

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
FEBRUARY 10 & MARCH 9, 2004

The Board consisted of:

Jonathan G. Gossels, Chair
Elizabeth A. Taylor, Acting Clerk
Thomas W.H. Phelps
Jeffrey P. Klofft, Alternate
Richard D. Vetstein, Alternate

Notice was published in the Sudbury Town Crier on January 22 and 29, 2004, posted, mailed and read at the hearing. Since the applicants were unable to be present, the hearing was continued to March 9, 2004 with no testimony having been presented on February 10, 2004.

Mr. Gossels, Chair, 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.

James and Geraldine Apostle were present to represent a petition for renewal of Special Permit 95-45 to conduct a Home Business, specifically the sale of antiques, fine art and framing at 395 Boston Post Road.

Mr. Apostle said he has been operating this business for several years. He was requesting no changes to the conditions.

In response to questions from Mr. Gossels, Mr. Apostle replied that although one additional employee other than the residents is allowed, at this point in time the only employees are himself and his wife. He said there have been no complaints from abutters, nor have there been traffic issues. The parking required under the conditions is sufficient for the business.

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 James N. and Geraldine M. Apostle, owners of property, renewal of Special Permit 95-45, under the provisions of Section 2340 of the Zoning Bylaws, to conduct a Home Business, specifically the sale of antiques, fine art and framing, property located at 396 Boston Post Road, Residential Zone A-1, provided that:

1. The use must be clearly incidental and secondary to the use of the premises for residential purposes.
2. Hours of operation are limited to 10AM-7PM, seven days a week.
3. There will be no more than one employee other than the residents of the premises.
4. All parking is to be off-street and limited to four spaces.
5. A sign will be allowed which conforms to the provisions of the Sign Bylaw.
6. No flags or banners relating to the business shall be displayed on the premises.
7. There will be no exterior storage of business materials or equipment, including the parking of commercial vehicles. No more than two items may be displayed outside the premises.
8. This permit is non-transferable and will expire on March 9, 2007, 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 the use to be in harmony with the intent and general purpose of the Bylaw. It is in an appropriate location, is not detrimental or offensive to the neighborhood and does not significantly alter the character of the zoning district. Adequate parking and facilities are provided for the proper operation of the use. This business has existed for several years without complaints from abutters and none were present to oppose renewal.

Jonathan G. Gossels, Chair

Elizabeth A. Taylor, Acting Clerk

Thomas W.H. Phelps

Jeffrey P. Klofft, Alternate

Richard D. Vetstein, Alternate

DANIEL & WENDY DURKIN
20 Lakewood Drive
04-10

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
TUESDAY, MARCH 9, 2004

The Board consisted of:

Jonathan G. Gossels, Chair
Elizabeth A. Taylor, Acting Clerk
Thomas W.H. Phelps
Jeffrey P. Klofft, Alternate
Richard D. Vetstein, Alternate

Notice was published in the Sudbury Town Crier on February 19 and 26, 2004, posted, mailed and read at this hearing.

Mr. Gossels, Chair, 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.

Daniel and Wendy Durkin were present to represent a petition for special permit to enlarge a nonconforming structure by constructing a garage and screened porch which will result in front yard setback deficiencies of approximately 7 feet on Lakewood Drive and 26.7 feet on Beechwood Avenue.

Mr. Durkin explained that the house is a ranch style. It is proposed to add a second story to the house and Mr. Durkin would like to construct a 26X26 foot garage with mudroom and screened porch on the side of the garage. Currently the house faces Lakewood Drive; however the garage door would be facing Beechwood Avenue because of traffic, safety issues.

The Board reviewed the plans submitted with the application. Mr. Phelps had concerns with regard to the setback from Beechwood Avenue. Ms. Durkin said the distance from the garage to the front property line would be approximately 12.8 feet.

Knowing the close setback, Mr. Gossels asked why the garage was designed to be 26 feet wide. Mr. Durkin said it was designed for 2 cars plus a mudroom.

The Board expressed concerns that the garage is too close to the street, particularly since 12.8 feet is not adequate to park a car without it extending onto the street.

Mr. Gossels said although he liked the design, he felt that the garage was too large and too close to the street. He suggested that perhaps the Durkins might want to consider reorganizing the plan to minimize the deficiency.

Mr. Phelps said Beechwood Avenue is a front yard to the neighbors. He said with this plan there is not enough room to contain a car on the lot which he felt presents a visual and safety issue and is not in keeping with the neighborhood. He felt the project comes close to being overbuilt on a small lot. He agreed that perhaps the plan could be redesigned to lessen the deficiency.

Mr. Klofft said he would have less of a problem if the garage were facing Lakewood Drive, because the 13 feet facing Beechwood Avenue would be adequate for maintenance.

Mr. Gossels disagreed; he still felt the garage was too long.

Ms. Durkin said there have been a number of houses in the neighborhood that are closer.

Mr. Gossels said scale is a factor and this project is taller. He said that generally the Board has been very supportive of residents renovating their houses in this neighborhood. However, in his view this particular proposal is just too close to the street.

Robert Devlin, 11 Lakewood Drive, said the proposed driveway location is on a street that is not as busy as the current driveway. He said there are a lot of driveways that are close to the street and that this project would conform to the neighborhood.

Mr. Vetstein asked whether the mudroom was necessary. Mr. Durkin said it was incorporated into the garage so as not to take away from the living space.

Following a further review of the plan, it was the consensus of the Board that the proposal was too close to the street. Mr. Gossels said he would like to see it scaled back 6 feet or more which would provide room for cars to pull off the street.

Mr. Gossels said the Board has concerns with this application. He would recommend the applicant consider withdrawing without prejudice which would allow for resubmission of a revised plan.

The Durkins requested their petition be withdrawn without prejudice.

The public hearing was closed.

The following motion was made and seconded:

MOTION: "To accept a request from the petitioners to withdraw their application without prejudice and to waive a subsequent filing fee for resubmission."

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

Jonathan G. Gossels, Chair

Elizabeth A. Taylor, Acting Clerk

Thomas W.H. Phelps

Jeffrey P. Klofft, Alternate

Richard D. Vetstein, Alternate

JAMES & KRISTINA GISH
35 Rolling Lane
04-11

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
TUESDAY, MARCH 9, 2004

The Board consisted of:

Jonathan G. Gossels, Chair
Elizabeth A. Taylor, Acting Clerk
Thomas W.H. Phelps
Jeffrey P. Klofft, Alternate
Richard D. Vetstein, Alternate

Notice was published in the Sudbury Town Crier on February 19 and 26, 2004, posted, mailed and read at this hearing.

Mr. Gossels, Chair, 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.

James and Kristina Gish were present to represent a petition for special permit to construct a one-car garage and mudroom addition which would result in a side yard setback deficiency at 35 Rolling Lane.

Mr. Gish said it is planned to take their one-story ranch with one-car garage and turn it into a 2-story house with a 2-car garage and mudroom. The construction would result in a side yard setback deficiency of 3 feet.

Mr. Gish submitted photographs of the existing house with a blocked-out area which shows the scale of the proposed construction. He said the distance between the next door neighbor and this proposed construction would be approximately 40 feet.

Mr. Gossels commented on the design and that the petitioners kept the design so that the lowest part of the garage faces the neighbor.

Mr. Gish said the front of the garage has a lower profile and goes up towards the back. He pointed out that the garage is a single-story structure.

The Board reviewed the renderings submitted with the application.

Mr. Gossels said he visited the property and saw no issues with regard to encroachment.

JAMES & KRISTINA GISH
35 Rolling Lane
04-11 Page 2

Mr. Gish's immediate abutter was present and spoke in favor of the proposed construction.

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

After deliberation the following motion was placed and seconded:

MOTION: "To grant James & Kristina Gish, 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 12.6X22 foot one-car garage addition and a 12.6X10 foot mudroom, which will result in a side yard setback deficiency of 3 feet \pm , property located at 35 Rolling Lane, 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 a side yard setback deficiency, will not be substantially more detrimental than the existing nonconforming structure to the neighborhood. The scale of the proposed structure will not be intrusive to the neighborhood or to the abutter who would be most affected and will be compatible with other homes in the area. The Board notes that the abutter who would be most affected by this construction spoke in favor of the petition. No other abutters were present to oppose the petition.

Jonathan G. Gossels, Chair

Elizabeth A. Taylor, Acting Clerk

Thomas W.H. Phelps

Jeffrey P. Klofft, Alternate

Richard D. Vetstein, Alternate

STANLEY & JEANNE GUTOWSKI
13 Birchwood Avenue
04-12

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
TUESDAY, MARCH 9, 2004

The Board consisted of:

Jonathan G. Gossels, Chair
Elizabeth A. Taylor, Acting Clerk
Thomas W.H. Phelps
Jeffrey P. Klofft, Alternate
Richard D. Vetstein, Alternate

Notice was published in the Sudbury Town Crier on February 19 and 26, 2004, posted, mailed and read at this hearing.

Mr. Gossels, Chair, 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.

Stanley Gutowski was present to represent a petition for a special permit to alter and enlarge a nonconforming structure by constructing a family room addition which will result in a side yard setback deficiency at 13 Birchwood Avenue.

At its February 10, 2004 public hearing, the Board voted to accept a request from Mr. Gutowski to withdraw his petition without prejudice. In his letter dated January 27, 2004, Mr. Gutowski noted that after having consulted with his builder, he would be making several adjustments to his new application.

However, after having submitted his revised application, Mr. Gutowski said he spoke with his builder, and although the dimensions remain the same, the structure has been reversed resulting in a 6-foot side yard setback deficiency instead of the 2-foot deficiency as noted in the application.

It was explained to Mr. Gutowski that the petition was advertised as a 2-foot deficiency. As a result, the Board cannot vote on a greater deficiency and the application must be readvertised.

With the consent of the Board, Mr. Gutowski presented his plan in order to get some sense as to whether there were concerns which needed to be addressed. He said by rearranging the layout he would gain a mudroom and more efficient space. It would also allow for construction of a farmers porch which he felt would enhance the appearance and function of the house.

Mr. Gutowski said it was also suggested that a gutter system be put in to handle surplus water runoff from the proposed construction. In addition, a screened-in porch, proposed for the rear of the property, would also help in redirecting the water towards the back.

Paul Woyda, 11 Birchwood Avenue, immediate abutter to the proposed construction, voiced concerns with regard to flooding. He noted that he already experiences flooding because of the natural slope of the property. He wanted to be sure that any surplus water from this construction stays on 13 Birchwood Avenue.

Following further discussion, it was the sense of this Board that they would be comfortable with a 6-foot deficiency; however, the runoff concerns raised by Mr. Woyda needed to be addressed more specifically from an engineering standpoint. Mr. Gossels noted that any permit would contain a condition to address runoff.

Mr. Gutowski requested his application be withdrawn without prejudice in order to submit revised plans and to work out the runoff issues.

Inasmuch as this will be the third submission, the Board requested a refiling fee of \$50.00.

The public hearing was closed.

The following motion was placed and seconded:

MOTION: "To grant a request from the petitioner to withdraw his application without prejudice and to require a refiling fee of \$50.00."

VOTED: In favor; 5 (unanimous) Opposed:

Jonathan G. Gossels, Chair

Elizabeth A. Taylor, Acting Clerk

Thomas W.H. Phelps

Jeffrey P. Klofft, Alternate

Richard D. Vetstein, Alternate

