

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
MARCH 4, 2008

The Board consisted of:

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

Notice was published in the Sudbury Town Crier on January 17 and 24, 2008. The hearing was scheduled for February 4, 2008. However, since the applicant was not present, the hearing was continued to March 4, 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.

Robert Galligani was present to present a petition to construct an 18X24 foot garage with 2nd story bedroom which will result in a side yard setback deficiency of approximately 11 feet at 26 East Street. The lot is nonconforming in area and frontage. Mr. Galligani submitted additional elevation drawings for the Board's information.

Mr. Galligani would like to add onto the existing structure. The roof pitch will be consistent with what exists and will look like an expanded split. Although the addition would encroach into the setback, he said the way the two lots come together and the houses are positioned, there is still a fair amount of distance between them – approximately 35-40 feet after the addition is constructed.

Mr. Klofft voiced concern with regard to the maintenance issues – particularly with a 2-story structure 9 feet from the property line. He said that neighbor could put up a fence and it would be difficult to set up a ladder. He said it seemed like a sizeable addition very close to the property line and asked whether other alternatives were considered.

Mr. Galligani said he looked into going up, but the cost was 2-3 times higher. To go out towards the back would require excavation because of the slope. He also did not believe the resulting structure would be as aesthetically pleasing.

In response to a question from Ms. Taylor regarding the septic, Mr. Galligani said the system is located in the front yard and is a relatively new system.

Mr. Garanin asked whether there would be any tree removal. Mr. Galligani said there would not. In addition, he said the driveway is of a double width and will fit the width of the addition.

Mr. Gossels asked for comments from the neighbors.

George Guanci, 30 East Street, direct abutter, spoke in opposition to this petition. He submitted a statement for the record which he summarized. Photographs were also submitted.

Mr. Guanci said about a year ago Mr. Galligani mentioned that he was planning an addition. Until a notice for the public hearing was received, no specifics were presented with regard to the addition.

He said in January 2008 his wife mentioned to Ms. Galligani that the notice was received from the Board of Appeals, and later that day a letter was placed in his mailbox with regard to the addition. When Mr. Galligani came over to his house on February 2nd to describe the project, it was then that he (Guanci) told him of his concerns.

Mr. Guanci said the addition is not similar to other additions on East Street. Those residents did not require special permits for their additions. In addition, he said they were constructed in different areas as opposed to where Mr. Galligani plans his addition.

Concern was voiced with regard to the reduced space to Mr. Guanci's property line if this construction is allowed, in particular, if the property is sold, how a future neighbor would treat the area around the enlarged nonconforming structure. He also questioned whether the actual separation was 7 feet as opposed to 9 feet. Further, although having no plans to do so, he felt that construction of this addition would eliminate any possibility for him to expand on that side of the property as a similar size addition would result in a 14-foot separation between the two properties. Overall, Mr. Guanci felt this construction, as proposed, would have a detrimental affect on the aesthetics and value of his property as well as the properties of the neighbors. He felt that any addition to this house should either be at the rear, or built up.

Other issues were raised by Mr. Guanci as to what provisions could be made to insure that construction vehicles do not disrupt or destroy his property given that the distance to his property line would be only 9 feet. He felt it would be impossible to construct the addition without having those vehicles crossing his property line.

Mr. Klofft asked Mr. Galligani to address two of the criteria for granting a special permit. One was that granting of a permit would not alter the character of the neighborhood. It seemed to him that this addition was significantly larger than some of the other additions in the neighborhood in terms of its visibility from the street.

Mr. Galligani said his house is one of the smallest houses on the street – and it will still be smaller after the addition. He said his addition would be smaller than other additions on the street.

Mr. Klofft said the 2nd criteria was that the granting of a must not be detrimental to the adjoining properties. He said it was Mr. Guanci's opinion that this would be detrimental.

Mr. Galligani said that the plot plan shows that his house and Mr. Guanci's house are pivoted away from each other. In his opinion there was adequate space between the two. He felt that what he is proposing is aesthetically pleasing and will enhance the neighborhood.

Mr. Gossels said he would have been comfortable with the addition had Mr. Guanci not expressed concerns. Ms. Taylor felt this to be a difficult situation. She said the neighborhood is comprised of a variety of lot sizes and setbacks. She agreed that 9 feet is close but the location of the houses might offset the impact. The question is whether or not this would contribute more to the non-uniformity of the neighborhood.

Ms. Rubenstein asked whether there were any floor plans. Mr. Galligani said he did not have them at this point. The intent was for the architect to do the exterior and elevations. He said the intent is to have a larger bedroom for his two girls on the second level with a 2-car garage below.

Daniel Tobin – 29 East Street, abutter directly across from the Galligani and Guanci houses, had no objection to the petition. He said he has seen similar additions and they have looked good. He felt the addition, given the location of the two houses, would not be detrimental to him.

Lynn Green, 22 East Street, abutter said an addition was constructed on her house. However, it was constructed on the back of the house so as not to require a special permit. She said she would object if an addition was proposed to be constructed so close to the property line. She said the houses are already close enough. She also felt the construction would add to the non-uniformity of the neighborhood and affect the property values.

Arthur Flagg, 23 East Street, abutter diagonally across the street, felt the addition would improve the appearance of the house – it would make it look longer and would look like it was part of the original house. He felt the way the two houses are situated would not be conflicting and even though there would be an encroachment, there would be ample space between them. He said a similar addition was constructed on a house further down the street and it looked good. He felt that adding to a property increases that property's value which in turn increases the value of the other homes.

Mr. Klofft said as a general matter he would not object to additions encroaching into setbacks. Further, he felt the addition, from an architectural and aesthetic point of view, was appropriate. He did, however, have concerns with the addition being so close to the property line – more than halfway into the setback, which is why he asked whether other alternatives were looked at and whether Mr. Galligani needed all that space or could do something less.

Mr. Galligani said he had thought about alternatives and could go down to 14X24 feet which would cut it down significantly. What is gained by the original plan is more storage. He said if he had to decrease the size in order to be granted a special permit, he would.

Discussion followed on a smaller addition which would result in a 13-foot setback deficiency. Mr. Klofft asked Mr. Guanci if he was opposed to any setback deficiency.

Mr. Guanci said he was not – he was opposed to the one that was originally proposed. He said there was never an issue of aesthetics – only how the closeness of the addition would affect his property.

Mr. Gossels felt there were two alternatives open to Mr. Galligani, either shrink the addition or investigate alternatives. Mr. Galligani was amenable to reducing the size.

There was no further input, the hearing was closed.

The following motion was placed and seconded:

MOTION: “To grant Robert & Susan Galligani, 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 24 foot deep by 14 foot wide garage with 2nd story bedroom, which will result in a side yard setback deficiency of 7 feet ±, property located at 26 East Street, Residential Zone A-1, provided that:

1. Any vegetated screening destroyed during the construction process must be replaced.”

This Special Permit shall lapse if construction has not begun, except for good cause, within 12 months following the filing of the Special Permit approval, plus such time required to pursue or await the determination of an appeal under M.G.L., Chapter 40A, Section 17.

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

REASONS: The petitioner requires a special permit due to the nonconforming nature of the property. The Board finds that the proposed alteration and enlargement will not be substantially more detrimental to the neighborhood than the existing nonconforming structure. As a result of concerns brought forth at the hearing, the petitioner has agreed to reduce the size of the proposed addition, and the abutter is agreeable to the decrease in size and setback deficiency.

The Board finds that the reduced size will minimize the impact to the abutter. Further, the design will be architecturally compatible and will enhance the appearance of the existing structure as well as the neighborhood in general.

Jeffrey P. Klofft, Chairman

Elizabeth A. Taylor, Clerk

Jonathan G. Gossels

Nancy G. Rubenstein

Stephen A. Garanin

Case 08-4 – Sarah Realty Trust – 100 Boston Post Road – Continued to April 15, 2008

Case 08-5 – American Legion Post 191 – 676 Boston Post Road

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
MARCH 4, 2008

The Board consisted of:

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

Notice was published in the Sudbury Town Crier on February 14 and 21, 2008, posted, mailed and read at this hearing.

Mr. Klofft, Chairman, explained the requirements necessary to substantiate the granting of a Use 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.

Anthony Gorgone was present to represent a petition for renewal of Special Permit 05-47 to use the building and property as a private clubhouse and meeting hall. The property is located at 676 Boston Post Road. Mr. Gorgone was requesting renewal under the same conditions. He said there have been no violations and notices were sent to the abutters.

Bruce Kankanpaa, 11 Stone Road, abutter, wanted the Board to keep in mind that this property is used as a meeting place less than 2 dozen times a year and is a barroom virtually every day. Nevertheless, he said he supports the renewal. He said the Legion was there when he moved to his house – over 25 years ago, and through this renewal process and changes in the

staff and officers of the Legion, things have improved. He would suggest the Legion review the permit periodically to insure there is compliance with all of the conditions.

Mr. Gossels asked whether Mr. Kankanpaa would be comfortable with a 2-year permit. Mr. Kankanpaa said he would be agreeable.

Mark Bloomberg, 8 Minebrook Road, resident, asked whether, as a private clubhouse, there is ability to rent out the building. Mr. Kloffft said it was; however, Mr. Gorgone added that with a 75-person capacity, it is difficult to rent.

Mr. Bloomberg pointed out that there is a "sale pending" sign on the property. He asked what would happen should the property be sold within 2 years.

Mr. Gossels said the use variance would lapse upon sale or transfer of the property.

There was no further input. The hearing was closed.

The following motion was placed and seconded:

MOTION: "To grant Sudbury American Legion Post 191, applicant, renewal of Use Variance 05-47, granted under the provisions of Section 2250, Appendix A,C, Use 24 of the Zoning Bylaws to use the building and property as a private clubhouse and meeting hall, property located at 676 Boston Post Road, Residential Zone A-1, provided that:

1. There shall be no parking on Boston Post Road or Stone Road by those using the building, and there shall be no traffic hazard as defined by the Police Chief.
2. All off-street parking is to be on the westerly side of the property. The five-foot wide buffer between the parking area and rear lot line shall be maintained and shall consist of a low retaining wall at the rear of the parking area with suitable plantings within the buffer area.
3. The barrier constructed to prevent parking on Stone road shall be properly maintained.
4. There shall be no illuminated signs on the property.
5. A sign no larger than one square foot to identify the building shall be allowed.
6. There shall be no exterior storage of any kind, nor shall exterior rubbish (dumpster) be allowed.
7. There shall be no organized outdoor activities on the property, except for the following three events: Memorial Day, July 4th and Veterans Day activities.

8. There shall be no exterior floodlights on the property except that a single light, consisting of a motion sensor light, to light the parking area and so located as not to shine into the public way or towards residences, is permitted.
9. No nuisances shall be created **and abutters must be contacted by written letter, with a copy to the Board of Appeals, three months prior to renewal, to solicit complaints or areas of concern.**
10. This Use Variance is non-transferable and shall not run with the land and shall be limited to expire on March 4, 2010. The Board will consider renewal upon receipt of property application on or before that date.”

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

REASONS: The petitioner seeks renewal of a use variance to continue using the building and property as a clubhouse and private meeting house. Recognizing that this use is in a residential zone and has in the past been the subject of complaints from the neighbors, the Board feels strongly that lines of communication between this facility and the neighbors should be kept open as an attempt to head off any problems which may arise. The most direct abutter noted that at this time he has no problem with the renewal, but stressed the importance of the petitioner periodically renewing the conditions of the permit to be sure there is compliance.

As a result, the Board finds that a renewal of this use variance for a period of two years is appropriate and stressed the importance of complying with Condition 9 prior to any subsequent renewal.

Jeffrey P. Klofft, Chairman

Elizabeth A. Taylor, Clerk

Jonathan G. Gossels

Nancy G. Rubenstein

Stephen A. Garanin

Case 08-6 – Green Meadow Realty Trust – 358 Peakham Road
MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
MARCH 4, 2008

The Board consisted of:

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

Notice was published in the Sudbury Town Crier on February 14 and 21, 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.

William Curley, Green Meadow Realty Trust, was present to represent a petition for Special Permit to demolish a nonconforming structure and to construct a new, larger structure at 358 Peakham Road. The property is nonconforming in area and frontage.

Mr. Curley explained that this will be a smaller house, approximately 2,618 s.f., and will be in keeping with the neighborhood. The lot is irregular in shape – it's long and narrow.

The existing house is set back from the two houses on each side. He would like to bring this house forward to line up.

Mr. Gossels said generally the Board likes to see reconstructions sited further back. Mr. Curley said this was not possible because of the shape of the lot.

Mr. Klofft felt that given the scale of the house and the shape of the lot, he felt comfortable with the location as proposed.

Ms. Rubenstein noted the ridge line shown on the plan is 34 feet. Mr. Curley said it will be less than that – probably around 32 feet.

Alec Iacono, 362 Peakham Road, abutter, reviewed the site plan and said he had no objections to the petition.

Lee Michaels, 199 Horse Pond Road, abutter, submitted documents for the record. Her first concern was with regard to the location. However, after it was pointed out that her perception of the location was incorrect and would not visually impact her home, she did not object to the location, but voiced concern with regard to the size of the proposed house. She felt it should be reduced further to approximately 1,800 s.f.

While understanding Ms. Michaels' concern, Ms. Taylor said this is one of the smallest houses that has come before this Board – most are much larger. Mr. Klofft added that the two petitions following this one propose reconstructions of over 4,000 s.f.

Ms. Michaels said she would like to see minimal cutting of trees.

Mr. Klofft asked what was proposed for tree cutting. Mr. Curley said most will be in front for the house and in back for the septic system. There will be a limited back yard.

In response to further questions from the Board, Mr. Curley said he would be agreeable to no cutting beyond 190 feet shown on the south property line.

Ms. Michaels also requested that the builder notify her of the day of demolition.

There was no further input. The hearing was closed.

The following motion was placed and seconded:

MOTION: “To grant Green Meadow Realty Trust, 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 2,618 s.f., which will exceed the area of the original nonconforming structure, said residence to conform to all zoning setback requirements, property located at 358 Peakham Road, Residential Zone A-1, subject to the following:

1. The new house will be constructed in the location as shown on Site Development Plan dated February 5, 2008, prepared by Engineering Design Consultants, Inc., Southborough, MA, which is incorporated and made part of this Special Permit.
2. There will be no tree cutting beyond 190 feet from the south property line.
3. The petitioner shall notify residents in the immediate area as to the date of demolition.
4. 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.
5. 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. Due to the irregular shape of the lot, the house cannot be constructed further back as it would then encroach on both

side setbacks. Further, the Board finds the proposed reconstruction to be modest in size and scale. It will be compatible with other homes in the area and will present minimal visual impact.

Jeffrey P. Klofft, Chairman

Elizabeth A. Taylor, Clerk

Jonathan G. Gossels

Nancy G. Rubenstein

Stephen A. Garanin

Case 08-7 – Wellen Construction – 66 Willow Road

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
MARCH 4, 2008

The Board consisted of:

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

Notice was published in the Sudbury Town Crier on February 14 and 21, 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.

Charles Gadbois, Wellen Construction, was present to represent a petition for special permit to demolish an existing nonconforming residence and construct a larger residence at 66 Willow Road. The property is nonconforming in area and frontage. The existing home would be replaced by a 2-story, 3,950 s.f. house with a finished basement.

Mr. Gadbois said he corresponded by mail with the Sudbury Housing Authority as to whether they would be interested in the existing house. There has been no reply. Letters were

also sent to direct abutters, with a copy of the plot plan, indicating that if there were any questions to contact the developer. Follow-ups were made by phone calls and he spoke with a couple of abutters whose concerns were with privacy.

The new house would be placed 62 feet from the front property line, which is approximately 18-24 feet back from the existing house. It will be 92 feet forward of the rear lot line. There have been 3-4 teardowns in this neighborhood within 500 feet of this house.

Mr. Klofft said the application was to construct a 4,700 s.f. house and Mr. Gadbois was proposing less. Mr. Gadbois said the plan includes a finished basement. He had no problem with conditioning the plan to include a finished basement.

Mr. Garanin said it seems a lot of trees will be removed and it appeared there may be privacy issues along the side lines.

Dongzhe Yang, 23 Poplar Street, abutter, felt the house would be out of line of the other structures and by placing it further back it would affect his privacy.

Although Ms. Taylor pointed out that it would still be 92 feet away from Mr. Yang's property line, Mr. Yang said there will be a lot of tree cutting – 40% of the existing area will be gone.

With regard to demolitions, Mr. Klofft said the Board tries to maintain a balance with the houses that currently exist. He said if these larger, 2-story houses are placed closer to the street, it creates a looming effect when there are splits or one-story structures along the street. In this case, the lot is deep, and even though the house would be 20 feet closer to the rear property line, it is still a huge distance away.

Mr. Gadbois said he did not plan to cut within 35 feet from the rear property line which consists of a lot of tall pines. He was agreeable to fill in that area with under story screening. Mr. Yang said he would be satisfied with a condition to that effect.

David Croll, 68 Willow Road, abutter to the side, said he has no visual impact from the existing house. However, he said this will be a much larger house and it will have an impact on the neighborhood. His concerns were not so much with square footage but with the overall impact on the physical environment and the aesthetics as a result of tree cutting. He said he would hope that if this petition is granted, the Board conditions the permit to insure that the impacts that will occur are minimized for those residents who would like to continue living in Sudbury. He felt stringent conditions for screening would go a long way to minimize impacts.

Further discussion followed on screening. Mr. Gossels said the Board can require screening. However, he suggested the developer work with the neighbors on the specifics to improve the visual screening. He felt there are 2 or 3 areas which could be improved.

There was no further input. The hearing was closed.

The following motion was placed and seconded:

MOTION: “To grant Wellen Construction, applicant, 66 Willow Road Nominee Trust, 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 4,700 s.f. (including finished basement), said residence to conform to all zoning setback requirements, property located at 66 Willow Road, Residential Zone A-1, subject to the following:

1. The new house will be constructed in the location as shown on the Plot Plan dated February 4, 2008, prepared by Zanca Land Surveyors, Stow, MA, which is incorporated and made part of this Special Permit.
2. The applicant will leave 35 feet from the rear property line undisturbed and will provide under story screening to augment that screening.
3. Evergreen screening will be provided by the applicant on both sides of the property, with the species to be worked out with the abutters.
4. 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.
5. Construction must be completed no later than one year after commencement.”

VOTED: In favor: 9 (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 new house will be located further to the rear so as not to present a looming effect and the shape of the lot is such that the rear abutter will not be visually affected. The petitioner has agreed to provide screening which is acceptable to the abutters on each side, and also to provide vegetative screening at the rear of the property to further lessen the visual impacts to those abutters.

Jeffrey P. Klofft, Chairman

Elizabeth A. Taylor, Clerk

Jonathan G. Gossels

Nancy G. Rubenstein

Stephen A. Garanin

Case 08-8 – Durand/Szathmary – 53 Old Lancaster Road
MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
MARCH 4, 2008

The Board consisted of:

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

Notice was published in the Sudbury Town Crier on February 14 and 21, 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.

Attorney Stephen Grande was present, representing the applicant, Michael Durand, also present, in a petition for a special permit to demolish an existing house and construct a larger house at 53 Old Lancaster Road. The lot is nonconforming in area.

Mr. Grande provided a summary of the advantages of the teardown bylaw and the reuse of existing lots. He said the existing house is in disrepair. The septic system needs to be replaced and there are drainage issues. The new house will be slightly less than the square footage which was advertised and will conform to all setback requirements. Mr. Grande noted that although Mr. Durand is the developer, he plans to live in the new house. In addition, the house will be slightly smaller than what was advertised.

Gail Wright, 110 Pokonoket Avenue & Carolyn Hannauer, 48 Old Lancaster Road, abutters, displayed aerial photographs depicting the houses in this area. She pointed out a puddle in one area of the road (taken today) and explained that at one time there was just a hill there which absorbed the runoff. She said when a new house and driveway at 39 Old Lancaster Road was constructed, many trees were removed and since then the road in that area becomes a sheet of ice. The runoff collects, forms a puddle and freezes in winter. This has been going on for 3 years.

Ms. Wright said there already is a problem and the driveway for this house will necessitate cutting more trees. She was concerned that it will only exacerbate the problem.

Ms. Hannauer submitted a letter dated March 4, 2008 addressing her concerns – the major one being drainage. She also voiced concern for the size of the house which she felt was overly large for this neighborhood.

Mr. Klofft asked Mr. Grande to speak to the drainage issues.

Mr. Grande said if the water is running off the driveway during construction, they will try to alleviate it.

Mr. Klofft said if the Board conditions the permit noting it will be Mr. Durand's responsibility to keep the water on his property. He said the Board is concerned that the problem not be exacerbated.

Mr. Durand said he would agree to a condition with regard to drainage, adding that the town has bylaws which calculate how much can be discharged onto public roads, and he would adhere to those. However, he felt any problems that currently exist on the road with other houses were not his responsibility.

William Curley, abutter, said approximately 6 years ago when he was building his house at 39 Old Lancaster Road, he met with the Town Engineer who said the whole hill in that area is glacial till, so the water just comes off the whole hill - not just this property or his property or the neighbors' property. He said the town provided a structure for future benefit of the town for drainage in the street. It is the town's intent to put drainage in the street but it hasn't happened yet. The area of the puddle has a 500 gallon pit and 24" pipe coming off it so the town can tie into it. He said Town Engineer is aware of this situation.

Mr. Klofft said the only thing the Board can address is to make sure this new construction doesn't make the situation any worse. He said the fact that there is already a drainage problem cannot influence the Board to deny this petition. The Board can condition it so that it doesn't exacerbate the problem.

Ms. Hannauer said she wants this to remain a woodsy area because the trees do absorb water. Water will just sheet down the driveway. She did not want her existing problems to get any worse.

Mr. Gossels said there zoning issues as well as the right of the property owner to remove trees on his property. He felt tree removal to be a neighborhood issue which should be worked out between the neighbors and the developer.

Discussion followed on the size of the proposed house. Mr. Klofft said while this house may be long, it is a lower than what is generally seen for this size.

Martha McGuire, 104 Pokonoket Avenue, said she will be able to see this house from back yard. She asked what the plans were for the back yard. She has an in ground pool and would like to retain her privacy. Her concern was that with the earth removal and the drainage

being as it is, whether it would have an adverse effect on her pool. She wanted to know her recourse should that happen.

Mr. Durand said Ms. McGuire's house is approximately 100 feet from where the house is going to be and 120 feet from the pool. He could not see how the pool would be affected.

James Latimer, 45 Old Lancaster Road, abutter, had two concerns. He said this is a neighborhood of 3,000 s.f. homes and this will be a 4,000 s.f. house. The other is the topography – the percolation is poor. When Mr. Curley built his house, he had to elevate his septic and leach field. His concern was with artificially high elevations to the south, natural elevation to the west and another man made elevation to the north, he felt it creates somewhat of a "box canyon" which can't do the hydrostatic pressure that seeps into his basement any good. He felt the smaller the house the less demand it places.

Mr. Klofft asked how much new mounding would be required for the septic system.

Mr. Durand estimated it will be raised about 20 inches from the existing system.

Mr. Grande said the lot coverage with the new house will be 6% whereas the existing lot coverage is 8%.

Mr. Klofft said the plan shows significantly more driveway.

Mr. Grande said driveway is the same except that the circular portion has been removed. He will submit a revised copy of the plan showing the reduced driveway.

John Iberg, 118 Pokonoket Avenue, abutter, submitted a letter dated February 28, 2008, including photographs, for the record. He said he wished the builders would be cognizant of the trees which contribute to the environmental and aesthetic values of this neighborhood.

Mr. Klofft said it appeared that there are two issues – screening and drainage.

With regard to screening, Mr. Durand said he plans to remove some of the trees on the left side of the house in order to put in the structure and a little bit of the septic. He emphasized that he was not building this house to sell, but planned to live there and create as much privacy as possible. He said he doesn't want to upset the neighborhood and is willing to talk to the neighbors.

Mr. Gossels asked whether Mr. Durand has looked into how he will manage runoff.

Mr. Durand said he had not looked into it with this property; however, generally on properties with similar slopes and soils there is some type of drain at the base of the drive with dry wells to pick up any runoff.

Robert Moles, 58 Old Lancaster Road, abutter said there have been two new constructions on this road. He asked if a color was chosen as he did not wish this to be a color

that would be “in your face”. Mr. Durand said the color would probably be either a pine tree green or natural shingle style.

Mr. Klofft asked what the square footage would be if the space above the garage was completed.

Mr. Durand said it would be 4,000 s.f.

There was no further input. The hearing was closed.

The following motion was placed and seconded:

MOTION: “To grant Michael & Hazel Durand, applicants, Melissa Szathmary, 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 4,000 s.f. which will exceed the area of the original nonconforming structure, said residence to conform to all zoning setback requirements, property located at 53 Old Lancaster Road, Residential Zone A-1, subject to the following:

1. The house will be constructed in the location as shown on the Plan dated February 7, 2008, prepared by Stamski and McNary, Inc., Acton, MA, except that the driveway shall be constructed as shown on the “Site Plan” for 53 Old Lancaster Road. Both plans are incorporated and made part of this Decision.
2. Runoff from the property shall not be any greater than that which currently exists. A drain will be placed at the foot of the driveway to capture runoff from that driveway.
3. This Special Permit shall lapse if construction has not begun, except for good cause, within 12 months following the filing of the Special Permit approval, plus such time required to pursue or await the determination of an appeal under M.G.L., Chapter 40A, Section 17.
4. Construction must be completed no later than one year after commencement.”

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

REASONS: The petitioner requires a special permit due to the nonconforming nature of the property. The Board finds that the proposed reconstruction will not be substantially more detrimental to the neighborhood than the existing nonconforming structure. The new house, while larger, is lower in scale so as not to present a visual nuisance to the abutters. The applicant, a developer who plans to live in the new house, has indicated his willingness to discuss screening with the direct abutters. The topography of this neighborhood is such that there are drainage issues in the area. As a result the Board is requiring a drain to be provided to insure no additional runoff to the street exacerbates the existing situation.

Jeffrey P. Klofft, Chairman

Elizabeth A. Taylor, Clerk

Jonathan G. Gossels

Nancy G. Rubenstein

Stephen A. Garanin

