

Lee & Christine Fyock  
9 Crystal Lake Drive  
Case 07-36

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
OCTOBER 9, 2007

The Board consisted of:

Jeffrey P. Klofft, Chairman  
Elizabeth A. Taylor, Clerk  
Jonathan G. Gossels  
Stephen A. Garanin, Associate  
Jonas D.L. McCray, Associate

Notice was published in the Sudbury Town Crier on September 20 and 27, 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.

Lee Fyock was present to represent a petition for a special permit to construct a 4X6 roof over the existing porch which will result in a front yard setback deficiency of 14 feet at 9 Crystal Lake Drive. Mr. Fyock explained that the roof will not extend beyond the existing steps.

The Board reviewed the photo simulation which was submitted with the application. There was agreement that this structure will enhance the appearance of the house and will provide shelter at the entrance. Recognizing that this was a simulation, Mr. Gossels noted it important that the roof structure match the slope of the house roof.

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

The following motion was placed and seconded:

MOTION: "To grant Lee & Christine Fyock, owners of property, a Special Permit under the provisions of Section 2420 of the Zoning Bylaws, to alter and enlarge a nonconforming structure by constructing a 4X6 foot roof structure over the existing porch, which will result in a front yard setback deficiency of 14 feet ±, property located at 9 Crystal Lake Drive, 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 petitioners require a special permit due to the nonconforming nature of the property. The Board finds that the proposed alteration and enlargement will not be substantially more detrimental to the neighborhood than the existing nonconforming structure. The proposed construction is modest and will not extend beyond the existing steps. The addition of a roof over the existing porch and steps will enhance the appearance of the structure and will provide shelter at the entrance of the house. The Board notes that no abutters were present at this hearing to oppose this petition.

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Jeffrey P. Klofft, Chairman

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Elizabeth A. Taylor, Clerk

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Jonathan G. Gossels

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Stephen A. Garanin, Associate

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Jonas D.L. McCray, Associate

Christopher Hayes  
28 Wright Road  
Case 07-54

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
OCTOBER 9, 2007

The Board consisted of:

Jeffrey P. Klofft, Chairman  
Elizabeth A. Taylor, Clerk  
Jonathan G. Gossels  
Stephen A. Garanin, Associate  
Jonas D.L. McCray, Associate

Notice was published in the Sudbury Town Crier on September 20 and 27, 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.

Christopher Hayes was present to represent a petition for Special Permit to allow a Single Accessory Dwelling Unit at 28 Wright Road. Mr. Hayes explained that the unit would be for his mother.

The dwelling unit will be set back approximately 100 feet from the street at the back corner of the existing house. From the rendering he pointed out the existing driveway and three garage bays. One bay will be eliminated.

In response to a question from Ms. Taylor, Mr. Hayes said the existing house contains four bedrooms. In order to comply with the 4-bedroom septic requirement, one of the small bedrooms will be turned into a walk-in closet.

Mr. Gossels asked how close the nearest neighbor would be to the proposed addition. Mr. Hayes estimated it to be approximately 100 feet.

Ms. Taylor asked what screening is proposed along the side that would be most impacted as this addition will have a visual impact on that neighbor.

Mr. Hayes said there is not much screening there now. He will have 6-foot high bushes planted along the foundation line.

Mr. Gossels asked if Mr. Hayes had met with that neighbor. He replied that he did not, but his wife did.

Mr. McCray asked about the entry. Mr. Hayes said the garage will have an entry door to the side. Mr. Gossels commented that this is a very large addition. He asked if it would be possible to turn the entry door to the side. Mr. Hayes said the entry door would be used to access the accessory dwelling unit and the garage.

Daryl Gies, 36 Wright Road, abutter directly adjacent to the proposed addition had several concerns, most important of which was water. He said his house is in a very wet area and there is a lot of runoff that ends up in this neighborhood. He wanted to be sure this issue is addressed in the proposed plans. He said he had not reviewed the plans to assess the full impact on his property and would request more time to do so. He also had concerns with regard to the total of four bedrooms noting that other houses in this development, including his, have five bedrooms. He said the original deed, created for the neighborhood, does not allow placement of obstructions between houses such as landscaping, trees, etc.

Mr. Klofft asked whether that restriction was a covenant that existed beyond the developer who developed the land. Mr. Gies did feel it was the builder's covenant, but was not completely sure.

Mr. Gies was opposed to having this addition so close to his home.

Ms. Taylor said the addition would be 32 feet from the side lot line. The setback is 20 feet, so it would be well within the building envelope.

SantaJean DeSantis, 25 Wright Road, abutter directly across the street said there are covenants on all the deeds in the neighborhood. She thought the town might have put them on, adding that the houses were built 36 years ago and the ability to construct them resulted from a suit by the builder to the town which said that area was too wet to build on. The covenant also does not allow any more than 2-car garages. The bays that exist on some of the other homes are not regulation garages but simply storage areas with garage doors.

Ms. DeSantis there is a drainage easement between the Gies and Hayes houses and water has been a problem. She said she also has five bedrooms and questioned the total of four bedrooms for this property.

Ms. DeSantis felt this addition would have an adverse impact on the neighborhood and alter it character. She distributed pictures of Mr. Hayes' house and the Gies house.

Jonathan Ehrmann, 37 Wright Road, abutter across the street toward the right concurred with the sentiments express by the previous abutters.

Mr. Gossels asked Mr. Hayes if he had spoken with an attorney with regard to the proposed plan and whether it would violate any covenants. Mr. Hayes had not.

Mr. Klofft felt there was a technical issue with regard to the covenants and the Board's desire to have a better understanding of those covenants. He also suggested that Mr. Hayes discuss his proposal with his neighbors in light of the concerns they expressed this evening.

Philip DeSantis, 25 Wright Road questioned the size of the addition and whether it conformed to the bylaw requirement.

Mr. Klofft read the following letters:

- from the Building Inspector dated September 6, 2007 which notes that there is adequate parking and the new construction will meet Mass. Building Code requirements. The addition will not occupy more than 30% of the total residence area nor is greater than 1,200 s.f. The owner must also request a waiver of the 5-year waiting period for use of an addition as an accessory dwelling unit.
- from the Health Director dated September 6, 2007 which notes that the existing septic system is designed for 4 bedrooms and has passed a Title 5 inspection. Approval is recommended.

There was general agreement among the Board to continue this hearing. Mr. Klofft requested Mr. Hayes provide a copy of the covenant for the Board's review. As was mentioned previously, he said this is a large addition and requested the applicant meet with his neighbors

prior to the continuance to discuss his proposal to address their concerns particularly with regard to size and water issues.

The hearing was continued to November 19, 2007 at the Lower Town Hall.

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Jeffrey P. Klofft, Chairman

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Elizabeth A. Taylor, Clerk

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Jonathan G. Gossels

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Stephen A. Garanin, Associate

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Jonas D.L. McCray, Associate

Coulson Property Development  
24 Pokonoket Avenue  
Case 07-55

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
OCTOBER 9, 2007

The Board consisted of:

Jeffrey P. Klofft, Chairman  
Elizabeth A. Taylor, Clerk  
Jonathan G. Gossels  
Stephen A. Garanin, Associate  
Jonas D.L. McCray, Associate

Notice was published in the Sudbury Town Crier on September 20 and 27, 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.

Simon Coulson was present to represent a petition for Special Permit to allow demolition of an existing structure and construction of a larger structure on a non-conforming lot located at

24 Pokonoket Avenue. Mr. Coulson explained that the proposed construction will be a 4-bedroom, 2-story house, approximately 3,200 s.f. which will conform to all setback requirements.

(N.B. – On August 16, 2005, the Board approved Case 05-34 (Bilodeau) to construct a 3,410 s.f house with setback deficiencies for this property. The existing house was demolished and a new foundation was constructed. Following a construction accident and subsequent construction difficulties, ownership was taken over by the Bank of New York)

Although the proposed construction is larger than the original structure, it is smaller than the previously granted new structure. It will also be set back further from the road than both of those structures.

Mr. Coulson said he sent a copy of his application and plans to the abutters. He submitted complete plans showing the side and rear elevations at this hearing. Also submitted was the plot plan showing the original footprint superimposed with the previously granted footprint.

Mr. Coulson said he tried to reduce the visual impact of this house as much as possible by selecting a location and position further back and within the setback requirements. The driveway will be constructed to meet the original entry point of the driveway.

Mr. Gossels asked how this footprint compares in size with the one previously granted. Mr. Coulson said it is smaller and oriented differently. With the previous plan it was facing uphill. Included with the application was a illustrative design of the house. Access to the garage will be on the side of the house. Total height will be 34-35 feet from finished grade.

Mr. Coulson said he looked at the assessor's records for house sizes on Pokonoket Avenue as well as several other streets in this neighborhood. He said according to those records, there are at least 16 houses that are equal to or greater than the size proposed.

The existing septic system was installed for 3-bedrooms in 1994 and a design to upgrade it to 4-bedrooms was approved by the Board of Health in 2004. Mr. Coulson said his engineer has spoken with the Board of Health Director who said they could use that data for the redesign and saw no problem with the siting of the septic system on the lot. A copy of a confirmation letter to that effect was submitted at this hearing.

Following construction of the house, Mr. Coulson said the lot will be professionally landscaped to insure its visual appearance meets with approval.

Mr. Gossels was comfortable with the proposed 3,200 s.f; however, he expressed concern regarding the height.

Liam Vesely, 10 Pokonoket Avenue, abutter, said his house is located further down the hill. He provided a history of this property which originally contained a very small long ranch. He described the topography of Pokonoket Avenue which goes up a hill to this property. The

lower section has many older houses and is on the cusp of the Historic District. He said those houses are much smaller in size than what is being proposed for this property.

Mr. Vesely said there is a 15-20 foot drop from this property to his property. He said at the time Mr. Bilodeau came before the Board in 2005, a number of neighbors attended that hearing and expressed concerns about the size of the house. The permit which was granted contained conditions for landscaping and buffering.

Mr. Vesely voiced concern that the visual impact of a 34-35 foot structure from his house would be significant. Also of concern were issues of runoff which he said are issues for all of the houses in the neighborhood.

With regard to the design, Mr. Vesely said the neighbors weren't trying to prevent any construction as they would like to have something built there. There were concerns as to what the house will look like since this is an older neighborhood and the proposed house is very modern. He gave square footages for several older, smaller homes in the neighborhood ranging from 1,400-2,800 s.f. He said when the previous owner was applying for a permit, he was a neighbor who was planning to live on the property for many years. Although this didn't work out and the property was foreclosed, the property would now be owned by a builder intending to sell the house, which is a different situation. Mr. Vesely wanted to see more information from the builder with regard to grade, topography, elevations and landscaping.

With regard to the grade, Mr. Coulson said the proposed location foundation is pretty much in the flatter end where the previous locations were proposed, so there will be no movement of grade. As to the visual aspect, he said there is a large amount of foliage within the lot looking down the hill. He submitted photographs to illustrate the density of the foliage which is mostly evergreen.

Mr. Vesely said he would still be able to see the house through the foliage.

Mr. Klofft agreed that there was a fair amount of foliage there. He asked Mr. Vesely if a requirement for additional screening would help lessen the view of the house.

Mr. Vesely said it would. He said with the previous permit, the neighbors had worked out the screening with Mr. Bilodeau.

With regard to the issue of house size, Mr. Klofft said one of the things the Board struggles with is older neighborhoods where there is gradual turnover from smaller houses to larger ones by way of reconstructions.

Stephen Bartlett, 21 Pokonoket Avenue, abutter across the street, submitted pictures of houses in the neighborhood within ¼ mile of the property. He said this is a very large and tall house. The neighbors objected to the house proposed at the Bilodeau hearing but dropped those objections because Mr. Bilodeau was a neighbor, and he agreed to some screening.

Mr. Klofft asked whether consideration had been given to a Cape-style with a larger footprint but lower roofline.

Mr. Coulson said it was not, primarily for marketing reasons. He said in today's market, it would have to be a 2-story dwelling. From a business perspective it is much more expensive to build a structure that is lower with a greater footprint to achieve the necessary square footage. He was trying to maximize the square footage within the building envelope which will allow a greater amount of conformity while taking into account some sensitivity as to how that visual impact will look from the road and neighborhood.

Mr. Bartlett agreed that this siting was far better than what was proposed by the previous owner.

Peter Augustinelli, builder for Mr. Coulson, said the height of the house is 33'10" plus the amount of the foundation that will be above grade. He will need to keep it 8-12 inches above grade. In addition, he said the roof is proposed as a hip-style to diminish the gable look.

Marcia Bartusiak, 37 Pokonoket Avenue, abutter, said the house will have a visual impact on her property and this neighborhood.

Ms. Taylor agreed that there is a mixture of homes and styles in this area. However, she said what is there now as a result of the accident and foreclosure will eventually be rebuilt by a developer. From her experience as a Board member, she did not see a builder coming in with a house less than 3,000 s.f. from an economic perspective.

Mr. Klofft agreed, adding that perhaps there could be issues of screening which could be worked out between the neighbors and the builder.

Mr. Bartlett said the neighbors would like an opportunity to further confer with Mr. Coulson to see if there was a way their concerns could be addressed.

Mr. Gossels felt the neighbors have legitimate concerns and the applicant has shown a willingness to work with them. Mr. Gossels felt the house was tall and would be comfortable continuing this hearing. He added, however, that this site will eventually be developed.

Mr. Klofft did not feel the design was unreasonable and asked whether Mr. Coulson would agree to a continuance.

Mr. Coulson said from the contractual situation with the Bank of New York, a continuance would be the same as a refusal and the bank would reject his offer. In that case, the Board would be faced with another developer for this property. With regard to the size and height, he said he was trying to be sensitive to the architecture while at the same time making this project economically viable. From that standpoint, the only design he could present is a 2-story house.

Mr. Coulson said there are things he could accommodate. He said he hasn't done a landscaping plan, but when he does, he would be willing to work on any screening issues. However, he cannot change the architecture.

Discussion followed on landscape scenarios along the front and driveway with Mr. Coulson again noting his agreement to work on those issues.

Martha Romanoff, 21 Pokonoket Avenue, abutter, reiterated a previous comment that the neighbors went along with the Bilodeau plan because he was a neighbor. She said over and above what Mr. Bilodeau did, this plan will go from a one-story house to a 34-35 foot 2 story house which will greatly impact her property.

Mr. Klofft said the neighbors want a smaller house which is less than 2 stories; however, this is not economically viable. He said the bank needs to sell this property and, with the situation that exists, the only one who will buy it is a developer.

Mr. Gossels said the house height is close to the maximum. He asked how high the ceilings were.

Mr. Augustinelli said the first floor height is 9 feet – second floor height is 8 feet, which is standard. Roof design was chosen because of the style and visual aesthetics. It is 12 pitch but could be reduced to 10 pitch.

Mr. Coulson added that he cannot change the ceiling height but would concede to a 10 pitch which would take a couple of feet off, but in his opinion did not look as good.

Christine Kennedy, 27 Pokonoket Avenue, abutter, asked if there was any way to lower the elevation.

Mr. Coulson said the house cannot be set back any further because the grade dips from the street to the driveway. He didn't know if he could go any lower without consulting an engineer. He could try to sink the foundation as low as possible into the grade and would agree to go as low as practical leaving a minimum amount of exposed foundation and go to a 10 pitch roof.

Mr. Klofft said the Board could require screening as necessary – along the southerly border with some along the front of the lot to screen the front of the house. He said in the past the Board has required a landscape plan subject to Board approval. He explained how this process would work.

There was no further input. The hearing was closed.

The following motion was placed and seconded:

MOTION: “To grant Coulson Property Development, LLC, applicant, Final FC Vesting (Bank of New York), owner of property, a Special Permit under the provisions of Section 2460B of the

Zoning Bylaws, to allow demolition of an existing structure and construction of a new residence not to exceed 3,200 s.f., which will exceed the area of the original nonconforming structure, said residence to conform to all setback requirements, property located at 24 Pokonoket Avenue, Residential Zone A-1, subject to the following:

1. The house shall be constructed in the location as shown on the Plot Plan dated 9/12/2007, prepared by Zanca Land Surveyor, Stow, MA.
2. The pitch of the roof will be reduced from 12 pitch to 10 pitch.
3. The foundation will be set into the grade as low as practical.
4. No increase in runoff will be allowed as a result of the new construction.
5. The applicant will submit a landscape plan to the Board for approval which shall include landscaping along the southern border to minimize impact in that area, as well as screening landscaping along Pokonoket Avenue to lessen the visual impact along the roadway.
6. 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.
7. Construction must be completed no later than one year after commencement.”

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

REASONS: The applicant 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 Board finds that the applicant has been sensitive to the history of the neighborhood in that he has proposed moving the house further back in an effort to less the visual impact in the area. In addition, the applicant has agreed to set the foundation as low as practical into the grade and will provide a landscape plan to further lessen visual impact to the surrounding area.

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Jeffrey P. Klofft, Chairman

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Elizabeth A. Taylor, Clerk

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Jonathan G. Gossels

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Stephen A. Garanin, Associate

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