



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

June 4, 2009

Approved by: BDKp

Date: 9/3/09

Board members Present: Arthur Keown, Chairman; Russ Sylvia; Jeff Fenuccio;  
Rick Deschenes, Clerk; Gerald Page

Secretary: Lynn Dahlin

Board Members Absent: None

Others in Attendance: Jennifer Hager, Town Planner; Robert Largesse; Tomm  
Connors; Wayne Whittier; Dan Maroney; David Lavallee; Thomas  
Vassar; William Connor; Joyce Smith; Donna Libby; Michael  
McGovern; John Silverberg; Jennifer Callahan; Michael Callahan

7:35pm

**Joint Public Hearing with the Planning Board to consider the petition of William Connor for a c.40A § 6 Finding and Site Plan Review for the expansion of a legal non-conforming use. The property is located at 5 Singletary Ave, (also known as 3 Singletary Ave), and is located in the R-1 Zoning District.**

Acting Chairman – R. Sylvia

R. Sylvia read the hearing notice as it appeared in the Millbury Sutton Chronicle.

William Connor, 26 Bond Hollow Rd, stated that the proposed project included the renovation of the space next to his convenience store in order to offer more products/services to his customers. J. Fenuccio asked how long the business had been run by the applicant and was answered 5 years. G. Page questioned if the walls would be removed and if the expansion would move throughout all three sections of the building. Mr. Connors stated that the whole area would be utilized either for storage or display.

Jen Hager noted that the submitted site plan drawn by Andrews Survey showed that only the front portion of the building (2,126 s.f.) was being utilized and that the rear portion of the structure had been fully partitioned off. Jen Hager questioned if there had been a change and if now the entire structure would be utilized or just the front section which included the entire length of the building and the depth of the existing. W. Connors

responded that just the front section (2,126 s.f.) would be used and that the rear portion consisted of existing garage bays.

All in favor or opposition:

Donna Libby, 312 Boston Road, questioned if the building size would be changing or if the changes would be entirely internal. Also questioned if by enlarging the store, there would be changes with parking.

David Lavalley, Andrews Survey, noted that the parking spaces had been re-defined. The town required nine parking spaces and there would be provisions for 17 spaces.

Donna Libby questioned additional Gas pumps and more advertisement monitors.

W. Connors stated that the monitors were no longer present.

David Libby, 312 Boston Rd., questioned why the expansion request was not able to be dealt with by the Building Commissioner, and Jennifer Hager explained the history of the site with the legal non-conforming use and the legal process required.

(Arrival of Arthur Keown)

J. Hager noted that if the Board found favorably for the Section 6 finding then the Planning Board would move forward with the site plan review which would include review of the site details to make sure that there was adequate parking for the expanded use and that the use is operated safely. J. Hager noted that after review of Sect IV.A, B, and C of the bylaws it was found that very few areas of the plan differed from the regulations but noted the following:

- Televisions over pumps have been removed as requested by the Building Commissioner.
- All new signage would have to be approved by the Planning Board.
- Possible curbed off and formalized driveway openings to be discussed.
- Non-compliant parking space on plan to be rectified.
- Waiver request had been submitted for interior lot landscaping which the Town Planner recommended approval of.
- Lighting and direction of illumination not to change.

Commentary from Town Boards / Departments:

Assessors Office: Their comments had been addressed on the site plan.

Earth Removal Board: No concerns.

Conservation Commission: No wetland issues.

Fire Chief: No comment other than to request that all related fire alarm information be submitted to him.

A. Keown motioned and J. Fenuccio seconded and the vote was unanimous to close the hearing. A.Keown motioned, J. Fenuccio seconded, and the vote unanimous to find that the expansion of the existing legal non-conforming convenience store use would not be substantially more detrimental than the existing legal non-conforming use to the neighborhood.

(A. Keown takes his seat as Chairman)

**7: 45pm:**

**Public Hearing to consider the petition of Thomas Vassar of 16 Old County Road for a lot coverage variance from §III(B)(3)(Table III) of the towns zoning bylaws. The property is located in the R-1 Zoning District.**

A.Keown read the hearing notice as it appeared in the Millbury Sutton Chronicle. Thomas Vassar stated that he was in front of the board again due to an oversight in his last application to the board. His home is legal non-conforming and any proposed additions, even though they meet setback requirements, will exceed the lot coverage requirement of 10% requiring the additional variance.

A. Keown asked if there were questions from the board and hearing none asked for a motion. R. Deschenes motioned, J. Fenuccio seconded and the vote unanimous to close the hearing. R. Sylvia motioned, J. Fenuccio seconded and the vote unanimous to grant the 21% +/- lot coverage variance as requested .

**7:52pm:**

**Public Hearing Continued:**

**Terrance Anyon, 5 Old Providence Road: Side Setback variance.**

R. Sylvia motioned, J. Fenuccio seconded and the vote unanimous to reconvene the hearing. No new information presented.

R. Sylvia motioned, G. Page seconded and the vote was unanimous to close the hearing.

J. Fenuccio motioned, G. Page seconded and the vote was unanimous to grant the side yard setback variance as requested. The board agreed that a hardship existed due to triangular shape of lot. The board found that the granting of the variance was not detrimental to the neighborhood and was an improvement to the property.

**8:00pm:**

**Public Hearing Continued:**

**John Silverberg, 31 Marsh Road: Front, Rear and Side yard setback variances**

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

J. Fenuccio questioned the different address of the property since the last variance and it was answered that the Assessor's office made the change. J. Fenuccio questioned the last variance and if that request included a variance for the deck. John Silverberg stated that the variance received included the demo of the then existing dwelling and a rebuild further back from the water which would have allowed for the deck. The project changed and he decided to just place an addition onto the existing dwelling which did not allow for a deck.

J. Fenuccio questioned whether the board should be amending the original variance if they were in fact granting a variance upon an existing variance or would this variance supercede the existing.

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

R. Sylvia motioned, Gerald Page seconded and the vote unanimous to grant the variances as requested for a 12-ft +/- rear setback for the construction of the open deck with stairs, a 5-ft +/- front setback and a 1-ft +/- side setback for the placement of the shed.

The board found that due to the shape of the lot, the location of the sewerage disposal system as well as the topography of the land made it difficult for the placement of the shed at any other location. The board also found that due to the shape, and pre-existing non-conforming lot, a hardship existed for placement of the deck.

**8:10pm**

**Public Hearing Continued:**

**Michael and Jennifer Callahan, 112 Uxbridge Road: Front yard setback variance.**

R. Sylvia motioned, R. Deschenes seconded, and the vote unanimous to reconvene the hearing. The board had no further questions and there was no new information submitted by the applicants.

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

R. Sylvia motioned, J. Fenuccio seconded and the vote unanimous to grant the front yard setback variance as requested.

The board found that the request was not detrimental to the neighborhood and could be granted.

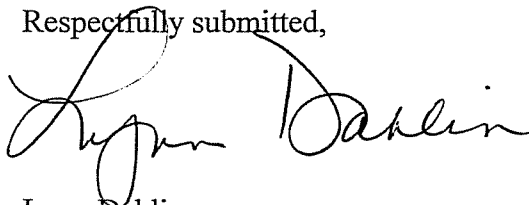
**Business:**

Approval of Minutes:

J. Fenuccio motioned, R. Sylvia seconded and the vote unanimous to accept the May 7, 2009 minutes as submitted.

R. Sylvia motioned, R. Deschenes seconded, and the vote unanimous to adjourn.

Respectfully submitted,



Lynn Dahlin  
Secretary