

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
TUESDAY, APRIL 23, 2002

The Board consisted of:

Mark A. Kablack, Chairman  
Patrick J. Delaney III, Clerk  
Thomas W.H. Phelps  
Lauren S. O'Brien  
Jonathan G. Gossels

Notice was published in the Sudbury Town Crier on April 4 and 11, 2002, posted, mailed and read at this hearing.

Mr. Kablack, 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.

Michael Griffin was present to represent a petition for renewal of Special Permit 01-8 to operate an automobile repair shop, including used-car sales, at 684 Boston Post Road.

Mr. Griffin was requesting that Condition 1 be changed to allow for repairs of rust holes, floor pans, fenders and other repairs to comply with stricter automobile inspection requirements. There would still be no automobile painting. It would only be for the metal work. There were no other changes requested.

Mr. Griffin was not aware of any problems during the past year with regard to the permit.

Mr. Phelps asked whether there was any welding equipment on the premises. Mr. Griffin replied that he had torches and equipment to fabricate something. He said it would not change the operation and the ability to do the repairs would not constitute a major influence on the business. The intent was to be able to take care of the customer completely as best he could.

Mr. Delaney asked whether it would be accurate to describe the repairs as incidental body repairs. Mr. Griffin replied in the affirmative.

Mr. Delaney believed the intent of the original condition was to avoid a chemically intensive use since this property is located in Zone 2 of the Water Resource Protection District.

Looking at the Use Table in the Bylaws, Mr. Kablack noted that incidental body repairs are allowed in a Business District.

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

After deliberation the following motion was placed and seconded:

MOTION: "To grant Michael J. Griffin and Timothy M. McManus, applicants, renewal of Special Permit 01-8, under the provisions of Section 2230, Appendix, A,C, Use 12 & 14, of the Zoning Bylaws, to operate an automobile repair shop, including limited used-car sales, property located at 684 Boston Post Road, Business District #6, provided that:

1. This Special Permit is to be for automotive mechanical repairs and incidental body repairs only. Automotive painting is specifically prohibited.
2. The use is restricted to the business-zoned portion of the site.
3. Hours of operation shall be Monday through Friday 7:30AM-9PM, Saturday 9AM-7PM, Sunday 12-6PM.
4. All work is to be performed within the confines of the building except for incidental washing of vehicles with biodegradable soap.
5. There will be no outside storage of new or used parts, tires, assemblies, junk, trash or inoperable vehicles. Automobiles parked on the pavement to the west shall be limited to owners' cars, cars waiting to be serviced, and no more than two (2) cars for resale.
6. All exterior lights are to be wall mounted or mounted on exterior posts and are to be oriented to cast light downward only so as not to illuminate the residential areas abutting and across the street.
7. All residential areas not designated for planting areas are to be clear of debris and maintained.
8. The unpaved area to the west of the building is not to be used for employee and customer parking until such time that it is paved and sloped in such a way that storm water runoff is collected in a catch basin equipped with a gas and oil trap.
9. Disposal of all hazardous waste and materials is to be in conformance with all local, state and federal regulations.
10. Floor drains shall conform to all local, state and federal regulations.

11. Sanitary facilities shall conform to all local, state and federal regulations.
12. A dumpster is to be provided for trash and will be screened from view.
13. The sale of used cars shall be restricted to one (1) per month. These vehicles shall not exceed two (2) on display as set forth in Condition 5 above.
14. There will be no pricing sign displayed or written on the front windows of any vehicle offered for sale except as required by state and federal law.
15. The applicants shall adhere to the requirements of Section 2230, Prohibited Uses, of the Zoning Bylaw.
16. This permit is non-transferable and will expire in two (2) years on April 23, 2004, and the Board will consider renewal upon receipt of proper application on or before that date.”

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

REAONS: The Board finds that the proposed automobile repair shop is in harmony with the general purpose and intent of the Bylaw. The use is in an appropriate location, not detrimental to the neighborhood, and does not significantly alter the character of the zoning district. Adequate and appropriate facilities are provided for proper operation.

The Board finds the change to allow for incidental body repairs to be appropriate and allowed in the Business District zone. It also finds that the type of repairs described by the petitioner will not compromise Zone 2 of the Water Protection District.

It further finds a 2-year renewal period to be appropriate.

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Mark A. Kablack, Chairman

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Patrick J. Delaney III, Clerk

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Thomas W.H. Phelps

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Lauren S. O'Brien

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Jonathan G. Gossels

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
TUESDAY, APRIL 23, 2002

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Brett and Nancy Taylor were present to represent a petition for Special permit to alter and enlarge a nonconforming structure by constructing a 20X20 foot garage addition which will result in a street centerline and front yard setback deficiency. The property is located at 14 Autumn Street. The reason for the proposed location is because the current side yard setbacks are 22 feet and 20 feet.

From the plot plans submitted with the application, Mr. Taylor described the existing structure and the proposed new construction. The setbacks were derived by using the surveyor stakes in place.

In response to a question from Mr. Phelps, Mr. Taylor explained that the house was reconstructed on the existing footprint approximately three years ago. The existing house complies with all setback requirements.

Mr. Taylor submitted pictures of the house for the Board's review. He also described the proposed construction and roofline from the rendering submitted with the application.

Ten letters of support from abutters were submitted for the record. No abutters were present to oppose the petition.

Following further review and questions for clarification, the hearing was closed.

BRETT & NANCY TAYLOR  
14 Autumn Street  
02-14 Page 2

After deliberation the following motion was made and seconded:

MOTION: "To grant Brett and Nancy Taylor, owners of property, a Special Permit under the provisions of Section 2420 of the Zoning Bylaws, to alter and enlarge a nonconforming structure by constructing a 20X20 foot garage which will result in a street centerline setback deficiency of 16 feet  $\pm$ , and a front yard setback deficiency of 5 feet  $\pm$ , property located at 14 Autumn Street, Residential Zone A."

This Special Permit shall lapse if construction has not begun, except for good cause, within 12 months following the filing of the Special Permit approval, plus such time required to pursue or await the determination of an appeal under M.G.L., Chapter 40A, Section 17.

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 garage, which will create front yard and street centerline setback deficiencies, will not be substantially more nonconforming than the existing nonconformity to the neighborhood. The proposed construction cannot be located in another area because of sideline constraints. Although located in front of the existing structure, the roofline and architecture will be compatible with the existing structure and will provide needed indoor space to park vehicles during inclement weather. The Board notes that several letters of support were received from abutters and no abutters were present to oppose the petition.

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Mark A. Kablack, Chairman

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Patrick J. Delaney III, Clerk

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Thomas W.H. Phelps

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Lauren S. O'Brien

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Jonathan G. Gossels

PAUL GEDICK, LOUISE A. ELWELL & SHARON M. ELWELL  
231 Horse Pond Road  
02-15

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
TUESDAY, APRIL 23, 2002

The Board consisted of:

Mark A. Kablack, Chairman  
Patrick J. Delaney III, Clerk  
Thomas W.H. Phelps  
Lauren S. O'Brien  
Jonathan G. Gossels

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Mr. Kablack, 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.

Paul Gedick was present to represent a petition for Special Permit to allow demolition of an existing residence and construction of a new residence, not to exceed 2,900 s.f., on a nonconforming lot, which will exceed the area of the original nonconforming structure at 231 Horse Pond Road. The proposed new residence will comply with all zoning setback requirements.

Mr. Gedick described the existing and proposed construction from a plot plan which supersedes the one submitted with the application. This new plan shows the actual location of both the house and septic system. It is proposed to demolish the proposed construction within 1-1 ½ months with construction beginning soon after. Access to the new house will be by the existing driveway cuts.

Looking at the plan, Mr. Phelps asked whether the trees along Horse Pond Road would remain. Mr. Gedick said except for those needed in the septic area, all others would remain.

Mr. Gedick presented architectural renderings of the proposed house for the Board's review.

Mr. Gedick explained that an easement for a water line runs through the property for an abutter on Peakham Road. The line runs somewhere from the back of the existing garage to the rear of the property. That abutter expressed concern that any constructions not interfere with the easement and water flow.

PAUL GEDICK, LOUISE A. ELWELL & SHARON M. ELWELL  
231 Horse Pond Road  
02-15 Page 2

Mr. Kablack read a letter from Gerald Borovick, 384 Peakham Road, to Paul Gedick dated April 17, 2002 which references the easement and requests the Board of appeals condition

the issuance of any permit to take into consideration that the work not interfere with his easement and water flow to his property.

Mr. Delaney asked how Mr. Gedick would identify the water line in order to avoid damage to it during the construction period. He asked if it could be marked.

Mr. Gedick said no one really knows where it is exactly except that it is somewhere to the left of the existing garage. He did believe he could mark an approximate area sufficient in width to prevent damage.

In response to a question from Mr. Kablack, Mr. Gedick replied that he is a contractor looking to purchase the property and construct the house for sale.

Richard Soucek, 246 Horse Pond Road, abutter, spoke in favor of the petition and noted his appreciation of the intent to preserve the trees along Horse Pond Road. Mr. Kablack asked if Mr. Gedick would be opposed to a condition requiring the trees along the frontage of Horse Pond Road to be preserved. Mr. Gedick said he would not be opposed.

There was no further input. No abutters were present to oppose the petition. The hearing was closed.

After deliberation the following motion was placed and seconded:

MOTION: "To grant Paul Gedick, applicant, Louise A. Elwell and Sharon M. Elwell, owners of property, a Special Permit under the provisions of Section 2460 of the Zoning Bylaws, to allow demolition of an existing residence and construction of a new residence, not to exceed 2,900 s.f., which will exceed the area of the original nonconforming structure, said residence to conform to all zoning setback requirements, property located at 231 Horse Pond Road, Residential Zone A, subject to the following:

1. The new residence and septic system shall be as shown on Plot Plan prepared for Paul Gedick by Connorstone Consulting Civil Engineers, Northborough, MA, dated April 22, 2002.
2. Access to the new residence will be taken from the existing curb cuts shown in the above-referenced Plot Plan.
3. The existing house will be demolished prior to construction of the new house with that area to be regraded prior to construction of the new house.

PAUL GEDICK, LOUISE A. ELWELL & SHARON M. ELWELL  
231 Horse Pond Road  
02-15 Page 3

4. The applicant shall flag the existing water line running through the property and will make every effort to protect that line during the demolition and construction period. In the event of damage, appropriate measures will be taken to repair the line.

5. Every effort will be made to preserve the existing vegetation along the frontage of Horse Pond Road.”

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 reconstruction, which will exceed the area of the original nonconforming structure, will not be substantially more detrimental than the existing nonconforming structure to the neighborhood. The new construction will conform to all zoning setback requirements.

The Board has imposed conditions to insure a timely demolition and construction period. In addition, the petitioner has agreed to conditions to protect an abutter’s water line easement as well as to preserve mature vegetation along the frontage of the road.

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Mark A. Kablack, Chairman

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Patrick J. Delaney III, Clerk

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Thomas W.H. Phelps

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Lauren S. O’Brien

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Jonathan G. Gossels

BRIAN & JOANNE FITZGERALD  
26 Clark Road  
02-16

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
TUESDAY, MAY 14, 2002

The Board consisted of:  
Patrick J. Delaney III, Acting Chairman

Richard L. Burpee, Acting Clerk  
Thomas W.H. Phelps  
Jonathan G. Gossels  
Melinda M. Berman, Alternate

The public hearing was called to order by the Acting Chairman, Mr. Delaney who acknowledged receipt of a letter dated April 22, 2002 from the petitioner requesting this application by withdrawn.

The following motion was placed and seconded:

MOTION: To allow withdrawal of Case 02-16.  
(Petition for Special Permit to construct a 22X28 foot structure which will result in a rear yard setback deficiency)

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

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Patrick J. Delaney III, Acting Chairman

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Richard L. Burpee, Acting Clerk

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Thomas W.H. Phelps

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Jonathan G. Gossels

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Melinda M. Berman, Alternate

WAYNE WILK  
17 Lillian Avenue  
02-17

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
TUESDAY, APRIL 23, 2002

The Board consisted of:

Mark A. Kablack, Chairman  
Patrick J. Delaney III, Clerk  
Thomas W.H. Phelps

Lauren S. O'Brien  
Jonathan G. Gossels

Notice was published in the Sudbury Town Crier on April 4 and 11, 2002, posted, mailed and read at this hearing.

Mr. Kablack, 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.

Wayne Wilk was present to represent a Special Permit to allow demolition of an existing residence and construction of a new residence, not to exceed 2,800 s.f., on a nonconforming lot, which will exceed the area of the nonconforming structure at 17 Lillian Avenue.

The plot plan submitted with the application shows that the proposed structure will not come any closer to the present nonconforming setbacks of the existing structure. It only exceeds the area of the existing structure looking towards Richard Avenue.

Mr. Kablack asked why the house could not have been centered side to side on the lot. Mr. Wilk said this could have been done; however, there is a substantial hedge on one side which would have to be removed. It was felt that it would be less detrimental to incorporate the existing footprint area.

In response to further questions by Mr. Kablack, Mr. Wilk said the proposed footprint shown on the plan is close to the actual location. The size of the house is 32X43 feet. The actual access is from Richard Avenue and will remain so for the new house. There will be a garage and it is located within the proposed footprint.

A sketch of the proposed house, which is in a Victorian style, was shown to the Board.

WAYNE WILK  
17 Lillian Avenue  
02-17 Page 2

Mr. Gossels asked whether Mr. Wilk had a timetable for construction. Mr. Wilk replied that he was not in a rush to build; the existing house is currently being rented. He was not sure at this time as to whether he would live in the new house or sell it.

Mr. Kablack pointed out that while there would not be demolition issues since the new house would be constructed in the same area, there was a 2-year period to begin construction under a special permit.

A question was asked as to whether changes could be made, for example, to locate the garage outside of the footprint but still maintaining the required setback to Richard Avenue. Mr. Kablack believed this would entail another application as it would be outside of the scope of what was presented this evening. He noted that the Board has had issues with regard to speculative applications where size of a proposed structure was not known. He said this was his reason for asking the size of the house and if there was a garage.

Mr. Kablack said the hedge on the southerly portion of the lot is significant and provides a buffer to the abutting property. He asked whether Mr. Wilk would be agreeable to a condition to maintain the hedge. Mr. Wilk had no problem with that condition.

Anthony Pelligrino, 192 Dutton Road, asked if the plans of the house are referenced as part of the Decision. Mr. Kablack said architectural plans are not; however, the Decision will reference the plot plan showing the dimensions and setbacks of the proposed house.

There was no further input. No abutters were present to oppose the petition. The hearing was closed.

After deliberation the following motion was placed and seconded:

MOTION: "To grant Wayne Wilk, owner of property, a Special Permit under the provisions of Section 2460 of the Zoning Bylaw, to allow demolition of an existing residence and construction of a new residence, not to exceed 2,800 s.f., on a nonconforming lot, which will exceed the area of the nonconforming structure, property located at 17 Lillian Avenue, Residential Zone A, subject to the following:

1. The new construction will be 32X43 feet and will be constructed in the location as described in the application and shown on the Plan dated May 30, 1998, prepared by Vallee & Associates, Hopkinton, MA. The garage will be located within the footprint shown in the Plan. Access to the new residence will be from Richard Avenue.
2. The setbacks of the new construction to Lillian Avenue and to the side yard lines will not be less than the setbacks of the existing house. The setback to Richard Avenue will be reduced by 9 feet  $\pm$ .

WAYNE WILK  
17 Lillian Avenue  
02-17 Page 3

3. Every effort will be made to preserve the existing vegetated screen along the southerly property line.

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 reconstruction, which will exceed the area of the

original nonconforming structure, will not be substantially more detrimental than the existing nonconforming structure to the neighborhood. The new construction will not be less than the nonconforming setbacks of the existing house. The Board further finds that the proposed construction will enhance the appearance of the neighborhood in which many houses have been upgraded.

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Mark A. Kablack, Chairman

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Patrick J. Delaney III, Clerk

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Thomas W.H. Phelps

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Lauren S. O'Brien

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Jonathan G. Gossels