

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
Monday, March 18, 2013

The Board consisted of:

Elizabeth T. Quirk, Chair; Nicholas B. Palmer, Acting Clerk; Jonathan G. Gossels; and Jonathan W. Patch, Associate.

Notice was published in the *Sudbury Town Crier* on February 28 and March 7, 2013, 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.

Applicant William Curley was present to request a special permit to allow the demolition and reconstruction of a residence at 29 Allan Avenue. Mr. Curley explained that he has a twenty-five-year history of building homes in Sudbury. Given the current housing market he is building smaller, more affordable homes to meet a broader demand. For 29 Allan Avenue he is proposing to build a four-bedroom, two and a half bath colonial-style home, measuring approximately 2,300 square feet.

Mr. Curley noted that with the project as proposed three of the setbacks conform to the bylaws with the southern side setback being thirty feet from the property line, the northern side setback being fifty-five feet, and the front setback at forty feet. The rear setback would conform, except that he was now considering adding additional space to a one-story family room that would expand the floor plan and encroach upon the rear setback by four feet.

Mr. Curley said that he has had discussions with the abutting neighbors who live behind the house at 27 Fairhaven Circle and he understands their concerns about the new house being closer to theirs. He has agreed to plant trees to help with quality of life issues. He also said that he had discussed flipping the floor plan of the house so that the family room would be farther away from the neighbors' house. If he flipped the proposed house only one tree would have to come down and he would not have to remove a cedar tree that was currently there. He said that the neighbors agreed to let him prune an oak tree that was hanging over the house.

Ms. Quirk clarified that the main issue with the new house was its closer location to the rear property line.

Mr. Gossels said that he had driven through the area, noting the neighboring houses. He felt that the proposed house was of the same scale and general setbacks and would fit in well. He said that he was encouraged that Mr. Curley had reached out to the neighbors.

Ms. Quirk noted for the record that the Board was in previous receipt of an e-mail from Lance Westbrook and Marie Verderame, 27 Fairhaven Circle, who are abutters to the rear of 29 Allan Avenue. They were opposed to the plans as originally presented in the application. Mr. Westbrook and Ms. Verderame were present at the meeting and Ms. Quirk asked whether they wished to speak.

Mr. Westbrook said that Mr. Curley is a reasonable builder. He explained that building a larger house on the lot would require Mr. Curley to move the house back closer than the existing structure is currently. He said that he and his wife were not interested in restricting the enjoyment of the property or its value but the structure is larger and it would be closer to their property. He felt that siting the house closer to the road would improve the situation. He then talked about the impacts of outside living on neighboring lots for houses that are close together.

Ms. Quirk explained that the ZBA's job is to take into consideration what the neighborhood would look like in twenty years so the streetscape must be considered and the houses should be unified and not scattered. She said that the ZBA needs to consider what would be a meaningful change.

Mr. Gossels said that the ZBA's teardown guidelines emphasize sixty foot setbacks where feasible so the Board usually prefers larger front setbacks. He then asked about the height of the house. Mr. Curley said that the height was approximately thirty-two feet.

The Board then discussed the fact that the right of way along Allan Avenue, which is an unconventional roadway, appeared to have extra footage so that if the house were to come forward by approximately five feet it would not feel as close to the street.

Ultimately the Board discussed a front setback of no less than thirty-five feet. In addition, the side setbacks would be thirty feet to the south, fifty-five feet to the north, and the rear setback would be thirty-one feet, which would conform to the bylaws.

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 Robert Place, owner, a Special Permit under the provisions of Section 2460B of the Zoning Bylaws, to allow reconstruction of an existing residence on a nonconforming lot not to exceed 2,400 ± square feet, which will exceed the area of the original structure, property located at 29 Allan Ave, Residential Zone A-1, subject to the following:

1. The new house will be constructed with a front setback of no less than 35 feet. The rear setback will be greater than 30 feet. Side setbacks will be 55 feet to the north and 30 feet to the south as shown on the Proposed Site Plan prepared by William Curley dated February 21, 2013 that is incorporated into and made part of this Special Permit.
2. The floor plan as originally proposed is to be reversed as shown on a revised floor plan dated February 19, 2013 prepared by Hamblin Homes, Inc.
3. The applicant agrees to enhance vegetative screening along the rear property line by planting 4-6 trees in locations agreed upon by the abutters.
4. 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.
5. Construction must be completed no later than one year after commencement."

VOTED: In favor: 4 (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, after engaging in discussions about revisions to the proposed plans with the abutting neighbors had their support. The Board felt that the new structure would be compatible with the surrounding homes in the neighborhood.

Elizabeth T. Quirk, Chair

Jonathan G. Gossels

Nicholas B. Palmer, Acting Clerk

Jonathan W. Patch
