

GENEVIEVE DIONNE
31 DeMarco Road
05-2

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
TUESDAY, JANUARY 11, 2005

The Board consisted of:

Jonathan G. Gossels, Chairman
Stephen M. Richmond, Clerk
Elizabeth A. Taylor
Jeffrey P. Klofft
Richard L. Burpee, Alternate

Notice was published in the Sudbury Town Crier on December 23 and 30, 2004, posted, mailed and read at this hearing.

Mr. Gossels, 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.

Genevieve Dionne was present to represent a petition for renewal of Special Permit 01-34 to maintain an amateur radio tower at 31 DeMarco Road. In response to questions from Mr. Gossels, Ms. Dionne reported that nothing has changed with regard to the radio tower. The childproof shielding remains in place. There have been no issues associated with the permit or complaints from neighbors. The tower continues to remain in good condition.

Mr. Gossels noted that the expiration guidelines have changed and that this permit would qualify for a 5-year renewal.

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

After deliberation the following motion was placed and seconded:

MOTION: "To grant Genevieve G. Dionne, owner of property, renewal of Special Permit 01-34, granted under the provisions of Section 2632 of the Zoning Bylaws, to maintain a 30-foot amateur radio tower, property located at 31 DeMarco Road, Residential Zone A-1, provided that:

1. Childproof shielding, no less than 10 feet in height, shall be maintained at the base of the tower.

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31 DeMarco Road
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2. This permit is non-transferable and will expire in five (5) years on January 11, 2010, 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 operation of a home-based radio hobby to be in harmony with the general purpose and intent of the Bylaw. The tower, which has been in existence for the past 22 years, is in an appropriate location, not detrimental to the neighborhood, and is shielded by tall trees which act as a buffer to other residences. The tower is not lighted, nor is it offensive or detrimental to the adjoining zoning districts or neighboring properties as no smoke, noise or other visual nuisances are produced. No abutters were present to oppose renewal.

Jonathan G. Gossels, Chairman

Stephen M. Richmond, Clerk

Elizabeth A. Taylor

Jeffrey P. Klofft

Richard L. Burpee, Alternate

STEVEN & DANA COHEN
9 Allen Place
05-3

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
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Jonathan G. Gossels, Chairman
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Steven and Dana Cohen were present to represent a Special Permit to construct a garage on a nonconforming lot which will result in front yard setbacks of 15 feet on Indian Ridge Road and 1 foot on Allen Place. Their architect was also present.

Mr. Cohen explained that they have lived in this house for three years and desired to remain in the neighborhood. They engaged their architect to design an addition which would accommodate their needs of a growing family and fit in with the neighborhood. He described the entire proposed addition as detailed on the plans submitted with the application. The existing one-car garage would be enlarged to allow for two cars.

The architect described the existing house as being very small, approximately 1,400 s.f. It is not very tall. The challenge was to present the addition as having the appearance of 1 ½ stories.

Mr. Gossels said he visited the property and noticed a large trees. He asked whether that tree would have to be removed. Ms. Cohen said that tree would have to be removed, but there are others adjacent to the street which would remain. He said everything that can remain will remain.

Ms. Cohen said they currently have two driveways. The one on Indian Ridge Road will be removed.

STEVEN & DANA COHEN
9 Allen Place
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In response to a question from Mr. Gossels, the Cohens said they have spoken with all of their neighbors and everyone was in favor of the proposed project.

Mr. Gossels felt the design scale to be appropriate. His only concern was that all of the houses on Indian Ridge Road seem to be set back further. He said this construction would be very different in terms of setback.

Ms. Cohen, while agreeing that this would be the case, the fact that many of the trees on that side would be saved, plus the fact that that area would be landscaped, this would diminish

the effect of the house being closer to the street. The architect added that the design of the construction presents a layered effect which also will soften the impact. .

Mr. Gossels asked whether a landscaping plan had been done. The Cohens replied that they had not. In addition to removal of the driveway, Mr. Gossels would prefer to see some landscaping to soften that area. The Cohens were agreeable to provide landscaping.

There was no further input. No abutter was present. The hearing was closed.

After deliberation the following motion was placed and seconded:

MOTION: "To grant Steven & Dana Cohen, 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 24X27 foot garage, which will result in front yard setback deficiencies of 15 feet \pm on Indian Ridge Road, and one foot \pm on Allen Place, property located at 9 Allen Place, Residential Zone A-1, provided that:

1. The driveway located on the Indian Ridge side of the property will be removed and suitable plantings will be provided along that side so as to minimize the impact on the existing streetscape."

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 front yard setback deficiencies, will not be substantially more detrimental to the neighborhood than the existing nonconforming structure. The Board further finds that the proposed construction will be architecturally compatible with the existing structure and the layered effect will minimize the effect of a larger structure and blend in with the neighborhood. The petitioners will remove one

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driveway and have agreed to landscape along that side which will buffer the effect of the structure along that side of the street.

The petitioners have spoken with all of their neighbors and none had any objections. No abutters were present at this hearing.

Jonathan G. Gossels, Chairman

Stephen M. Richmond, Clerk

Elizabeth A. Taylor

Jeffrey P. Klofft

Richard L. Burpee, Alternate

KEARNEY AUTOMOTIVE &
UNION AVENUE REALTY TRUST
80 Union Avenue
05-4

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
TUESDAY, JANUARY 11, 2005

The Board consisted of:

Jonathan G. Gossels, Chairman
Stephen M. Richmond, Clerk
Elizabeth A. Taylor
Jeffrey P. Klofft
Richard L. Burpee, Alternate

Notice was published in the Sudbury Town Crier on December 23 and 30, 2004, posted, mailed and read at this hearing.

Mr. Gossels, 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.

Attorney Stephen Grande was present representing the petitioner, William Kearney, also present, in a petition for special permit to allow motor vehicle general and body repair at 80 Union Avenue.

Mr. Grande explained that he represented Mr. Kearney 27 years ago when the permit was first applied for. It lapsed and was never extended. Mr. Grande said nothing has changed and

Mr. Kearney has continued to do the same business he was allowed under the original permit under the same conditions. He has pretty much not had any problems with neighbors.

Mr. Grande said over the years there have been an enormous number of changes to the site. Mr. Kearney has done what has been asked of him by the landlord and while there are still some things to be done, they can't be done until the site is further along. Some of those items to be done are paving and detention basins. Mr. Kearney is the longest tenant at this site.

Mr. Gossels said the Board is familiar with this site having recently approved permits for London Taxi. He read the conditions from the original permit:

1. There shall be a fence installed as shown on plan submitted with application.

Mr. Grande said that fence was actually installed and has now been taken down. It is now apparently going to be replaced by the landlord as part of the site plan. He described the area

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UNION AVENUE REALTY TRUST
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where the fence is to go noting fence cannot be replaced until the detention basin is done. Mr. Grande did not know the landlord's timetable for this work.

Further discussion followed on the fence as to what Mr. Kearney originally put up and what the landlord will be replacing.

2. There shall be no activity between the hours of 10PM and 6AM, six days a week and no work on Sunday.

Mr. Grande said Mr. Kearney had no problem with this condition.

3. There shall be no parking on Union Avenue.

There were no problems with this condition.

4. The debris on the locus is cleaned up and no materials are stored outside, or vehicles which are not to be repaired, and vehicles to be used for salvage parts by the petitioner.

Mr. Grande said this condition has pretty much be complied with. He said there had been some storage, adding that the area has been in a state of flux, but Mr. Kearney has gotten rid of most of anything doesn't comply with that condition.

5. There shall be no exterior lighting emanating from the property.

Mr. Grande said Mr. Kearney is in compliance with this condition.

Mr. Klofft had concerns with regard to the fence. Mr. Grande said the landlord will be replacing the fence. He was reluctant to include this condition as part of the conditions; however it was pointed out that any permit issued will include both the applicant and owner as permit holder. In that case, Mr. Grande was agreeable to replacement of the fence within one year.

Mr. Richmond expressed concern with regard to outside storage on property which is adjacent to the Water Resource Protection District.

Mr. Kearney said most of his storage is inside. Mr. Grande said Mr. Kearney is limited to a very small amount of car parts most of which are not steel or metal. Most of the work is done with fiberglass so the parts don't rust or rot.

Mr. Richmond asked whether the applicant would be agreeable to a condition stating that no car parts are to be stored outside except for fiberglass parts. Mr. Grande was agreeable provided storage of metal parts was allowed in a portable facility.

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UNION AVENUE REALTY TRUST
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Mr. Gossels asked Building Inspector James Kelly, who was present, for his comments. Mr. Kelly said this permit and its expiration came to light during the Union Avenue Site Plan process. As to the timetable for completion of the site plan, it was Mr. Kelly's opinion that the process would take longer than originally contemplated.

Mr. Richmond said his concerns were with potential environmental impact. Mr. Kelly said the Conservation Commission is heavily involved with this site and has supported the Union Avenue Site Plan project, including those areas to be paved.

There was no further input or questions from the Board. No abutters were present. The hearing was closed.

After deliberation the following motion was placed and seconded:

MOTION: "To grant Kearney's Automotive, applicant, and Union Avenue Realty Trust, owner of property, a Special Permit under the provisions of Section 2230, Appendix A,C,Use 13, of the Zoning Bylaws, to allow motor vehicle general and body repair, property located at 80 Union Avenue, Industrial District #2, provided that:

1. There shall be a fence installed as shown on the plan submitted with the application.
2. There shall be no activity between the hours of 10PM and 6AM, Monday through Saturday, and no work on Sunday.
3. There shall be no parking on Union Avenue.

4. The property shall be kept clear of debris. No storage of car parts outside of a weatherproof storage unit, other than fiberglass parts, is permitted.
5. No outside repair of vehicles is permitted.
6. There shall be no exterior lighting emanating from the property.
7. This permit is non-transferable and will expire in five (5) years on January 11, 2010, 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 requires a special permit to continue operation of a lapsed permit which expired 27 years ago. The petitioner has continued his operation over the years without incident and generally in conformance with the original permit.

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UNION AVENUE REALTY TRUST
80 Union Avenue
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The operation is housed in an existing building. The location is a an relatively intense industrial part of town and the property is undergoing extensive site plan renovations which attempt to address both business and environmental concerns which have existed over past years.

The Board finds that this business is in an appropriate location and will not substantially increase noise, traffic or other issues normally present in an industrial district. The restrictions imposed will insure compatibility with the ongoing site plan process and should present no detriment to adjoining zoning districts. Inasmuch as this business has been operating for at least 27 without incident, the Board finds a five-year renewal period to be appropriate.

Jonathan G. Gossels, Chairman

Stephen M. Richmond, Clerk

Elizabeth A. Taylor

Jeffrey P. Klofft

Richard L. Burpee, Alternate

