

TOWN OF SUTTON
Zoning Board of Adjustment
Pillsbury Memorial Hall
Meeting Minutes
August 19, 2015

Present: Zoning Board of Adjustment Members: Derek Lick, Vice Chair; Doug Sweet, Dane Headley and Ed Canane, Members; (Bill Hallahan, Chair; and alternate, Sue Reel, alternate, were absent); Laurie Hayward, Land Use Coordinator; and Roger Wells, Applicant and Member of the Sutton Planning Board.

The meeting was called to order at 7:07 PM, by Derek Lick, Vice Chair.

Administrative:

Minutes from the last meeting: The Chair asked for a motion to the minutes of the meetings of April 15, 2015 and June 17, 2015. Members took a minute to review the April 15, 2015. The Chair moved the minutes of April 15, 2015 be approved; Headley seconded and it was unanimously voted. The Chair took up the minutes of June 17, 2015. The Chair moved the minutes of June 17, 2015 be approved; Headley seconded and it was unanimously voted.

Correspondence: The Chair took up the letter from Roger Wells. At this point Wells joined the meeting. The letter requesting rescission of a prior Variance approved with conditions read as follows:

“Dear Zoning Board: On January 16, 2013 the ZBA granted 3 variances for the above case. The applicant utilized two of those variances. The third variance, which was not used, is quoted in full below:

‘On January 16, 2013 the Town of Sutton Zoning Board of Adjustment made a unanimous decision to approve the application for a Variance to Article IV, Section C.4, to permit the applicant to build a 20 x 30 foot attached garage 33 feet from the centerline of Park Avenue which represents a 13.5 foot variance to the 46.5 foot setback required. The approval was given with one condition that the applicant provides the Town of Sutton with an easement for a snow turnaround as described and shown in the applicant’s application.’

Because there was an easement condition associated with this variance the ZBA recorded this decision in the Merrimack County Registry of Deeds.

We did not, and will not ever, use this variance. An 18 x 24 foot garage was built but it is not attached to the house and it sits back from the center of Park Avenue more than the required 46.5 feet. We therefore request that the variance and the easement condition be rescinded and that that Notice of Decision be filed with the Merrimack County Registry of Deeds.

Please note that the ownership of this property was recently transferred from Heather G. Wells to the 1997 Trust of Sandra B. Wells.

Sincerely, Roger Wells”

Wells explained that the original reason for the request no longer exists. They did not build the garage as originally planned and do not expect to do so. They are requesting the rescission to revoke the

approval and clear the Condition from the deed. At this point they do not expect to give a snow plow turnaround easement to the town.

Board members briefly discussed whether there was any reason not to rescind the earlier decision as requested by the original applicant and generally agreed that they did not see a reason.

The Vice Chair moved that they rescind the Variance of January 2013 for a garage; Headley seconded the motion and it was voted unanimously to rescind.

Work Session: Revision of Zoning Ordinance

The LUC suggested that they have Roger Wells discuss the Planning Board recommended revisions to the Zoning Ordinance as he is familiar with the draft Ordinance changes and the Planning Board reasoning. Wells began the discussion with the planning Board suggested revision to the language regarding “manufactured houses.” He explained that the general reason for changing the current language is that Sutton’s Ordinance does not agree with state statute and so is essentially “illegal”

Current language is:

“ARTICLE IV. The following provisions shall apply to the Residential District:

- A. The following uses shall be deemed Residential uses and shall be permitted in the Residential District:
 - 1. Single-family dwellings and buildings accessory thereto, but excluding tents, cabins, and manufactured homes.

ARTICLE V.

A. Uses permitted:

- 1. Any use permitted in the Residential District including farm stands.”
- B. Uses permitted as a Special Exception subject to the approval of the Zoning Board of Adjustment after a public hearing:
 - 7. Manufactured-home parks or manufactured-home subdivisions, accommodating a minimum of 10 manufactured homes, and in compliance with all requirements for residences in this zoning district.”

Planning Board recommended language is:

“ARTICLE IV. The following provisions shall apply to the Residential District:

- A. The following uses shall be deemed Residential uses and shall be permitted in the Residential District:
 - 1. Single-family dwellings and buildings accessory thereto, but excluding tents, cabins, and manufactured homes.

ARTICLE V.

A. Uses permitted:

- 1. Any use permitted in the Residential District including farm stands.”
- 6. A manufactured-home on a single lot, that is in compliance with all requirements for residences in this zoning district.”

Zoning Board of Adjustment recommended language is:

“ARTICLE IV. The following provisions shall apply to the Residential District:

- A. The following uses shall be deemed Residential uses and shall be permitted in the Residential District:
 - 1. Single-family dwellings and buildings accessory thereto, but excluding tents, cabins, and manufactured homes.

ARTICLE V.

A. Uses permitted:

1. Any use permitted in the Residential District including farm stands.
6. Manufactured home subdivisions.”

B. Uses permitted as a Special Exception subject to the approval of the Zoning Board of Adjustment after a public hearing:

7. Manufactured-home parks, accommodating a minimum of 10 manufactured homes, and in compliance with all requirements for residences in this zoning district.”

There was a lively discussion about the pros and cons of the different versions. It was pointed out that town counsel had suggested the language that the ZBA is proposing. The LUC explained that, town counsel said that the language should be changed because state statute and Sutton Zoning Ordinance are in direct conflict and, although there are statutes where the stricter of either the state or the town language holds, manufactured housing is not one of those. The LUC further explained that when she discussed the language with town counsel, the basis for the conversation was that the ZBA did not want to change the current language. Her impression was that this was the most minimal change that would meet state requirements. The key element of the state statute is that there be some zone in the town in which manufactured housing is not handled any differently from any other form of dwelling. It meets state statutory requirements because it allows manufactured housing in subdivisions in much the same way that Regulations allow for houses in subdivisions and requires that both “subdivisions” and “manufactured home subdivisions” be similarly reviewed and approved by the Planning Board.

There was a discussion about definitions and that the states definition is a little different from common usage and is part of the current ordinance: “MANUFACTURED HOUSING: Pursuant to RSA 674:31, shall mean any structure, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width and 40 body feet or more in length, or when erected on site, is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical systems contained therein. Manufactured housing as defined in this section shall not include pre-site built housing.” It was agreed that the item that made clear that this is not about homes like Timberpeg and like Camelot Homes is the “permanent chassis” as opposed to a “permanent foundation”. It is about what are commonly called mobile homes. It was also noted that 320 square feet would not meet Sutton standards for a house as dwellings under 500 feet are classified as “cabins” and are not permitted in Sutton.

Wells stated that his sense of the state statute is that it makes it a requirement that every town have someplace which is zoned in such a way that single manufactured houses may be placed on single lots with no more requirements beyond the requirements for a site built house. The easiest way to comply is by simply making them acceptable in the Rural-agricultural District. Ed Canane said that he only thought that was reasonable if the same was true about the Residential District. There was a discussion about possible impacts on property values and the negative light in which manufactured housing is viewed. The Board seemed inclined to prefer the language that they drafted over the language proposed by the Planning Board. Wells said that he better understood why the ZBA Members had drafted the language the way they did; although, he still thought his language better met the spirit of the state statute.

Wells left the meeting.

The Vice Chair asked the LUC if she had the responses from town counsel to various questions about possible changes to the Zoning Ordinance. The LUC said that she thought she had included the response as well as questions in the packets; but, had only included the questions. She agreed to email the questions with responses to members and include them in the next meeting packet for Board discussion.

The vice chair asked about the next meeting and whether there were any new cases. The LUC stated that the deadline for new applications expired on Monday with no applications received; therefore there are no cases before the Board at this time and a September meeting is optional.

Next meeting is to be held Wednesday, September 16, 2015 at 7pm.

There being no further business, Headley moved and Canane seconded, and it was voted unanimously that the meeting be adjourned at 9:05 PM.

Respectfully submitted,

Laurie Hayward
Land Use Coordinator