

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
TUESDAY, JULY 18, 2006

The Board consisted of:

Jeffrey P. Klofft, Acting Chairman
Jonathan G. Gossels, Acting Clerk
Elizabeth A. Taylor
Constantine Athanas
Jonas D.L. McCray, Alternate

Notice was published in the Sudbury Town Crier on June 29 and July 6, 2006, posted, mailed and read at this hearing.

Mr. Klofft, 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.

Daniel Sutherland was present to represent a petition for special permit to allow demolition of an existing residence and construction of a new residence which will result in front yard setback deficiencies of 19 feet 7 inches on Louis Avenue and 27 feet on Butler Road. The property is located at 4 Louis Avenue and is a corner lot. Also present was the contractor, Stephen DeFoe.

Mr. DeFoe explained that one of the reasons why the house was proposed for the location is because the owners want to live in the existing house while the house is being constructed.

Mr. Sutherland added that the existing house, when it was built, was situated in the right rear corner of the property which puts it very close to his neighbor's home as well as very close to the water. He said the house was built as a cottage back in the 1920s and is now an eye sore. The intent is to eliminate part of that structure and continue to live there while erecting the new structure.

Mr. Klofft explained that when dealing with reconstructions, the Board tries to not have the larger house closer to the front property line which might create a looming effect.

Mr. Sutherland said there have been two other reconstructions in the area which are close to the road.

Mr. Gossels said he visited the property today and also looked at the two reconstructions in the area. He said in both of those cases, the Board was very careful to push them away from the street. He did note that those were much taller structures than this proposed one.

Ms. Taylor asked what the Conservation Commission's comments were.

Mr. DeFoe said the Commission was in favor of the fact that the construction would be further away from the water.

Mr. Gossels said the water is not that close and no work will be done within the buffer area. He added that this Board is sympathetic to Sudbury residents rebuilding - the only issue is that 20 feet to the road is very close. The Board's normal guidelines for reconstructions are 60 feet from the road and although this is would be a smaller house, it is very close to the road.

Mr. Klofft noted that looking at the plan in terms of the driveway, it wouldn't be possible to get more than one car in beyond the garage.

Mr. Sutherland agreed and said he has accommodated that with a parking area adjacent to the house which will be gravel.

Mr. Athanas said it appears that this is being driven by the fact that the applicants want to live in the existing house. It seemed that if they didn't want to live in the existing house, it could all be pushed back.

Mr. Gossels said that logic could end up with a house being put in the wrong place forever.

Mr. Athanas agreed. He said the fact that they want to live in the existing house may not be the best reason why the house should be in that location forever. He was also not happy with the house being 13 feet from Butler Road, even though the house is modest in size. He said it's still going to be larger than the other houses.

Discussion followed on comparisons of this proposed house to others in the neighborhood. The general consensus was that while the Board could go with the house being 20 feet from Louis Avenue, 13 feet to Butler Road was too close.

Mr. DeFoe offered an alternative plan which proposes cutting the existing house in half and moving the new house further back resulting in the house now being 26' 1" from Butler Road and 30' 3" from Louis Avenue. He said the abutters have seen the revised plan.

The Board reviewed the alternative plan and, given the size of the house and revised setbacks, was comfortable with this plan.

Leonard Curtin, 6 Louis Lane and Estelle Sweet, 5 Louis Lane, abutters spoke in favor of the petition which they felt would be an improvement to the neighborhood.

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

The following motion was placed and seconded:

MOTION: "To grant Daniel & Sharon Sutherland, owners of property, a Special Permit under the provisions of Section 2460 of the Zoning Bylaws, to allow demolition of an existing residence and construction of a new residence not to exceed 2,612 s.f., which will exceed the area of the original nonconforming structure, and will result in front yard setback deficiencies of 13'11"± on Butler Road and 9'9"± on Louis Avenue in accordance with Proposed Plot Plan 0-2264PPP2.D prepared by Inland Surveying, Stow, MA dated May 31, 2006, property located at 4 Louis Avenue, Residential Zone A-1, subject to the following:

1. This special permit shall lapse if construction has not begun, except for good cause, within twelve (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.
2. The new dwelling will be completed within twelve (12) months from issuance of a Building Permit, and the portion of the old structure remaining during the construction period will be demolished within six (6) weeks from the issuance of a Certificate of Occupancy for the new residence."

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

REASONS: The petitioner requires a special permit due to the nonconforming nature of the property. The Board finds that the proposed reconstruction will not be substantially more detrimental to the neighborhood than the existing nonconforming structure. The petitioner has agreed to move the proposed structure further back than was originally proposed. This will result in a more appropriate siting of the house and less deficiency in setbacks. The new structure is modest in scale and will enhance the appearance of the area which has undergone a number of reconstructions in the recent past. The Board notes that several neighbors were present at the hearing in support of this petition.

Jeffrey P. Klofft, Acting Chairman

Jonathan G. Gossels, Acting Clerk

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Mr. Klofft, 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.

Marcel Maillet and John Bender were present to represent a petition for Special Permit to allow demolition of an existing residence and construction of a new residence not to exceed 3,500 s.f. at 63 Jarman Road.

Mr. Maillet said the new house will be constructed in approximately the same location and will conform to all setback requirements. He said the only change might be a switch of the garage to the other side of the house. He said the abutter on the side originally proposed for the garage had some privacy concerns and thought the bushes on that side might have to be taken down. Mr. Maillet said he will not have to take down the bushes.

Referring to the demolition guidelines, Mr. Gossels asked if the house could be moved further back. Mr. Maillet said it would take away from the back yard and the owner would like to put a pool back there. In addition the land slopes down a bit in that area.

Further discussion followed on the location of the house. Mr. Klofft asked whether there was a possibility of moving the house back 10 feet to 51 feet to the porch. Mr. Bender was agreeable to this.

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

The following motion was placed and seconded:

MOTION: "To grant Maillet & Son, Inc., applicant, John Bender, owner of property, a Special Permit under the provisions of Section 2460 of the Zoning Bylaws, to allow demolition of an existing residence and construction of a new residence not to exceed 3,500 s.f., which will exceed the area of the original nonconforming structure, said residence to conform to all zoning setback requirements, in accordance with Proposed Plot Plan prepared by Thomas Land Surveyors dated June 13, 2005, except that the front yard setback will be 51 feet \pm to the porch and 58 feet \pm to the nearest corner of the dwelling, property located at 63 Jarman Road, 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.

Construction must be completed no later than one year after commencement.

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

REASONS: The petitioner requires a special permit due to the nonconforming nature of the property. The Board finds that the proposed reconstruction will not be substantially more detrimental to the neighborhood than the existing nonconforming structure. The new structure will conform to all setback requirements and the petitioner has agreed to move the new structure further back so as not to cause a looming effect as a result of the larger structure. The Board notes that no abutters were present to oppose this petition.

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Anne Stone, Sharon Sutherland and Jamie Denn were present to represent a petition for Special Permit to operate a kennel on the premises at 554 Boston Post Road.

Ms. Stone explained that for the past nine years they operate Pet Nannies which is a pet sitting service. They would like to open a doggie day care during the hours of 7AM-6PM which would consist of exercise and play groups for the dogs.

The intent is to restore a carriage house on the property to house the dogs. The location of the carriage house was pointed out on the plot plan which was submitted with the application.

Mr. Gossels asked how many dogs were expected to be on the premises at any one time. Ms. Stone was looking to have thirty. She would expect ten to be dropped off and picked up at the end of the day. Others would be picked up at the owners' homes as is currently done with the pet nanny service. The maximum number of dogs in a play group would be 8-10 but at any given time during the day there could be up to thirty dogs. Play sessions generally last about 1 ½ hours and dogs are rotated inside and out.

In response to a question from Mr. McCray, Ms. Stone said there will be no overnight boarding of dogs. During rainy days they would be inside the carriage house which is a 20X75 foot structure. There wouldn't be crates but there will be stalls and containment areas on one side with the other side being open for play time.

In response to a question regarding disposal, Ms. Stone replied that waste will be composted in the same area where other waste is currently being composted. She said this operation has been discussed with Board of Director Robert Leupold who had no problem with the proposed waste disposal.

With regard to employees Ms. Sutherland would envision within the year having four employees in addition to themselves.

Mr. Athanas asked about parking. Ms. Denn said there is a turnaround and adequate parking for themselves plus the anticipated additional employees as well as for customers to pick up and drop off their dogs. In addition, they plan to provide a shuttle service within a 5-mile range of Sudbury.

Mr. Gossels asked whether there would be times when some of the dogs are allowed to run loose. Ms. Stone said there is a fenced-in area where some of the dogs are contained. However, if they're on the trail run they are not on a leash – they would be walking with either the applicants or employees.

Ms. Taylor asked whether the applicants were currently using this area now. Ms. Stone said they were not – they currently use the trails in Sudbury.

In response to a question from Mr. Klofft, Ms. Sutherland said two people would take 4-5 dogs at a time off leash. Ms. Denn said the ratio is 2 per 5 dogs off leash and one per 9-10 in the fenced-in contained area.

Paula Adelson, Assistant Dog Officer, said this operation requires a kennel license. She said she has spoken with Ms. Sutherland and Ms. Denn over the past months as they have been working this process through. She has seen how the work with the dogs and is pleased with the results. However, she voiced concern with regard to the dogs being off leash on trails since Sudbury has a leash law.

Ms. Stone said the trails are on private property. There are large fields and the property is contained by a fence on the Raytheon side.

Ms. Adelson felt the ratio of employees should be at least 4-5 for thirty dogs. She commended the applicants on their efforts and the manner in which they have gone through this process.

Mr. Gossels said his only concern was the off-leash aspect.

Ms. Denn pointed out the area where the dogs would be walking off leash. At the Board's request she drew in the fenced area on the plan and marked the area which would be off limits to the dogs.

Mr. Klofft reviewed the conditions for a Special Permit for a kennel which was recently granted noting those which would apply to this application if granted. The petitioners had no problem with those conditions.

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

The following motion was placed and seconded:

MOTION: "To grant Anne Stone, Sharon Sutherland & Jamie Denn, applicants, a Special Permit under the provisions of Section 2313 of the Zoning bylaws, to operate a kennel on the premises, property located at 554 Boston Post Road, Residential Zone A-1, subject to the following:

1. A kennel license will be required for this operation.
2. The dogs do not become a nuisance.
3. The maximum number of dogs allowed on the property is thirty.
4. There will be a 6:1 ratio of dogs to people allowed for this operation.
5. All dogs must wear tags which identify the business.
6. Each dog being dropped off must be on leash from the car to the facility.
7. No dogs will be allowed off leash in the area shown on the plan which is marked as Exhibit #1 and made part of this Special Permit.
8. Waste disposal shall be in accordance with Board of Health requirements.
9. No commercial activity consisting of breeding or sale of dogs will be allowed on the property.
10. Hours of operation shall be from 7AM-6PM. No overnight boarding of dogs will be allowed.
11. A sign in conformance with the Bylaw will be allowed.
12. Any complaints received by the applicants shall be reported immediately to the Dog Officer.
13. This permit is non-transferable and will expire in one (1) year on July 18, 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 petitioners seek a special permit to operate a kennel on the premises. This use is allowed in all districts only by Special Permit from the Board of Appeals. The Board finds that the use will be in harmony with the general purpose and intent of the Bylaw. It will be in an appropriate location which will not be detrimental to the neighborhood and will not significantly alter the character of the zoning district. The property consists of a large tract of land which contains a working farm stand located between two commercial businesses. The facility will not be visible from Route 20. The petitioners have demonstrated that adequate and appropriate

facilities will be provided for proper operation. The animals will be restricted to the area shown on the plot plan, which is made part of this decision, to insure the use will not be offensive to the adjoining zoning districts or neighboring properties.

The Board notes that no abutters objected to the proposed application. Additionally, the Board finds that the conditions imposed and one year renewal period will allow for review to insure proper operation.

A copy of this Decision will be forwarded to the Zoning Enforcement Agent with a letter requesting the premises be inspected by the Dog Officer 3-4 months after commencement of the operation.

Jeffrey P. Klofft, Acting Chairman

Jonathan G. Gossels, Acting Clerk

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DANIEL & DONNA SUTHERLAND

4 Louis Avenue

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