

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
TUESDAY, JANUARY 21, 2003

The Board consisted of:

Patrick J. Delaney III, Chairman
Jonathan G. Gossels, Clerk
Thomas W.H. Phelps
Stephen M. Richmond
Stephen A. Garanin, Alternate

Notice was published in the Sudbury Town Crier on January 2 and 9, 2003, posted, mailed and read at this hearing.

Mr. Delaney, 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.

Floyd Stiles was present to represent a petition for renewal of Use Variance 01-37 to use the building and property at 676 Boston Post Road as a clubhouse and meeting hall.

Mr. Stiles said this use has been in existence for over 35 years. Mr. Delaney asked whether there have been any issues with the conditions by either the Legion or the neighbors. Mr. Stiles said there were none that he knew of. However, he wanted to call the Board's attention to Condition 9 which requires a letter be sent to all abutters in November to solicit comments or areas of concern. Mr. Stiles said that did not get done this past year, primarily because he was ill at that time. He apologized for that omission; however, in support of the American Legion he said some of the employees are abutters and some of the abutting facilities use the facility in various ways when the need arises. In that respect, Mr. Stiles believed the Legion was a good neighbor. He said although there may have been complaints in the past, there have been none within the past three or four years.

With the exception of Condition 9, Mr. Stiles said the Legion has complied with all of the other conditions imposed by the Board.

Mr. Stiles said the fact that the Legion has been granted a one-year use variance prohibits them from obtaining financing. He said in order to do things which need to be done to improve the facility; i.e., proper drainage, paving, etc., a minimum 5-year credit term is necessary. He said the Legion cannot obtain a 5-year credit term on a one-year variance.

Mr. Stiles said back when the Legion was first started there was a 20-year renewal period. When that term expired, it was never renewed because no one was aware of the expiration and the Legion operated for a few years with a use variance that had elapsed.

Subsequently, when renewal was made, it was granted for a one-year period. Along with that renewal an immediate neighbor had complaints which, Mr. Stiles said, were justified and the 10 conditions were imposed on the renewal.

Mr. Stiles said he did not have any problems with the conditions. While he apologized for not sending out the letter to the abutters, he said the Legion is not a large organization with staff; therefore, it just didn't get done.

For the new ZBA members who might not be familiar with the Legion, Mr. Stiles explained the function and services provided to the community and town as a whole.

Mr. Stiles introduced Douglas Zanzot, 140 Barton Drive, who is President of the Corporation. The property at 676 Boston Post Road is owned by the Sudbury American Legion Post 191 Inc., a special corporation set up by members of the Post but not owned by the Post. The property was purchased by that corporation of which Mr. Zanzot is the President and Mr. Stiles the Treasurer. The corporation is actually responsible for the building, property and the operation of the Legion.

Mr. Delaney said this is the second renewal in a row and there appeared to be no issues from the audience.

Mr. Richmond asked when the problems originally occurred. Mr. Stiles estimated it to be 10 years ago. This consisted of overenthusiastic individuals driving through the back of the property onto Stone Road. As a result, a rail fence and barriers were installed to prevent this from happening. In addition, floodlights were taken down so as not to shine on the residential properties, landscaping was installed to improve the appearance of the property, and the property has been kept in good shape.

Mr. Stiles reiterated that while there are other improvements which the Legion would like to do, they are constrained because of the one-year renewal period.

Mr. Delaney asked what it was the Legion would like to do which it can't do without financing. Mr. Stiles said he would like to install energy efficient windows, improve the drainage and pave the parking lot. He estimated he would need approximately \$25,000, adding that he has the equity in the building because the Legion owns it; there is no mortgage.

Mr. Gossels asked when Mr. Stiles planned to send the letter out to the neighbors. Mr. Stiles said he wasn't planning on it. He said the requirement is to send it out in November. He

said he doesn't know what good it does because the neighbors are around and come in anyway. He said it is just another burden on the Legion.

Mr. Gossels felt something should be sent out. It seemed to him that one of the reasons that no neighbors are complaining now is because of that communication from the Legion.

Mr. Phelps agreed. He felt the good neighbor policy is important given the fact that this is a club. Mr. Phelps also wanted to point out two items which he didn't think were good publicity for the Legion. One was the Comedy Night on television during prime time which he didn't think was appropriate. The other was the carpet sale which was a commercial operation which should be avoided in this area. He felt these types of activities should not be encouraged.

Mr. Stiles said to his knowledge the Legion did not participate in the Comedy Night. With regard to the carpet sales, he said the Legion just rented out space for the sale.

Mr. Zanzot said just the other day he noticed that Sky Restaurant was doing the same thing. Mr. Delaney said Sky Restaurant is zoned for business use. The Legion is not.

Mr. Stiles said Mr. Zanzot will send the letter to abutters probably in the spring. Mr. Delaney said the Board, during its deliberations, will suggest a time frame for the letters to go out. He said the time frame may be opened up a bit to allow for ease in compliance. He suggested that if this remains a condition, particularly with an open time frame, that it be met because the conditions are not suggestions, but requirements.

There were no further comments. The hearing was closed.

After deliberation the following motion was placed and seconded:

MOTION: "To grant Sudbury American Legion Post 191, applicant, renewal of Use Variance 01-37, from the provisions of Section 2230, Appendix A,C, Use 24 of the Zoning Bylaws, to use the building and property as a private clubhouse and meeting hall, property located at 676 Boston Post Road, Residential Zone A-1, provided that:

1. There shall be no parking on Boston Post Road or Stone Road by those using the building, and there shall be no traffic hazard as defined by the Police Chief.
2. All off-street parking is to be on the westerly side of the property. The five-foot wide buffer between the parking area and rear lot line shall be maintained and shall consist of a low retaining wall at the rear of the parking area with suitable plantings within the buffer area.
3. The barrier constructed to prevent parking on Stone Road shall be properly maintained.

4. There shall be no illuminated signs on the property.
5. A sign no larger than one square foot to identify the building shall be allowed.
6. There shall be no exterior storage of any kind, nor shall exterior rubbish (dumpster) be allowed.
7. There shall be no organized outdoor activities on the property, except for the following three events: Earth Day, Memorial Day, and July 4th activities.
8. There shall be no exterior floodlights on the property except that a single light, consisting of a motion sensor light, to light the parking area and so located as not to shine into the public way or towards residences, is permitted. The light currently used to shine on the flag will be properly maintained.
9. No nuisance shall be created and abutters must be contacted by written letter, with a copy to the Board of Appeals, once a year between the months of October through December, to solicit complaints or areas of concern.
10. This Use Variance is non-transferable and shall not run with the land and shall be limited to a period of one (1) year to expire on January 21, 2004. The Board will consider renewal upon receipt of proper application on or before that date.”

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

REASONS: The petitioner seeks renewal of a use variance to continue using the building and property as a clubhouse and private meeting house. Recognizing that this use as a clubhouse and meeting hall is in a residential zone, and has in the past been the subject of complaints from the neighbors, the Board feels strongly that lines of communication between this facility and the neighbors should be kept open as an attempt to head off any problems which might arise during the year. For this reason, the Board initially imposed Condition 9 which requires that a letter be sent to the neighbors and believes it should be adhered to by the petitioner. To accommodate the petitioner, the Board has lengthened the time frame for compliance with this Condition.

Further, because of the nature of this establishment in a residential zone, the Board believes a one-year renewal appropriate and again stresses the importance of compliance with Condition 9.

Patrick J. Delaney III, Chairman

Jonathan G. Gossels, Clerk

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Mr. Delaney, 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 Churchill was present to represent a petition for renewal of Special Permit 00-42 to conduct massage therapy at his home at 4 Puffer Lane. He said he has been practicing for three years with no problems or complaints from the neighbors.

Mr. Churchill was requesting a change to Condition 3 which states that no other employee associated with this business will be allowed. He explained that his wife is a licensed Acupuncturist and would like to see clients as well. There would be no change in the number of clients; both he and his wife would split the client load. The Board felt this to be a reasonable request.

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

After deliberation the following motion was placed and seconded:

MOTION: "To grant Peter S. Churchill, owner of property, a Special Permit under the provisions of Section 2340 of the Zoning Bylaws, to conduct a Home Business, specifically the practice of massage therapy, property located at 4 Puffer Lane, Residential Zone A-1, provided that:

1. Hours of operation will be Monday-Thursday, 9AM-5PM.

2. No more than six clients per day will be allowed.
3. No more than two residential employees will be allowed. Non-resident employees are not allowed.
4. No sign will be permitted.
5. All parking will be on the premises. No parking on the street is allowed.
6. This permit is non-transferable and will expire in two years on January 21, 2005, and the Board will consider renewal upon receipt of proper application on or before that date.”

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

REASONS: The petitioner seeks renewal of a special permit to conduct massage therapy as a home business. The Board finds the use to be in harmony with the general intent and purpose of the Bylaw. It is in an appropriate location, not detrimental to the neighborhood and does not by its presence significantly alter the character of the zoning district. Adequate and appropriate facilities have been provided for proper operation. The business has been in operation for three years with no problems or complaints from the neighbors; therefore, the Board finds a two-year renewal period to be appropriate.

Patrick J. Delaney III, Chairman

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SHANTANU A. LELE
67 Beechwood Avenue
03-10

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Shantanu A. Lele was present to represent a petition for Special Permit to alter and enlarge a nonconforming structure by constructing a garage and family room which will result in side yard, front yard and street centerline setback deficiencies at 67 Beechwood Avenue.

Mr. Lele presented sketches of the existing house with the proposed one car garage and room above. Also shown was the plot plan depicting the setbacks which was submitted with the application. The existing house is currently deficient from the street centerline. The addition will increase that deficiency by 3 feet. In addition, because the side line is at an angle, a portion of the addition will encroach on that side line by 5 feet.

Mr. Lele said he has spoken with his neighbors, including the one which would be most affected, and no one had any objections. He said this addition will provide him with more space for his family.

The Board reviewed the sketches and plot plan.

In response to a question from Mr. Garanin, Mr. Lele said the driveway is not shown on the plot plan; however, he does anticipate it may need to be widened slightly to accommodate access to the garage. He pointed out on the plan the area of the widening.

SHANTANU A. LELE
67 Beechwood Avenue
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Mr. Garanin noted that looking at the plan, there might be issues with that neighbor as it could be that the widening, or even Mr. Lele's existing driveway, may encroach on that neighbor's property. Mr. Lele said he would look into this further.

There were no further questions. The hearing was closed.

After deliberation the following motion was placed and seconded:

MOTION: "To grant Shantanu Lele, 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 14X21 foot addition which will result in a side yard setback deficiency of 5 feet ±,

a front yard setback deficiency of 6 feet 4 inches \pm , and a street centerline setback deficiency of 16 feet 4 inches \pm , property located at 67 Beechwood Avenue, Residential Zone A-1.”

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 construction, which will result in side yard, front yard and street centerline setback deficiencies, will not be substantially more detrimental than the existing nonconforming structure to the neighborhood. The size of the addition is modest in scope and architecturally compatible with the existing structure. It will enhance the appearance of the property and will provide additional space for the residents. Additionally, the Board notes that there were no objections from abutters.

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Stephen A. Garanin, Alternate