

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
JANUARY 23, 2007

The Board consisted of:

Jeffrey P. Klofft, Chairman
Elizabeth A. Taylor, Clerk
Jonathan G. Gossels
Stephen M. Richmond
Nancy G. Rubenstein, Associate

Notice was published in the Sudbury Town Crier on January 4 and 11, 2007, posted, mailed and read at this hearing.

Mr. Klofft, 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.

Janice Rudolf was present to represent a petition for renewal of Special Permit 03-57 to conduct art classes and swim instruction at 37 Atkinson Lane. No changes to the permit were being requested.

Ms. Rudolf described the nature of her business. She has been commissioned to work on a sculpture for the Franklin Park Zoo and has previously been commissioned for sculptures throughout the metro west area. Because of the commissioned work she has been able to conduct the adult education classes but not the after-school classes. However, she would like to retain those classes in the event the amount of commissioned work is reduced.

Mr. Gossels noted that this operation has been going on for several years and there have never been any problems associated with it. He would recommend a renewal period of five years.

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

The following motion was placed and seconded:

MOTION: "To grant Janice Rudolf, owner of property, renewal of Special Permit 03-57, granted under the provisions of Section 2340 of the Zoning Bylaws, to conduct a Home Business, specifically art classes and swim instruction, property located at 37 Atkinson Lane, Residential Zone A-1, provided that:

1. Two classes per day, consisting of a summer art and swim camp, will be allowed, beginning the end of June and running through August. Class hours will be from 9:30-11:00AM and 2:00-3:30PM. Class size shall be limited to a maximum of six (6) students at any given class period.
2. Two classes per week, consisting of after-school art classes, will be allowed during the school year only. Class hours will be from 3:30-5:00PM. Class size shall be limited to a maximum of six (6) students at any given class period.
3. Two classes per week, consisting of an adult-studio art program, will be allowed during the school year only. Class hours will be from 10:00AM-12:00PM. Class size shall be limited to a maximum of eight (8) students at any given class period.
4. No more than one employee, other than family members, will be allowed.
5. The applicant shall comply with all applicable health and safety regulations, and a Red Cross certified lifeguard must be present at all swim classes.
6. All parking will be on the premises; no on-street parking is allowed.
7. No sign will be allowed.
8. This permit is non-transferable and will expire in five (5) years on January 23, 2012, 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 seeks renewal of a special permit to conduct art classes on a year-round basis and swim instruction during the summer months. The Board finds the operation to be in harmony with the general intent and purpose of the Bylaw. Adequate and appropriate facilities are provided for proper operation. The Board further finds that with the conditions imposed, there will be no detriment to the neighborhood or public good. The petitioner has complied with the conditions of the previous permits. Therefore, the Board finds a five-year renewal period to be appropriate.

Jeffrey P. Klofft, Chairman

Elizabeth A. Taylor, Clerk

Jonathan G. Gossels

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Ray Bachand was present to represent a petition for renewal of Special Permit 06-5 for the sale of antique and reproduction furniture and accessories in a barn on the property located at 60 Nobscot Road. Other than a change in address from 63 Old Framingham Road to 60 Nobscot Road, no changes to the permit were being requested.

Mr. Bachand also submitted a rendering of the sign which advertises his operation and which conforms to the Sign Bylaw. He also expressed a desire to have a second sign located on Old Framingham Road because he is on a corner lot. However, the Board said at this time the Bylaw has no provision to allow for a second sign for a home business.

Mr. Gossels felt a 3-year period was warranted for this operation due to the nature of the business and the area in which it is located.

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

The following motion was placed and seconded:

MOTION: "To grant Ray Bachand, owner of property, a Special Permit under the provisions of Section 2340 of the Zoning Bylaws, to conduct a Home Business, specifically the sale of antique and reproduction furniture and accessories in a barn on the property located at 60 Nobscot Road, Residential Zone C-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-8PM, 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. All furniture production will be conducted indoors.
8. This permit is non-transferable and will expire in three (3) years on January 23, 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 operate a Home Business consisting of the sale of antique and reproduction furniture. The property on which the business is located is comprised of more than 60,000 s.f. and the business is conducted in one of the barns on the property. The Board finds that the use is in an appropriate location, not detrimental to the neighborhood and will not by its presence significantly alter the character of the zoning district. Adequate and appropriate facilities have been provided for proper operation. Further, the nature of the business will not cause it to be detrimental or offensive to the adjoining zoning districts and neighboring properties, nor will it cause any traffic congestion in the area. The Board finds the use to be in harmony with the general purpose and intent of the Bylaw.

Jeffrey P. Klofft, Chairman

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Attorney Michael C. Fee was present, representing the petitioner Heather Clement, also present, in a petition for renewal of Special Permit 06-7 to operate a kennel on the premises at 882 Boston Post Road.

Mr. Fee explained that the original permit was granted for a period of six months after which it was renewed for a one-year period. One of the original conditions in the permit required the shallow well to be tested for nitrates and coliform bacteria with results sent to the Board of Health Director. The applicant has since drilled a 345-foot well and would ask that that condition be eliminated.

Also being requested is a request to extend the term of the special permit.

Mr. Richmond asked whether well test results went to the Board of Health. Mr. Fee replied that they did and that the tests showed no problem with the water.

As to a question on the rationale for drilling a deep well, Ms. Clement replied that shortly after they purchased their property, the well went dry. Last March, before the rains came, they were concerned that this might happen again and decide to drill a new one. Although the old one is not capped and is still able to be used, they don't anticipate the need to use it.

Mr. Klofft recalled there was one incident with a dog with a broken leg. Ms. Clement explained that this involved a 3-month old puppy that escaped its crate and broke its leg. It is fine now. At that time she would estimate that she was close to capacity with the number of dogs.

Mr. Klofft asked whether the incident with the puppy could have been better controlled if there were fewer dogs.

Ms. Clement replied that the dog was very young and the vet was told by the owner that this dog had even tried to get out of its crate at home. She said it was unfortunate that this dog

got out of its crate. When Dog Officer Betsy DeWallace visited her to see a new litter of kittens, she said she told her about the incident and Ms. DeWallace's response was that it was unfortunate, but with animals – things happen. Ms. Clement said it had nothing to do with the number of dogs.

The Board was in receipt of a letter dated December 29, 2006 from Dog Officer Betsy DeWallace, which noted that she had personally inspected the premises on three different occasions in 2006 and found no problems relative to the condition of the kennel or the animals kept at this residence.

Mr. Richmond noted that Ms. DeWallace passed away last week. On behalf of the Board, he expressed sympathy for her passing, recognizing her efforts on behalf of the Board in conducting inspections of this property to insure the kennel is a well-run operation.

Mr. Richmond asked whether there have been any complaints with regard to the kennel operation.

There were no further comments. No neighbors were present. The hearing was closed.

The following motion was placed and seconded:

MOTION: "To grant Tails By The Wayside, LLC, applicant, Richard J. & Heather C. Clement, owners of property, renewal of Special Permit 06-7, granted under the provisions of Section 2313 of the Zoning Bylaws, to operate a kennel on the premises, property located at 882 Boston Post Road, Wayside Inn Historic Preservation Zone, subject to the following:

1. The dogs do not become a nuisance.
2. The maximum number of dogs allowed on the property is ten boarding dogs plus a pet.
3. All boarding dogs must wear tags which identify the business.
4. Only three boarding dogs will be allowed outside at a time, under supervision, within the fenced-in area. This condition does not apply to the family pet.
5. Any complaints should be reported immediately to the Dog Officer.
6. Compost bin(s) shall be provided for disposal of dog waste. The number and capacity of the bin(s) shall be appropriate for the number of dogs. The composting system must be placed at least 100 feet from the property line.
7. In the event the shallow well is brought back into use, it shall be tested for nitrates and coliform bacteria within the terms of this permit, with results sent to the Board of Health Director.

8. No commercial activity consisting of breeding or sale of dogs will be allowed on the property.
9. No sign advertising the kennel will be allowed.
10. This permit is non-transferable and will expire in two years on January 23, 2009, 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 is requesting renewal of a Special Permit to operate a kennel on the premises. This kennel has been in operation for 1 ½ years. The Board finds that the petitioner has complied with the conditions of the permit and that the number of dogs allowed is appropriate at this time.

The Board finds that the petitioner has demonstrated that appropriate facilities have been provided for proper operation. In addition, the premises were inspected on three occasions during the past year by the Dog Officer who found no problems with the operation.

The Board notes that during the first hearing, several abutters were present who expressed their concerns with regard to this operation in terms of impact, noise and waste disposal. At the first renewal hearing, only one abutter was present who expressed concern that there be good judgment in terms of waste disposal. This abutter had no issue with barking. No abutters were present at this renewal hearing.

As a result, the Board finds a two-year renewal period to be appropriate.

Jeffrey P. Klofft, Chairman

Elizabeth A. Taylor, Clerk

Jonathan G. Gossels

Stephen M. Richmond

Nancy G. Rubenstein, Associate

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Mr. Klofft, Chairman, explained that this case involves an appeal under M.G.L., Chapter 40A, Section 15 in which the petitioners are appealing an Order or Decision of the Building Inspector regarding the use of the property located at 206 North Road. A vote of four of the five member Board is required to reverse the Building Inspector's decision. Mr. Klofft asked anyone present at the hearing who would request written notice of the Board's Decision to provide their names and addresses to the Secretary.

Mr. Klofft asked Building Inspector James Kelly to explain his decision to the Board and audience. Mr. Kelly said, as the Board is well aware, this property has been involved in a court case for the past several years with regard to the use of the property. A few months ago the judge informed Sudbury's Town Counsel that the use would not be permitted and that Fairview Development must stop the operation of the trucking and landscape business which has been operating there for over 40 years.

As Building Inspector, Mr. Kelly said he had no options and directed the Maurers to cease and desist by way of his letter dated November 3, 2006.

Attorney Henry J. Dane was present representing the petitioners, Bruce and Jeffrey Maurer, also present, in this appeal. For the record, Mr. Dane distributed copies of a supplemental document dated January 23, 2007.

Mr. Dane said the issue is that Mr. Kelly's letter order a cease and desist on the current business activity. It doesn't limit it to a portion of the property and doesn't distinguish between those activities that were allowed only because of the use variance.

As a result, Mr. Dane said it was necessary to bring to the Board this issue of focusing and refining what was to cease and desist and also to ask the Board to make a determination based on the activities conducted there as to whether they are in fact protected as an agricultural activity.

Mr. Klofft asked whether Mr. Dane was referring to Parcel B.

Mr. Dane said he was talking about the entire property because the cease and desist order doesn't distinguish Parcel B from the rest of the property.

Mr. Richmond said Mr. Kelly was very clear in referring to the decision of the Mass. Appeals Court. The decision is very specifically limited and Mr. Kelly's opinion is that the Maurers have to comply with the appeals court and stop the activity.

Mr. Dane said Mr. Kelly's letter was addressed to Fairview Development Corp., which is the Maurer property at 206 North Road, which is the whole 35 acres. It's addressed to Fairview and Maurer who operate the entire property.

Mr. Richmond asked whether it was Mr. Dane's opinion that this should refer to Parcel B.

Mr. Dane said it should refer to Parcel B. He would be satisfied if the Board were to decide that this order applies to Parcel B and that it only applies to those activities that were permitted by the use variances that would not otherwise have been permitted as of right.

Additionally, Mr. Dane would like the Board's determination, based on the actual use of the property, documents, and statements made by the Maurer brothers that the activity that is carried on there primarily an agricultural activity.

Mr. Richmond said the agricultural use is a separate issue which is not before the Board. He said the proper vehicle for that is to go to the Building Inspector and ask for a determination as to whether this is an agricultural use. That has not been done. What is before the Board is Mr. Dane's request for a decision to confirm that the decision of the Mass. Appeals Court applies.

Attorney Mark Bobrowski was present representing Daniel and Elizabeth Holmes, plaintiffs in the court case. He said 47 plus years of activity on this property was deemed inappropriate by the court. He said it shouldn't go around in another cycle now arguing about an agricultural use. Mr. Bobrowski distributed copies of the Plaintiffs Opposition To Motion for Reconsideration.

Mr. Richmond said the only item before the Board is whether to confirm the Building Inspector's interpretation. Mr. Klofft added that all this Board can do is to deny the appeal and confirm that the Building Inspector's decision has to stand. He said Mr. Bobrowski may need to take additional action to see that this is enforced, but that is outside of the Board's jurisdiction.

Mr. Bobrowski felt that until such time that the Maurers may persuade the Board that such agricultural use should prevail, all activity on the parcel should cease. He said that was the order of the court - not those that may or may not be associated with agricultural use.

Considerable discussion followed on the agricultural exemption. Mr. Richmond said if there are trees growing on Parcel B and the Maurer's think it's permissible, they need to go to the Building Inspector for an interpretation.

Mr. Bobrowski said when the Maurers testified at trial, they said that Parcel B is 3.78 acres and said it was being used for a business. Later on, Town Counsel Paul Kenny asked whether or not Parcel B is suitable for anything else – and the answer from Mr. Maurer was no.

Mr. Klofft said the agricultural issue is not before the Board and Mr. Bobrowski was asking for an opinion on something that has not even been presented as a matter that has been decided by the Building Inspector.

Mr. Bobrowski agreed that the agricultural use is not before the Board, but said for the Maurers to “hide” behind an alleged agricultural use activity while the activity is going on Parcel B is inconsistent with the court's decision.

Mr. Klofft said that may be true but was not before the Board to decide this evening.

Mr. Bobrowski said that was precisely his point. He said if the Board is not going to decide, all activity should cease tomorrow, period. If it decides that the agricultural use actually is engaged upon, it may be resumed.

Mr. Richmond said this Board is not the enforcement authority. It does not have the authority to issue a cease and desist order.

Mr. Bobrowski said the Board has the authority to uphold a cease and desist order.

This, Mr. Klofft said, is what the Board will be voting on.

Mr. Dane said what he is asking for is exactly what the judge said she made by her judgment. He said that he, together with Mr. Bobrowski and Mr. Kenny had a telephone conference call with the judge on January 19th, and what the judge said was that the original judgment was not clear and that she did not intend that the Maurers be prevented from doing anything on this property that is otherwise acceptable. It was her intent to address only the activity for which a use variance is required. She also said he would receive a written decision on Monday, January 22nd; however, it has not yet been received.

The Board felt there was no further input to be had. The hearing was closed.

The following motion was placed and seconded:

MOTION: "To uphold the decision of the Building Inspector as contained in his letter dated November 3, 2006 with the understanding that it refers to the prohibition of the use as discussed in the Massachusetts Appeals Court relating to Parcel B."

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

REASONS: The Board finds that the Building Inspector's decision to issue a cease and desist was in accordance with the Decision handed down by the Massachusetts Appeals Court.

Jeffrey P. Klofft, Chairman

Elizabeth A. Taylor, Clerk

Jonathan G. Gossels

Stephen M. Richmond

Nancy G. Rubenstein, Associate

MAILLET HOMES, INC.
33 Victoria Road
07-5

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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.

Michael Maillet was present to represent a petition to demolish an existing residence and to construct a larger, new residence on a nonconforming lot at 33 Victoria Road.

The lot is nonconforming in terms of area and frontage. The existing home is approximately 1,400 s.f. and the new house will be 3,500 s.f. The height will be 32 feet and it will be set further back than the existing house – front yard setback is proposed at 60 feet and all other setback requirements will be met. The existing house is not currently occupied.

John McGee, 143 Victoria Road, abutter, said the lot slopes – he would like to know what the resulting grade will be.

Mr. Maillet said the foundation will be approximately the same height. There will be a small amount of grading in the back. There was a pool which will be removed.

The Board reviewed the plans submitted with the application. There were no comments. The hearing was closed.

The following motion was placed and seconded:

MOTION: “To grant Maillet Homes, Inc., applicant, Brooks Bennett, owner of property, a Special Permit under the provisions of Section 2460B 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 requirements and to be constructed in the location as shown on plan prepared by Zanca Land Surveying, Stow, MA dated December 21, 2006, which is incorporated and made part of this decision, property located at 33 Victoria 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 proposed house is modest in scale and the design will be compatible with the neighborhood. The proposed location is consistent with the Board’s Guidelines for Demolitions and Reconstructions.

Jeffrey P. Klofft, Chairman

Elizabeth A. Taylor, Clerk

Jonathan G. Gossels

Stephen M. Richmond

Nancy G. Rubenstein, Associate

DAVID & LISA CRANE
156 Pratts Mill Road
07-6

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
JANUARY 23, 2007

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Jonathan G. Gossels
Stephen M. Richmond
Nancy G. Rubenstein, Associate

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David and Lisa Crane were present to represent a petition for a special permit to construct a new residence which would consist of a new structure attached to the existing foundation at 156 Pratts Mill Road.

Mr. Crane said he has lived at his residence for 8 ½ years. The property is situated on a corner lot which presented certain challenges to the project. The existing house was constructed

in 1955 and consists of a 1,200 s.f. single story house. They would like to remain in this neighborhood but need to expand because of their growing family.

Mr. Crane said they looked at a number of alternatives and have elected to construct the house adjacent to the existing house with an attached one-story 2-car garage which will use the existing house location and a portion of the existing house foundation. The new house will comply with the setback requirements except that the existing foundation location will be maintained for the new garage. That setback is 29.8 feet from Pratts Mill Road. The house will be a traditional colonial similar in scale to other homes which have been reconstructed in the area. Driveway access will be from Briar Patch Lane which is considered to be safer. The house location was selected as one which would provide the most privacy for the Cranes as well as the neighbors. Revised design plans were distributed which change the roof line of the garage slightly.

From an existing conditions plan, Mr. Crane described the lot which contains a wooded area consisting of mature trees that provide screening between the two primary abutters. He plans to keep that buffer area and the only trees that will be cut down are those needed for construction of the house.

The Board reviewed the revised design plan asking several question for clarification. The roof line of the garage will be slightly higher than the existing house.

Further discussion followed on the setbacks, particularly to Briar Patch Lane. Mr. Klofft felt that to move the house further back would result in more of the tree buffer having to be cut and the location for the septic system might be a little bit tight.

There are two primary abutters and several neighbors, all of which have been contacted with regard to this project. Included with the application are several letters in support of this petition.

Attorney Michael Fee was present representing John and Kathy Block, 150 Pratts Mill Road, one of the primary abutters. He said their main concern was to have the house moved as far away from their property as is possible to do and they wanted to be sure no runoff problems would be created going out towards their property as the Crane's property is on a slight grade.

Mr. Crane said the existing woods area will minimize any runoff. Also, the current driveway will be eliminated and replaced with lawn, which will absorb runoff. The existing house is approximately 82 feet from the Block's – the new house would be about 3 feet closer.

Mr. Fee said Mr. Block could not be present this evening, but he is generally supportive of this project. However, his main concern is the drainage. He described the topography and drainage flow adding that it would be appropriate for the Board to condition a special permit to require roof drains into dry wells to insure there is proper drainage and to require appropriate erosion and sedimentation controls during construction.

Additionally, Mr. Fee said there is a significant vegetative buffer as was previously mentioned. Mr. Fee would suggest a condition that this not be disturbed and that the trees be maintained. He pointed out that this buffer is crucial since there will now be a 2-story house where a one-story currently exists.

Mr. Crane said he was planning to put in the roof drains and dry wells. However, he voiced concern as to what a restriction on the wooded area would entail. He said that area provides a buffer which he wants to keep as it provides the privacy he requires.

Mr. Klofft felt a condition limiting disturbance of the wooded area during construction might be appropriate. However, he felt to impose a restriction beyond that was too restrictive.

Martin Kennedy, 10 Briar Patch Lane, 2nd primary abutter said he has discussed the plans with the Cranes and is in favor of the project and feels it will be an enhancement to the neighborhood. He said to move the house further back would result in more of the tree area needing to be cut which would impinge on the privacy of the neighbors.

Mr. Klofft asked whether the Crane's would be living in the existing house during construction.

Mr. Crane said they would. He said the intent is to construct the house, obtain a Certificate of Occupancy, then demolish the house and construct the garage portion.

There was no further input and the hearing was closed.

The following motion was placed and seconded:

MOTION: "To grant David I. & Lisa Ann H. Crane, owners of property, a Special Permit under the provisions of Section 2460B of the Zoning Bylaws, to allow construction of a new residence not to exceed 3,000 s.f., consisting of a new house structure attached to an existing nonconforming structure which will exceed the area of the existing nonconforming structure, in the location as shown on the Proposed Construction Plan prepared by David E. Ross Associates, Inc., Ayer, MA, dated December 2006, which is incorporated and made a part of this Decision, property located at 156 Pratts Mill Road, Residential Zone A-1, as follows:

1. Roof drains will be installed along the south side of the house and will drain into dry wells.
2. There will be no disturbance of the wooded area during construction.
3. 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.

4. The new dwelling will be completed within twelve (12) months from issuance of a Building Permit, and the old structure will be demolished within ten (10) 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 proposed house is similar in size and design to other homes that have been reconstructed in the area. Although the existing foundation which will be used for the garage is currently deficient in front yard setback amount, the remainder of the proposed construction will meet the required setbacks. The property contains a wooded area which will provide privacy for the petitioner and a buffer to the two primary abutters.

The Board notes that a great deal of effort was made by the petitioner to discuss the project with the two primary abutters as well as other neighbors. One of the primary abutters was concerned with regard to drainage and the buffer. The petitioner has agreed to conditions requiring the installation of roof drains which drain into dry wells and to no disturbance of the wooded area during construction. The second primary abutter expressed support for the project which he felt would enhance the appearance of the neighborhood.

Jeffrey P. Klofft, Chairman

Elizabeth A. Taylor, Clerk

Jonathan G. Gossels

Stephen M. Richmond

Nancy G. Rubenstein, Associate

PETER VENUTO
3 Ronald Road
07-7

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Mr. Klofft, 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 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.

Peter Venuto was present to represent a petition for a variance to allow construction of a 2-car detached garage and storage area, which will result in a front yard setback deficiency of 25 ± on Hudson Road, property located at 3 Ronald Road, Residential Zone A-1.

Mr. Venuto distributed photographs of the property and described the layout of the land from a plan he presented. He said he showed his plans to his abutters and no concerns were expressed to him.

He would like to construct an auxiliary structure with the garage portion being used by his teenage children. The remainder would be used as a workshop/storage area. He said the property is a corner lot which presented some difficulty in siting the structure. He pointed out the area of the septic system, pool and underground utility lines.

With regard to hardship Mr. Venuto said to place it in any other location would virtually require it to be placed in front of the house which would restrict access to the rear of the property.

The structure would be placed behind a row of pine trees and thus would not be a visual nuisance to the neighbors. That screening would not be disturbed. Mr. Venuto added that many of the structures along Hudson Road are closer than what he is proposing.

Considerable discussion followed on this petition and its applicability to the four criteria which must be satisfied before a variance could be granted. The general feeling was that the petitioner had not satisfied the hardship component or that the granting of a variance would not substantially derogate from the intent and purpose of the bylaw.

Further, there also appeared to be alternative locations for siting the structure. A suggestion was made that perhaps the petitioner might want to consider a withdrawal to rework his plans and resubmit his application.

Mr. Venuto said he would request his petition be withdrawn.

A motion was then made, seconded and unanimously voted to accept a withdrawal without prejudice and to waive a subsequent filing fee.

Jeffrey P. Klofft, Chairman

Elizabeth A. Taylor, Clerk

Jonathan G. Gossels

Stephen M. Richmond

Nancy G. Rubenstein, Associate

