

SUDBURY ZONING BOARD OF APPEALS  
MINUTES  
June 17, 2013

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

MEETING OF THE ZONING BOARD OF APPEALS

The meeting was convened by ZBA Chair Benjamin Stevenson at 7:30 p.m.

Discussion with Sudbury Housing Trust - 278 Maynard Road:

Bob Morrison and Daniel Hewitt of the Sudbury Housing Trust, along with Beth Rust, Community Housing Coordinator, and Jody Kablack, Director of Planning and Community Development, were present to give the ZBA an informal update on the status of Comprehensive Permit 10-8, 278 Maynard Road. Mr. Morrison said that the Housing Trust deemed the initial project, as approved in November 2010, economically infeasible. In October 2012 the Housing Trust hired a new firm, Davis Square Architects, to reconsider the initial design and the Trust now has a different design concept. The Comprehensive Permit was extended by the ZBA until November 11, 2014.

Mr. Morrison reported that the Housing Trust has held meetings with the neighborhood to get their input on the new concept. Most neighbors appear to approve of the changes. A remaining concern is about the parking area which can be adapted.

The next step is for the Housing Trust to go forward with obtaining costs for the new project. After that the Housing Trust will seek approval from the ZBA for a modification of the Comprehensive Permit.

Ms. Quirk asked how many bedrooms had been approved for the original project. Mr. Morrison said that six bedrooms had been approved as three two-bedroom units. In the new design there could be two two-bedroom units together in one structure and one three-bedroom unit in a detached structure which totals seven bedrooms.

Mr. O'Brien asked whether any of the units had first-floor master bedrooms. Mr. Hewett said that all bedrooms are walk-ups. None are handicapped-accessible. There is a significant cost-savings for the project by eliminating from the original proposal the accessible unit and basements.

Ms. Rust said that all three of the units would be deed-restricted. Two would sell at eighty-percent area median income and one would sell at one hundred percent area median income. This means that all of the units are considered affordable units, but two are more affordable than the third.

Mr. Gossels asked about the neighborhood's reaction. Mr. Morrison said that the neighbors' reaction was overwhelmingly positive. At the most recent meeting with neighborhood representatives there were approximately fifteen to twenty neighbors present. They appeared to understand the need for the three-bedroom unit. The site would still have the appearance of a single-family home. There were some questions and concerns about parking. Overall he said that the neighbors appear to want the Housing Trust to move forward with the project as alternative development of the parcel could be less desirable.

Mr. Klofft asked whether the Housing Trust had met with the Design Review Board. Mr. Hewett said that they had not yet met with the DRB. Mr. Morrison said that they want to satisfy the main stakeholders prior to going to the DRB.

SUDBURY ZONING BOARD OF APPEALS  
MINUTES  
June 17, 2013

Mr. Gossels noted that the square footage had been dramatically reduced. Mr. Morrison said that in the original design the square footage was much higher than required and the finishes were overdone. This inflated costs. He said that the current architect was able to hone in on this problem.

Mr. Klofft said that it would be tough to reduce the number of parking spaces. Mr. Hewett said that the Housing Trust was looking at ways to accommodate guest parking. Alternatives could be worked out during the design development.

Peter Salvador, 279 Maynard Road, agreed that the feedback from the neighborhood is favorable. He said that the neighbors do want to see a positive outcome. He noted that one issue has been the seventh bedroom, which was an increase from the six originally proposed. However he said that the neighbors could understand the argument for the seventh bedroom and they were open to the compromise. He did say that the neighbors want to understand why economically the project could not proceed with only six bedrooms.

Mr. Morrison said that the Housing Trust agreed to produce the cost analysis for both six and seven bedrooms. He opined that the seventh bedroom may be what makes the project meet its goals.

Ms. Kablack said that the Housing Trust would be going out to bid for the project with the expectation that it would be approved by the ZBA. She said that the overall project would be comprised of either six or seven bedrooms; three affordable units with two being at eighty percent area median income and one at one hundred percent AMI; and no common driveway. The project would move forward with an open process including public hearings.

Mr. O'Brien asked that the Housing Trust present the economics to the ZBA.

There being no further business the meeting was adjourned.

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Benjamin D. Stevenson, Chair

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Jeffrey P. Klofft

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Jonathan F.X. O'Brien, Clerk

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Elizabeth T. Quirk

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Jonathan G. Gossels

CASE 13-11  
Yong Feng Xia  
69 Butler Road

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
Monday, June 17, 2013

The Board consisted of:

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

Notice was published in the *Sudbury Town Crier* on May 30 and June 6, 2013, posted, mailed and read at this hearing.

Mr. Stevenson, as Chair, re-opened the hearing for ZBA Case 13-11, 69 Butler Road, as continued from May 20, 2013. He 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.

Real Estate Agent, David Noyes, was present along with applicant Yong Feng Xia, to request a special permit to demolish an existing residence on a nonconforming lot and reconstruct a new single-family home measuring approximately 4,200 square feet which will exceed the area of the original structure at 69 Butler Road. The Board had wanted to see a formal plan prior to issuing a decision so Mr. Noyes presented to the Board a proposed septic plan prepared by Bruce Saluk & Associates, Inc. dated June 5, 2013, which showed the septic field in the front of the house in the southeast corner. He said that the system would not be raised and that drainage was fine in that area.

Mr. Gossels said that if the septic field was not raised but would be at the same grade as the rest of the yard he was fine with the plan. As a whole the Board felt that the septic plan was satisfactory.

The Board had also asked for some form of a landscape plan to ensure adequate screening between the lot and the neighbor's lot at 79 Butler Road. Mr. Noyes did not have a proposed landscape plan to present. Instead he passed out photographs of the site that were taken a few weeks prior to the hearing. He suggested that there was adequate screening in place and said that other houses on the street had a similar amount of screening between properties. He said that clearing had taken place on the lot but only at the center of the lot rather than along the property lines.

Mr. Gossels said that from discussion at the last hearing screening appeared to be a big issue for the abutting neighbors. He asked Mr. Noyes whether there were any areas where screening needed to be enhanced. Mr. Noyes said there were not because existing screening was adequate.

Ms. Quirk asked whether Mr. Noyes or the applicant had gotten together with the neighbors to discuss landscaping plans as the Board had recommended at the last hearing that they do.

Mr. Noyes said that he had not met with the neighbors and he had been surprised by the concerns at the last hearing.

Mr. Stevenson said that the other houses in the neighborhood were not the measure for this particular property. He said that he was disappointed that there was not a landscape plan worked out at the site and

that time was being wasted at this hearing when a landscape plan had not been formulated. The Board agreed that the photographs were difficult to assess.

Dave Donnellan, 79 Butler Road, said that he had received no contact from Mr. Noyes in the last month and he did not feel that this hearing was the place to be working out the landscaping plan. He agreed that there had been clearing at the center of the lot but added that there was also brush work approximately five feet onto his property line. He did not feel that the applicant had been neighborly. In his opinion there has been no effort made to present something that could be reviewed and he felt that as an abutter he had the right to have a talk with the applicant.

Mr. Noyes said that he took full responsibility for the lack of contact. He said that he went to look at the site and noted the wooden survey stakes which were present for planning purposes. He said that he could not imagine that workers would knowingly clear into someone else's property because a professional survey had been done. He said that he would confirm the lot lines to see if he could remedy the situation.

Mr. Donnellan said that he only wants to see a landscape plan so that there could be a discussion about the plantings. He did not have any particular plantings in mind.

Mr. Klofft said that it sounded as though Mr. Noyes' proposal was to add no additional screening. Mr. Noyes said that he was suggesting to leave what is currently there and take no more away. No other neighbors appear to be affected by the plans.

Mr. Stevenson said that at the last meeting the Board was clear about wanting the applicant to talk with Mr. Donnellan about a landscape proposal which should be done through a site visit.

The Board then discussed the need for a continuation of the hearing so that a written plan regarding landscaping could be formulated. This did not have to be an engineered plan, but simply an agreement between the applicant and the neighbor as to how to approach the screening so that all parties are satisfied. Mr. Noyes agreed to the continuance and said that he would meet with the Donnellans.

A motion was made and seconded unanimously to continue the hearing to Monday, July 15, 2013 at 7:30 p.m. at the Town Hall.

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Benjamin D. Stevenson, Chair

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Jonathan G. Gossels

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Jonathan F.X. O'Brien, Clerk

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Elizabeth T. Quirk

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Jeffrey P. Klofft

CASE 13-9 and 13-10  
Herb Chambers of Sudbury, Inc.  
DBA Jaguar Sudbury  
83 Boston Post Road

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
Monday, June 17, 2013

The Board consisted of:

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

The Board was in receipt of a letter dated June 14, 2013 submitted via e-mail from Attorney Joshua M. Fox on behalf of his client Herb Chambers of Sudbury, Inc. requesting a continuation of the hearing. A motion was made and seconded unanimously to continue the hearing to Monday, July 15, 2013 at 7:30 p.m. at the Town Hall.

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Benjamin D. Stevenson, Chair

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Jonathan G. Gossels

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Jonathan F.X. O'Brien, Clerk

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Elizabeth T. Quirk

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Jeffrey P. Klofft

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CASE 13-12  
William F. Curley  
62 Blueberry Hill Lane

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
Monday, June 17, 2013

The Board consisted of:

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

Notice was published in the *Sudbury Town Crier* on May 30 and June 6, 2013, posted, mailed and read at this hearing.

Mr. Stevenson, as Chair, opened the hearing. He then 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.

Applicant William Curley was present to request a special permit to allow the demolition and reconstruction of a residence measuring approximately 3,000 square feet at 62 Blueberry Hill Lane. Mr. Curley said that he was proposing to build for a third time the same house that has been approved by the ZBA at other locations in Sudbury. The difference with this proposal is that the house would be situated on a corner lot, however, as proposed the house would conform with all setbacks.

Mr. Curley said that he had received a copy of an e-mail sent by Director of Planning and Community Development Jody Kablack who recommended that the ZBA require as a condition the planting of street trees with a caliper of two inches diameter at breast height no less than forty feet on center along the entire frontage of the property. This measure is to ensure that the streetscape is restored after construction. Mr. Curley agreed to add trees along the front. He said that the western side of the lot was densely treed and no trees would have to be removed in the location of the house except where the septic field would be situated. The septic system would be modified to include the fourth bedroom and he has received approval from the Board of Health to do so.

Mr. Klofft asked whether the topology of the land would remain the same with the alteration to the septic system. Mr. Curley said that it would be unaltered.

Mr. Gossels expressed concern about whether the house would loom over the street and noted that the ZBA had a preference for sixty-foot setbacks in its teardown standards. Mr. Curley said that the project could meet the Town's forty foot residential front setback for the three sides, but the house could not be pushed back to sixty feet. The height of the house would be approximately thirty-two feet. Mr. Stevenson noted that Mr. Curley was amenable to adding the street trees along the front of the property per Ms. Kablack's suggestion and this should help to alleviate the looming effect. Mr. Curley said again that the majority of trees on the site were to remain except in the area of the septic system.

Mr. Stevenson felt that the house was substantial for this lot and asked whether a smaller house could be considered. Mr. Curley said that this house has street appeal. Its size is approximately 2,964 square feet and he does not want to build a smaller house which would affect its marketability. He described the

floorplan for the Board. Mr. Klofft did not feel that the house was too large. Ms. Quirk asked whether this house was the same size as the houses he built on Dutton and July Roads and Mr. Curley said that it was and noted that those lots were smaller than 62 Blueberry Hill Lane.

Mr. Stevenson asked whether any neighbors wished to speak about the proposal.

Christine Hogan, 49 Blueberry Hill Lane, said that after she received the public hearing notice she took a look at the proposed plans and invited neighbors to her home to discuss Mr. Curley's proposal. She said she was concerned about 3,000 square feet  $\pm$  on an exposed corner lot in the neighborhood. She said that the width of the house, at thirty-six feet, was three times the width of her house. For point of reference she said that she lives in one of the larger homes on the street which measures approximately 4,000 square feet and is thirty-four feet high. She suggested situating the house on an angle to help the views from the other neighbors' houses. Ms. Hogan said that the neighborhood is comprised of a lovely selection of homes of all sizes and she wants the neighborhood to feel like a neighborhood. Mr. Stevenson asked whether Ms. Hogan was fine with the size and design of the house but not its orientation. Ms. Hogan said that with her suggestion of angling the house she was just trying to make everyone happy and she also requested, on her neighbor's behalf, sufficient screening.

Michael Tiffany, the direct abutter at 50 Blueberry Hill Lane, said that he agreed with Ms. Hogan's comments about the views between the two houses and said that he would, in fact, like adequate screening. He expressed concerns about the inaccurately surveyed property lines throughout the entire neighborhood. While he supports a new house on the lot he was concerned about the height of the house and any setback conflicts with property lines. He was concerned that if the house were to be angled then the proposed porch would be even closer to his house. Mr. Curley said that there would be no porch on the house but instead a patio.

Mr. Stevenson asked whether the neighbors and Mr. Curley would be willing to have a working session and come back before the ZBA at a later time. Mr. Curley preferred to work out the detail at the hearing to avoid further delays. He said that twisting the house would set a whole new precedent. The lot is recognized as a corner lot and the logical way to develop the site is how it is presently developed. He said that he would not be putting a porch on the back of the house, and he agreed to cut seven and half inches off the height of the house. He said that the Hogans' house is massive compared to this plan and so he did not feel that he would be setting a precedent for overbuilding the neighborhood. He said that he understood that he would need to provide screening on the lot and agreed to provide eight to ten foot hemlock or evergreen trees that would grow quickly between the new house and 50 Blueberry Hill Lane. He felt that adequate screening would be the best solution.

Mr. Klofft agreed that there was no other way to put an economically viable house on the lot. He did not feel that going out of the building envelope was the answer. Ms. Quirk said that she likes the plan of the house and it has proven popular with buyers. Mr. Curley said that he would not build beyond the 2,964 square feet.

Ken Walker, 61 Blueberry Hill Lane, said that he was also in favor of rebuilding a house on this lot, however he was concerned about the proposed size as there are not many large houses on the street. He felt that it was large for the lot, would be crowded, and would overwhelm the corner. He wanted Mr.

Curley to consider building a smaller house. Mr. Walker said that he has solar panels on his house that he did not want blocked by any trees at the front of the site. Mr. Curley said that he would take that into consideration.

Mr. Klofft reminded those present that the property owner has a right to build to the allowed zoning height.

Terry Keeney, 71 Blueberry Hill Lane, said that he thought the house was a little too big but he loves the design of the house.

Mr. Curley had in his possession the subdivision plan for Blueberry Hill Lane. He said that 62 Blueberry Hill Lane was larger than eight of the lots on the street and smaller than six lots. He said that since he is not removing trees from the site the usable lot is actually smaller.

Mr. Klofft did not think that this house was overly large for this lot considering what else was built in the neighborhood. He said that builders cannot build outside of the building envelope unless there are extenuating circumstances. He felt that the solution would be precise screening.

Mr. Stevenson said that he did not like the dynamic of squeezing big box colonials onto lots. He said that it doesn't help the neighborhood where there are measurable concerns. He felt that the house could be made smaller.

Mr. Curley said that he did not understand why the ZBA would want to destroy the value of a house. Mr. Stevenson said that a smaller house would add value. He said that he was following the wishes of the neighbors. Mr. Klofft felt that the ZBA was going out of bounds with designing the house.

Ms. Quirk questioned the appropriateness of the lot for the orientation of the house as it impacts three sides and changes the streetscape.

Mr. Curley said that a cape or ranch-style house is out of the question due to cost. He maintained that this house was reasonably sized and has been approved before on other smaller lots in Sudbury neighborhoods with much smaller houses.

Mr. O'Brien asked whether the height of the house could be further reduced. Mr. Curley said that he could reduce the height to thirty-one feet, but not any less due to sloping.

Mr. Stevenson then opened discussion to the neighbors to see if anyone had a suggestion about how to move forward given that a new house would be an upgrade to what currently exists at the site.

Mr. Keeney said that the house may not be too big for the lot given that the townspeople as a whole are building larger houses, however he felt it was too big for the shape of this lot.

Ms. Quirk added that one would get a sense of its size from all sides. Mr. Curley said that it was to his advantage and the neighbors' advantage for him to landscape all around the house. He said that the

Planning Director recommended trees along the street and he agreed to that. He asked whether moving the house left or right on the lot would help since he could still maintain a buffer of trees.

Paul Hogan, 49 Blueberry Hill Lane, felt that everyone present was pro-builder. He acknowledged that Mr. Curley owns the property and has to make some money on it. He said that it was not a big house but would be situated on a funny lot. He questioned whether the lot could be altered. Mr. Curley said that he had investigated that possibility with the Building Inspector. Mr. Hogan asked whether the old foundation would be removed. Mr. Curley said that it would. Further discussion ensued about moving the house east toward the trees.

Ms. Hogan said that her concern on behalf of her neighbor was that the two family rooms of 50 and 62 Blueberry Hill Lane would be opposite one another and quite close. Moving the house over would alleviate the straight-on view.

Mr. Curley proposed moving the house eighteen feet to the east keeping a thirty-foot band of vegetation around the side of the house. Some trees would then have to come down at the eastern side. The neighbors who were present were amenable to this plan.

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 William F. Curley, applicant and owner, a Special Permit under the provisions of Section 2460B of the Zoning Bylaws, to allow reconstruction of an existing residence not to exceed 3,000 ± square feet on a nonconforming lot, which will exceed the area of the original structure, property located at 62 Blueberry Hill Lane, Residential Zone A-1, subject to the following:

1. The new house will be constructed with a front setback of no less than forty (40) feet on three sides. The house will be moved eighteen (18) feet to the east from the proposed Preliminary Site Plan prepared by Lakeview Engineering Associates dated May 20,2013 that is incorporated into and made part of this Special Permit.
2. The applicant will maintain thirty feet of existing trees and vegetation to the east.
3. The applicant agrees to plant hemlock or evergreen trees along the southern border as screening between the new house and 50 Blueberry Hill Lane.
4. The applicant agrees to plant street trees with a caliper of 2" in diameter at breast height no less than forty (40) feet on center along the entire frontage of the property.
5. The height of the house shall be no greater than thirty-one (31) feet.

6. This Special Permit shall lapse if construction has not begun, except for good cause, within twelve (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 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 and the applicant, and after engaging in discussions with the abutting neighbors about revisions to the proposed plans, the applicant had their support. The Board felt that the new location, surrounded by sufficient screening, would allow house to be compatible with the surrounding homes in the neighborhood.

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Benjamin D. Stevenson, Chair

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Jonathan G. Gossels

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Jonathan F.X. O'Brien, Clerk

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Elizabeth T. Quirk

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Jeffrey P. Klofft

CASE 13-13  
Philip and Lisa Sharkey  
55 Pantry Road

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
Monday, June 17, 2013

The Board consisted of:

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

Notice was published in the *Sudbury Town Crier* on May 30 and June 6, 2013, posted, mailed and read at this hearing.

Mr. Stevenson, as Chair, opened the hearing. He then explained the requirements necessary to substantiate the granting of a Special Permit. He 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.

Philip Sharkey, applicant, was present to request a special permit to allow up to five dogs as personal pets at his property at 55 Pantry Road. Under the Sudbury Bylaws a special permit must be approved by the ZBA to own more than four dogs.

Mr. Sharkey explained that he already has three dogs of his own but would be taking in two more belonging to a family member who is ill and can no longer care for her two dogs. Mr. Sharkey and his family prefer to take the dogs rather than finding new homes for them. He said that all of the dogs are small dogs and one is an eight year-old rescue dog that cannot bark due to an accident with a past owner. Mr. Sharkey's lot is 40,000 square feet and he has a six foot fence surrounding much of it. The back portion is fully enclosed. He plans to extend the fence to enclose the remainder of the yard. He also has an electric fence around the perimeter.

Mr. Sharkey said that he had spoken with several of his abutting neighbors and they are fine with the plans. In fact, most of the neighbors he listed had multiple dogs themselves. Mr. Sharkey's mother and sister are among the neighbors. Mr. Sharkey added that his extended family has lived in Sudbury since 1924 and he himself moved to Sudbury in the 1960s.

Mr. Stevenson noted that the Board was in receipt of letters of support from Ralph Tyler, One Deacon Lane, and Dr. John Ruddy, 42 Pantry Road. In his letter Mr. Tyler had suggested to the ZBA that there be no renewal period for the permit but rather grant the permit for the life of the two additional dogs. The Board agreed that there should be no renewal period imposed. The board also discussed the idea that Mr. Sharkey could have the ability to replace any of his own three dogs should he wish to do so.

The Board was also in receipt of a kennel inspection conducted by Sudbury's Animal Control Officer Jennifer Condon on June 13, 2013. The facilities were rated excellent and no problems were found with the inspection.

Given the circumstances of the dogs, the facilities, and neighbor support, the Board was in agreement to approve the special permit.

No neighbors were present to speak about the proposal. There being no further questions from the Board or those present, the hearing was closed.

The following motion was made and seconded:

MOTION: "To grant Philip and Lisa Sharkey, applicants and owners, a Special Permit granted under the provisions of Section 2313 of the Zoning Bylaws for a kennel, to allow five dogs as personal pets at the premises, property located at 55 Pantry Road, Residential Zone A-1, subject to the following:

1. The dogs do not become a nuisance.
2. The maximum number of dogs allowed on the property is five (5).
3. Waste disposal shall be in accordance with Board of Health requirements.
4. Any complaints received by the applicants shall be reported immediately to the Animal Control Officer."

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

REASONS: The petitioners seeks a special permit to allow up to five dogs as personal pets at thier property. The use is allowed in all districts by Special Permit from the Board of Appeals. The Board finds the use to be in harmony with the general purpose and intent of the Bylaw. It is in an appropriate location, is not detrimental to the neighborhood and does not by its presence significantly alter the character of the zoning district. The animals are restricted to the area as shown in the plot plan which is made part of this decision to ensure that the use will not be offensive to the adjoining zoning districts or neighboring properties. Due to the support from neighbors and an excellent review by the Animal Control Officer, the Board finds that a special permit would be appropriate.

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Benjamin D. Stevenson, Chair

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Jonathan G. Gossels

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Jonathan F.X. O'Brien, Clerk

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Elizabeth T. Quirk

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Jeffrey P. Klofft

CASE 13-14  
Bryan Mills  
471 North Road

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
Monday, June 17, 2013

The Board consisted of:

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

Notice was published in the *Sudbury Town Crier* on May 30 and June 6, 2013, posted, mailed and read at this hearing.

Mr. Stevenson, as Chair, opened the hearing. He then explained the requirements necessary to substantiate the granting of a Special Permit. He 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.

Applicant Bryan Mills was present to request a special permit to raise up to six hens on his property at 471 North Road. He explained that the chickens would be enclosed in a fenced area measuring up to twenty-four square feet. A photograph with a sample of the type of coop and enclosure was included with the application. He was not requesting permission for a rooster.

Mr. Mills said that he had spoken about his plans with the two primary abutters to his property. They did not appear to have any concerns since their homes were situated far away from the coop. There are also plenty of woods and thick evergreens to shield the coop from view.

Mr. Mills said that he would be composting the coop waste on site in the corner that is located away from the neighbors' yard.

Mr. Gossels asked whether Mr. Mills wanted any sort of lighting for the coop explaining that in the past the Board had approved low-watt lights for other coops in town. Mr. Mills said that he would probably want a red bulb heating device and a small, low-watt light would be useful in addition.

Mr. Stevenson explained that the Board was in receipt of a memo from Planning Director Jody Kablack suggesting that the Board require the coop location to be in compliance with the Board of Health's new regulations for the control and keeping of animals. Mr. Mills said that he was familiar with the new Board of Health Regulations and would be following them in his proposal.

The Board discussed with Mr. Mills a one-year permit with the opportunity for renewal. Mr. Mills agreed to the terms.

No neighbors were present to speak about the proposal. There being no further questions from the Board or those present, the hearing was closed.

The following motion was made and seconded:

MOTION: "To grant Bryan Mills, applicant and owner, a Special Permit granted under the provisions of Section 2313 of the Zoning Bylaws, to raise up to six hens on the premises, property located at 471 North Road, Residential Zone A-1, subject to the following:

1. The chickens shall not become a nuisance.
2. The maximum number of chickens allowed on the property is six. No roosters shall be kept on the premises.
3. The chicken coop and pen area may be no greater than twenty-four (24) square feet in size.
4. One low-watt light no greater than 60 watts will be allowed inside the chicken coop. The light may be turned on 24-hours per day.
5. Composting of waste litter shall be allowed on-site, provided that odor does not become a nuisance.
6. No commercial activity consisting of the sale of eggs, chickens, or chicken products will be allowed on the property.
7. This permit is non-transferable and will expire in one (1) year on June 17, 2014, and the Board will consider renewal upon receipt of proper application on or before that date."

VOTED: In favor: 5 Opposed: 0

REASONS: The petitioner sought a special permit to raise up to six chickens on the premises. The use is allowed in all districts by a Special Permit from the Board of Appeals. The Board finds the use to be in harmony with the general purpose and intent of the Bylaw. The coop is situated in an appropriate location, will not be detrimental to the neighborhood, and its presence will not significantly alter the character of the zoning district. Adequate and appropriate facilities will be provided for proper maintenance. The permit will expire in one year at which point the applicant may seek renewal and the Board can then assess whether the coop has had an impact on the neighborhood.

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Benjamin D. Stevenson, Chair

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Jonathan G. Gossels

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Jonathan F.X. O'Brien, Clerk

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Elizabeth T. Quirk

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Jeffrey P. Klofft

CASE 13-15  
Padraig O'Beirne  
631 Boston Post Road

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
Monday, June 17, 2013

The Board consisted of:

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

Notice was published in the Sudbury Town Crier on May 30 and June 6, 2013, posted, mailed and read at this hearing.

Prior to discussion of Case 13-15 Mr. Gossels disclosed to the Board and those present that he is a patient of Dr. Cadoo's and that he had no financial interest in serving on this case. No one expressed any concerns with Mr. Gossels' participation in the hearing.

Mr. Stevenson, as Chair, opened the hearing. He then 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.

Applicant Padraig O'Beirne was present to request a Use Variance to conduct and operate a professional office for home improvement and design at 631 Boston Post Road which is zoned as a residential C-1 property. Property owners William and Lori Cadoo were granted a Use Variance as recently as July 16, 2012 (ZBA Case 12-27) for medical and professional office use. Mr. O'Beirne is leasing the building from the Cadoos and therefore needs a new Use Variance under his name. The office space would serve as a place for Mr. O'Beirne to meet with clients and showcase design samples. No construction services would take place at the property.

Sudbury Building Inspector Mark Herweck, who was present at the meeting, said that the garage would be altered to create a display area. ZBA Member Jonathan O'Brien noted that the Cadoos had discussed altering the garage in a similar manner in July 2012 and the Board had agreed to those changes. Mr. O'Beirne added that the garage conversion would also be accessible for persons with disabilities.

The Board discussed that the use was that of professional office space, which was the same use as was previously approved in 2012. Likewise the Board felt that the reasons for approval also were applicable to Mr. O'Beirne's request. Mr. Klofft suggested as a condition that the Sudbury Design Review Board look at any plans for exterior alterations, and the garage renovation in particular.

No abutters were present to express concerns.

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 Padraig O'Beirne, applicant, and William H. and Lori Caddoo, property owners, a Use Variance under the provisions of Section 2230 of the Zoning Bylaws, for the purpose of conducting and operating a professional office on a parcel of land zoned for residential use, property located at 631 Boston Post Road, Residential Zone C-1, subject to the following:

1. Plans for exterior building changes shall be reviewed by Sudbury's Design Review Board."

VOTED: In favor: 5 Opposed: 0

REASONS: The petitioner requires a Use Variance to change the permitted use of the property from a residential use to a business use. The Board finds that the petitioner has satisfied the criteria for granting a Use Variance under Section 6140 of the Zoning Bylaws. Specifically, under Section 6142 the subject parcel is bounded on three sides by uses of a commercial nature of the same classification as the applicants have sought. Under Section 6143, the subject parcel has been in use as a medical and professional building without incident since 1982. The property has been utilized to a degree as to render unreasonable any use which would be in conformance with the Residential C-1 Zoning District. The extent of conforming commercial activity on abutting parcels and the existence of commercial activity on the lot renders conforming use unreasonable. The Board finds that a hardship would result if the provisions of the Bylaw were to be literally enforced because retrofitting the building to make it residential once again would be extremely difficult and would place a residence in the midst of what is essentially a business district.

Under Section 6145 the Board finds that there will be no substantial detriment to the public good if the Use Variance is granted. The applicant is proposing use of the entire structure without any external change or expansion with the exception of minor alterations to the façade of the garage which will allow the occupants to effectively conduct their business. The number of employees, occupants, and parking spaces will be no more than is presently allowed.

Under Section 6146, the Board finds that the proposed uses will be consistent with present uses and will produce little noise in excess of the noise presently created by abutting commercial activities. The hours of activity, number of employees and patients and clients will be consistent with daytime professional activity.

The Board also finds that the proposed use complies with all conditions set forth in Section 6147, which states that if the use is authorized under Sections 6142 or 6143 by the prior existence of adjoining nonconformities or incompatibilities: the use nonconformity on the lot in question shall be permitted no further from such prior adjoining conditions as the width of the lot or 100 feet, whichever is less; and the use nonconformity shall be terminated, except that the ZBA may grant a special permit for a further delay of not more than five years.

The Board also finds that the applicant, through his proposal, has satisfied the Special Permit Criteria in that the use is in harmony with the general purpose and intent of the bylaw where uses of nonconforming nature in locations which, if literal zoning enforcement is applied, create a hardship to the site and/or its structures. The use is in an appropriate location and is not detrimental to the neighborhood and does not significantly alter the character of the zoning district because the property abuts Business District #15, a nursing home, medical center, funeral home, and Town-owned property and is situated along a State

highway. Additionally, commercial activity has been conducted at the site for thirty years and has not been a detriment. Adequate and appropriate facilities will be provided for the proper operation of the proposed use in that the property will continue to be used for medical and professional activities with no external expansion. The proposed use will not be detrimental or offensive to the adjoining zoning districts and neighboring properties due to the effects of lighting, odors, smoke, noise, sewage, refuse materials or other visual nuisances because the proposed use will be in harmony with the adjoining business district. The proposed use will also not cause undue traffic congestion in the immediate area because the sight distances at the location are adequate for the proposed use. Customer activity will be staggered over the course of the business day and as a result will not cause undue traffic congestion in the area.

For the above reasons, it is the opinion of the Board that the granting of this variance will not nullify or substantially derogate from the intent or purpose of the Bylaw.

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Benjamin D. Stevenson, Chair

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Jonathan G. Gossels

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Jonathan F.X. O'Brien, Clerk

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Elizabeth T. Quirk

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Jeffrey P. Klofft

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CASE 13-16  
Thomas and Kimberly Kelly  
21 Philemon Whale Lane

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
Monday, June 17, 2013

The Board consisted of:

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

Notice was published in the Sudbury Town Crier on May 30 and June 6, 2013, posted, mailed and read at this hearing.

Mr. Stevenson, as Chair, opened the hearing. He then explained the requirements necessary to substantiate the granting of a 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.

Applicant Kimberly Kelly was present along with architect Elise Stone to request a Variance to construct a farmer's porch on the front of their house at 21 Philemon Whale Lane. A Variance is required because the property is conforming and the six and half by forty-two foot porch would encroach upon the required front setback creating a deficiency of approximately four and half feet. Ms. Kelly said that the porch would be built in the space where a mulch bed currently exists.

Ms. Kelly explained that the garrison-style house is north-facing and as such is exposed to the elements. During the winter ice build-up is particularly hazardous for anyone using the front steps to the house. The house is situated in a cul-de-sac neighborhood where there are several families. The Kelly's house is a gathering spot for many of the neighborhood children and they want to ensure their visitors' safety. Water running down the front of the house is also contributing to wood-rot within the clapboards therefore creating an additional hardship for the owners.

Mr. Stevenson noted that the Board was in receipt of letters of support from Steamna and Fred Gefteas of 41 Philemon Whale Lane and from Michael and Jennifer Rossi of 30 Philemon Whale Lane.

The Board discussed the project and felt that the request was reasonable and the porch would enhance the house.

No abutters were present to express concerns. 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 Thomas and Kimberly Kelly, applicants and property owners, a Variance under the provisions of Section 2600, Appendix B of the Zoning Bylaws, to construct six (6) foot by forty-two (42) foot porch which will result in a front yard setback deficiency of approximately four and a half (4.5) feet, property located at 21 Philemon Whale Lane, Residential Zone A-1.

1. This Variance shall lapse if construction has not begun except for good cause within twelve (12) months following the filing of the Variance approval, plus such time required to pursue or await the determination of an appeal under M.G.L., Chapter 40A, Section 17.
2. Construction must be completed no later than one year after commencement.”

VOTED: In favor: 5 Opposed: 0

REASONS: The petitioners require a Variance to construct a porch along the front of their house which will encroach upon the required setback. The Board finds that the petitioner has satisfied the criteria for granting a Variance under Section 6130 of the Zoning Bylaws. Specifically, under Section 6131, special conditions relating to the soil conditions, shape, or topography of the land or structures thereon, the Board understood that the house faces north so that it is impacted by the weather. Water running down the façade is contributing to wear on the clapboards and ice build-up in the winter makes it particularly hazardous for anyone wishing to use the front entrance of the house. The house is surrounded by ledge in the back so a porch cannot be built on another side of the house. Under Section 6132 the hardship for the owner is the perpetual safety hazard associated with the lack of a covered front entrance to the house plus wear on the residence. The homeowner must have the ability to safely use this entrance. Under Section 6133 there is no substantial detriment to the public good if the porch is built given that the home serves as a neighborhood gathering place and children would be able to safely use the front entrance in inclement weather. The porch addition has the full backing of neighbors given that several had submitted letters of support for the project. For the above reasons, under Section 6134 it is the opinion of the Board that the granting of this variance will not nullify or substantially derogate from the intent or purpose of the Bylaw.

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Benjamin D. Stevenson, Chair

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Jonathan G. Gossels

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Jonathan F.X. O'Brien, Clerk

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Elizabeth T. Quirk

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Jeffrey P. Klofft

CASE 13-17  
Matthew Roman  
15 Maplewood Avenue

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
Monday, June 17, 2013

The Board consisted of:

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

Notice was published in the *MetroWest Daily News* on May 30 and June 6, 2013, posted, mailed and read at this hearing.

Mr. Stevenson, as Chair, 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.

Matthew Roman, applicant, was present to request a modification to the previously approved special permit 12-38 to revise the condition that required a wooden six-foot privacy fence to instead allow a vinyl six-foot privacy fence along the eastern and southern property boundaries at 15 Maplewood Avenue. The new homeowner wanted a vinyl fence in order to reduce the amount of maintenance and repairs required for a wooden fence. Additionally she had wanted the fence installed as quickly as possible to ensure the safety of her children when playing in the yard.

In the ensuing discussion about changing the material of the fence Mr. Roman explained that after the house construction was completed and he was preparing to install a privacy fence both he and the new homeowner at 15 Maplewood both obtained multiple verbal agreements from the abutting neighbor, Beth Lynch at 7 Lakewood Drive, that she would be amenable to a vinyl fence. A vinyl fence was installed. However, there appeared to be some installation issues, Ms. Lynch was no longer happy with the plans given the construction process, and the vinyl fence was not what the ZBA had originally approved. Therefore Mr. Roman was seeking the modification in order to continue work on the new vinyl fence, complete the project and any associated landscaping on the abutter's property and at 15 Maplewood Avenue.

Ms. Lynch was present to share her concerns about the construction process as it pertained to the condition of her property and, in her opinion, an inadequate landscaping solution to preserve privacy between the two houses. Ms. Lynch presented the Board with a landscaping proposal that she had obtained from R.N.H. Landscape and Design, Inc. dated June 11, 2013 that she felt would mitigate privacy concerns and restore landscaping in the area. She was requesting that Mr. Roman pay for the proposed plantings, installation fees, and landscaping work, and as she did not want Mr. Roman to do the landscaping himself she stated her preference for having R.N.H. Landscape and Design do the installation. Mr. Roman said that he preferred to do the work because he had already invested time and money in the project.

After much discussion from both Mr. Roman and Ms. Lynch, Mr. Stevenson felt that the costs quoted in the landscaping proposal were not excessive and if better landscaping would make the vinyl fence more palatable then Mr. Roman should agree to this solution.

Mr. Klofft said that the vinyl fence as built was in violation of the original special permit and Mr. Gossels agreed that Mr. Roman should have waited to install the fence until after approval was obtained from the ZBA.

In the end, the Board determined that Mr. Roman should pay for the fees and services as outlined in the R.N.H. Landscaping Proposal and submitted at the hearing and Ms. Lynch agreed that she would be fine with a vinyl fence as long as it was continued along the eastern border of her property line as per the condition of the original special permit (ZBA 12-38).

No other neighbors were present who wished to be heard. 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 Matthew Roman, applicant, and Jillian Large, property owner, a modification to the previously approved Special Permit #12-38 that would allow a six foot vinyl privacy fence along the eastern and southern property boundaries, property located at 15 Maplewood Avenue, Residential Zone A-1, provided that the following conditions were met:

1. A six foot vinyl privacy fence will be completed along the eastern property boundary.
2. As outlined in the landscaping proposal prepared by R.N.H. Landscape and Design, Inc. dated June 11, 2013, the applicant will purchase seven (7) seven to eight foot hemlock trees and will pay the amount quoted for bed preparation, mulching of the beds, and loaming and seeding of the disturbed areas along the fence to the street pole. Installation of trees, bed work, and loaming and seeding will be done by R.N.H. Landscape and Design, Inc.

VOTED: In favor: 5 Opposed: 0

REASONS: The petitioner requires a modification to a previously approved special permit in order to change the material of a fence that was originally specified in the conditions of special permit 12-38 to be constructed out of wood. The new homeowner wanted a vinyl fence in order to reduce the amount of maintenance required for a wood fence. Given that the abutting neighbor was amenable to the vinyl material the Board approved the vinyl fence finding that it would be compatible with the surrounding landscaping in the neighborhood. However, special conditions were further imposed in order to mitigate the impacts the construction process has had on the abutting neighbor at 7 Lakewood Drive.

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Benjamin D. Stevenson, Chair

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Jeffrey P. Klofft

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Jonathan F.X. O'Brien, Clerk

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Elizabeth T. Quirk

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Jonathan G. Gossels