

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
TUESDAY, JULY 11, 2000

The Board consisted of:

Mark A. Kablack, Acting Chairman  
Patrick J. Delaney II, Acting Clerk  
Gilbert P. Wright, Jr.  
Lauren S. O'Brien, Alternate  
Stephen Richmond, Alternate

Notice was published in the Sudbury Town Crier on June 22 and 29, 2000, posted, mailed and read at this hearing.

Mr. Kablack, Acting 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.

Floyd Newkirk was present to represent a petition for Special Permit to alter and enlarge a nonconforming structure by constructing a 14X24 foot deck at 71 Willis Lake Drive. The proposed construction will result in a rear yard setback deficiency of 25 feet 7 inches.

Mr. Newkirk referred to the photographs submitted with his application. Photo #1 depicts the view from the side yard with stakes showing the approximate location of the deck. Photo #2 shows a view from the house across Lot 24 to the nearest house. Photo #3 depicts Mr. Newkirk's house.

Also described was the plot plan submitted with the application. Lot 24 to the rear is an unbuildable lot with the nearest house being located across the street.

This property is comprised of a corner lot with frontage on Willis Lake Drive and Lake Shore Drive. Mr. Newkirk said he spoke with the Building Inspector who told him that there was no setback deficiency from Lake Shore Drive.

The Board reviewed the plan and questioned whether there might be alternative options which would allow for placement of the deck without the need for a special permit.

Mr. Newkirk explained that aesthetically the proposed location fit more appropriately as designed. In addition, the location of the septic system near this area might affect a reorientation of the deck.

There were no further questions. No abutters were present. The public hearing was closed.

After deliberation the following motion was placed and seconded:

MOTION: “To grant Floyd & Kristen Newkirk, owners of property, a Special Permit under the provisions of Section I,D,3 of the Zoning Bylaws, to alter and enlarge a nonconforming structure by constructing a 14X24 foot deck which will result in a rear yard setback deficiency of 25 feet 7 inches  $\pm$ , property located at 71 Willis Lake Drive, Residential Zone A-1.”

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

REASONS: The petitioner requires a special permit due to the nonconforming nature of the structure. The Board finds that the proposed alternation, which will result in a rear yard setback deficiency, will not be substantially more detrimental than the existing nonconformity to the neighborhood. Although the amount of deficiency may appear to be substantial, the property to the rear consists of an unbuildable lot containing no structures which would be impacted. To reorient the deck could have possible ramifications because of the location of the septic system. The proposed deck will fit in aesthetically with the design of the house and improve its appearance as well.

---

Mark A. Kablack, Acting Chairman

---

Patrick J. Delaney III, Acting Clerk

---

Gilbert P. Wright, Jr.

---

Lauren S. O'Brien, Alternate

---

Stephen Richmond, Alternate

ESS SUDBURY ATHLETIC ACADEMY LLC  
141 Boston Post Road  
00-25, 00-26, 00-27

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
TUESDAY, JULY 11, 2000

The Board consisted of:

Mark A. Kablack, Acting Chairman  
Patrick J. Delaney III, Acting Clerk  
Gilbert P. Wright, Jr.  
Lauren S. O'Brien, Alternate  
Stephen Richmond, Alternate

The application as submitted has been withdrawn (see Minutes below) and the parties have been allowed to reapply. The testimony contained in the tape recording on July 11, 2000 is considered a nullity.

MINUTES OF THE PUBLIC HEARING CONTINUATION  
SUDBURY BOARD OF APPEALS  
TUESDAY, AUGUST 29, 2000

The hearing was convened by the Acting Chairman, Mark Kablack who explained that following the initial hearing on July 11, 2000, Alternate Stephen Richmond realized that he had a conflict and, after consultation, found it necessary to recuse himself from this application.

The Board then had the option of proceeding with four members or allowing the applicant to withdraw and resubmit his application.

It was Mr. Kablack's understanding, during initial discussions with Attorney Myron Fox, that Attorney Fox wished to be allowed to withdraw and resubmit his application for a hearing when five members could be present.

Mr. Richmond briefly explained his conflict, which involved a member of his firm being retained by a party adverse to this application. He apologized for the inconvenience this may have caused.

Attorney Fox requested he be allowed to withdraw Case Numbers 00-25, 00-26 and 00-27 without prejudice; that the Board waive the filing fee for resubmittal, and that he be allowed to incorporate the original plans as part of the new filing. All materials submitted beyond the original filing will be returned to the petitioner.

The following motion was placed and seconded:

MOTION: "To allow the petitioner's attorney to withdraw Case Numbers 00-25, 00-26, 00-27 without prejudice, to reapply using the plans previously filed, and to waive the filing fees for reapplication. All materials submitted after the original filing, with the exception of the plans, will be returned to the petitioner."

VOTED: In favor: 4 (Kablack, Delaney, Wright, O'Brien) Abstained: 1 (Richmond)

Mr. Kablack scheduled a hearing date for Tuesday, September 26, 2000, 7:30PM, Lower Town Hall.

In addition, Mr. Kablack noted that any documentation to be considered for that hearing must be submitted no later than September 21, 2000.

---

Mark A. Kablack, Acting Chairman

---

Patrick J. Delaney III, Acting Clerk

---

Gilbert P. Wright, Jr.

---

Lauren S. O'Brien, Alternate

---

Stephen Richmond, Alternate