

Sarah Realty LLC/Sudbury Quick Service  
100 Boston Post Road  
Case 08-4

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
APRIL 15, 2008

The Board consisted of:

Jeffrey P. Klofft, Chairman  
Elizabeth A. Taylor, Clerk  
Jonathan G. Gossels  
Stephen A. Garanin  
Richard D. Vetstein, Associate

Notice was published in the Sudbury Town Crier on February 14 and 21, 2008, posted, mailed at read at the March 4, 2008 meeting. However, the applicant was not present and the hearing was continued to April 15, 2008.

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.

Ayman Youssef was present to represent a petition for a special permit for the continued sale and repair of new and used motor vehicles at 100 Boston Post Road. The name of the business has also been transferred to Sudbury Quick Service.

Mr. Youssef was requesting a permit under the same conditions; however, he would like a 5-year renewal period.

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

The following motion was placed and seconded:

MOTION: "To grant Sarah Realty LLC/Sudbury Quick Service, applicant, Ayman Youssef, owner of property, a Special Permit under the provisions of Section 2230, Appendix A,C,Use 12,13,14, of the Zoning Bylaws, for the sale and repair of new and used motor vehicles, property located at 100 Boston Post Road, Business District #1, provided that:

1. No more than two (2) cars for resale be stored overnight.
2. No more than twenty (20) cars being repaired can be stored overnight.

3. This permit is non-transferable and will expire in five (5) years on April 15, 2013, 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 seeking this special permit to reflect a renewal and transfer of ownership for the business which has been in operation without incident at this location for many years. The use is a permitted one in the zoning district with the granting of a special permit. The facilities are proper for the use. There is no detriment to adjoining zoning districts or neighboring properties due to odor, smoke, sewage, or refuse materials. The Board finds a five-year renewal period appropriate in this case.

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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

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Richard D. Vetstein, Associate

Frankie Hernandez/Sudbury Auto Care  
80 Union Avenue  
Case 08-9

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
APRIL 15, 2008

The Board consisted of:

Jeffrey P. Klofft, Chairman  
Elizabeth A. Taylor, Clerk  
Jonathan G. Gossels  
Stephen A. Garanin  
Richard D. Vetstein, Associate

Notice was published in the Sudbury Town Crier on March 27 and April 3, 2008, 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.

Frankie Hernandez was present to represent a petition for a special permit to allow a motor vehicle general repair operation at 80 Union Avenue.

Mr. Hernandez explained that he was previously granted a special permit to operate his business (Case 06-20). He was unable to renew his permit because of financial reasons and is currently not operating his business. He would like to obtain a permit for a smaller operation – one bay with a small office. He would be using the same chemical company to dispose of hazardous waste. The entire operation would be conducted inside the bay – no work would be done outside.

The Board was in receipt of a letter dated April 15, 2008 from the Planning Director recommending that this hearing be continued for one month to allow the town to address issues of concern with the owner regarding this property. Those issues are outlined in the letter.

Building Inspector James Kelly explained that he visited the site today with the Planning Director and Conservation Coordinator. Site Plan approval was issued in 2003 for the construction of an 8,000 s.f. garage building. Several conditions were imposed to upgrade the storm water management system. The Conservation Commission also issued an Order of Conditions for the site.

Mr. Kelly said there has been no attempt to meet the conditions of the Site Plan approval or the Order of Conditions and there has been a consistent effort by the town to get the owner to comply. He said unfortunately, Mr. Hernandez is caught in the middle of a situation where the town may now have some leverage in forcing the owner to comply.

Mr. Klofft said there has been a request to continue this hearing in order to have discussions with the property owner. He said if the issues are cleared up, this case may continue. If, in the meantime, Mr. Hernandez finds another location to operate his business, he could withdraw without prejudice and submit another application and the Board would waive that fee.

Mr. Hernandez was agreeable to a continuance.

The hearing was continued to May 19, 2008.

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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

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Richard D. Vetstein, Associate

Maria Colafella  
17 Jason Drive  
Case 08-10

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
APRIL 15, 2008

The Board consisted of:

Jeffrey P. Klofft, Chairman  
Elizabeth A. Taylor, Clerk  
Jonathan G. Gossels  
Stephen A. Garanin  
Richard D. Vetstein, Associate

Notice was published in the Sudbury Town Crier on March 27 and April 3, 2008, 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.

Peter Venuto was present, representing Maria Colafella, also present, in a petition for a special permit to allow a single accessory dwelling unit at 17 Jason Drive. Mr. Venuto said the Colafellas moved to Sudbury in 1993 and at that time they had a plan to allow for an accessory unit in the future.

The house exists now with 3 bedrooms. The septic was constructed to allow for 4 bedrooms as is confirmed by the Board of Health Director in his letter dated March 11, 2008.

The house was also constructed with a 3-car garage in anticipation of this situation so there would be adequate parking.

The addition will consist of 660 s.f. above the garage and will not protrude outside the existing dwelling other than a dormer. Entrance to the unit will be in the back. It will not

occupy more than 30% of the total residence as is confirmed by the Building Inspector in his letter dated March 14, 2008.

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

The following motion was placed and seconded:

MOTION: "To grant Maria Colafella Trustee, owner of property, a Special Permit under the provisions of Section 5500 of the Zoning Bylaws, to allow a Single Accessory Dwelling Unit for a family member, property located at 17 Jason Drive, Residential Zone A-1, as follows:

1. This Accessory Dwelling Unit shall contain no more than 1,200 s.f.
2. This Special Permit for an Accessory Dwelling Unit occupied by persons related to the family residing in the principal dwelling is issued for the duration of such occupancy.
3. 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.
4. 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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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

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Richard D. Vetstein, Associate

Patricia Shesgreen  
34 Summer Street  
Case 08-11

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
APRIL 15, 2008

The Board consisted of:

Jeffrey P. Klofft, Chairman  
Elizabeth A. Taylor, Clerk  
Jonathan G. Gossels  
Stephen A. Garanin  
Richard D. Vetstein, Associate

Notice was published in the Sudbury Town Crier on March 27 and April 3, 2008, 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.

Patricia Shesgreen was present to represent a petition for Special Permit to demolish an existing structure and construct a larger structure at 34 Summer Street. The lot is nonconforming in area and frontage.

Ms. Shesgreen said the house will be in the same location and will be approximately 1,996 s.f. in size. It will conform to all zoning setback requirements.

Mr. Klofft commended Ms. Shesgreen on the scale of the house which he felt is appropriate for the neighborhood. The other Board members concurred.

Ms. Shesgreen asked whether there could be some leeway in the placement of the house in order to have it aligned with the septic system. It would only involve a couple of feet.

Mr. Klofft said there would be no problem as long as the house was within the setback requirements and no closer than 58 feet to the front property line.

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

The following motion was placed and seconded:

MOTION: "To grant Patricia Shesgreen, 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 1,996 s.f., which will exceed the area of the original nonconforming structure, said residence to conform to all zoning setback requirements and be located no closer than 58 feet from the front property line, property located at 34 Summer Street, 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 the proposed reconstruction, which will conform to all setback requirements, is modest in size and the design appropriate for the neighborhood.

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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

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Richard D. Vetstein, Associate

Middlesex Savings Bank  
454 Boston Post Road  
Case 08-12

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
APRIL 15, 2008

The Board consisted of:

Jeffrey P. Klofft, Chairman  
Elizabeth A. Taylor, Clerk  
Jonathan G. Gossels  
Stephen A. Garanin

Notice was published in the Sudbury Town Crier on March 27 and April 3, 2008, posted, mailed and read at this hearing.

Associate member Richard D. Vetstein recused himself as a member sitting for this petition because of a potential conflict of interest. The applicant was agreeable to continuing with a 4-member Board.

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.

Scott Spaulding, Viewpoint Signs, was presenting, representing the applicant, Middlesex Savings Bank, in a petition for special permit to erect a double-faced freestanding sign at 454 Boston Post Road. Mr. Spaulding explained that the frontage is insufficient to allow for the proposed sign size. As a result of the Design Review Board meeting the sign has been revised with the revisions reflected on the plan dated March 13, 2008, copies of which were submitted with this application.

Mr. Klofft read a letter from the Design Review Board dated February 28, 2008 which comments on the signs proposed; 7 ground-mounted directional signs each less than 2 s.f. (conforming), 2 gable signs each 31.6 s.f. (nonconforming in area), 1 freestanding business center sign (nonconforming in size), 2 internally illuminated signs at drive-thru canopy (nonconforming in type and size of one). That Board recommends approval of the signs and approval of the freestanding sign with revisions as shown on the March 13, 2008 plan. Mr. Gossels pointed out that the DRB approved a maximum panel width of 6 feet 6 inches, which was not reflected on the revised plan.

Mr. Spaulding said he would reduce the size to conform to the DRB recommendations.

In response to a question from Ms. Taylor, Mr. Spaulding said the drive-thru will be located on the right side. It was originally proposed for the left side but was changed because of the logistics of exiting and entering the building.

The Board reviewed the plot plan which provides an overview of the property. Mr. Spaulding described the traffic flow. Discussion followed on the number of signs being requested.

Mr. Garanin expressed concern with regard to the size of the freestanding sign and questioned why it had to be so large given the fact that it is located so close to the road. He said it did not appear to be consistent with other signage along the road.

Mr. Spaulding said the intent is that this is a plaza sign. There is also the need for a tenant.

Mr. Garanin also commented on the material to be used for the sign which appears to be plastic. Mr. Spaulding said the material consists of a high density urethane which is designed to act like wood but doesn't rot. He said this is now used in many cases in place of wood.

With regard to a further question from Mr. Garanin as to the sheen on a Subway sign which was given as an example, Mr. Spaulding said that sign has a high-gloss paint – the Middlesex Savings sign will have a satin finish.

Mr. Gossels felt that looking at the setback from Route 20, there was a valid point made with regard to the placement. Ms. Taylor asked how far the sign was proposed to be placed from the road. Mr. Spaulding said 10 feet.

Discussion followed on the location of the sign and whether, given the existence of the island, whether it could actually be placed within the 16-foot setback required by the Bylaw.

Mr. Spaulding did not know the width of the island as he did not have the original scale drawing that was submitted. He estimated it at about 30-32 feet.

Mr. Klofft felt it could be placed close to the setback and was in favor of moving it back so as to be set 15 feet back from the street side of the island. The Board concurred. It was also agreed that the sign should have the appearance of a wooden sign.

There was no further input. The hearing was closed.

The following motion was placed and seconded:

MOTION: "To grant Middlesex Savings Bank, owner of property, a Special Permit under the provisions of Section 3290 of the Zoning Bylaws to allow 2 gable signs, one free-standing business center sign, and 2 internally illuminated signs at the drive-thru canopy, property located at 454 Boston Post Road, Business District #5 and Limited Industrial District #1, subject to the following:

1. The freestanding sign shall be constructed in accordance with the "Revised" drawing prepared by ViewPoint Sign and Awning, Marlborough, MA dated March 13, 2008, except that the maximum panel width will be 6 feet 6 inches in accordance with the Design Review Board recommendation letter dated February 28, 2008.
2. The sign will be non-glossy and have the appearance of a carved wooden sign.
3. The sign will be set back 15 feet from the street side of the existing island bed.
4. The gable signs will be constructed as shown on the plan prepared by ViewPoint Sign and Awning, Marlborough, MA dated January 16, 2007 and the drive-thru signs in accordance with plans dated February 27, 2008."

VOTED: In favor: 4 (unanimous) Opposed: 0

REASONS: The petitioner requires a special permit to install signs not otherwise provided for in the Bylaw. The Board finds that the location of the property justifies the granting of a special permit for these signs.

With regard to the gable signs and drive-thru signs, the Board agrees with the recommendation of the Design Review Board which notes that the gable signs are in proportion with the building and the drive-thru signs are small and inoffensive.

With regard to the freestanding sign, the Board finds that the smaller panel width and further setback from the road will minimize visual impact as a result of the larger sign size and will not cause visual confusion or interfere with traffic safety. The sign will be constructed to be consistent with the architecture of the building and will not significantly alter the character of the zoning district.

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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. Richmond

Tower Assets Newco II, LLC  
142 North Road  
Case 08-13

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
APRIL 15, 2008

The Board consisted of:

Jeffrey P. Klofft, Chairman  
Elizabeth A. Taylor, Clerk  
Jonathan G. Gossels  
Stephen A. Garanin  
Richard D. Vetstein, Associate

Notice was published in the Sudbury Town Crier on March 27 and April 3, 2008, 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.

George Hall was present, representing Tower Assets in a petition for the continued operation of a 120-foot monopole at 142 North Road. Mr. Hall explained that the original permit was granted in 1999 to New Cingular Wireless for a 5-year term. Renewal was applied for in 2004 and because of issues with some panels falling off the tower into a residential area, additional conditions for repair and subsequent inspections were added to the permit which was renewed for 3 years.

Mr. Hall said the repairs were made in March 2005 and continue to hold. Inspections were also made as required and were submitted with this renewal application. He added that in September 2007 operation of the monopole was transferred from New Cingular Wireless to Tower Assets Newco II, LLC.

Mr. Gossels asked what the life expectancy was for the panels. Mr. Hall was not sure but estimated it to be approximately 20 years.

Mr. Klofft asked whether any changes were being requested for this renewal. Mr. Hall replied that he would like a 5-year renewal period.

The Board reviewed the inspection documents and photographs which were submitted with the application. Mr. Gossels said he was not yet comfortable with a 5-year renewal since the repairs were only made 3 years ago. He wanted to be sure the panels would continue to hold.

Following further discussion, it was the consensus of the Board to renew this period for 3 years after which, if there were no problems, it would then consider a 5-year renewal. Mr. Gossels also suggested that at the time of the next renewal the applicant provide either a panel or other acceptable proof of the integrity of the panels.

There was no further input. The hearing was closed.

The following motion was placed and seconded:

MOTION: "To grant Tower Assets Newco II, LLC, applicant, Sudbury Research Center, owner of property, renewal of Special Permit 05-9, for the continued operation of a 120-foot flagpole style, 2-carrier monopole, including associated equipment, property located at 142 North Road, Research District #1 subject to the following:

1. The monopole shall be in accordance with plans prepared by Greenman-Pederson, Inc., Marlborough, MA, dated October 20, 1999, Sheets A3 and A-4.
2. The diameter of the pole shall be no larger than 18 inches at the top, 27.5 inches at the base, light gray in color. The gold ball will be eliminated from the top of the pole.

3. The two adjoining 12X20 foot equipment shelters within the 30X40 foot fenced equipment compound shall continue to be maintained by the applicant.
4. There will be no lighting on the pole unless required by the FAA. There will be no lighting for the flag unless approved by the Selectmen. The rules of flag etiquette shall be observed.
5. The flag will be displayed at the discretion of the Selectmen.

and including the following additional conditions:

6. The vertical position and azimuth of the cast metal mounting collars to which the fiberglass panels are bolted will be verified and corrected as necessary to meet manufacturer's specifications.
7. New panels will be installed with six mounting bolts per panel.
8. Each panel will also have rivets spaced one foot apart along the long edges to prevent them from being lifted by high winds.
9. For additional security, each 10-foot cylindrical section comprised of quarter-panels will be secured with two external stainless steel retaining bands, for a total of six retaining bands. These bands will be painted to match the color of the pole.
10. During installation of new panels, both the clamp-on mounting collars and the panels will be marked to insure that when the panels are removed in the future, they will be re-installed in their correct position on the pole.
11. The inside of each new panel will include a prominently located warning stating that (a) the panels must be re-installed in their correct positions, (b) the rivets and the stainless steel bands must also be correctly installed, (c) under no circumstances shall any hole be re-drilled or enlarged to accommodate a misfit, (d) any difficulties in re-installation of the panels shall be reported to the applicant before finishing the re-installation.
12. Following any repairs, the applicant will provide a certification from a structural or professional engineer that the repairs have been completed as outlined above.
13. The applicant will cause the tower to be inspected annually to verify that the panels remain secured properly. No later than October 31 of each year, the applicant will provide a letter to the Building Inspector stating the date the inspection occurred and the results of the inspection. The Building Inspector may, at his discretion, require additional inspections as deemed necessary.
14. In the event any panels are left in an unfinished state of assembly, the Building Inspector will be notified, and there will be an agreed upon action plan for completion.

15. The site will be prominently marked with an emergency contact number in case of an emergency. The contact number will be updated as necessary. Letters will be sent to the abutters informing them of this contact number.
16. The approval granted herein shall expire in three (3) years on April 15, 2011. Continued operation of this facility shall be subject to application for renewal to the Board of Appeals on or before this date.”

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

REASONS: The petitioner seeks renewal of a special permit for the continued operation of a wireless communications facility. It appears that the necessary repairs were made to the panels and inspections were made as required under the conditions of the previous permit. However, since a short period of time has elapsed since those repairs were made, and the operation of the facility has transferred to a new wireless operator, the Board finds a 3-year renewal period to be appropriate in this case. This will allow adequate time for review of the status of the panels to insure the safety of the facility which is located in an area in close proximity to a residential area, a school and office building.

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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

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Richard D. Vetstein, Associate

Roberta Kanarek  
58 Lincoln Lane  
Case 08-14

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS

APRIL 15, 2008

The Board consisted of:

Jeffrey P. Klofft, Chairman  
Elizabeth A. Taylor, Clerk  
Jonathan G. Gossels  
Stephen A. Garanin  
Richard D. Vetstein, Associate

Notice was published in the Sudbury Town Crier on March 27 and April 3, 2008, 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.

Roberta Kanarek was present to represent a petition for special permit to construct a 2-story garage addition with living space above which will result in a side yard setback deficiency of 9 feet 7 inches at 58 Lincoln Lane. The living area above the garage would comprise 991 s.f. The property is nonconforming in area.

Ms. Kanarek explained that the location was chosen because it was on grade level. To locate it on the other side of the house would require significant earth removal because of the hill.

Ms. Kanarek said she met with the neighbor who would be affected by this construction and that neighbor has seen the plans and has no objection to the proposed construction.

Mr. Klofft said looking at the aerial photograph there is a lot of space all around the house except to the side where the addition is proposed.

Ms. Kanarek presented photographs of that side pointing out that there is a very old 10-foot high lilac hedge along that side which would prevent the addition from impacting that neighbor's view.

Mr. Gossels felt this to be a large addition which is very close to the lot line. Mr. Klofft agreed, noting that while he understood the dilemma with regard to the lot, he was also not comfortable with the size of the proposed addition.

Considerable discussion followed on the size. A suggestion was made that perhaps it could be scaled back to a 2-bay garage which would lessen the amount of deficiency and impact.

It was the sense of the Board that this addition was too wide and encroached too close to the property line. Mr. Klofft said Ms. Kanarek could decide to move forward with this application or could request a withdrawal to rework the plans and resubmit at a later date.

Ms. Kanarek requested her application be withdrawn without prejudice.

The hearing was closed.

A motion was made, seconded and unanimously voted to accept a request from the applicant to withdraw this petition without prejudice and to waive a subsequent filing fee.

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

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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

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Richard D. Vetstein, Associate

Sudbury Plaza Trust  
500-525 Boston Post Road  
Case 08-15

Continued to May 19, 2008 at the request of the petitioner



