

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
JUNE 19, 2007

The Board consisted of:

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

Notice was published in the Sudbury Town Crier on May 31 and June 7, 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.

Robert Wellen, Wellen Construction, applicant, was present to represent a petition for a special permit to allow demolition of an existing residence and construction of a new residence which will exceed the area of the original nonconforming residence at 489 Dutton Road. The existing house is 1,800 s.f.; the proposed house will be 4,000 s.f. and will be located behind the existing house as shown on the plan. It will be set back approximately 77.5 feet from the front property line.

Ms. Rubenstein asked how the new house will align with the house to the right. Mr. Wellen said it would be about even with it. He was also proposing to slide the house a little further towards the town land.

Mr. Klofft asked why the garage was proposed on the right side given that there is town land on the left side.

Mr. Wellen said the right side is pretty much on the north side and the other side is the south side which also looks into the woods. He submitted another version of the plan.

Mr. Klofft said one plan shows a 37-foot setback from the abutter's property; the one just submitted shows a 51-foot setback. He asked which setbacks applied.

Mr. Wellen said after discussions with the D'Amato's, he got the impression that they wanted to have more privacy than the original plan provided them. He was willing to construct in accordance with either plan.

Mr. Richmond asked for the proposed height. Mr. Wellen was not sure. Mr. Klofft said the permit will indicate the structure will be constructed within all zoning requirements.

Richard & Helen D'Amato, 493 Dutton Road, abutters to the right, preferred the driveway be located on the other side of the house.

Mr. Klofft said this would mean the house would then be about 20 feet closer to his property line. Mr. Richmond added that it would also increase the height of the structure closer to their property line which would have more of a looming effect.

While the D'Amato's felt this would be a large edifice which doesn't generally fit in with the neighborhood, they would prefer the seeing the increased height of the house as opposed to a driveway with traffic going in and out.

From the end elevations, Ms. Taylor pointed out what the D'Amato's would be seeing if the driveway was located on their side and on the other side. With the driveway on the left side, they would see a large flat wall the total height to the roof. Mr. Richmond said, personally, he would prefer the house with the driveway on the other side.

Mrs. D'Amato said there is a lot of traffic on Dutton Road – the 3-car garage would exacerbate the problem.

Mr. Richmond asked Mr. Wellen his reaction to flipping the garage to the left side.

Mr. Wellen said he would like it on the right side because of the southerly exposure. He would, however, be willing to put in screening.

Mr. Richmond said in most situations, the Board seeks accommodations of some sort. They can't always satisfy everyone, but can certainly help to mitigate some issues. He said in this case, since Mr. Wellen has moved the structure substantially away from the D'Amato lot and is willing to provide screening, his sense was that many concerns have been addressed.

Mr. D'Amato asked what type of screening would be provided and where it would go. Following discussion, Mr. Wellen agreed to provide screening as far back as 10 feet beyond the driveway. He pointed out the existing trees on that side noting that some may have to be removed for the construction; however, he was willing to replace them with similar species.

The D'Amato's appeared satisfied. There were no further comments. The hearing was closed.

The following motion was placed and seconded:

MOTION: "To grant Robert & Pamela Wellen, applicants, Olivia Bracken, 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 4,000 s.f., which will exceed the area of the original nonconforming structure, said residence to conform to all setback

and height requirements, property located at 489 Dutton Road, Residential Zone A-1, subject to the following:

1. There will be minimal disturbance to the existing vegetation on the northern boundary of the lot except where necessary to position the driveway, and where such disturbance is necessary, it will be replaced by similar plantings at least as far back as 10 feet beyond the western edge of the driveway.
2. The southern edge of the house will be no more than 24 feet to the north of the southernmost property line and no closer than 77.5 feet from the front property line.
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: 4 (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 location is consistent with the Board's guidelines for Demolitions and Reconstructions. In addition the petitioner has agreed to provide screening to lessen the visual impact of the driveway and garage on the immediate abutter.

Jeffrey P. Klofft, Chairman

Elizabeth A. Taylor, Clerk

Stephen M. Richmond

Nancy G. Rubenstein

