

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
TUESDAY, DECEMBER 14, 2004

The Board consisted of:

Stephen M. Richmond, Acting Chairman  
Elizabeth A. Taylor, Acting Clerk  
Thomas W.H. Phelps  
Jeffrey P. Klofft

Notice was published in the Sudbury Town Crier on November 25 and December 2, 2004, posted, mailed and read at this hearing.

Mr. Richmond, 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.

Virginia Perkins was present to represent a petition for renewal of Special Permit 03-58 to conduct yoga classes at 150 North Road, Unit 33 (Frost Farm). Ms. Perkins said she has been operating for one year and would like to increase the number of students for the evening classes only from six to nine. She said she has had requests to allow for more students and her studio is large enough to accommodate more.

Mr. Klofft noted that for the initial hearing, the Board had expressed concern regarding parking availability. Ms. Perkins said there has been no parking along the road. She said evening parking is available at the Cummings building lot which is empty during evening hours. There are also spaces in the conservation area.

Mr. Klofft saw no problem with allowing an increase in students but would prefer a one-year renewal in order to monitor the parking situation. He would also prefer that Ms. Perkins encourage students not to use the conservation area for parking.

The Board had no objections to Mr. Klofft's recommendations. There were no further questions. No abutters were present. The hearing was closed.

After deliberation the following motion was placed and seconded:

MOTION: "To grant Virginia Perkins, owner of property, renewal of Special Permit 03-58, granted under the provisions of Section 2340 of the Zoning Bylaws, to conduct a Home

Business, specifically yoga classes, property located at 150 North Road, Unit 33 (Frost Farm), Research District #1, provided that:

1. There will be no more than three classes per week, no more than six students for daytime classes and no more than nine students for evening classes.
2. No on-street parking along the streets at Frost Farm or on the driveway to the Cummings property is allowed. Parking is available on the conservation area property.
3. The applicant shall be the only employee for this Home Business.
4. No signs, flags or banner will be allowed.
5. This permit is non-transferable and will expire in one (1) year on December 14, 2005, and the Board will consider renewal upon receipt of proper application on or before that date.”

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

REASONS: The petitioner requires a special permit to conduct yoga classes in her home. This business has been in operation for one year. The Board finds this operation to be in harmony with the general intent and purpose of the Bylaw. Adequate and appropriate facilities are available for the proper operation of the use. The nature of the operation is passive and will generate no noise or other detriment to the neighborhood. An increase in the number of students for evening classes should present no problems; however, the Board has set a one-year renewal period in order to insure compliance with parking requirements.

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Stephen M. Richmond, Acting Chairman

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Elizabeth A. Taylor, Acting Clerk

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Thomas W.H. Phelps

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Jeffrey P. Klofft

DAVID C. HOAGLIN  
73 Hickory Road  
04-49

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
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Jonathan G. Gossels

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David Hoaglin was present to represent a petition for renewal of Special Permit 01-28 to maintain a 70-foot radio tower at 73 Hickory Road.

Mr. Hoaglin reported that the tower is unchanged and complies with all of the conditions of the permit. He has received no complaints with regard to interference or the installation. The tower has been in operation since 1993.

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 David C. Hoaglin, owner of property, renewal of Special Permit 01-28, granted under the provisions of Section 2632 of the Zoning Bylaws, to maintain a 70-foot radio tower, property located at 73 Hickory Road, Residential Zone A-1, provided that:

1. Installation shall conform to all applicable building codes and wired in accordance with UL Standards.
2. Childproof shielding, not less than 10 feet in height, shall be provided at the base of the tower.

DAVID C. HOAGLIN  
73 Hickory Road  
01-28 Page 2

3. A performance bond in the amount of \$550.00 will continue to be held by the Town to cover the costs of dismantling/removal of the tower.

4. This permit is non-transferable and will expire in five (5) years on December 14, 2009, 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 Board finds that this home-based radio hobby which has been in operation since 1993 is in harmony with the general purpose and intent of the Bylaws. The tower is in an appropriate location, not detrimental to the neighborhood and is shielded by tall trees which act as a buffer. The tower is not lighted, nor is it offensive or detrimental to the adjoining zoning districts as no smoke, noise or other visual nuisances are produced. The applicant has complied with the conditions of the permit and there have been no complaints with regard to the tower. There were no abutters present to oppose renewal at this hearing or previous hearings; therefore, the Board finds a five-year renewal period appropriate.

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Stephen M. Richmond, Acting Chairman

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Elizabeth A. Taylor, Acting Clerk

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Thomas W.H. Phelps

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Jeffrey P. Klofft

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Jonathan G. Gossels

VICTOR & DEBORAH BECK  
14 Crystal Lake Drive  
04-41A

NOTICE OF PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
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Mr. Richmond, 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.

Victor Beck was present to represent a petition to increase the front yard setback deficiency from 14 feet 7 inches to 18 feet. He explained that on October 19, 2004, the Board granted him a special permit to construct a porch; however, when he went to apply for a building permit, it was discovered that the front yard setback was measured incorrectly and the deficiency would be 18 feet. Because the deficiency was greater than previously granted, a refile and public hearing was necessary. Inasmuch as this was a measurement error, Mr. Beck was requesting a waiver of an additional filing fee.

The Board briefly reviewed the details of the previous permit for which approval was granted to construct a 6X9 foot porch. All were in favor of waiving the filing fee.

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

After deliberation the following motion was placed and seconded:

MOTION: "To amend Special Permit 04-41 to increase the front yard setback deficiency from 14 feet 7 inches  $\pm$  to 18 feet  $\pm$ , property located at 14 Crystal Lake Drive, Residential Zone A-1. All other terms and conditions to remain in full force and effect."

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

VICTOR & DEBORAH BECK  
14 Crystal Lake Drive  
04-41A Page 2

REASONS: The petitioner requests an amendment to correct an error in calculating the front yard setback deficiency. The Board finds that the change in deficiency will not be detrimental to either the petitioner or the neighborhood as the porch is of a modest size and will remain as originally proposed.

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Stephen M. Richmond, Acting Chairman

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Elizabeth A. Taylor, Acting Clerk

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Thomas W.H. Phelps

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Jeffrey P. Klofft

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Jonathan G. Gossels

DEBORAH FALK  
6 Puffer Lane  
04-50

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Notice was published in the Sudbury Town Crier on November 25 and December 2, 2004, posted, mailed and read at this hearing.

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

Deborah Falck was present to represent a petition for a Variance to legalize a screened porch having a 4 foot setback deficiency at 6 Puffer Lane.

Ms. Falck explained that in 1990 a screened porch was constructed to the side of the house. The contractor's drawing indicated a side yard setback of 22 feet and a building permit was obtained indicating that setback.

In 1994, following a divorce, Ms. Falck purchased the house in her name and the bank informed her that a corner of the porch was deficient by 4 feet. Since the house was transferring to her the bank was willing to grant a mortgage contingent upon legalizing the situation.

Responding to questions from the Board, Ms. Falck said she discussed the situation with the Building Inspector who upon review of the angle of the house and porch recommended she apply for a variance. Should a variance not be granted, she would be forced, because of the encroachment of a small portion, to tear down the entire porch which would not only impact her financially but also deprive her of the use of a porch which was constructed in good faith that it fully complied with the setback requirements.

Ms. Falck submitted pictures of the porch for the Board's review. Also included with her application was a letter from her closest neighbor to the Board who had no problem with the deficiency.

No abutters were present. The Board discussed the hardship created by the unusual shape of the lot and the location of the porch and residence on that lot. After viewing the Town Zoning Map it was noted that no other residential lots in the vicinity were burdened by the same unusual shape. As a result the Board was inclined to grant the variance to legalize the porch as is. However, they felt that any proposed plans to convert it into a year-round room should necessitate application to the Board. Ms. Falck had no problem with this.

The public hearing was then closed.

After deliberation the following motion was placed and seconded:

MOTION: "To grant Deborah Falck, owner of property, a Variance from the provisions of Section 2600, Appendix B, of the Zoning Bylaws, to legalize a screened porch having a side yard setback deficiency of 4 feet  $\pm$ , property located at 6 Puffer Lane, Residential Zone A-1, provided that this Variance shall apply to the porch as it currently exists. Any additional alteration which would convert this porch to a year round structure will require application to the Board of Appeals."

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

REASONS: The petitioner seeks a variance to legalize a screened porch having a side yard setback deficiency. The shape of the lot and angle of the house and porch resulted in a setback error of a small portion of the porch which was unbeknownst to the owners at the time of construction. The Board finds that this small encroachment will not be detrimental to the adjoining neighbor, who has no objection to its existence. To demolish the porch would result in substantial financial hardship to the owner and deprive her of the use of a porch for which only a small porch violates the setback. Since the Board has imposed a condition requiring a variance application should the owner contemplate conversion of the porch to a year-round structure, this legalization of the existing structure will not nullify or substantially derogate from the intent or purpose of the Bylaw.

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Stephen M. Richmond, Acting Chairman

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Elizabeth A. Taylor, Acting Clerk

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Thomas W.H. Phelps

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Jeffrey P. Klofft

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Jonathan G. Gossels

DAVID & SYLVIA COLETTI  
250 Goodmans Hill Road  
04-51

MINUTES OF THE PUBLIC HEARING  
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David Coletti was present to represent a petition for special permit to allow demolition of an existing residence and construction of a new residence which will exceed the area of the original nonconforming structure. The new residence will conform to all setback requirements.

Mr. Coletti presented his plans for reconstruction of the new residence which will be a modular construction. However, during the course of his presentation he explained that the square footage noted on his application of approximately 2,900 s.f. should have been 3,900 s.f.

Although the Board felt the house to be acceptable in terms of scale and placement, because the hearing notice advertised the square footage as being less than what is proposed, the application will have to be refiled.

Mr. Richmond suggested the applicant consider withdrawing his application and resubmitting it with the correct square footage. The Board was also agreeable to a waiver of a second application fee.

Mr. Coletti requested his application be withdrawn.

It was then on motion unanimously voted to accept a withdrawal of this application without prejudice.

DAVID & SYLVIA COLETTI  
250 Goodmans Hill Road  
04-51

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Stephen M. Richmond, Acting Chairman

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Elizabeth A. Taylor, Acting Clerk

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Thomas W.H. Phelps

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Jeffrey P. Klofft

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Jonathan G. Gossels



































