

MEETING MINUTES  
SUDBURY BOARD OF APPEALS  
TUESDAY, SEPTEMBER 9, 2003

The Board consisted of:

Jonathan G. Gossels, Chairman  
Stephen M. Richmond, Clerk  
Patrick J. Delaney

Alternates:

Richard L. Burpee  
Elizabeth A. Taylor  
Jeffrey P. Klofft  
Stephen A. Garanin

Also:

James Kelly, Building Inspector

The meeting was called to order by the Chairman, Mr. Gossels, in response to a memo dated August 20, 2003 from Building Inspector Kelly regarding a recent special permit application which the Board determined should have been submitted as a variance application. The application was for the proposed construction of a detached garage on a lot having insufficient area.

As stated in his memo, Mr. Kelly felt this determination represented a major change in the interpretation of the Bylaw.

Following a discussion with arguments presented by the Board and Mr. Kelly, the Board was in agreement that its determination was appropriate. It was the ZBA's opinion that Section 2440 deals with alteration and enlargement of structures. A detached structure would not apply for a special permit as there is no preexisting nonconformity. An attached structure would require a special permit as an existing structure exists therefore allowing for alteration and enlargement.

As to the argument that the lot by virtue of the fact that it is nonconforming and any proposed construction would require a special permit, it was the Board's opinion that this could only apply if the Bylaw spoke to use, which it does not. A Bylaw change would then be required as the terms "use" and "structure" cannot be used interchangeably.

Mr. Kelly said he would abide by the Board's interpretation and look into the matter further.

There being no further business, the meeting was adjourned.

MINUTES  
SUDBURY BOARD OF APPEALS  
SEPTEMBER 9, 2003  
Page 2

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