
- ◇ Original request was for (4) variances. Current request has been reduced to (2) variances. The current proposed site plan now conforms to the (20) foot side yard setback requirements.
- ◇ Front Setback variance request is similar to previous request though the garage is smaller than original proposed and now set (25) feet off the front setback rather than the previous request of 17-18 feet.

Atty. Brodeur noted a memorandum attached to the application paperwork which outlined why it was felt that the project met the variance standard.

- ◇ The lot is unique because of its physical dimensions, its proximity to the pond, and the wetland running along its property line.
- ◇ The lot is pre-existing non-conforming as well as its structures.
- ◇ The current structure violates the zoning setbacks and maximum lot coverage allowed. The proposed garage will be less non conforming than the existing garage / foundation.

R. Sylvia questioned if there were any changes to the elevation of the structure and David Buckley, Project Architect, responded that they were under the maximum 35' building height requirement outlined in the bylaws.

J. Fenuccio remarked that he had no issues with the current plan as the potential additional living space from the previous application had been eliminated.

It was determined that an additional site inspection was not required.

J. Fenuccio motioned, R. Sylvia seconded and the vote was unanimous to close the hearing.

7:50pm

Water View Commons, Boston Road

R. Deschenes motioned, J. Fenuccio seconded and the vote was unanimous to continue the hearing to December 4, 2008 as requested by the applicant's representative, Kevin Rabbitt, in correspondence dated October 16, 2008.

Board Business:

Minutes:

R. Deschenes motioned, R. Sylvia seconded and the vote was unanimous to accept the minutes from the October 2, 2008 board meeting.

A. Keown noted that the Housing Partnership had approved additional funding of \$5,000.00 for Technical support for the Water View Commons proceedings.

7:52pm

Atlas Box, 223 Worcester Prov. Turnpike - Special Permit extension request.

A.Keown reviewed with the board the written request for a six (6) month extension on the Special Permit for a Manufacturing Use.

R. Sylvia motioned, R. Deschenes seconded and the vote was unanimous to grant the six (6) month extension.

Decisions:

Dauphinais Concrete, 7 Kamaitis Road: Sp. Permit for Concrete Batching Plant

R. Deschenes motioned, R. Sylvia seconded and the vote was unanimous to open the worksession.

A. Keown read into the record an affidavit from Jeffrey Fenuccio certifying that he had reviewed the minutes of the October 2, 2008 minutes and that he had complete knowledge and understanding of all elements contained therein.

R. Sylvia motioned and R. Deschenes seconded to grant the Special Permit to allow the use of a Concrete Batching Plant.

Discussion:

J. Fenuccio noted the following:

- ◇ Concerns exist regarding concrete trucks trying to cross three (3) lanes of traffic in order to make a u-turn at the light.
- ◇ Questions remain regarding proposed number of employees and deliveries and the extent of future increases. It was questioned if anyone had checked on how this project laid out with the plans of the future overpass. It was determined through discussion that there would be no concerns regarding the overpass layout.
- ◇ No traffic studies had been done.
- ◇ Concern exists with granting un-enforceable conditions to limit activity on site.

“We have granted projects with conditions in the past and after they’re approved the conditions are not met or enforced. Case in point would be the Bank of America, no left turn, the sign is down and everyone is doing it.” Jeff noted that even with a condition of no U-turns at the light for the trucks, he could foresee them still crossing 3 lanes of traffic to make the u-turn and that was a public safety concern. Jeff noted that in the Bylaws under V. Administration and Enforcement: Special Permits, it was noted that the board should take into consideration whether there would be “undue nuisance or serious hazard to vehicles or pedestrians” and this was his biggest concern.

A.Keown noted that the applicant asked for 8 trucks, but they also had informed the board that at times there could be 15, 20, or up to 30 trucks. A. Keown noted that the board could limit it to the eight trucks. “ But who is going to sit there and watch them count the eight trucks? He also noted that the hours of operation could be limited to 5am – 6pm but if there is a state highway job working at night, they could be filling those trucks all night long.”

J. Fenuccio noted that when he uses the southbound lane toward the lights, traffic at times moves at 60 miles per hour. He felt that it would be difficult for on-coming traffic to judge the slower speeds of these trucks until they are on top of them. Jeff stated that to avoid an accident there would need to be a swift merge into the left lane which could cause frequent accidents.

G. Page questioned if the police dept. needed to provide a statement owing to the fact that the traffic flow issue was dangerous or was it the board's responsibility?

J. Fenuccio stated that the applicant didn't bring in enough information on what a fully loaded cement truck exiting the site needed distance wise to come up to speed. "I don't feel comfortable while looking out for the safety of people traveling through our town to allow fully loaded cement trucks to come out onto what we already know is a very dangerous intersection that the state is looking at eliminating, and know that we are throwing something so inappropriate into the mix."

J. Fenuccio stated that the project had all the potential of being utilized without any limitations, policing, or controls and it was not responsible of the board to allow it while knowing that the potential increase wasn't controllable.

R. Deschenes agreed that putting limitations on the use was un-enforceable and Arthur Keown agreed it would be a waste of time.

R. Sylvia noted that even if they complied with the conditions, it would not entirely alter the issue of public safety.

J. Fenuccio noted that located at the Aggregate site they had a pretty long acceleration lane which is located on their own site in order for the trucks to get up to speed in a 30mph area. He noted that on the highway they were dealing with speeds of 65-70 mph.

G. Page questioned why the applicant doesn't approach the state for their opinion, and was answered that it should have been done prior to the hearing.

Vote: 5-0-0 to deny the Special Permit as requested.

William Fox, 48 Griggs Road: Variance Petition

R. Sylvia motioned, R. Deschenes seconded and the vote was unanimous to open the worksession.

J. Fenuccio motioned, G. Page seconded to grant the front setback variance and lot coverage variance as requested.

Discussion:

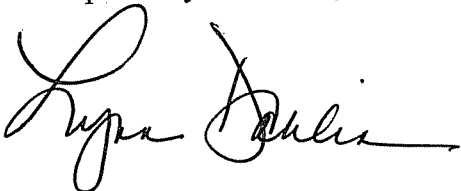
J. Fenuccio stated that he felt that the new plan was considerably more appropriate for the lot size and therefore had no issues with the request and the remaining board members agreed.

Vote: 5-0-0 to grant a twenty-five (25) ft. front setback and lot coverage of 33%.

8:45pm

Meeting Adjourned

Respectfully submitted,



Lynn Dahlin
Secretary