

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
TUESDAY, SEPTEMBER 13, 2005

The Board consisted of:

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

Notice was published in the Sudbury Town Crier on August 25 and September 1, 2005, posted, mailed and read at this hearing.

Mr. Richmond, 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.

Karin Manning was present to represent a petition for renewal of Special Permit 03-46 to conduct a Home Business, specifically psychology at 112 Powers Road. The business has been in operation for five years. Ms. Manning said currently the patients have been less than what is allowed. She said this may continue to be the case since her husband has been doing more outside consulting. They have complied with the other conditions of the permit and she has received no complaints with regard to the operation. Ms. Manning was comfortable with the conditions and was requesting no changes other than a longer permit renewal period.

There were no abutters present.

In light of the type of operation, Mr. Gossels suggested a renewal period of five years. The Board was in agreement.

There were no further questions. The hearing was closed.

The following motion was placed and seconded:

MOTION: "To grant Ken and Karin Manning, owners of property, renewal of Special Permit 03-46, granted under the provisions of Section 2340 of the Zoning Bylaws, to conduct a Home Business, specifically Psychology, in the barn located on the property at 112 Powers Road, Residential Zone A-1, provided that

1. Hours of operation will be 8AM-6PM, Monday through Saturday.
2. All parking shall be on the premises. No street parking will be allowed.
3. No more than eight (8) car trips per day will be allowed.
4. No employees, other than the residents, will be allowed.
5. There will be no exterior indication of the Home Business. No sign will be allowed on the street.
6. No additional exterior lighting will be allowed except for a post light at the end of the driveway.
7. This permit is non-transferable and will expire in five (5) years on September 13, 2010, and the Board will consider renewal upon receipt of proper application on or before that date.”

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

The petitioner seeks to renew a special permit for a psychology practice which has been in operation for five years. The Board finds that the use is in harmony with the general intent and purpose of the Bylaw, is in an appropriate location, and is not detrimental to the neighborhood. The petitioner has complied with the conditions of the permit and there have been no complaints from abutters. Therefore, the Board finds a five-year renewal period to be appropriate in this case.

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Stephen M. Richmond, Chairman

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Jeffrey P. Klofft, Clerk

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Jonathan G. Gossels

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Elizabeth A. Taylor

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Richard L. Burpee, Alternate

CHRISTOPHER J. & LISA L. LUTZ  
20 Hermitage Street  
05-36

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Stephen M. Richmond, Chairman  
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Notice was published in the Sudbury Town Crier on August 25 and September 1, 2005, posted, mailed and read at this hearing.

Mr. Richmond, 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.

Christopher and Lisa Lutz were present to represent a petition for a Variance to construct a family room and mud/laundry room addition which would result in a rear yard setback deficiency at 20 Hermitage Street. Mr. Lutz said they have six children and need the extra space. He explained that this would be a single story extension off the rear of the house and replaces an existing screened porch which will be demolished. The shape of the lot is such that the extension would run into an inward pointing angle of the rear lot line.

The alternative to the variance would be to build out to the northern side which would bring it further in to the back yard which Mr. Lutz felt would be more unsightly from a neighborhood perspective. While this configuration would conform to set back requirements, he said it would result in a loss of view to the abutters who would otherwise see only woods. It would also create an awkward triangular structure which was not desirable in terms of aesthetics and efficient internal flow within the house.

Mr. Klofft said from the plan it looks like the existing porch is within the setback area. He asked whether a variance was ever granted for the porch.

Mr. Lutz said no variance was every granted. He said the structures on the property were permitted and inspected; however, it was Building Inspector James Kelly's opinion that the porch was probably erroneously allowed.

Mr. Richmond pointed out that the standard for granting a variance is very stringent, that each case must be judged on its own merits. to avoid setting precedence.

Mr. Lutz felt that the inward angle of the land is unique to the parcel. He said the surrounding properties are of a more uniform acreage. He felt the shape of this property, along with the positioning of the house, sets apart this petition.

With regard to the hardship issue, Mr. Lutz felt that because of the slope of the land, it may not be feasible for the construction to be repositioned to avoid a variance as was previously stated. Even so, he felt any alternative would be more out of character with the neighborhood. As far as improving the aesthetics of the neighborhood, he said the structure that is there now has fallen in disrepair and this new proposed structure would be a definite improvement.

In response to a question from Mr. Klofft, Mr. Lutz said the house was built in 1969 – the porch was added in 1975.

Mr. Gossels said he was struggling with the issue of substantial hardship.

Mr. Klofft said he drove by the house and did not see the slope as being that significant. Mr. Lutz said what is being proposed would be about the entire width of the basement. If it had to be extended further to get the same square footage, the basement floor would be above grade. Also, he said once you get into a structure that size you would run into span and load issues.

Mr. Klofft felt the extension might be considered a potential financial hardship.

Mr. Richmond indicated that on the issue of uniqueness of the shape of the lot that it was not clear that there were no other lots in the zoning district with the same shape and that one of the lots on the street plan that had been submitted with the application appeared to have a slight inward angle. He also stated on the issue of substantial hardship that it looked like the applicants had the ability to construct their addition, although the internal layout was not as good as they would get with the variance.

Discussion followed on possible alternatives. Ms. Lutz said any relocation would be detrimental to the abutting neighbor since the Lutz side yard faces the neighbor's front house which would be visually impacted.

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

After deliberation the following motion was placed and seconded:

MOTION: “To grant Christopher J. & Lisa L. Lutz, owners of property, a Variance from the provisions of Section 2600, Appendix B, of the Zoning Bylaws, to construct a family room and mud/laundry room addition, which will result in a rear yard setback deficiency of 8 feet ±, property located at 20 Hermitage Street, Residential Zone A-1.”

VOTED: In favor: 3 (Gossels, Klofft, Burpee) Opposed: 2 (Richmond, Gossels)

PETITION DENIED

REASONS: The petitioners require a variance to construct an addition which would result in a rear yard setback deficiency. In order for a variance to be granted, the petitioners must satisfy four criteria. Failure to satisfy any one of the criteria will cause the variance to be denied. With a five-member Board, a vote to approve requires four votes in favor of the application. Two members of the Board found that the petitioners failed to satisfy the criteria with regard to the uniqueness of the site conditions and the showing of substantial hardship. Upon review of the plan and application, these members found that this was more of a design issue and that there appeared to be alternatives which would satisfy the applicant’s desire for additional space and allow this project to be constructed within the setback requirements.

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Stephen M. Richmond, Chairman

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Jeffrey P. Klofft, Clerk

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Jonathan G. Gossels

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Elizabeth A. Taylor

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