

HO-TAI SUDBURY, INC.  
(Lotus Blossom Restaurant)  
394 Boston Post Road  
02-33

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
TUESDAY, AUGUST 27, 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

Notice was published in the Sudbury Town Crier on August 8 and 15, 2002, posted, mailed and read at this hearing.

Mr. Delaney, 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.

Frank Caliri and Peter Darlow were present, representing the petitioner, Morris Chen, owner of the Lotus Blossom Restaurant, 394 Boston Post Road, for a special permit to enlarge a nonconforming structure by constructing a 445 s.f. addition at the rear of the property.

Mr. Caliri said the existing nonconformancy is front yard setback. He said at present the front porch is 17.9 feet from the front yard lot line. The existing dining room area is 25.8 feet from the lot line. The Bylaw requirement is a 20-foot setback.

Mr. Caliri said the project consists of two projects. The existing covered front porch is proposed to be in-filled to be used as dining room space.

The other primary portion of the renovation is in the northeast corner of the building and consists of 445 s.f. which will be a relocation and expansion of the existing bathrooms. The space that the existing bathrooms now occupy will then become an area for a 6-seat sushi bar.

The only other aspect of the project that is going to be renovated is the entire interior of the building. Within the scope of the special permit there is no modification of use – the only modification that there may be with respect to the special permit on the front covered porch would be the requirements by the Mass. Building Code.

Mr. Caliri said he is requesting the Board extend the nonconforming use based on the fact that he will not be expanding or extending the nonconforming portion of the building. It is now a covered porch; it will still the same footprint after construction has been completed.

As a result of the renovation, Mr. Caliri did not believe there would be any detrimental or objectionable impact to the district or the neighborhood as a whole.

Mr. Caliri noted that Mr. Chen has also reached an agreement with the town and the various Boards that he would make various upgrades to the existing parking lot as well as the streetscape. The existing curb cut will be modified to the size requested by the Building Inspector. This will be an improvement on the access/egress traffic. The existing bituminous curb in front of the building has fallen into disrepair and that will also be repaired. It is also proposed to increase the amount of loam and seeded area along the front of the property.

The proposed construction will be in keeping with the scope of the architecture and integrity of the building which has a historic character and will also be sensitive to the parking lot issues which consist of the existing drainage and parking lot.

Mr. Caliri believed the proposed renovation fit within the intent of the special permit criteria.

Mr. Delaney asked whether the proposed changes were solely to the rear of the building. Mr. Caliri replied that the proposed addition to the building is in the northeast corner. Mr. Delaney said the application only deals with a 445 s.f. addition. He said the nonconforming portion is the covered porch which is proposed to be in-filled.

Mr. Delaney asked whether the floor space that is in the front now, which is closer than required to the lot line, is to be enclosed. Mr. Caliri said "yes," adding that there were no other changes that impact the special permit. However, he said the other changes that impact the project as a whole is the 445 s.f. addition in the northeast corner.

Mr. Delaney asked whether Mr. Caliri had spoken to the Zoning Enforcement Agent with regard to these renovations and had obtained his opinion on which ones require a special permit and which ones do not.

Mr. Caliri said he had spoken with the Zoning Enforcement Agent and the issue came up with regard to code was the fact that the front porch intrudes into the setback. He said he had not discovered any violations, zoning-wise with the rear addition.

Peter Darlow, architect, said it was his understanding that he was working within the confines of the pre-existing nonconforming structure.

Mr. Phelps pointed out that that structure is being altered.

Mr. Delaney said he would check the Bylaw in order to try and determine what portion(s) of the project should be covered by a special permit. In the meantime, he pointed out that the parking on the property is very tight. He said this project would have the effect of adding floor space and seats to the restaurant. He asked whether it was proposed to add more parking.

Mr. Darlow said not be adding any more spaces. He said the current parking is more that sufficient to satisfy the addition.

Mr. Delaney said one of the aspects is to determine that there are adequate facilities provided for this use and the Board will have to discuss whether this addition will cause difficulty because of traffic congestion. He said the parking is very tight behind the building, and the last case to come before the Board for Lotus Blossom was for a kitchen expansion. At that time the Board expressed concern for maneuverability, particularly during the winter for snowplows.

Mr. Delaney referred to Section 2420 of the Zoning Bylaws. He was not sure whether both the change to the front of the building, where the obvious nonconformity exists, as well as the change to the rear of the building, which is part of the same building, wouldn't increase that nonconformity and fall under this section of the Bylaw and be a part of this special permit application. It might be that any enlargement of this building should fall under the purview of this Board and this special permit application. If that is the case, he said more is being discussed than what was applied for in this petition.

For the time being, Mr. Delaney suggested everything that is being changed should be discussed and the Board will try and figure out what applies, and what does not apply, to this special permit application.

It was Mr. Delaney's understanding that there is an enclosure to the porch in the front, there's a 445 s.f. addition in the rear. He asked whether there were any other changes. Mr. Caliri said there were not.

Mr. Gossels asked for the square footage of the porch. Mr. Darlow said is less than 200 s.f.

Seating was discussed. Ms. Berman asked for the new seating configuration. Mr. Darlow showed a floor plan of the interior. There will be 10 seats in the porch but some seats will be taken from the dining room. The end result, with the entire construction, will be 160 seats, a 20-seat increase.

Mr. Phelps noted the in-fill plus the addition concerned him, particularly with regard to the increase in number of seats but no increase in parking. Mr. Darlow said there were concerns expressed by the Conservation Commission not to increase paving.

Mr. Phelps asked whether the applicants have gone to the Selectmen for Site Plan Review. Mr. Darlow said the hearing is schedule for September 3, 2002.

There were no further questions from the Board. There were no comments from the audience. The public hearing was closed.

After deliberation the following motion was placed and seconded:

MOTION: "To grant Ho-Tai Sudbury, Inc. (Lotus Blossom Restaurant), owner of property, a Special Permit under the provisions of Section 2400 of the Zoning Bylaws, for extension and enlargement of a nonconforming structure, specifically to construct a 445 s.f. ± addition, property located at 394 Boston Post Road, Business District #5, subject to the following:

1. This Special Permit shall be in accordance with the plans prepared by Darlow Christ Architects, Cambridge, MA dated July 2, 2002 and will apply only to the 445 s.f. addition on the northeast corner of the structure."

VOTED: In favor: 4 (Burpee, Phelps, Gossels, Berman) 1 Opposed: (Delaney)

REASONS: The petitioner requires a special permit due to the nonconforming nature of the property. The Board finds that the proposed addition, which will not result in an increase of the existing nonconformity, will not be substantially more detrimental or objectionable to the neighborhood than the existing nonconformity.

The Board notes that during the public hearing, the petitioner indicated an in-filling of the front covered porch was proposed to be constructed for additional dining area. As this was not indicated in the application, the Board took no action on this proposal and defers to the Zoning Enforcement Agent as to whether or not this alteration requires a special permit.

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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

MINUTES OF THE PUBLIC HEARING  
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Mr. Delaney, 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.

Peter Venuto, applicant, was present representing Misty Bay Realty Trust in a petition for Special Permit to allow demolition of an existing residence and construction of a new residence on a nonconforming lot, which will exceed the area of the original nonconforming structure and will result in front yard, street centerline and rear yard setback deficiencies.

Mr. Venuto noted that the location of the new house has been changed as a result of discussions with abutters Mark and Jody Kablack. He said there was some discussion regarding the location of the house – perhaps moving it more to the center of the lot. Mr. Venuto felt this suggestion made sense as it seemed to make more sense in the resulting alignment of the new driveway and the Kablack's driveway. However, because of the narrowness of Poplar Street, which is 20 feet in this area, there is no way to construct the house without encroaching on the setbacks.

Mr. Venuto referred the Board to Revised Sketch 2 which was enclosed with the Kablack's letter dated August 21, 2002. In discussions with the Kablack's it was agreed that the Revised Sketch 2 seemed to work the best. As a result, he was asking the Board to consider Revised Sketch 2 in lieu of the original plan submitted with the application.

The size of the new house is 2,800 s.f. which includes space to be utilized above the garage. He did not believe the size to be out of perspective in the neighborhood except maybe

for a few houses across the street which are smaller. He pointed out the locations of the other larger homes.

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39 Poplar Street  
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Mr. Venuto added that he was agreeable to lighting which would not be intrusive to the neighborhood.

Although Mr. Venuto did not have time to research Sudbury's requirements, he said in most towns a setback of a patio is not required. If this was the case, he was willing to modify the proposed deck and construct a stone patio instead. This would allow the house to be moved back further. Moving the house back further would not interfere with the existing trees and would only require one tree to be removed.

Mr. Delaney asked whether the existing house met the setback requirements. Mr. Venuto said it meets the side and rear yard setbacks but not the front yard or street centerline. The new house will be moved 10 feet further back from the existing house and will be 45 feet from the street centerline. This will result in a rear yard setback of 25 feet, or 28 feet if a bay window is included. He would then construct a patio in lieu of a deck. If the new owners subsequently wanted to build a deck, they would then have to come to the Board for approval.

It was the Board's opinion that a patio would not be included in the setbacks.

Mr. Delaney read the following letters from Mark and Jody Kablack:

- Letter dated August 21, 2002 which requests the Board consider a change in location of the proposed new house in accordance with Revised Sketch 2, including the petitioner's agreement to with regard to driveway alignment, landscaping and lighting.

- Letter dated August 26, 2002 which is a follow-up to the previous letter noting that it would appear that the house could be moved back 5-10 feet from the original proposed location without substantial disruption of the existing vegetative screen at the rear yard. Any movement within this range would be acceptable.

In addition, the letter notes the applicant indicated a willingness to modify the proposed deck and consider a patio instead. The Kablack's would support this modification.

Judith Bowen, 90 Willow Road, abutter to the rear, said she did not meet with Mr. Venuto. She voiced concerns with regard to the rear setback of the proposed house. She had assumed the setback would be 30 feet and later discovered it was proposed to be 18 feet from her property line. Although now she has heard tonight that there would be a patio instead of a deck, she said the same things happen on a deck and a patio. With the Revised Sketch 2, the house is set back further which confused and concerned her.

Mr. Delaney showed Ms. Bowen the Revised Sketch 2. Although she felt it was a better plan, she voiced concern with regard to the size of the house given the lot area. Ms. Bowen would prefer the 30-foot rear yard setback be maintained.

MISTY BAY REALTY TRUST  
39 Poplar Street  
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Mr. Phelps asked what the rear yard setback was for Ms. Bowen's house. She was not sure, however, it was more than 30 feet. Her lot consists of a builder's acre.

Stephanie Molstad, 436 Dutton Road, abutter, asked to see Revised Sketch 2, which was provided by Mr. Delaney.

Jody Kablack, 46 Poplar Street, abutter, wanted to reiterate that during discussions with Mr. Venuto, the attempt was to take into consideration the placement of the house with regard to the front and rear setbacks and the vegetation in the rear. She said any movement back on the lot 5-10 feet was acceptable.

Mr. Delaney asked whether Ms. Kablack still had concerns with regard to the lighting on the exterior of the building.

Ms. Kablack was looking for basic residential lighting; she wanted to avoid glare. Mr. Delaney asked whether a requirement for basic, subdued lighting would be acceptable. Ms. Kablack indicated that it would.

Chin-Tien Chen, 49 Poplar Street, said he spoke with the Kablack's and voiced his support of Revised Sketch 2.

Ms. Molstad voiced concern with regard to tree removal which may impact screening. Mr. Venuto said there is just one very large tree which would have to be taken down. He pointed out the location of that tree.

Ms. Berman asked whether removal of that tree would impact Ms. Molstad. Ms. Molstad said it would have more of an impact towards the corner, but not on her property.

Ms. Berman asked whether Mr. Venuto considered constructing a smaller house. Mr. Venuto replied that considering what is happening in that area, he did not consider that a 2,800 s.f. house which covers 20% of the lot to be excessive.

There were no further questions from the Board or comments from the audience. The public hearing was closed.

After deliberation the following motion was placed and seconded:

MOTION: "To grant Misty Bay Realty Trust, owner 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 consisting of 2,800 s.f. with 2-car garage, on a nonconforming lot, which will exceed the area of the original nonconforming structure, property located at 39 Poplar Street, Residential Zone A, subject to the following:

MISTY BAY REALTY TRUST  
39 Poplar Street  
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1. The new residence shall be constructed in accordance with Revised Sketch 2, which is incorporated herein and made a part of this Decision, and which is further amended to reflect the following:

- a. Front yard setback shall be 30 feet, which results in a front yard setback deficiency of 5 feet  $\pm$ .
- b. Street centerline setback shall be 40 feet, which results in a street centerline setback deficiency of 25 feet  $\pm$ .
- c. Rear yard setback shall be 27 feet, which results in a rear yard setback deficiency of 3 feet  $\pm$ .

2. The lighting of the new residence shall be subdued and consistent with the residential character of the neighborhood.”

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 exceed the area of the original nonconforming structure, and which will result in front yard, street centerline and rear yard setbacks, will not be substantially more detrimental than the existing nonconforming structure to the neighborhood. The Board notes the applicant’s willingness to work with the abutters resulted in a relocation of the house on the lot which will minimize the impact to the neighborhood. Although the house is large, the applicant has demonstrated that the size will be compatible with other new construction and additions made to homes in this area.

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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

RAFFI & SILVA KOTIKIAN  
438 Concord Road  
02-35

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
TUESDAY, AUGUST 27, 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

Notice was published in the Sudbury Town Crier on August 8 and 15, 2002, posted, mailed and read at this hearing.

Mr. Delaney, 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.

Raffi Kotikian was present to represent a petition for Special Permit to alter and enlarge a nonconforming structure by constructing a 4X11 foot roof extension which will result in a front yard setback deficiency of 4 feet at 438 Concord Road.

Mr. Kotikian showed a sketch of the front elevation. The proposed extension is designed to cover the front step and provide shelter from the elements. Mr. Kotikian said his property is within the Historic Districts Commission's (HDC) jurisdiction and he has received a Certificate of Appropriateness from that Board.

Mr. Delaney asked whether Mr. Kotikian spoke with any of his neighbors. He replied that one neighbor was present at the HDC hearing and had no issues.

After further review of the plans, there were no questions from the Board. No abutters were present. The hearing was closed.

After deliberation the following motion was placed and seconded:

MOTION: "To grant Raffi & Silva Kotikian, 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 4X11 foot roof extension which will result in a front yard setback deficiency of 4 feet ±, and a street centerline setback deficiency of 9 feet ±, property located at 438 Concord Road, Residential Zone A."

RAFFI & SILVA KOTIKIAN  
438 Concord Road  
02-35 Page 2

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 construction, which will result in a street centerline setback deficiency, will not be substantially more detrimental than the existing nonconforming structure to the neighborhood. The proposed roof extension will be aesthetically compatible with the existing architecture and will provide protection from the elements. The Board notes that the Historic Districts Commission has given its approval to the construction. Further, no abutters were present to oppose the petition.

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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

FAIRVIEW DEVELOPMENT  
206 North Road  
02-36

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
TUESDAY, AUGUST 27, 2002

The Board consisted of:

Patrick J. Delaney III, Acting Chairman  
Richard L. Burpee, Acting Clerk  
Thomas W.H. Phelps

Melinda M. Berman, Alternate

Notice was published in the Sudbury Town Crier on August 8 and 15, 2002, posted, mailed and read at this hearing.

Mr. Delaney, Acting Chairman, explained the requirements necessary to substantiate the granting of a Use 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.

Attorney Walter Jabs was present, representing Fairview Development Corp., in a petition for renewal of Use Variance 99-29 for the storage, garaging and repair of its own light and heavy equipment and trucks, and the storage of loam, chips and other landscape materials at 206 North Road. Also present were the applicants, Frank Maurer, Bruce Maurer and Jeff Maurer.

For those Board members who were not familiar with the property and its issues, Attorney Jabs provided background information. Briefly, the property comprises approximately 30+ acres of which 3.6 acres are currently used. It is the 3.7 acres in the center of this 30+-acre parcel which is currently being used for this Use Variance.

The property has been in this use since the 1960s. It is abutted by open space, some homes in Concord and Sudbury. The property is unique and over the years has been customized for this purpose. In addition, there are buildings specifically set up on this property to house equipment and there is also some office space for the business. There is a berm running across the back which was created several years ago in coordination with the Board of Appeals to screen the activity from the abutting neighbors.

The property is located off of Route 117 which is a well-traveled road. Any traffic created by this business would have no impact on the area.

FAIRVIEW DEVELOPMENT CORP.  
206 North Road  
02-36 Page 2

Attorney Jabs noted that the Board has imposed a series of conditions with regard to this operation. These include hours of operation and activities associated with the business. He said the rear area has a large buffer zone; the east and west zones are also buffered.

Attorney Jabs said this particular use fits in with the character of the district. A large amount of the property surrounding it is mixed use, or different uses, rather than simply residential. There are soccer fields across the street, commercial development to the east, and large swathes of open space. This parcel has been designated to be open space by the Town of

Sudbury for a number of years and is one of the parcels the town would like to see remain undeveloped rather than be developed into housing. This use permits approximately 27 acres to remain forested and open while still being economically viable.

Mr. Delaney asked whether there were any problems with the conditions of the Use Variance. Attorney Jabs said he believed the conditions have not changed since 1995 and the applicant had no problem with continuing with any of them.

Mr. Delaney asked whether Fairview Development was meeting all five of the conditions. Attorney Jabs answered "yes".

The following letter was received and read into the record:

- from the Building Inspector dated August 2, 2002 which notes he has reviewed the site to insure that the conditions of the Use Variance are being met and found complete compliance and the area to be in excellent condition.

Mr. Delaney asked whether there had been any complaints with regard to the operation. Attorney Jabs replied that to his knowledge there were none.

Discussion followed with regard to the Board's inspection of the berm. Attorney Jabs said following construction of the berm in 1995 there was a site inspection. In 1997, there was some complaint about the berm, so in 1999 he was on the premises with a number of Board members who did inspect the berm.

Attorney Jabs said in 1997 the renewal was appealed by an abutter. However, in 1999 the renewal process went through without any problems.

Mr. Phelps said that although he did not go out this time, he was there in 1999 and found all to be satisfactory.

Mr. Phelps also had a question on the litigation. He asked whether there was anything pending in court at this time. Attorney Jabs said there was not; the cases brought by Mr. Holmes were basically dismissed.

FAIRVIEW DEVELOPMENT CORP.  
206 North Road  
02-36 Page 3

There were no further questions from the Board nor were there any abutters present. The public was closed.

After deliberation the following motion was placed and seconded:

MOTION: "To grant Fairview Development Corp., owner of property, renewal of Use Variance 99-29, under the provisions of Section 6140 of the Zoning Bylaws, for the storage, garaging and repair of the company's own light and heavy equipment and trucks, and the storage of loam,

chips and other landscape materials, property located at 206 NORTH ROAD, Residential Zone A, provided that:

1. The hours of operation at the site shall be limited to Monday through Friday from 8AM to 4PM, for the use of heavy and light equipment, the loading and unloading of materials and the moving of on-site materials.
2. The exiting and entering of heavy equipment shall be permitted Monday through Friday from 7AM to 5PM and Saturday from 8AM to 4PM, except for snow removal emergencies.
3. The activities and storage of materials are restricted to the 3.7-acre area as shown on the plan marked Exhibit #1, incorporated and made a part of this Decision.
4. The applicant shall maintain the earthen berm and evergreen screen, and shall clearly maintain the four corner boundaries which identify the 3.7-acre site.
5. No exterior storage of the merchant materials shall take place beyond the 3.7-acre area.
6. This Use Variance will expire in three (3) years on August 27, 2005, and the Board will consider renewal upon receipt of proper application on or before that date.

Furthermore, the Board notes that the compatibility of the use with the surrounding area is changing and that this may eventually necessitate a change in the use, particularly with regard to the loading operations.”

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

REASONS: The petitioner seeks renewal of a Use Variance for a use which has been in existence since the 1960s. The Board finds that the conditions imposed have served to alleviate earlier concerns with regard to this operation. By way of an expiration the Board reserves its ability to monitor the operation and impose further conditions, if necessary, to assure proper operation and compatibility with the surrounding area.

FAIRVIEW DEVELOPMENT CORP.  
206 North Road  
02-36 Page 4

The Board further finds that the Use Variance initially granted to relieve a hardship with circumstances peculiar to this parcel, including the additional conditions imposed, will not nullify or substantially derogate from the intent or purpose of the Zoning Bylaw.

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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

Melinda M. Berman, Alternate

CHRISTOPHER VORDERER & JEFFREY VORDERER  
26 Ames Road  
02-37

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
TUESDAY, AUGUST 27, 2002

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Melinda M. Berman, Alternate

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Christopher Vorderer and Jeffrey Vorderer were present to represent a petition for a Special Permit to allow a single accessory dwelling unit for family members at 26 Ames Road.

Christopher Vorderer explained that he and his brother have lived in the house for nine years. The house has a separate dwelling unit; however, there is no stove in the kitchen. His brother Jeffrey will be getting married and would like to utilize that section of the house. The outside structure will not change; however, they may do some renovations to the inside and will add a stove to the unit.

Mr. Delaney noted that this application for an accessory dwelling unit is very detailed. Because this section of the Bylaw is complicated, each of the requirements were posed as questions on the application. Essentially, if all the questions are answered correctly, the applicant has demonstrated that most of the requirements have been met.

From Mr. Delaney's reading of the application, the requirements have been met. He said two additional inputs are needed – from the Board of Health and the Building Inspector. These have been received and were read into the record as follows:

- Letter from the Board of Health Director dated July 24, 2002 which notes the septic system at 26 Ames Road is adequate for an existing 5-bedroom dwelling. It is acceptable for an accessory dwelling unit if the total number of bedrooms does not exceed 5.

Mr. Vorderer said the total number would not exceed 5.

- letter from the Building Inspector dated July 25, 2002 which notes the living space floor area has not been increased since 1985; and at the time of construction, it is believed the building met the current edition of the Mass. Building Code.

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 Christopher P. Vorderer and Jeffrey D. Vorderer, owners of property, a Special Permit under the provisions of Section 5500 of the Zoning Bylaws, to allow a single accessory dwelling unit for family members, property located at 26 Ames Road, Residential Zone A, as follows:

1. This Special Permit for an Accessory Dwelling Unit occupied by persons related to the family owning and residing in the principal dwelling is issued for the duration of such occupancy. This permit shall require the filing by the owner(s) of a sworn affidavit with the Town Clerk, with a copy to the Board of Appeals, certifying such occupancy every four (4) years, consistent with the Special Permit. This permit shall automatically terminate upon the sale, transfer or other change in ownership of the principal dwelling unit."

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

REASONS: The petitioners require a Special Permit to allow a single accessory dwelling unit. The Board finds that the petitioners have fulfilled the requirements of the Bylaw for the granting of a Special Permit.

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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

MAILLET & SON INC.  
20 West Street  
02-38

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
TUESDAY, AUGUST 27, 2002

The Board consisted of:

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Thomas W.H. Phelps  
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Marcel Maillet was present to represent a petition for Special Permit to alter and enlarge a nonconforming structure by constructing a 12X14 foot deck which will result in a rear yard setback deficiency of 9 feet  $\pm$  at 20 West Street.

Mr. Maillet said he constructed the house for a customer who wanted a sun deck at the back of the house. The land to the rear is secluded, heavily wooded and is owned by the Sudbury Water District.

Mr. Delaney asked whether Mr. Maillet had heard anything from the neighbors regarding the deck. Mr. Maillet had not.

Ms. Berman noted there already is a deck on the house. Mr. Maillet said his customer wanted a deck and he constructed it with the understanding that he was at risk for doing so.

Ms. Berman agreed that the area is secluded. She wanted to be sure the deck was the size requested in the application. Mr. Maillet said it was.

Following further review of the application, there were no questions from the Board. The public hearing was closed.

After deliberation the following motion was placed and seconded:

MAILLET & SON INC.  
20 West Street  
02-38 Page 2

MOTION: "To grant Maillet & Son Inc., owner 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 12X14 foot deck which will result in a rear yard setback deficiency of 9 feet  $\pm$ , property located at 20 West Street, Residential Zone A."

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 deck, which creates a rear yard setback deficiency, will not be substantially more detrimental than the existing nonconformity to the neighborhood. The rear of the property which is heavily wooded and abuts the Sudbury Water District property will have no impact on any residences.

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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

MARK & DONNA SHAW  
65 Lakewood Drive  
02-39

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
TUESDAY, AUGUST 27, 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

Notice was published in the Sudbury Town Crier on August 8 and 15, 2002, posted, mailed and read at this hearing.

Mr. Delaney, 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.

Mr. Shaw was present to represent a petition for special permit to construct a farmer's porch which will result in a side yard setback deficiency of 11 feet at 65 Lakewood Drive.

The Board reviewed the plan submitted with the application. Mr. Delaney noted a right of way between the Shaw property and adjoining property is shown on that plan and asked whether it is used. Mr. Shaw said it is not; it is overgrown with trees and shrubs. He assumed at one time it may have served as access to Willis Lake, but access to the lake is inaccessible through that way.

Mr. Shaw said he has spoken with his neighbors with regard to the proposed porch and no one had any problems or objections.

Ms. Berman and Mr. Gossels said they visited the property and felt there would be no visual impact as a result of this porch.

Frederick Dymont, 4 Lake Shore Drive, Nicholas Obrazisov, 51 Lakewood Drive, and David Stearns 57 Lakewood Drive, abutters, all spoke in favor of the petition. All felt the proposed porch would be an enhancement to the Shaw property as well as the neighborhood.

Mr. Delaney noted the Board received a letter from the Conservation Coordinator which notes a Notice of Violation was sent to the Shaws and requested the Board not approve the special permit until the violation is corrected.

MARK & DONNA SHAW  
65 Lakewood Drive  
02-39 Page 2

Mr. Shaw was unaware of the violation stating that he had never received a violation.

There was no mention of the nature or location of the violation. Discussion followed as to whether this hearing should be continued in order to receive clarification from the Conservation Commission. The majority of the Board favored a continuance and it was agreed that the Board would contact the Conservation Coordinator and that Mr. Shaw should contact her as well since he had not received any notice from them.

The hearing was continued to September 23, 2002.

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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