

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
Monday, September 19, 2011

The Board consisted of:

Elizabeth T. Quirk, Chair; Benjamin D. Stevenson, Clerk; Jonathan G. Gossels; Jeffrey P. Klofft; and Jonathan F.X. O'Brien.

Notice was published in the *Sudbury Town Crier* on August 25 and September 1, 2011, 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.

Jeremy and Christina Gustie, applicants and owners of 509 Concord Road, were present to request a Special Permit to allow construction of a 264 square foot screened porch at the rear of their existing house which would result in a rear yard setback deficiency of approximately 11.25 feet.

Mr. Gustie said that originally they had wanted to install a patio at the back of the house however, due to the high volume of mosquitoes they decided that a screened porch would allow them greater use of the area.

He then explained the layout of the lot noting that it was built fairly close to the existing setback. They have one close neighbor and then the back of property abuts Featherland Park, property owned by the Town. While the porch would be closer to the property line, the abutting neighbor would not be impacted visually by the porch because the neighbor's house is situated farther forward on its lot and so the porch would not be easily seen from the house. There are also a number of trees along the property line.

Ms. Quirk said that the request seemed reasonable and since the rear abutter was comprised of Park and Recreation land the impact would be minimal to Park and Rec.

Mr. Klofft agreed that the placement of the house made it feasible. Other ZBA members concurred.

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 Jeremy and Christina Gustie, applicants and owners of property, a Special Permit pursuant to Section 2420 of the Zoning Bylaws, to allow construction of a porch that is no greater than 264 square feet, which will result in a rear yard setback deficiency of 11.25 feet \pm , property located at 509 Concord Road, Residential Zone C-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 to accommodate setback deficiencies. The Board felt that the scale of the porch and the fact that there would be minimal, if any, impacts to neighbors made it a compelling proposal. There was no neighborhood opposition to the plans.

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Rachael St. Germain, of ViewPoint Sign and Awning, was present on behalf of the applicant, Financial Partners, to request a Special Permit to allow a secondary, double-faced blade sign measuring approximately three square feet for a second-floor business at property located at 383 Boston Post Road. The bylaw limits signage for second-floor businesses to only one wall sign

Ms. St. Germain explained that relief was being sought from the bylaw to help increase visibility for a new business within the Limited Business District. She further explained that the property has more visibility from the parking lot behind Mill Village than it does from Boston Post Road so the sign is being designed to guide customers from the parking lot area. She further noted that most of the businesses in the building have more than one sign because of the shape of the parking area.

Mr. Gossels asked whether there has been any difficulty with finding the business. Ms. St. Germain said that the business is a new one, however the other businesses in the building have two because they are difficult to see due to building siting.

Mr. Gossels noted that while the sign is a secondary sign, it is a small one. Ms. St. Germain agreed that it was small, but they also wanted it to be decorative and noticeable from the parking area.

Ms. Quirk also agreed that the sign was modest, noting that the pole is only thirty inches in length and the sign itself is twenty-four by eighteen inches.

The Board then discussed the traffic routing through Mill Village and concurred that an additional sign would be useful.

Mr. Klofft added that the sign matches what the bylaws seek to achieve.

No abutters were present.

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 Financial Partners, applicant, and Mill Village Trust, owner, a Special Permit under the provisions of Section 3290 of the Zoning Bylaws, to allow a secondary, double-faced blade sign measuring 3 square feet + for a second floor business, as proposed in the application dated August 15, 2011, property located at 383 Boston Post Road, Limited Business District Zone.”

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

REASONS: The petitioner requires a special permit to install a secondary business sign which is more signage than the bylaws allow. The Board finds that the location of the property justifies the granting of a special permit for the business sign. The sign will not be a detriment to the surrounding area and will not alter the character of the zoning district which is located in the Limited Business Zone. The sign will not cause visual confusion, glare, or offensive lighting in the area, nor will it interfere with traffic safety.

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Ellen Cotton, applicant and property owner, was present to request a special permit to create an 882 square foot accessory dwelling unit at her house located at 37 Eddy Street. Ms. Cotton explained that she is living in a house that is too large for just herself now that her son is grown. Ms. Cotton would live in the accessory dwelling unit located above the garage and rent the remainder of the house, which would provide her with the necessary income to remain living in Sudbury.

Ms. Quirk said that after reviewing the plans she felt it was a natural fit for the property and would not be detrimental. She asked whether Ms. Cotton had spoken with any of her neighbors about her plans.

Ms. Cotton said that she had spoken with many of her neighbors and most were supportive. She submitted a September 18, 2011 letter of support to the Board written by Scott and Katherine Shallow of 38 Eddy Street located across the street from Ms. Cotton's house. Their letter explained that they have known Ms. Cotton for eleven years and feel that she will be a thoughtful and responsible neighbor if the plan for the accessory dwelling moves forward.

Ms. Quirk asked for clarification on whether or not there would be any changes to the exterior of the house. Ms. Cotton said that there were to be no changes to the exterior.

Mr. Gossels also was in favor of the plan.

Mr. Stevenson said that given that there are to be no changes to the exterior of the house, that the size of the unit is close to what is allowed in the bylaw after subtracting the stairway space, and because there is plenty of parking, he too was in favor of the proposal.

Mr. O'Brien also agreed.

Ms. Quirk asked whether there were any neighbors who wished to speak about the proposal.

Rita Clark, 30 Eddy Street, asked whether there was to be a kitchen in the accessory dwelling since she had not seen one noted on the plan in the application. She also asked whether there was to be an additional bathroom on the second floor of the accessory dwelling. Ms. Cotton said that she does plan to

install a kitchen in the studio space on the second level and plans to add a shower to an existing bathroom located on the lower level off of the stairwell.

Ms. Clark also wanted to know what happens to the accessory dwelling once Ms. Cotton sells her house.

Ms. Quirk said that the special permit is only issued to Ms. Cotton herself and so when the house is sold the new owners are responsible for obtaining a new permit. While the kitchen and bath within the accessory dwelling can remain, Building Inspector Jim Kelly confirmed that the new owner cannot legally use the space as an accessory dwelling until a special permit has been granted.

As a final question Ms. Clark said that since the space was a studio she did not understand what Ms. Cotton intended to do if her son wanted to visit and spend the night. Ms. Cotton said that it would be unlikely that he would stay there given that he has his own apartment but she planned to create a divided space furnished with a fold-out couch.

When Ms. Clark said that the apartment was larger than the bylaw allowed Ms. Quirk reminded her that the stairway space is not included in the calculations of the apartment. Therefore the accessory dwelling would actually be smaller in size than requested. She noted that the Board has granted larger apartments in the past when circumstances have allowed it, such as an existing house that is being divided for an accessory dwelling.

As there were no further questions from the Board or audience, the hearing was closed.

The following motion was placed and seconded:

MOTION: "To grant Ellen Cotton, 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 August 16, 2011 and the plans submitted by the Applicant, to allow an Accessory Dwelling Unit that is no greater than 882 square feet for property located at 37 Eddy Street, 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. 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.
4. 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.
5. 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.
6. 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

REASON: 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

Jeffrey P. Klofft

Benjamin D. Stevenson, Clerk

Jonathan F.X. O'Brien

Jonathan G. Gossels