

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
TUESDAY, MARCH 28, 2000

The Board consisted of:

Thomas W.H. Phelps, Chairman
Mark A. Kablack, Clerk
Patrick J. Delaney III
Gilbert P. Wright, Jr.
Lauren S. O'Brien, Alternate

Notice was published in the Sudbury Town Crier on March 9 and 16, 2000, posted, mailed and read at this hearing.

Mr. Phelps, Chairman, explained the requirements necessary to substantiate the granting of a variance. 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.

This hearing is a continuation of Case 00-7 and application for variance 00-9 for a freestanding sign at the Best Friends Pet Resorts & Salons at 150 Boston Post Road.

Carol Bugbee, Barlo Sign said at the last hearing the Board asked her to come back with new drawings and more specific lighting and, in particular, to have overhead lighting. In addition, she said the Board decided that the sign was a structure and required a variance from setback.

Hazel Hopkins, Sign Consultant, Barlo Signs, was present, as was Sue Sexton, General Manager, Best Friends Pet Resorts & Salons.

Ms. Hopkins submitted a revised drawing which showed an overhead lighting system. She believed the description provided on the drawing was self-explanatory in terms of the intensity of the lighting. The new proposed lighting design, when properly installed will not be in the way of pedestrian or vehicular traffic.

Mr. Delaney felt this revised lighting to be a big improvement. In particular, the overhead lighting will be angled so that the source will not be visible to traffic or to the residents in the area. Further, the intensity appears to be diminished considerably.

Mr. Wright asked how many signs will be on the site. Ms. Bugbee said the wall sign will be removed. However, the small "comment" sign over the door will remain.

Mr. Kablack asked how long the sign would be lit. Ms. Sexton replied that the hours of operation are Monday through Friday 8AM-6PM, Saturday 8AM-5PM, Sunday 3-6PM. She would expect the sign to be shut off approximately one hour after closing.

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

After deliberation the following motions were placed and seconded:

MOTION: Case Number 00-7

“To grant Barlo Signs, applicant, Realty Income Corp. (Best Friends Pet Resorts & Salons) owner of property, a Special Permit under the provisions of Section V,D,12 of the Zoning Bylaws, to erect a 15.9 s.f. freestanding sign, property located at 150 Boston Post Road, Business District #1, provided that:

1. The sign will be in accordance with Plan No. B-99-11-54, prepared by Barlo Signs, Hudson, NH, dated 11/9/99, revised 3/22/00, except as noted in conditions 2 and 3 below.
2. The lighting as proposed in the plan is approved only for the position shown and provided that the illumination shall comply with Section V,D,13, b,2 of the Sign Bylaw, not to exceed 20 foot lamberts.
3. Lighting shall comply with Section V,D,3,f of the Sign Bylaw requirements which requires that only white light shall be used for illumination.
4. Sign lighting will be extinguished no later than one hour after closing.
5. No other primary exterior sign shall be displayed.

This Special Permit shall terminate when or if any of the above conditions are violated.”

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

MOTION: Case Number 00-9

“To grant Barlo Signs, applicant, Realty Income Corp. (Best Friends Pet Resorts & Salons) owner of property, a Variance from the provisions of Section IV,B and IV,C,3,c of the Zoning Bylaws, to locate a sign having a front yard setback deficiency of 5 feet \pm , property located at 150 Boston Post Road, Business District #1, provided that:

1. The sign will be in accordance with Plan No. B-99-11-54, prepared by Barlo Signs, Hudson, NH, dated 11/9/99, revised 3/22/00, except as noted in conditions 2 and 3 below.

2. The lighting as proposed in the plan is approved only for the position shown and provided that the illumination shall comply with Section V,D,13,b,2 of the Sign Bylaw, not to exceed 20 foot lamberts.
3. Lighting shall comply with Section V,D,3,f of the Sign Bylaw requirements which requires that only white light shall be used for illumination.
4. Sign lighting will be extinguished no later than one hour after closing.
5. No other primary exterior sign shall be displayed.

This Variance shall terminate when or if any of the above conditions are violated.”

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

REASONS: The petitioner requires a Special Permit to erect a freestanding sign as well as a Variance from the property line setback to place the sign in the proposed location.

With regard to the Special Permit, the Board finds that the proposed sign will be in harmony with the general purpose and intent of the Bylaw and will not cause visual clutter or other nuisance. The lighting has been redesigned to an overhead system which will shine downward so as not to affect traffic or the abutting residences. The petitioner has demonstrated a need for the sign to identify the business and the proposed location will afford needed visibility to allow the business to be viable.

As to the Variance, the Board finds there to be special conditions relating to the shape and topography of the land or structures. The lot is unusual in shape and the building is set back deeply necessitated by wetlands at the front of the lot. The front of the lot is also treed which blocks visibility from the west, and the structure is blocked by the adjacent Wingate facility to the east which makes visibility from the east extremely difficult.

The petitioner has demonstrated a hardship since a literal enforcement of the Bylaw would deprive the facility of adequate identification and cause financial hardship as a result.

The Board finds there will be no substantial detriment to the public good if a variance is granted. The location will not cause traffic problems or adversely impact residents in the area. As a result, the Board further finds that the granting of a Variance will not nullify or substantially derogate from the intent or purpose of the Bylaw. The location will afford adequate identification and is in keeping with the spirit of the Sign Bylaw requirements.

Thomas W.H. Phelps, Chairman

Mark A. Kablack, Clerk

Patrick J. Delaney III

Gilbert P. Wright, Jr.

Lauren S. O'Brien, Alternate

DOUGLAS & JUDITH BAJGOT
43 Brookdale Road
00-10

MINUTES OF THE PUBLIC HEARING
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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.

Douglas Bajgot was present to represent a petition for Special Permit to alter and enlarge a nonconforming structure by constructing a bedroom addition which will increase the street centerline setback deficiency, and a garage addition which will create a side yard setback deficiency at 43 Brookdale Road.

From the plan submitted with the application, Mr. Bajgot described the proposed construction. The lot is narrow and deep and the house is set at an angle. Because of the angle, the proposed bedroom addition will increase the street centerline setback deficiency by 0.5 ft. to a 10.7-foot deficiency. There is an existing garage and the new construction would add a second bay and would create a side yard setback deficiency of 3.3 feet.

The Board reviewed the elevation plans as well as the photographs which submitted with the application.

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

After deliberation the following motion was placed and seconded:

MOTION: "To grant Douglas & Judith Bajgot, owners or 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 bedroom addition which will increase the street centerline setback deficiency

by 0.5 feet \pm , to a 10.7 foot \pm deficiency, and a garage addition which will create a side yard setback deficiency of 3.3 feet \pm , property located at 43 Brookdale Road, 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 property. The Board finds that the proposed construction, which will increase the street centerline setback deficiency and create a side yard setback deficiency, will not be substantially more nonconforming than the existing nonconformity to the neighborhood. The amount of the deficiencies is minimal and will afford the petitioner needed living space as well as protection for his vehicle. The Board finds the proposed construction will be architecturally compatible with the existing structure and will enhance the appearance of the property.

Thomas W.H. Phelps, Chairman

Mark A. Kablack, Clerk

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Jeffrey and Andrea Brener were present to represent a petition for Special Permit to alter and enlarge a nonconforming structure by constructing a bathroom addition at 595 North Road. The 5X8 foot addition would be located on the front corner of the house and will increase the street centerline deficiency by one foot, to 26.8 feet, and will create a side yard setback deficiency of 4 feet.

Mr. Brener explained that he hired an architect to determine whether there was an alternative location inside the house; however, this was not possible. The opposite side of the house contains the septic system and leaching area. The garage is on the back of the house.

When the lot was subdivided approximately two years ago, this property was allotted only the 20-foot side yard setback which creates the problem with the proposed addition. Mr. Brener said the deficiency is only with the front corner as the property goes back at an angle.

The Board reviewed the plot plan submitted with the application together with a rendering of the proposed addition.

Mr. Kablack asked for the reasoning behind the jog in the lot line. Mr. Brener explained that the previous owner subdivided the lot in this manner to gain frontage for the second lot. He pointed out the access easement which runs along his driveway.

Mr. Brener said the house currently has only one bathroom and he would like a second one to accommodate his growing family. He has spoken with his neighbors on both sides and across the street and none had a problem with the construction. The Board was in receipt of a letter dated February 27, 2000 from those abutters affirming their support.

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 Jeffrey & Andrea Brener, 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 5X8 foot bathroom addition, which will increase the street centerline deficiency by one foot \pm , and will create a side yard setback deficiency of 4 feet \pm , property located at 595 North Road, Residential Zone A-1."

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

REASONS: The petitioners require a special permit due to the nonconforming nature of the property. The Board finds that the proposed constructing, which will increase the street centerline deficiency and create a side yard setback deficiency, will not be substantially more detrimental than the existing nonconformity to the neighborhood. The petitioners require a second bathroom to accommodate their family and have demonstrated that the proposed location is the only suitable location because of septic system constraints and the architectural layout of the house. Further, the three immediate abutters have indicated their support of the proposed construction.

Thomas W.H. Phelps, Chairman

Mark A. Kablack, Clerk

Patrick J. Delaney III

Gilbert P. Wright, Jr.

Lauren S. O'Brien, Alternate

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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.

Peter Cooke was present representing Omnipoint Communications for a Special Permit to install and operate a 100-foot monopole wireless communications facility, including associated equipment at Feeley Park, Raymond Road.

Omnipoint is proposing replacement of an existing light pole at Feeley Park with a 100-foot stealth pole. Mr. Cooke explained that Omnipoint is a PCS provider licensed by the FCC.

The Raymond Road property comprises two ball fields. Omnipoint plans to replace one of the 70-foot light stanchions in the lower right field ball field with a 100-foot pole, re-hang the lights and within that pole would be canister-style antennas mounted at the top so that the overall look would essentially be like a 100-foot light pole.

Equipment cabinets are shown on Sheets Z-1 and Z-2 of Plan 4DE-B010-E. On the photo simulation of the installation which was submitted with the application, Mr. Cooke pointed out the location of the scoreboard in right field. It is proposed to place the equipment cabinet between the scoreboard and the existing chain link fence. The cabinet, which is a self-contained unit, will be placed on a 4X7-foot pad. There will be landscaping around the cabinet. The cabinet is connected by underground coaxial cable to the antenna. A gravel access drive will be built from Raymond Road to the scoreboard area. Town Engineer has requested underground utilities be considered.

In addition to this hearing, Omnipoint will be going to the Selectmen for Site Plan review, Conservation Commission for work within the 100-foot buffer zone, possibly back to the

Board of Appeals for work within the Floodplain, and to the Planning Board for a Special Permit for a Water Resource Protection District Special Permit.

Mr. Cooke presented a map of the existing coverage area, with green denoting good coverage and white as areas lacking in coverage. He said there is an existing site on Nobscot Hill on the Marlboro side, and a proposed Boston Edison site in Wayland. It is hoped to have a site along Route 117 at the Cummings Properties site. There is a site in the area of the Willis Hill water tank, another in Maynard, a number along the Mass. Turnpike and a couple in Framingham. He then showed a map of the coverage Omnipoint would like to have and which includes the Raymond Road site.

Mr. Delaney asked what happens when there is a hole in the coverage and that area is covered by another PCS provider. Mr. Cooke replied that there is no sharing of coverage. He said essentially there are six firms licensed for PCS and cellular coverage They are Omnipoint, Sprint, AT&T, CellOne, Bell Atlantic and Nextel. There may occasionally be roaming agreements in some markets. However, once one drives out of Omnipoint's range, the phone goes into a quiet mode until it comes back into range.

Mr. Delaney pointed out that he believed AT&T has some type of arrangement for coverage. Mr. Cooke said he could not speak for AT&T since they do have a variety of licenses and phone modes which Omnipoint does not have.

With regard to a question on range, Mr. Cooke estimated that although foliage and topography are factors, the general range is between 1 ½-2 miles or approximately 3 miles from site to site.

Mr. Phelps asked why Omnipoint did not consider putting a pole where the backstop was as that location would appear to be more in keeping with aesthetics. Mr. Cooke replied that he had to work with Park & Recreation. Also, he had to look to co-location and that precluded the upper area which was preferable.

Mr. Cooke said he began this process in February 1999 when the Selectmen were approached. An informal public hearing was held in June to discuss concerns of the neighbors which primarily centered on the lighting. Park & Recreation provided feedback as well and this proposal was ultimately arrived at from those discussions. Mr. Cooke also pointed out that this location is the furthest away from the wetland and the neighborhood.

Mr. Delaney said the end result appears to be a light at the same height on a pole similar in color to the original pole, only taller. Mr. Cooke agreed.

Mr. Delaney asked about noise from the equipment cabinet. Mr. Cooke said the equipment cabinet is the size of a small refrigerator. There is a small cooling fan which would make less noise than an air conditioner. There are no lights associated with the cabinet.

Mr. Phelps read a letter from the Fire Chief submitted to the Selectmen which states no problem with the plan. The Fire Chief would inquire as to whether the Town would have access to the pole and cabinet for Town radio communication needs. At this time it would not appear that the Town would need to co-locate on the pole, but it would be a good idea to preserve the right to do so in the future if the need arises.

Mr. Cooke said Omnipoint would be happy to provide a bracket to allow for a whip antenna. There is a cavity built below for other antennas but they will put something on top because conceivably the whip antenna would be mounted at the top. He said the only problem would be with equipment since the equipment cabinet is not a shelter, but certainly something could be worked out.

Lt. Ronald Nix, Sudbury Police Department, said he sent a letter today to the Town Manager requesting a position on this pole. He said the Police Department's radio situation is in dire straits simply because there are some dead spots. The Department has also experienced some down time in the past and has had to request assistance from Marlboro. Lt. Nix said the Feeley Field location would be extremely advantageous since the landline from that repeater to the police station is only a short distance. He said his department is limited in funds but if the Police Department could work with Omnipoint to jointly put a structure up, it would definitely be an advantage to the Town.

Mr. Phelps asked whether Lt. Nix would need the Feeley Field site if he has the landfill. Lt. Nix replied that he would. He said the landfill would eliminate the dead spots in the Route 20 end. The Feeley Field site will allow for a repeater in close proximity to the police station for the very short distance in which one would have to run the landline. A second repeater would ensure maintenance should one repeater go down. He added that the Police Department has applied for a Slow Growth license and is constructing along that license. This additional equipment will probably require a third repeater under the terms of the license.

Mr. Phelps asked whether the whip antenna could go next to Omnipoint's. Mr. Cooke replied that it could not; that there has to be some separation either above or below. For the co-location, typically the separation between carriers is typically 10 feet from centerline to centerline.

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

After deliberation the following motion was placed and seconded:

MOTION: “To grant Omnipoint Communications MB Operations LLC, applicant, Town of Sudbury, owner of property, a Special Permit under the provisions of Section V,P,4,5 and IV,A,4 of the Zoning Bylaws, to install and operate a 100-foot, 2-carrier monopole wireless communications facility, including associated equipment, property shown on Town Property Map L08 as Parcel 012, Raymond Road (Feeley Park), Residential Zone A-1, provided that:

1. Monopole shall be in accordance with Plan 4-DE-B010-E, prepared by Edwards & Kelcey, Boston, MA, Sheets T-1, C-1, Z-1, Z-2.
2. Add-on antennas may be allowed for future Town use (i.e., fire/safety); however, no antennas will be added without approval of the Board of Appeals.
3. There will be no lighting on the pole unless required by the FAA.
4. The approval granted herein shall expire in five (5) years on March 28, 2005. Continued operation of the facility shall be subject to application for and renewal by the Board of Appeals.”

VOTED: In favor: 4 (unanimous) Opposed: 0

REASONS: The petitioner requires a Special Permit to install and operate a wireless communications facility. The Board finds that the proposed installation complies with the guidelines of the Wireless Communications Bylaw. The site is one designated by the Town for such facilities. The location is such that it will afford the petitioner the needed coverage in the area, while at the same time it will not be intrusive to the neighborhood by virtue of its existence. Other than the increased height, which is allowed under the Bylaw, the facility will, to all outward appearances, resemble the field lighting currently in place on the field. The Board notes that no abutters were present to voice concerns or objections to the granting of a special permit.

Thomas W.H. Phelps, Chairman

Patrick J. Delaney III, Acting Clerk

Gilbert P. Wright, Jr.

Lauren S. O'Brien, Alternate

MILL VILLAGE REALTY TRUST
SUITES 101 through 108
365 Boston Post Road
00-13

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The 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.

Thomas Phelps, Treasurer, Carmen's Veranda, was present on behalf of Suites 101 through 108 in the Mill Village Complex, 365 Boston Post Road. Application was being made for a Special Permit to allow for oversized secondary signs, not to exceed 12 s.f., for each of those suites.

Mr. Phelps said the Route 20 signs are primary signs. The secondary signs are located on the back of the building. On behalf of the tenants, Mr. Phelps was requesting a blanket permit to include suites 101 through 108 so those tenants would not have to apply individually and come before the Board for each sign.

Photographs of the building, front and rear, were submitted for the Board's review. Mr. Phelps said the back of the building effectively acts as the entrance to those suites because that is where parking is located. The tenants felt that the 6-foot signs allowed would not be in line with the large scale of the building; that a larger secondary sign would be more in keeping with the function of the building.

This concept was presented to the Design Review Board who unanimously agreed and urged the tenants to apply for a blanket permit for oversized secondary signs. Each tenant would be required to go to the Design Review Board for sign design approval before they could obtain a building permit to erect the sign.

Mr. Phelps said the signs would not be intrusive to the neighborhood. Wattage would be low and of the same type as for the front.

With regard to sign size, Mr. Phelps said the terms of the lease require sign approval from the landlord even before it goes to the Design Review Board. The landlord has also stipulated that all signs must fit within the signboard on the building.

Lighting was discussed. Mr. Phelps said tenants would have their own individual type of lighting. Mr. Delaney wanted to be sure that no lighting would affect the residential properties on Maple Avenue. Discussion followed on how this could be accomplished. A suggestion was made to include the Bylaw section on lighting requirements as part of the conditions.

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

After deliberation the following motion was placed and seconded:

MOTION: "To grant Mill Village Realty Trust c/o Intrum Corp., owner of property, a Special Permit under the provisions of Section V,D,12 of the Zoning Bylaws, to allow for oversized secondary signs, not to exceed 12 s.f., to be located within the sign board on the southerly side of the building, and specifically to include only Suites 101 through 108, property located at 365 Boston Post Road, Village Business District Zone, provided that:

1. Lighting shall comply with Section V,D,13,b,1&2 of the Sign Bylaw with regard to sign design and sign brightness.
2. Each tenant is required to apply to the Design Review Board for sign approval before any secondary sign can be erected."

VOTED: In favor: 4 (unanimous) Opposed: 0

REASONS: The tenants of Suites 101 through 108 in the Mill Village Shopping Complex require a Special Permit to erect oversized secondary signs at the rear of their respective shops. The Board finds that given the scale of the building, the space provided for signs, in addition to the fact that the rear of the building actually serves as the main entrance to the shops, that oversized signs, not to exceed 12 s.f., would provide needed identification and would provide a more professional appearance to the building. The Board notes that these signs, while oversized, would actually be smaller than the previously existing signs. They would not be visible to the nearby residential homes. A condition of approval requiring lighting to be in compliance with the Sign Bylaw will ensure that no lighting will be intrusive to the neighborhood. It is the Board's opinion that since all of the suites front on Boston Post Road with secondary access to the rear, that in this case, a blanket permit is the best approach to the issue of oversized secondary signs as it will eliminate the necessity for each tenant to apply individually for a sign.

Mark A. Kablack, Acting Chairman

Patrick J. Delaney III, Acting Clerk

Gilbert P. Wright, Jr.

Lauren S. O'Brien, Alternate