

CASE 10-41
Dennis Marsicano
120 Old Lancaster Road

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
Monday, August 2, 2010

The Board consisted of:

Elizabeth T. Quirk, Chair; Nancy G. Rubenstein, Clerk; Jonathan G. Gossels; Jonathan F.X. O'Brien; and Jonathan W. Patch.

Notice was published in the *Sudbury Town Crier* on July 1 and July 8, 2010, posted, mailed and read at this hearing.

Ms. Quirk, as Chair, explained the requirements necessary to substantiate the granting of a special permit. She 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.

Dennis Marsicano, applicant and owner of the property, was present to request a special permit to create a 1,500 square foot accessory dwelling unit in the basement of his house at 120 Old Lancaster Road. He explained that the apartment would be contained within the existing footprint of the house, which he described as a large ranch with a walkout basement. Mr. Marsicano said that the apartment would be created for and used by a friend of his and not for general rental.

Ms. Quirk asked how Mr. Marsicano had determined the layout of the space. Mr. Marsicano said that the space as it currently exists is a renovated full basement that is recorded on the tax records. The rooms were determined by the positions of the existing support columns. Mr. Marsicano continued to say that he did not feel that the apartment would be detrimental to any neighbors and would not be visible as an apartment from the front of the house. One existing window at the side would be expanded to become a doorway. The entire house would have two occupants. Mr. Marsicano would live on the first floor and his friend would live in the accessory apartment below.

Ms. Quirk asked what was located behind the property. Mr. Marsicano said that it consisted primarily of wetlands and woods and there were no neighbors directly behind the house.

Mr. Gossels asked for clarification on the elevation of the driveway which would be reconstructed in order to add a garage below the basement. The driveway would slope downward and a 6 or 7 foot retaining wall would be constructed.

Mr. Patch asked whether there was a level below the existing garage. There is not. Mr. Marsicano described a small, unfinished utility room that walks out into the basement space. The proposed garage would be located beneath the existing garage.

Mr. Gossels asked why the applicant was requesting an apartment that would be 1,500 square feet, which exceeds the maximum 850 square footage allowed. Mr. Marsicano said that the 1,500 square feet is available space that fits within the property. Because the renovation is an investment he said that he wanted to get the best return on it by making use of all of the available space.

Ms. Quirk asked whether any neighbors were present who wished to comment on the proposed project.

Cindy Fenichel and Bob Weiman, residents of 114 Old Lancaster Road, live next door to Mr. Marsicano on the side of the house where the work would be done to reconstruct the driveway and add the garage. They said that the area is naturally a very wet area and were concerned about the grading possibly creating a situation where more water flowed onto their property. They also said that they did not want to see the driveway moved any closer to their property. Overall they were supportive of the accessory dwelling project as long as there were not too many cars parked in the area and it did not look like a two-family house.

The Board then discussed adding a condition to the permit that would ensure that no additional runoff would impact the neighbors. To assist with this Jim Kelly, Sudbury Building Inspector, suggested that perhaps a Stormwater Management Plan be reviewed to ensure compliance with Sudbury's stormwater bylaw. Review of stormwater management is part of the building permit process.

There being no further questions or comments from the Board or audience, the hearing was closed.

The following motion was made and seconded:

MOTION: "To grant Dennis Marsicano, applicant and owner of property, a Special Permit under the provisions of Section 5500 of the Zoning Bylaws in conformance with the application for the Special Permit dated July 2, 2010 and the plans submitted by the Applicants, to allow a 1,500 square foot Accessory Dwelling Unit for property located at 120 Old Lancaster Road, Residential Zone A-1, as follows:

1. The Accessory Dwelling Unit shall be occupied by no more than four persons.
2. Adequate provision shall be made for the disposal of sewage, waste and drainage generated by the occupancy of the Accessory Dwelling Unit in accordance with all requirements of the Board of Health.
3. The property owner shall file a Storm Water Management Plan, prepared by a licensed professional engineer, as part of the application for a building permit. If the Building Inspector finds the plan acceptable, the property owner shall ensure that mitigation measures and grading are constructed in accordance with the plan. The purpose of this provision is to ensure that no additional storm water reaches the neighboring property, 114 Old Lancaster Road.
4. There shall be at least two off-street parking spaces for the principal dwelling unit and at least one off-street parking space for the Accessory Dwelling Unit.
5. The property owner shall file a sworn affidavit with the Town Clerk, with a copy to the Board of Appeals, certifying such occupancy is consistent with the Special Permit, every four (4) years.
6. This permit shall be recorded at the Middlesex South District Registry of Deeds prior to issuance of a building permit for the accessory dwelling unit.

7. 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.

Elizabeth T. Quirk, Chair

Jonathan F.X. O'Brien

Nancy G. Rubenstein, Clerk

Jonathan W. Patch

Jonathan G. Gossels