

NANCY PINSON
42 Pinewood Avenue
00-14

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
TUESDAY, APRIL 18, 2000

The Board consisted of:

Thomas W.H. Phelps, Chairman
Patrick J. Delaney III, Acting Clerk
Gilbert P. Wright, Jr.
Melinda M. Berman, Alternate
Lauren S. O'Brien, Alternate

Notice was published in the Sudbury Town Crier on March 30 and April 6, 2000, posted, mailed and read at this hearing.

Mr. Phelps, Chairman, explained the requirements necessary to substantiate the granting of a special permit. He also explained that if anyone is not satisfied with the Board's decision, they have the right to appeal to Superior Court or District Court within twenty days after the decision has been filed with the Town Clerk, and that possible other appeals may exist under current law.

Attorney Robert Landry was present, representing the applicant Nancy Pinson, also present, in a petition for special permit to alter and enlarge a nonconforming structure by constructing a breezeway and garage which will result in a side yard setback deficiency of 10 feet at 42 Pinewood Avenue. The property comprises an area of 7,500 s.f. with 75 feet of frontage.

Attorney Landry explained that the property currently contains a single-family house. There was no garage constructed when the house was built approximately five years ago.

The sketch submitted with the application shows the proposed garage and breezeway located on the easterly side of the house. This location was decided upon after several considerations: (1) the location of the house, (2) if the garage was attached directly to the house it would eliminate the natural lighting to the easterly side of the house, which was why the 5 foot 9 inch breezeway was added.

Attorney Landry pointed out that this is a small lot. The septic system covers a good portion of the back yard which eliminates the possibility of construction in that area. The construction as proposed would come within 10 feet of the side line. Attorney Landry said if a garage had been put on at the time of the house construction, it would have been allowed because of the grandfathered status of the lot. Now, however, the applicant must apply for a special permit as the 20-foot setback now applies.

Mr. Phelps asked how many windows would be covered up if the garage were attached. Ms. Pinson said there would be two upstairs and two on the first floor.

Ms. Berman asked whether the garage would go up as high as the house. Ms. Pinson said there is no second story. However, to attach the garage with necessitate covering up the windows which would be costly since this would require inside wall work.

Discussion followed on the size of the proposed addition. Ms. Pinson said the dimensions of the garage are 18X24 feet for an oversized one-car garage, with a 5-foot 9-inch breezeway.

Mr. Wright wanted some idea of the volume as it relates to the house. Mr. Delaney added that it would be helpful to be able to see the relationship between the proposed structure and the structure on the adjoining properties. He noted that this plan stops at the property line and asked what the distance was between this construction and the structure on the next property.

Ms. Pinson said that owner faces Great Lake Drive and is separated by a fence along the property line.

Mr. Phelps read a letter dated April 13, 2000 from Patrick and Janet Carroll, 11 Great Lake Drive, the abutters who would be most affected. The letters states the Carroll's objection to granting a special permit as it is their opinion that the proposed garage and breezeway will substantially reduce the distance between the structures and be more detrimental to the neighborhood as well as derogate from the value of their (Carroll's) property.

Patrick Carroll stated that his house is about 20 feet from the fence. His back yard faces the Pinson side yard.

Mr. Phelps voiced concern regarding the size of the lot area and the proposed construction. He asked whether the size might be able to be reduced.

Mr. Wright added that this is a tight spot and while he empathized with the applicant's desire for a garage, he questioned whether there could be a minimum which could satisfy the applicant. He said the Board considered the maximum reasonable use that fits the bylaw and neighborhood.

Board members expressed concern that the height and volume of the garage was not known. In addition, they questioned whether there were alternatives to size or location.

Mr. Wright said there are thirty houses on the street. Eight have garages, 22 do not. He said it is the nature of those small lots to have driveways with cars being parked outside.

He said if everyone up and down the street had a garage within 8-10 feet of the property line, this would be just one more garage. He did not see this to be the case here.

Ms. Pinson said she spoke with Ron Ham, builder, before she purchased the house. He told her had approval to build a 2-car garage. When she purchased the house, it was with the assumption that she could add a garage.

Discussion followed on setbacks as pertains to the character of the neighborhood. Attorney Landry said most have some type of front or side yard setback problems regardless of whether they have driveways.

Mr. Delaney agreed; however, he did not observe setback problems on both sides. They seemed to be only on one side, which would not be the case here.

Attorney Landry reiterated that if the garage had been built at the time the house was constructed, it would have been allowed.

Mr. Delaney felt there is a question of whether, in this neighborhood which has a very high density, this proposed construction, which would encroach on both sides, would fit into the neighborhood. Looking at this application, he would be concerned that there could be other alternatives which could be pursued. He felt the applicant should consider taking another look at the proposal. The other Board members were in agreement.

Attorney Landry asked for a continuance. A hearing continuance was scheduled for May 23, 2000.

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Richard Wallace and Marian Gallagher, applicants, were present to represent renewal of Special Permit 99-16 for a Home Business, specifically, acupuncture and nutritional consultation, at 253 Goodmans Hill Road.

The applicants were requesting renewal under the same conditions with the exception of the hours of operation which they would like to change from 9AM-3PM to 9AM-5PM. There would be no increase in the number of patients per day.

They have spoken with their neighbors who have no issue with this operation.

There were no further questions from the Board. No abutters were present. The hearing was closed.

After deliberation the following motion was placed and seconded:

MOTION: "To grant Richard Wallace and Marian Gallagher, applicants, renewal of Special Permit 99-16, granted under the provisions of Section III,A,1,c of the Zoning Bylaws, to conduct a Home Business, specifically acupuncture and nutritional consultation, property located at 253 Goodmans Hill Road, Residential Zone A-1, provided that:

1. Hours of operation will be Monday through Friday, 9AM-5PM.

2. All parking to be on site. No off-street parking is allowed.
3. No more than two client vehicles will be parked in the parking area at any one time.
4. No employees, other than the residents, will be allowed.
5. No sign, except for a family name attached to the mailbox will be allowed.
6. No more than 5 patients per day, 25 patients per week, (50 vehicle trips per week) associated with this business will be allowed.
7. Any medical waste shall be properly disposed of in accordance with current regulations.
8. No additional exterior lighting will be allowed.
9. This permit is non-transferable and will expire in two (2) years on April 18, 2002, and the Board will consider renewal upon receipt of proper application on or before that date.”

VOTED: In favor: 5 (unanimous) Opposed: 0

REASONS: The petitioners seek renewal of a special permit to conduct an acupuncture and consultation business. The Board finds that the use is in harmony with the general intent and purpose of the Bylaw. It is in an appropriate location, not detrimental to the neighborhood, and does not by its existence significantly alter the character of the zoning district. Adequate and appropriate facilities are provided for proper operation. The Board has imposed conditions to ensure there will be no adverse impact on the neighborhood in terms of visibility, traffic and safety. Following a one-year period of operation, the Board notes that no abutters were present to oppose renewal.

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