

06-50 Daniel & Linda Consoletti – Lot 1 (Cail Farm) Concord Road  
MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
NOVEMBER 14, 2005

The Board consisted of:

Stephen M. Richmond, Chairman  
Constantine Athanas, Acting Clerk  
Jonathan G. Gossels  
Stephen A. Garanin, Associate  
Nancy G. Rubenstein, Associate

Notice was published in the Sudbury Town Crier on October 26 and November 2, 2006, 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 Land 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 & Linda Consoletti were present to represent a petition for a Special Permit to allow an accessory dwelling unit at Lot 1 (Cail Farm) which is proposed to be constructed by the developer of the subdivision.

Mr. Consoletti explained that the unit, which will be for a family member(s) will be located in the basement of the new home. In addition, they are requesting a waiver of the 5-year period for construction.

Mr. Richmond noted receipt of a memo dated October 11, 2006 from the Board of Health Director which notes the septic plans will allow for the proposed construction, as well as a memo dated October 16, 2006 from the Building Inspector which indicates there will be adequate parking and that the accessory unit will not occupy more than 30% of the total residence area nor is it greater than 1,200 s.f.

Mr. Gossels noted that from the design, the proposed house will have the appearance of a single family dwelling as required by the Bylaw.

Mr. Richmond reviewed the criteria of the Bylaw with the applicants. The applicants had no problem with the requirements.

Dominic Zaia – 818 Concord Road, abutter said during the subdivision approval process, the house was presented as being a certain size and there were no plans for an accessory dwelling unit. He said now the size has increased and an accessory dwelling unit is proposed.

Mr. Richmond explained that the subdivision plan applies to the parcel and not to the structure that's being built on it. He said a subdivision approval would not include a limitation on size.

William Geagan, 809 Concord Road, said during the subdivision process numerous representations were made by the developer to the Planning Board as to the size of the proposed homes. Mr. Geagan submitted a schematic of what was proposed which he said represented a size of 4,000 s.f.

Mr. Consoletti said the main portion of the house will be 4,000 s.f. – the accessory dwelling unit will be 1,200 s.f. and will not be visible from the street since it will be located in the basement.

Mr. Richmond asked the applicants whether they were aware of any size limitation on the house being placed by the Planning Board. They responded that they were not.

In response to a question from Mr. Zaia, Mr. Richmond explained that in accordance with the Bylaw, a special permit for an accessory dwelling unit would terminate upon sale or transfer of ownership of the property.

Peter Karassik, Eligius Homes, developer, said the footprint plans he submitted originally during the subdivision process were schematic in design to show that the proposed houses would comply with the setbacks, height, and lot percentage coverage requirements of the Bylaw. They were not meant to represent the size of the homes to be constructed.

There was no further input. The hearing was closed.

The following motion was placed and seconded:

MOTION: "To grant Daniel & Linda Consoletti, a Special Permit under the provisions of Section 5500 of the Zoning Bylaws, to allow a Single Accessory Dwelling Unit for family member(s), property shown as Lot 1 (Cail Farm) on Concord Road, Residential Zone A-1, as follows:

1. This Accessory Dwelling Unit shall contain no more than 1,200 s.f.
2. The Board waives the applicable five-year period contained in Section 5522.
3. This Special Permit for an Accessory Dwelling Unit occupied by persons related to the family owning and residing in the principal dwelling is issued for the duration of such occupancy.
4. The property owner shall file a sworn affidavit with the Town Clerk, with a copy to the Board of Appeals, certifying such occupancy consistent with the Special Permit, every four (4) years.

5. This permit will automatically terminate upon the sale, transfer, or other change in ownership of the principal dwelling unit.”

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

REASONS: The petitioner requires a Special Permit to allow a single-family accessory dwelling unit. The board finds that the petitioner has fulfilled the requirements of the Bylaw for the granting of a Special Permit.

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Stephen M. Richmond, Chairman

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Constantine Athanas, Acting Clerk

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Jonathan G. Gossels

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Stephen A. Garanin, Associate

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Nancy G. Rubenstein, Associate

06-51 – Emerson Hospital – 490C Boston Post Road  
MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
NOVEMBER 14, 2006

The Board consisted of:

Stephen M. Richmond, Chairman  
Constantine Athanas, Acting Clerk  
Jonathan G. Gossels  
Stephen A. Garanin, Associate  
Nancy G. Rubenstein, Associate

Notice was published in the Sudbury Town Crier on October 26 and November 2, 2006, 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 Land Court within twenty days after the decision has been filed with the Town Clerk, and that possible other appeals may exist under current law.

Bonnie Goldsmith was present on behalf of Emerson Hospital to represent a petition for Special Permit to allow two seasonal banners to be rotated three times a year at the Emerson Hospital Medical Building located at 490C Boston Post Road.

The Board was in receipt of a letter dated November 9, 2006 from the Design Review Board (DRB) which recommends the revised banner design.

Mr. Gossels referred to a previous DRB letter dated September 28, 2006 which recommended the applicant consult with the building architect with regard to the metal brackets in the façade. He asked if this was done.

Ms. Goldsmith explained that with the revised design, which is smaller, the existing metal are not in the right location. She said the designs submitted with this application are the revised designs.

Ms. Rubenstein asked if the banners will be illuminated. Ms. Goldsmith said they will not.

There was no further input. The hearing was closed.

The following motion was placed and seconded:

MOTION: "To grant Emerson Hospital, applicant, a Special Permit under the provisions of Section 3290 of the Zoning Bylaws, to allow two seasonal banners, each being 3 feet wide by 12 feet 7 inches high, to be rotated three times a year, property located at 490C Boston Post Road, Limited Industrial District #1."

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

REASONS: The petitioner requires a special permit to install seasonal banners. The Board finds that the scale of the banners will be compatible with the architecture of the building, and its location to the street is such that the banners should be permitted in the public interest. Since the banners will not be illuminated, they will not cause visual glare or be detrimental to the surrounding area. The banners will not significantly alter the character of the zoning district or interfere with traffic safety in the area.

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Stephen M. Richmond, Chairman

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Constantine Athanas, Acting Clerk

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Jonathan G. Gossels

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Stephen A. Garanin, Associate

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Nancy G. Rubenstein, Associate

06-52 – Rachel Goodrich – 10 Maple Avenue

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
NOVEMBER 14, 2006

The Board consisted of:

Stephen M. Richmond, Chairman  
Constantine Athanas, Acting Clerk  
Jonathan G. Gossels  
Stephen A. Garanin, Associate  
Nancy G. Rubenstein, Associate

Notice was published in the Sudbury Town Crier on October 26 and November 2, 2006, 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 Land Court within twenty days after the decision has been filed with the Town Clerk, and that possible other appeals may exist under current law.

Rachel Goodrich, applicant, and Robert Haworth, contractor, were present to represent a Special Permit to alter and enlarge a nonconforming structure which consists of a restoration of a covered porch at 10 Maple Avenue. The porch will result in a front yard setback deficiency of 25 feet 3 inches  $\pm$ .

Submitted with the application were photographs of the house as it previously existed. Also submitted were ten letters from neighbors in support of this petition. Ms. Goodrich explained that her goal was to restore this house back to its original state.

The Board reviewed the photographs as well as the proposed plans with questions asked for clarification.

Mr. Richmond noted the Board was in receipt of an email from the Sudbury Historical Commission which supports the project noting that the addition would lend the property to a more historic architecture and blend in better with the surrounding houses.

James Apostle, 395 Boston Post Road and Colin Sutherland, 7 Maple Avenue, abutters, also spoke in favor of the restoration.

There was no further input. The hearing was closed.

The following motion was placed and seconded:

MOTION: “To grant Rachel Goodrich, owner of property, a Special Permit under the provisions of Section 2420 of the Zoning Bylaws, to alter and enlarge a nonconforming structure, consisting of the restoration of a covered porch which will result in a front yard setback deficiency of 25 feet 3 inches ±, property located at 10 Maple Avenue, 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 petitioner requires a special permit due to the nonconforming nature of the property. The Board finds that the proposed construction, which will result in a front yard setback deficiency, will not be substantially more detrimental to the neighborhood than the existing nonconforming structure. The property is located in an area of historic homes, and the proposed construction will reconstruct a wrap-around porch which was formerly a part of the structure. Several letters of support have been received from the neighbors, including support from the Sudbury Historical Commission which notes that this reconstruction will add to the historic architecture of the structure and be more compatible with the surrounding homes on the street.

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Stephen M. Richmond, Chairman

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Constantine Athanas, Acting Clerk

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Jonathan G. Gossels

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Stephen A. Garanin, Associate

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Nancy G. Rubenstein, Associate

06-53 – 559 Concord Road LLC – 559 Concord Road  
MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
NOVEMBER 14, 2006

The Board consisted of:  
Stephen M. Richmond, Chairman

Constantine Athanas, Acting Clerk  
Jonathan G. Gossels  
Stephen A. Garanin, Associate  
Nancy G. Rubenstein, Associate

Notice was published in the Sudbury Town Crier on October 26 and November 2, 2006, 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 Land 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 for a Special Permit to allow demolition of an existing residence and construction of a larger residence on a nonconforming lot. The new residence will conform to all setback requirements.

Mr. Grande did not believe construction of a new house would be a detriment to the neighborhood as it is on the top of the hill across the street from Lincoln Road. The property is comprised of 113,800 s.f., with 20 feet of frontage at the end of an existing public way. Although it is an approved way, it is privately maintained.

Arnold Epstein, former owner of this property and current owner of the house halfway down the hill spoke in favor of this petition. He said the existing house is a very old house and is not visible from Concord Road. He felt the new house would create more of a sense of community on the hill.

John McCready, 561 Concord Road, abutter, had no objection to the proposed construction although he said he was surprised to learn that the road was a public way particularly since it required an easement over a portion of his property. He said there are also two other homes on this way, one of which is occupied, the other is set up with three apartments. He asked whether there was any limit as to what can be developed and whether the granting of this petition could open the door for more development since this is such a large parcel of land.

Mr. Grande felt if anything that were to happen on that road in terms of development of his client's property would have to go through the Planning Board for subdivision approval.

Further discussion followed on the status of the way. Mr. Athanas suggested Mr. McCready might want to look at the actual wording of his easement.

There were no further comments. The hearing was closed.

The following motion was placed and seconded:

MOTION: "To grant 559 Concord Road LLC, 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 4,790 s.f., which will exceed the area of the original nonconforming structure, said residence to conform to all setback requirements, property located at 559 Concord Road, Residential Zone C."

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 construction, which will conform to all setback requirements, will not be substantially more detrimental to the neighborhood than the existing nonconforming structure. The house will replace an existing older house. It will not be visible from the road, nor will it impact visually on the neighbors.

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Stephen M. Richmond, Chairman

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Constantine Athanas, Acting Clerk

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Jonathan G. Gossels

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Stephen A. Garanin, Associate

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Nancy G. Rubenstein, Associate

06-54 – Peng & Geng – 115 Willis Road

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
NOVEMBER 14, 2006

The Board consisted of:

Stephen M. Richmond, Chairman  
Constantine Athanas, Acting Clerk  
Jonathan G. Gossels  
Stephen A. Garanin, Associate  
Nancy G. Rubenstein, Associate

Notice was published in the Sudbury Town Crier on October 26 and November 2, 2006, 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 Land Court within twenty days after the decision has been filed with the Town Clerk, and that possible other appeals may exist under current law.

Hong Geng, applicant, and John Barbardoro, contractor, were present to represent a petition for Special Permit to demolish an existing house and construct a larger house on a nonconforming lot.

Mr. Barbardoro explained that the property comprises over an acre of land but has only 131 feet of frontage. The applicants have resided in the house since 2002. The house is old and in need of repairs and the family is outgrowing it. Rather than add an addition, they would like to demolish the house and put a new house in its place. The new house will conform to all setbacks. Septic testing has been done. The new house will be located further back than the existing house.

Mr. Athanas commented that the drawing indicates the front yard setback will be 90 feet but could be up to 140 feet.

Mr. Barbardoro said the engineer provided an approximate location and with the final septic design they would like to be able to have some room to maneuver the house. The same applies for the side lines in order to have the driveway properly placed.

Mr. Richmond said the Board received a comment from a member of the public on the possibility that there were two lots. He asked for comments on this issue.

Mr. Barbardoro did not have that plan; however, he said the original property had a back lot and a front lot which were combined a long time ago. He said the septic actually sits right in the middle of the property. At one point there were two lots, now they're combined.

Mr. Athanas said the question is whether they are legally combined so that you can use one to support the other.

Mr. Richmond asked if there would be an objection to a condition that says the two lots would remain in common ownership.

Mr. Barbardoro said he could speak for Mr. Peng that that condition would be acceptable because they are considered one lot.

Mr. Gossels asked whether the garage was proposed for the front or side of the house. Mr. Barbardoro said it will be on the side.

Further discussion followed on how to handle the lots with regard to the merger issue.

William Maloney, 119 Willis Road, abutter, said he sent the question in with regard to the lot issue. He researched the deed information and found no transaction that the two lots were combined.

Mr. Athanas said when two nonconforming lots come into common ownership, the lots as separate entities become merged as a matter of law and there isn't a separate title. If they were to sell the property, the title description would have to be redrafted because these two lots no longer exist.

Mr. Richmond felt there is a resolution which is to add as a condition that the applicant either determine that the lots have merged or take the action necessary to merge them.

Roselle Levy – 77 Marlboro Road, abutter, felt this house to be enormous. She said the other houses in the area are much smaller. In addition, this application gives such a wide range as to where the house will be placed on the property. There is nothing about trees, screening, septic system placement. She felt the size of the house itself will create privacy issues because if it's located further back it will be close to her back yard. She pointed out the location of her property.

With regard to setbacks, Mr. Richmond asked how far the corner of the proposed house would be from the Levy's lot line.

Mr. Barbardoro estimated it to be approximately 45 feet on the diagonal. With regard to the trees, he said the septic system is planned for directly behind the house and only the trees necessary for the system would be cut. He said the applicants have no intention of cutting trees which would be a natural buffer for them as well.

Mr. Richmond said it is common that when the Board approves similar permits where there are concerns about impacts on neighboring property to require screening as a mitigation measure.

Mr. Gossels felt the neighbors raised a valid point and that the applicants should agree on where the house is going to be located as well as screening mitigation. The application does not currently fix the location of the house on the lot. Mr. Richmond agreed noting it is quite unusual to approve an application where there is such a degree of flexibility in placement of the house.

Mr. Barbardoro said they asked for flexibility because they weren't sure what their chances for approval would be. He said the applicant's didn't want to go forward with the expense of having the septic system designed. The house is going to be set 20 feet from the septic system and they wanted to make sure, before go through all the expenses, that it's a viable project. He said he would be happy to put it in a square and offer some type of screening – although he didn't feel there was a screening issue.

At Mr. Richmond's request, Mr. Levy pointed out on the plan where he felt there to be screening issues. He pointed out an area where he said the trees are very thin tall pines. He referred to the findings for granting of special permits and the second one was impact on the neighbors. He said none of the existing homes are colonials or of this scale. From 45 feet, fence with screening would be needed.

Before discussing the addition of screening, Mr. Athanas asked whether any existing screening has to be removed.

Mr. Barbardoro said with the final septic design some of those pines might have to come down. He would estimate perhaps a minimum encroachment of 10 feet. Those pines are basically in the center of the lot.

Mr. Richmond asked whether the applicant would be comfortable moving the house forward to 90 feet from the front property line.

Mr. Barbardoro said it is difficult to speak for Mr. Peng without discussing it further with him. However, he wouldn't perceive it being an issue. He said the septic system is still going to have to be located where the testing was done and a portion of those trees will have to be cut for the septic system regardless of where the house sits. He said they don't intend to clear other than what's necessary for the septic system.

Mr. Richmond said there have been some concerns expressed about the size of the house and its impact on the neighbors. The plans call for a 50-foot difference in location which is a large distance.

Mr. Barbardoro said if the Board wanted to limit it to between 90-100 feet, he did not see it as a problem.

Mr. Richmond said that would move the house 50 feet forward which would reduce some of the impact on the neighbor to the rear.

Ms. Levy would still want to see where the septic system is going because of the privacy issues.

Mr. Richmond said the Board's concern is going to be with the structure. He said if the structure has an impact that's one thing, but if it's trees alone, it's a different situation.

Ms. Levy said it's the size of the house. The larger the house the more trees are taken down.

Mr. Richmond said there originally was going to be approximately 45 feet from the corner of the house to the corner of the Levy's lot. That is being increased to 95-100 feet plus another 30 feet or so to the Levy's house. He felt 130 feet to be a good distance.

The Levy's were not satisfied. Mr. Richmond suggested postponing the hearing until after the next petition to allow all parties an opportunity to discuss the issues, after which the hearing would resume.

Mr. Maloney said the solution to move the house forward will impact his house. He pointed out the location of his house and the impact he would have if the house is moved forward. He showed pictures of his house. His preference would be for a smaller house located further back. He reiterated the fact that this house is out of scale with the other homes in the area.

Mr. Richmond said this issue has come up a number of times because the Board gets a lot of tear down applications. He said generally this Board has approached tear downs as a phenomenon that the town has essentially sanctioned – and what it tries to do is reduce the impact on neighborhoods as the first houses in the neighborhood are built. But over time, many neighborhoods are changing dramatically with a lot of these larger houses replacing a lot of older, smaller houses – and the Board hasn't seen it as a charge that it has been given in the Zoning Bylaw to stop that from happening.

Mr. Richmond said the Board does have the ability to reduce the impact through the location of visual sight lines and screening - which is why a suggestion was made for everyone to discuss this in postponement in an attempt to reach an accommodation that could include literally a drawn landscape plan. He said it is always better to have the neighbors talk to the applicant to work something out than it is for this Board to impose conditions in the absence of an agreement. Thus, the preference would be for all parties to talk.

Mr. Gossels asked if Mr. Barbardoro was willing to talk about screening at this point.

Mr. Barbardoro said he could not speak for Mr. Peng. He suggested perhaps keeping this hearing open and then Mr. Peng can discuss it with the neighbors.

Mr. Athanas felt the neighbors' point is now and always will be that the house is too large and felt that the applicant would not be willing to reduce the size. However, given that, he felt the applicant should go into this thinking of how to minimize the impact of the house given the size. He felt the neighbors should go into this looking at it dealing with the house as proposed as opposed to coming back with some other scale because this is the scale of what's generally being built.

The hearing was continued to December 12<sup>th</sup>. Mr. Richmond strongly urged discussions be held between the applicant and the neighbors prior to the continuance date.

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Stephen M. Richmond, Chairman

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Constantine Athanas, Acting Clerk

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Jonathan G. Gossels

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Stephen A. Garanin, Associate

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Nancy G. Rubenstein, Associate

06-55 – SRS Development/Beatrice Cabot – 124 Horse Pond Road  
MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
NOVEMBER 14, 2006

The Board consisted of:

Stephen M. Richmond, Chairman  
Constantine Athanas, Acting Clerk  
Jonathan G. Gossels  
Stephen A. Garanin, Associate  
Nancy G. Rubenstein, Associate

Notice was published in the Sudbury Town Crier on October 26 and November 2, 2006, 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 Land Court within twenty days after the decision has been filed with the Town Clerk, and that possible other appeals may exist under current law.

Robert Smith was present to represent a petition for Special Permit to allow demolition of an existing residence and construction of a larger residence on a nonconforming lot at 124 Horse Pond Road. The new structure will conform to all setback requirements and the old structure will be demolished prior to construction of the new residence.

Mr. Gossels would prefer to see the new house set back further than the proposed 57 feet; specifically he would like to see the closest portion of the garage set back at least 60 feet.

Mr. Smith had no problem with this. He noted that there are wetlands in the back portion and moving the house back will still allow him to be outside of the 100-foot wetland buffer.

Lee Michaels, 199 Horse Pond Road, resident, voiced concern with regard to the size of the houses which are being built on nonconforming lots with insufficient frontage.

Mr. Smith said he purposely downsized this house which is 2,900 s.f. compared to the 3,500 plus square feet homes which are currently being constructed. He felt this size would be more compatible with the homes in the area.

Mr. Richmond agreed, noting this house is much smaller than those which the Board is used to seeing.

Ms. Michaels said this street is comprised of 1,200-1,500 s.f. homes and she objected to this.

Mr. Gossels pointed out that although the new homes are larger, this allows for lots to be reused necessitating fewer trees to be cut as would be done for a new subdivision. He said the Board has seen a lot of this type of reconstruction along Pratts Mill and Horse Pond Roads and although the house is clearly larger than what was there originally, it is not the same scale as those being built in other parts of town.

Mr. Richmond said this issue of larger homes was brought up earlier this evening with another petition. He said this is a Town Meeting issue. If the town wants the Board to reduce the sizes of these houses, it will have to provide more direction through the Zoning Bylaw. The process for a Bylaw change begins with the Planning Board. The ZBA is not involved in writing the Bylaw but with enforcing it. Size is not a strong factor in the Bylaw as it's written.

There was no further input. The hearing was closed.

The following motion was placed and seconded:

MOTION: "To grant SRS Development Corp., applicant, Beatrice Cabot, 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 2,900 s.f., which will exceed the area of the original nonconforming structure, said residence to conform to all zoning setback requirements, property located at 124 Horse Pond Road, Residential Zone A-1, provided that:

1. All existing structures will be removed from the property prior to construction.
2. The southwest portion of the garage, as shown on the certified plot plan submitted with the application, shall be not less than 60 feet from the road.
3. 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.
4. 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 construction, which will conform to all setback requirements, will not be substantially more detrimental to the neighborhood than the existing nonconforming structure. The Board notes that several reconstructions have occurred in this neighborhood and surrounding areas, and while this house is larger than the existing house, it is of a smaller scale than many other reconstructions.

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Stephen M. Richmond, Chairman

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Constantine Athanas, Acting Clerk

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Jonathan G. Gossels

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Stephen A. Garanin, Associate

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Nancy G. Rubenstein, Associate

06-56 – Green Meadow RT – 358 Peakham Road  
MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
NOVEMBER 14, 2006

The Board consisted of:

Stephen M. Richmond, Chairman  
Constantine Athanas, Acting Clerk  
Jonathan G. Gossels  
Stephen A. Garanin, Associate  
Nancy G. Rubenstein, Associate

Notice was published in the Sudbury Town Crier on October 26 and November 2, 2006, posted, mailed and read at this hearing.

The Board was in receipt of a letter dated November 14, 2006 from the applicant requesting his petition be withdrawn without prejudice.

A motion was made, seconded and unanimously voted to allow the applicant to withdraw Case 06-56 without prejudice and to waive a subsequent filing fee.

(Petition to allow demolition of an existing house and reconstruction of a larger house on a nonconforming lot)

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Stephen M. Richmond, Chairman

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Constantine Athanas, Acting Clerk

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Jonathan G. Gossels

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Stephen A. Garanin, Associate

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Nancy G. Rubenstein, Associate

06-57 – Gary & Ling Falk – 21 Austin Road

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
NOVEMBER 14, 2006

The Board consisted of:

Stephen M. Richmond, Chairman  
Constantine Athanas, Acting Clerk  
Jonathan G. Gossels  
Stephen A. Garanin, Associate  
Nancy G. Rubenstein, Associate

Notice was published in the Sudbury Town Crier on October 26 and November 2, 2006, 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 Land Court within twenty days after the decision has been filed with the Town Clerk, and that possible other appeals may exist under current law.

Gary Falk, applicant, and Christopher Walsh, architect were present to represent a petition for Special Permit to demolish an existing house a reconstruct a larger house on a nonconforming lot located at 21 Austin Road. The new house will conform to all setback requirements.

Mr. Falk submitted five letters from neighbors in support of the petition. Mr. Walsh distributed copies of a certified plot plan prepared by BSC Group, Norwell, MA dated November

14, 2006. Mr. Walsh explained that the existing house is an older house which wasn't well built. He said they looked at the possibility of renovating the existing house, however, it made more economic sense to reconstruct a new one.

Mr. Walsh said there is an elderly parent living in the house which is a split level design and not a good situation for the parent. As a result the proposed design is for essentially a single floor with two bedrooms on an upper floor with the intent that the house would be compatible for older persons in the future.

Mr. Walsh showed pictures of the existing house. The proposal was to put the new house around the back of the existing house so that the owners could live in the house while the new one was being constructed.

From the renderings submitted with the application, Mr. Walsh described the new house which proposes a low profile in front with the portion containing the two bedrooms in the back.

Mr. Garanin asked how the septic will be handled during construction. Mr. Walsh said the plan is to move the distribution box to where it will be moved for the new house. The existing septic system will remain and be reconstructed in the new area next year.

In response to a question from Mr. Richmond as to the north portion of the property, Mr. Walsh explained that there is a rise, or ridge, that comes out about 6-7 feet and goes down to the neighboring property. He said that side provides the most shielding as the house actually sits below that ridge. In addition, that area is all wooded. Behind this lot, the houses on Dutton Road are quite a distance away.

Mr. Gossels said although the house is 44 feet from the front as opposed to 60 feet which the Board generally likes to see, after seeing the lot and the proposed design, he was comfortable with the location and the fact that the new house wouldn't have a looming effect on the area.

Ms. Rubenstein asked what the highest point of the house would be. Mr. Walsh said it would be 24 feet, 5 inches.

Mr. Richmond apprised the applicant of the standard conditions. Mr. Falk had no issue with any of them.

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

The following motion was made and seconded:

**MOTION:** "To grant Gary & Ling Falk, 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 3,600 s.f., which will exceed the area of the original nonconforming structure, in accordance with the certified plot plan prepared by BSC Group dated November 14, 2006, property located at 21 Austin Road, Residential Zone A-1 as follows:

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 old structure 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 construction, which will conform to all setback requirements, will not be substantially more detrimental to the neighborhood than the existing nonconforming structure. The proposed house is appropriate in size and scale and with its low profile will not impact visually on the neighborhood. The Board notes that several letters were submitted in support of this petition.

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Stephen M. Richmond, Chairman

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Constantine Athanas, Acting Clerk

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Jonathan G. Gossels

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Stephen A. Garanin, Associate

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Nancy G. Rubenstein, Associate



