

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
TUESDAY, MARCH 12, 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, Alternate

Notice was published in the Sudbury Town Crier on February 21 and 28, 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.

Anthony Pellegrino was present to represent 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. The property is located at 192 Dutton Road and comprises 3.45 acres. It is in the Wayside Inn Preservation District Zone which is a 5-acre lot size zone.

Mr. Kablack read into the record the following correspondence:

- letter dated March 7, 2002 from the Planning Board which voted no objection to the petition and recommends the application be submitted to the Historical Commission for their evaluation of the historical significance of the existing structure.

- letter dated March 5, 2002 from Robert Coombes, 208 Dutton Road, abutter, expressing concern with respect to the nature of the demolition and the timing of new construction on the lot and how it would affect his residence. Concerns were also raised about the removal of trees along the frontage and how that was reviewed, if at all, by the Historic Districts Commission.

- email transmission dated February 27, 2002 from the Conservation Commission which notes that the Conservation Coordinator has reviewed the plans and has visited the site and that the project would require both a state and local wetlands filing.

Mr. Pellegrino presented the plot plan of his property which was submitted with the application. He would like to demolish the existing house and construct a new house, not to exceed 8,000 s.f., in the building envelope drawn on that plan. The new house will conform to all zoning setback requirements.

Mr. Pellegrino said he does not have the ability to do this himself and would sell the property for someone else to build on.

Mr. Kablack asked whether Mr. Pellegrino was fairly comfortable that the house would be constructed in the building envelope proposed. Mr. Pellegrino said he has 400 feet of frontage and the building envelope is well within the setbacks.

Mr. Kablack asked whether the envelope was drawn to reflect setback requirements or was it more restrictive. Mr. Pellegrino said it was for setbacks and perc testing.

Mr. Kablack said the Board has had issues in the past with the timing of the demolition and new construction. He asked whether the existing house would come down first or would anyone be living in the house which construction was going on.

Since Mr. Pellegrino said he was not going to be constructing the house, he could answer the question. However, if a private party purchased the property, one benefit could be to live in the house while the new one is being constructed. He would assume that if a developer purchased the property, the house might be demolished prior to construction.

Mr. Kablack asked whether an application has been made with regard to the historical significance of the existing house. Mr. Pellegrino said he spoke with Alex Frisch, Historic Districts Commission, who indicated that there would be no issues with demolition of the existing house.

It was noted by Mr. Pellegrino that a developer in Sudbury, Daryl Nash, has expressed interest in the property. He presented a rendering given to him by Mr. Nash as to what might be built within the envelope.

Should a special permit be granted, Mr. Kablack pointed out that construction must begin within one year from date of issuance, unless an extension is applied for and granted. If that construction is begun within a year, the new house would have to be completed in one year, and once the new house is issued a certificate of occupancy, the old house must be demolished within ninety days.

Mr. Phelps had a problem with pre-granting a permit and setting conditions for an owner who will not be involved with the construction of the new house.

Mr. Kablack said he was more concerned with the timing issue rather than where the building was placed.

Discussion followed on whether the lack of definitiveness in the application with regard to location should affect the decision.

Mr. Pellegrino said he is complying with the setback requirements.

Robert Coombes, 208 Dutton Road, abutter, said this property is located within a historic district. He said the Pellegrino house has historic connections dating back to the Dutton Road School that was built by Henry Ford. He said his house at 208 Dutton Road is also part of that connection as is another house at 199 Dutton Road. When Mr. Coombes moved here in 1984, he said 192 Dutton Road was owned by Perry who maintained the property until he moved in 1986. The property was then purchased by Falk who also maintained it. It was then taken over by a builder who renovated the property and subsequently sold it to Mr. Pellegrino.

Mr. Coombes said since the property has been in possession of Mr. Pellegrino it has deteriorated. He was not sure whether the Historic Districts Commission had any input into the landscaping but all the trees and bushes were removed. He said when one drives by this house all that is seen is peeling paint, no trees or bushes, and it is an eyesore. He said he could understand why, in its present condition, Mr. Pellegrino would want to demolish the house. However, Mr. Coombes stressed that when it was under the other ownerships it was an attractive house.

It was Mr. Coombes' belief that when a house like this is demolished it takes something away from the whole historic area. He felt the Board should look at this more carefully. He said if one, then another house is taken out, eventually the whole historic district is destroyed.

If the Board grants a special permit, Mr. Coombes would like some sort timetable. He would not want to have someone moving in and build something on the property that takes five years. He gave as an example the construction on Peakham Road which has been ongoing for some time. He did not want this to happen within this historic district which comprises the Wayside Inn, grist mill and the Babe Ruth house.

If the house is built Mr. Coombes would like to be sure there is no brush or rubbish is dumped on his property. He said brush is being dumped there now.

At Mr. Kablack's request, Mr. Coombes pointed out the location of his house and the encroachment of brush on his property.

Mr. Kablack said one of the issues raised has been the impact on the historic district. He said any decision by this Board would be subject to the ultimate review by the Historical

Commission for demolition purposes and review by the Historic Districts Commission for the style of the new construction.

With regard to Mr. Coombes comments on tree and brush removal, Mr. Pellegrino said he had legitimate reasons to do what he did. He said heavy branches were falling on his roof. As to the brush disposal he said the property lines are not clearly defined. He reiterated his earlier statement regarding Mr. Frisch's comment that demolition would not be an issue.

There was no further input. The hearing was closed.

After deliberation the following motion was placed and seconded:

MOTION: "To grant Anthony and Lynne Pellegrino, 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 8,000 s.f., on a nonconforming lot, which will exceed the area of the original nonconforming structure, said residence to conform to all zoning setback requirements, property located at 192 Dutton Road, Wayside Inn Preservation District Zone."

VOTED: In favor: 0 Opposed: 5 (unanimous) PETITION DENIED WITHOUT PREJUDICE

REASONS: The petitioner requires a special permit due to the nonconforming nature of the property. In granting a special permit, the Board must find that the proposed construction will not be substantially more detrimental than the existing nonconformity to the neighborhood. In this case, the Board finds that the petitioner failed to provide sufficient specific information as to what construction would occur to the extent that it affects the ability of the Board to evaluate the application under the special permit guidelines and to form a basis for determining what, if any, conditions should be imposed or not imposed with regard to the proposed construction.

The petitioner has indicated that it is his intent to sell the property to a developer who will demolish and reconstruct a new house, hence an estimated proposed house size and generalized building envelope were provided.

At the public hearing a direct abutter expressed concern with regard to construction issues as well as the intended demolition of a house which is located within a historic district, which may have significant impact.

Based on the above, the Board unanimously voted to deny this application without prejudice.

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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, Alternate