

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
Monday, September 16, 2013

The Board consisted of:

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

Notice was published in the *Sudbury Town Crier* on August 29 and September 5, 2013, posted, mailed and read at this hearing.

ZBA Chairman Benjamin Stevenson 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.

Shaun Briere, Attorney at Mawn and Mawn, P.C., was present along with James Mawn, President and CEO of Northern Bank and Trust Company; Site Engineer Brian Fairbanks, EBI Consulting; and Robert Michaud, MDM Transportation Consultants, Inc., to request three variances to operate a commercial bank building with a detached drive-thru at 430 Boston Post Road, which is presently owned by Colonial Auto of Sudbury, Inc.

Mr. Briere explained that Northern Bank began the permitting process for the project a year ago. He gave a synopsis of the existing conditions at the property, including its location, the site's use, layout, extant buildings, and their proximity to Union Avenue and Boston Post Road. He said that the two existing garage buildings would be demolished and replaced with a one-story, 2,500 square foot bank branch building for Northern Bank and Trust Company. The project's goal is to provide a low-impact use at the site and to beautify an important corner of Sudbury with significant green space added. A number of existing nonconformities would be decreased. He noted that a lot of effort over two years has gone into proposing the best possible project for the site which has many constraints and there has been an earnest attempt to incorporate all of the various requests from Town Boards and Departments. The site itself is difficult. It is small and sits on a corner along a riverfront within the Water Resource Protection Overlay District. As has been discovered through various studies there are significant difficult soil conditions as well.

Mr. Briere reminded the Board that he had presented the most recent results of soil testing at an informal meeting before the ZBA on May 30, 2013. The resulting project design therefore requires variances from Section 2620, the Union Avenue setback; Section 3550 to allow less than 20 feet of landscape buffer along Union Avenue, and from Section 2230 (C-20) to allow the remote drive-thru ATM kiosk more than 10 feet from the main building. In July 2012 four variances had been requested of the ZBA with two being granted immediately. Over the course of the next twelve months the site design then underwent various changes due to comments from Town Boards and Departments. Along the way it was also requested that the applicant explore an easement from the direct abutter for an alternate rear egress utilizing a shared alleyway. An easement was eventually obtained and added to the proposal. Mr. Briere then gave a status report on where the proposal stands with other Town Boards.

Mr. Fairbanks then showed the ZBA the various site plans as they evolved throughout the permitting process and conclusions that led to the current proposal. Given the results of soil testing throughout the site and recorded percolation rates, the only place where the septic system can go is in the southeast corner of the site.

Mr. Michaud then gave a synopsis of MDM's traffic access and impact study. He said that the proposed use would cause no detriment to traffic and suggested that the bank would actually reduce traffic impacts to the neighborhood. At present the site is industrial in nature and has many vehicles on the lot and there are multiple access points from Union Avenue and also from Route 20 where there is not an official driveway. Cars have been traveling over sidewalks onto the site in conflict with pedestrians. The proposed plan will organize the site's circulation. There will be no access from Route 20 or from the front corner of the lot. The southerly driveway on Union Avenue would be better delineated and the northerly drive on Union Avenue would be eliminated. A shared right-of-way would be installed at the rear of the site which is several hundred feet north of where the traffic signal at Route 20 and Union Avenue. With the current use there are approximately ten vehicular trips per hour. The proposed bank would still generate a low number of trips during the day and traffic would perhaps increase one to two percent with the change in use. He said that many of the trips would be pass-by trips from customers who happen to be traveling by the site already and not necessarily heading there as a new destination. Therefore, cars would already be on the road.

Ms. Quirk had concerns about people turning left out of the site onto Union Avenue at the lower drive and the potential for queuing up of cars. She asked whether there was consideration for a no left-turn lane for that driveway. Mr. Michaud said that if it were a busy time of day patrons would most likely go out of the site at the rear shared access drive, which would be a left-turn only to get to Union Avenue and then they would proceed in either direction. Given that patrons would perhaps make their own choices as to the quickest way to leave the site depending upon the time of day, he did not feel that a no left-turn lane was necessary for the lower driveway. And, if it was not a heavy traffic time of day, patrons could then choose to turn left at the lower exit. Mr. Palmer agreed that the rear exit would be utilized more to get onto Union Avenue. The Board discussed the fact that the abutter granted the easement for the rear shared driveway only if it were a left-turn exit. Bank customers looking to access the shops in the abutting plaza would need to go out to Union Avenue and enter the plaza from Boston Post Road. Mr. Briere suggested that signage could be placed at the lower driveway to guide customers toward the rear driveway.

Mr. Patch asked whether there was any contamination at the site that needed to be removed. Mr. Briere said that there was some from the cars but also from the abutting cleaner's. He said that the 21E Study has been done and a remediation plan is in place, but added that the contamination is insignificant to the proposed operation. Mr. Mawn explained that the new septic system will be of a higher level than exists today and is Title V compliant. There will be no negative impact on underlying soil.

In summary, with respect to Section 2620 (Case 13-21), the applicant is requesting a dimensional variance from Union Avenue so that the bank building can be placed eight feet from the road causing a setback deficiency of twelve feet. The proposed setback would be an improvement over the existing nonconformity which is .2 feet from the road. Mr. Briere said that there are special conditions related to the soil conditions, as well as the shape and topography of the land and structures. Specifically the property consists of a very small lot in a corner location. There is also the existence of the drainage swale and wetland resource area resulting in the 100 foot buffer zone at the northern portion of the site. Additionally, as discovered through multiple testing there are difficult soil conditions, and as such the site conditions require that the building and septic system be built as close as possible to the corner of Boston Post Road and Union Avenue to accommodate the 100 foot buffer and the septic system construction. He opined that there is no substantial detriment to the public good or substantial derogation from the intent and purpose of the Zoning Bylaw. The site will be improved from a safety perspective. The applicant will

be installing a pedestrian sidewalk on both Union Avenue and Boston Post Road where there is no sidewalk today. Egress to the site will be improved from the perspective of safety and aesthetics due to the easement and reconstruction of the rear alleyway and with the elimination of an entrance from Boston Post Road. The proposed setback does ensure adequate site distances at the intersection. A substantial hardship would be created if the bylaws were literally enforced as strict adherence would create significant design constraints with setbacks, parking, septic system installation, and the 100 foot wetland buffer. There is a significant benefit to the public good with the removal and cleanup of the existing buildings, site beautification, increased landscaping and green area, and the installation of a Title V complaint septic system and sidewalks for pedestrian use.

With respect to the detached drive-thru ATM (Case 13-22), the proposed development includes a detached structure located more than ten feet from the main building which is not in compliance with Section 2230 (C-20). He said again that there are special conditions relative to the soil conditions and the shape and topography of the site which affect the land. He cited the small lot, corner location, drainage swale, and wetland resource area which necessitate a remote drive-thru ATM rather than one that is attached to the main building. There is no substantial detriment to the public good or substantial derogation from the intent and purpose of the zoning bylaw. He noted that the ZBA and the Town have granted remote drive-thru ATMs elsewhere in town on previous projects and they have operated without issue.

In regard to Section 3550 (Case 13-23), the twenty foot landscape buffer, the proposal does not comply with the bylaw requirements. Again, the small size of the lot, the corner location, drainage swale, wetlands location, and difficult soil conditions which are not typical to the soils in other areas of the zoning district all are special conditions relative to the site which affect the land or structures but do not affect the zoning district generally. There is no substantial detriment to the public good or substantial derogation from the intent and purpose of the zoning bylaw. The site will be improved with sidewalks and landscaping will be increased. There is a substantial hardship with strict adherence to the 20-foot buffer which would create an insurmountable design constraint with respect to setbacks, parking, septic system installation and 100 foot wetland buffer. There is no substantial detriment to the public good because the improvements will all benefit the public good.

In conclusion Mr. Briere said that his client has spent a significant amount of effort over the last two years to design and redesign the site in a responsible and considered manner. He said that every possible configuration has been examined to come up with a proposal that works for both the Town and the bank itself. He said that the project is a massive upgrade to what currently exists and he said that Northern Bank would be a first-class community organization within the Town of Sudbury.

Mr. Gossels said that he understood that it would be impractical to move the building eastward and he expressed his gratitude for Northern Bank's responsiveness throughout. Mr. Stevenson echoed Mr. Gossels' statement saying that he too appreciated the thoroughness of the application.

Mr. Stevenson then asked whether there were any further comments or questions from the Board or from the public. There being none the hearing was closed.

The following motions were placed and seconded:

Case Number 13-21:

MOTION: "To grant Northern Bank and Trust Company, applicant, and Colonial Auto of Sudbury, Inc., property owner, a Dimensional Variance under the provisions of Section 2620 of the Zoning Bylaw, to

construct a commercial bank building with a front yard setback of 8 feet from Union Avenue resulting in a deficiency of 12 feet, property located at 430 Boston Post Road, Business District #5.”

VOTED: In favor: 5 Opposed: 0

Case Number 13-22:

MOTION: To grant Northern Bank and Trust Company, applicant, and Colonial Auto of Sudbury, Inc., property owner, a Variance under the provisions of Section 2230 (C-20) of the Zoning Bylaw, to allow a detached ATM drive-thru structure at a location greater than 10 feet from the main building, property located at 430 Boston Post Road, Business District #5.

VOTED: In favor: 5 Opposed: 0

Case Number 13-23:

MOTION: “To grant Northern Bank and Trust Company, applicant, and Colonial Auto of Sudbury, Inc., property owner, a Variance under the provisions of Section 3550 of the Zoning Bylaw, to allow less than 20 feet of a landscape buffer along Union Avenue, property located at 430 Boston Post Road, Business District #5.”

VOTED: In favor: 5 Opposed: 0

REASONS: The petitioners require a Dimensional Variance to construct a commercial bank building with a front yard setback of eight feet from Union Avenue resulting in a deficiency of twelve feet, a Variance to allow a detached ATM drive-thru structure at a location greater than ten (10) feet from the main building, and a Variance to allow less than twenty feet of a landscape buffer along Union Avenue. The Board noted that a Variance for the detached ATM had been previously approved. The Board also finds that the petitioner has satisfied the criteria for granting Variances under Sections 6130 of the Zoning Bylaws as described in the minutes of the public hearing and it is the opinion of the Board that the granting of these variances will not nullify or substantially derogate from the intent or purpose of the Bylaw.

Benjamin D. Stevenson, Chair

Jonathan G. Gossels

Jonathan W. Patch, Acting Clerk

Elizabeth T. Quirk

Nicholas B. Palmer, Associate

CASE 13-24
Michael S. Carney
29 Hudson Road

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
Monday, September 16, 2013

The Board consisted of:

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

Notice was published in the *Sudbury Town Crier* on August 29 and September 5, 2013, posted, mailed and read at this hearing.

ZBA Chairman Benjamin Stevenson 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.

Michael Carney, applicant and property owner of 29 Hudson Road, was present to request a special permit for a free-standing, double-faced wooden business sign measuring approximately forty-nine square feet and standing at ten feet, six inches high. The wood panels would have carved lettering and the posts would be made of granite. The proposed sign would be located approximately thirteen feet from Hudson Road resulting in a setback deficiency of seven feet.

Mr. Carney said that he had met with the Sudbury Design Review Board. The DRB asked that the colors of the panels be modified so that the red was more of a burgundy than a "fire-engine" red. It was also suggested that the cap panel, which was to be burgundy, match the bottom panels that listed the management company information. The tenant panels are to be black. Lettering will be gold. A memo from Dan Martin, Chair of the Design Review Board, dated July 28, 2013 was submitted as part of the application.

Mr. Carney had also met with the Historic Districts Commission which issued him a Certificate of Appropriateness.

Jody Kablack, Planning and Community Development Director, had reviewed the application as presented to the DRB as well and a copy of her zoning review was submitted as part of the application to the ZBA. In her comments she recommended that the height of the sign be reduced from 12.5 feet to 10 feet and 10 feet, six inches was being proposed to the ZBA.

Ms. Quirk felt that the sign was large, almost twice the size allowed by the bylaw. She noted, however, that there are a lot of tenants at the site. Mr. Carney said that his redevelopment of the property was a third attempt at creating a successful complex and the advice he has received throughout the project has been that he should brand the site so that customers know what businesses are there. Mr. Carney felt that a larger sign would help in this regard. He said that he modified the business fronts to create a square effect and to bring the monument sign to the center of the site. Ms. Quirk felt that the sign location itself was good.

The Board discussed the fact that the sign had the approval of the Historic Districts Commission. The applicants are trying to adhere to the Town's historic guidelines and in the end the HDC approved of the sign. There was additional discussion about how the temporary banner signs in place now was much larger than this permanent sign would be.

Mr. Gossels asked whether the sign would be lit. Mr. Carney said that the sign would be lit from below using traditional landscape lighting with low-watt bulbs.

Mr. Stevenson agreed that the sign was large but he too recognized that here were numerous businesses at the site and he could appreciate the fact that customers need to see which businesses are located there. He also said he would give deference to the fact that both the DRB and HDC had approved the sign plans.

The Board then discussed temporary signs. All agreed with Building Inspector Mark Herweck that after the freestanding sign is installed the site should not be eligible for a temporary sign, which includes A-frame signs, sandwich boards, or banners. Mr. Carney agreed to this condition.

Mr. Stevenson then asked whether there were any further comments or questions from the Board or from the public. There being none the hearing was closed.

The following motion was placed and seconded:

MOTION: "To grant Michael S. Carney, applicant, and 29 Hudson Road LLC, owner, a Special Permit under the provisions of Section 3265B of the Zoning Bylaw, to allow a 49± square foot freestanding business sign which is approximately 10 feet 6 inches in height to be located approximately 13 feet from Hudson Road resulting in a front yard setback deficiency of approximately 7 feet, property located at 29 Hudson Road, Limited Business District #5, provided that

1. The sign will be installed in the location as shown on the Proposed Sudbury Square Site Plan prepared by Sudbury Lawn and Landscape Design in July 2013, which is incorporated into and made part of this Special Permit.
2. The height of the sign shall not exceed ten feet six inches.
3. The colors used for the sign panels shall be burgundy and black with gold lettering as discussed with the Sudbury Design Review Board.
4. The color of the cap panel and bottom panels listing management information shall match.
5. No portable A-frame signs or banners are allowed at the site.
6. The sign shall conform to Sudbury's Lighting Bylaws. Illumination shall be maintained at a sufficiently low intensity and brightness that it shall not affect the safe vision of operators of vehicles moving within the premises or on any adjacent public or private ways.

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

REASONS: The petitioner requires a special permit to install a directory sign that is slightly larger than the bylaw allows and in a location that would create a setback deficiency. The applicant met with both the Design Review Board and the Historic Districts Commission which has issued the applicant a Certificate of Appropriateness. The Board finds that the location of the property justifies the granting of a special permit for the directory sign. An appropriately sized sign was considered essential for the success of the

Town Square development. The Board further finds that 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 District #5 and it will not cause visual confusion, glare, or offensive lighting in the area, nor will it interfere with traffic safety.

Benjamin D. Stevenson, Chair

Jonathan G. Gossels

Jonathan W. Patch, Acting Clerk

Elizabeth T. Quirk

Nicholas B. Palmer, Associate

CASE 13-25
John and Laura Yee Immerman
33 Massasoit Avenue

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
Monday, September 16, 2013

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ZBA Chairman Benjamin Stevenson 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.

John Immerman, applicant and owner of 33 Massasoit Avenue, was present to request a special permit for an 18'x36' in-ground vinyl swimming pool with a 4'x12' walk-in on one side. The proposed pool and decking would overlap an existing outdoor patio. With the current bylaws for the septic system placement and property setbacks there is no other alternative location on the lot for a functional pool with an eight-foot deep end for safety reasons. The deficiency to the side yard property line would be less than ten feet.

Ms. Quirk asked whether Mr. Immerman had spoken with the abutting neighbor that would be most impacted by the pool. He said that he had and the neighbor was fine with the plans. In fact, that neighbor has an attached two-story five-car garage located on that side of his house so the visual impact would be minimal.

Mr. Gossels said that if the neighbors are fine with the plans then he was also. Ms. Quirk and Mr. Stevenson agreed.

Mr. Stevenson then asked whether there were any further comments or questions from the Board or from the public. There being none the hearing was closed.

The following motion was placed and seconded:

MOTION: "To grant John and Laura Yee Immerman, applicants and property owners, a Special Permit under the provisions of Section 2420 of the Zoning Bylaw, to allow an approximately 36'x22' swimming pool to be located approximately 10.5 feet from the side yard resulting in a side yard setback deficiency of no greater than 10 feet at property located at 33 Massasoit Avenue, Residential Zone A-1."

If the rights authorized by a special permit are not exercised within one year of the date of grant of such special permit such rights shall lapse; provided, however, that the Board of appeals may in its discretion and upon written application, extend the time for exercise of such rights for a period not to exceed 6 months; and provided further that the application for such extension is filed with the Board of Appeals prior to the expiration of the one-year period."

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

REASONS: The petitioner requires a Special Permit to construct a pool in a location that will result in a side yard setback deficiency. No neighbors were present to oppose the project, therefore, the Board finds that the pool's location will not be a detriment.

Benjamin D. Stevenson, Chair

Jonathan G. Gossels

Jonathan W. Patch, Acting Clerk

Elizabeth T. Quirk

Nicholas B. Palmer, Associate

CASE 13-26
Xiaohua Hu
25 Summer Street

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
Monday, September 16, 2013

The Board consisted of:

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

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ZBA Chairman Benjamin Stevenson 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.

Sue Lin was present on behalf of the Cathy Hu, applicant and owner of 25 Summer Street, to request a special permit for a two-car garage measuring approximately 27.8'x21.6' on a nonconforming lot to be located 7.5 feet from the side yard setback resulting in a side yard setback deficiency of 12.5 feet. Ms. Lin said that Ms. Hu had spoken with the abutting neighbors about the plans, which will be part of a renovation to the conforming residence, and the neighbors are supportive of the project.

Mr. Stevenson noted that the garage would be newly constructed but asked about how the special permit for the garage related to the additional renovation of the house. Building Inspector Mark Herweck was present and confirmed that this special permit application for the garage addition was the correct approach given that the house reconstruction conforms to the bylaws. The foundation for the house is not changing but the owner is adding a second story. Ms. Quirk agreed with Mr. Herweck's opinion and cited other examples of ranch homes becoming two-story colonials around town and she noted that there were a number of renovations such as these in the surrounding neighborhood.

Mr. Gossels said that if the neighbors were fine with the proposed changes then he was also. Ms. Quirk and Mr. Stevenson agreed.

Mr. Stevenson then asked whether there were any further comments or questions from the Board or from the public. There being none the hearing was closed.

The following motion was placed and seconded:

MOTION: "To grant Xiaohua Hu, applicant and property owner, a Special Permit under the provisions of Section 2420 of the Zoning Bylaws, to construct a two-car garage measuring approximately 27.8'x21.6' on a nonconforming lot to be located 7.5 feet from the side yard setback resulting in a side yard setback deficiency of 12.5 feet on property located at 25 Summer Street, Residential Zone A-1:

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.

2. 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 encroachment into the side setback. The Board finds that the proposed garage will not create a substantial nonconformity and will therefore not be a detriment to the neighborhood. Abutters were informed and are supportive of the petition and there are examples of similar garage additions and renovations in the neighborhood.

Benjamin D. Stevenson, Chair

Jonathan G. Gossels

Jonathan W. Patch, Acting Clerk

Elizabeth T. Quirk

Nicholas B. Palmer, Associate

CASES 13-27
John and Barbara Swoyer
17 Deer Pond Road

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
Monday, September 16, 2013

The Board consisted of:

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

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Prior to the opening of the hearing Ms. Quirk disclosed the fact that she had been a neighbor of the applicants about fifteen years earlier when they all lived in another town.

ZBA Chairman Benjamin Stevenson then opened the hearing. He 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.

Applicants John and Barbara Swoyer were present to request a variance to allow a one-story addition on the right, rear side of their house to provide increased bedroom space and a handicapped-accessible bathroom measuring approximately 308 square feet to meet the medical and physical needs of their son. The addition would be located approximately 17 feet from the side yard resulting in a side yard setback deficiency of approximately three feet.

Mr. Stevenson said that the application appeared reasonable and was an appropriate use for a Variance. Mr. Gossels added that the application was extremely well thought out noting that the addition caused a minor infringement into the setback.

The Board agreed that there were was only one place on the house that the addition could be built given the location of the house on the lot, the septic system placement, and aesthetics.

Mr. Stevenson then asked whether there were any further comments or questions from the Board or from the public. There being none the hearing was closed.

The following motions were placed and seconded:

MOTION: "To grant John and Barbara Swoyer, applicants and property owners, a Variance under the provisions of Section 6130 of the Zoning Bylaw, to allow a one-story addition for a handicapped-accessible bathroom measuring approximately 308 square feet to be located approximately 17 feet from the side yard resulting in a side yard setback deficiency of approximately three feet, property located at 17 Deer Pond Road, Residential Zone A-1, subject to the following:

1. The addition will be constructed in the location as shown on the proposed Certified Plot Plan prepared by Thomas Land Surveyors dated August 14, 2013 that is incorporated into and made part of this Variance.

2. 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.
3. Construction must be completed no later than one year after commencement.”

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

REASONS: The applicant is requesting a variance to allow a one-story addition on the right, rear side of their house to provide increased bedroom space and a handicapped-accessible bathroom measuring approximately 308 square feet to meet the medical and physical needs of their son. The addition would be located approximately 17 feet from the side yard resulting in a side yard setback deficiency of approximately three feet. As to special conditions related to the soil as well as shape and topography of the land and structures, the bathroom and associated medical equipment need to be located on the first floor of the home to accommodate the residents. The existing house sits close to the side yard setbacks on both sides of the house. The layout of the structure limits building options as it pertains to aesthetics and room circulation and to minimize any impacts to abutting properties. The existing garage cannot be used or altered for this purpose because it will need to remain flexible should the homeowners require modifications to accommodate a handicapped accessible vehicle in the future. Access to the septic system is directly behind the existing kitchen and living room at the rear of the house. Therefore, the addition can only go in the proposed location.

The Board finds that the granting of the variance will cause no substantial detriment to the public good or substantial derogation from the intent and purpose of the Zoning Bylaw because there is adequate screening with mature trees and other landscaping between the proposed addition and the abutting property. The addition will be minimally noticeable to all abutters since it is in the rear of the house. A substantial hardship would be created if the bylaws were literally enforced as strict adherence would create significant design constraints. Interior spaces would have to be reconfigured and alterations to the roofline would result in a less attractive, awkward extension not in keeping with the aesthetics of the current structure. Not having appropriate facilities at the home would cause a substantial hardship for the family given that their son’s health is in decline and he will require first-floor accommodations and a range of equipment to ensure quality care in a safe environment. There will be no additional noise, light, odors, sewage, or other visual nuisances due to the addition. Abutting neighbors have been contacted and informed about the plan and there have been no significant concerns. No neighbors were present at the hearing and no written correspondence has been received by the Board. For the reasons stated the Board finds that granting a variance is appropriate.

Benjamin D. Stevenson, Chair

Jonathan G. Gossels

Jonathan W. Patch, Acting Clerk

Elizabeth T. Quirk

Nicholas B. Palmer, Associate

CASE 13-28
Lorraine Labiento Smith
344 Boston Post Road

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
Monday, September 16, 2013

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Lorraine Labiento Smith, applicant and property owner of 344 Boston Post Road, was present to request a special permit for a free-standing, double-faced wooden business sign measuring approximately 18.7 square feet. The wood panels for Sudbury Eye Care and the second story tenant, Beckett Builders, would have carved lettering in white and gold leaf, the background would be navy blue. The sign posts would be made of cedar wood and painted white. The proposed sign would be located approximately seven feet from the sidewalk creating a front yard setback deficiency of no greater than five feet.

Dr. Smith explained that she had been before the Design Review Board and the Historic Districts Commission, which issued a Certificate of Appropriateness. The Board was in receipt of a memo dated May 15, 2013, from Dan Martin, Chair of the DRB, which said that the DRB unanimously agreed that a freestanding sign would be appropriate for the location due to the substantial setback and insufficient site lines of the building in conjunction with the traffic issues that arise from the site's location at the intersection of King Philip Road and Boston Post Road. The ZBA concurred.

The Board discussed the Building Inspector's recommendation that the site would not be eligible for portable A-frame signs and Dr. Smith agreed to that condition of the Special Permit.

Mr. Stevenson then asked whether there were any further comments or questions from the Board or from the public. There being none the hearing was closed.

The following motion was placed and seconded:

MOTION: "To grant Lorraine Labiento Smith, applicant and property owner, a Special Permit under the provisions of Section 3265B of the Zoning Bylaws, to allow an 18.7 ± freestanding business sign to be located approximately 7 feet from the front yard resulting in a front yard setback deficiency of no greater than 5 feet, property located at 344 Boston Post Road, Village Business District and Residential Zone A-1, provided that

1. The sign will be installed in the location as submitted in the application dated August, 20, 2013, which is incorporated into and made part of this Special Permit.

2. The height of the sign shall not exceed 34 inches.
3. The colors used for the sign panels shall be navy blue with white and gold leaf lettering.
4. No portable A-frame signs or banners are allowed at the site.
5. The sign shall conform to Sudbury’s Lighting Bylaw. Illumination shall be maintained at a sufficiently low intensity and brightness that it shall not affect the safe vision of operators of vehicles moving within the premises or on any adjacent public or private ways.”

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

REASONS: The petitioner requires a special permit to install a freestanding business sign in a location that will result in a front yard setback deficiency. The applicant has met with both the Design Review Board and with the Historic Districts Commission which has issued the applicant a Certificate of Appropriateness. The Board finds that the location of the property justifies the granting of a special permit. The Board further finds that 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 Village Business District and Residential Zone A-1 and it will not cause visual confusion, glare, or offensive lighting in the area, nor will it interfere with traffic safety.

Benjamin D. Stevenson, Chair

Jonathan G. Gossels

Jonathan W. Patch, Acting Clerk

Elizabeth T. Quirk

Nicholas B. Palmer, Associate

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
Monday, September 16, 2013

The Board consisted of:

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

Notice was published in the *Sudbury Town Crier* on August 29 and September 5, 2013, posted, mailed and read at this hearing.

ZBA Chairman Benjamin Stevenson 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.

Attorney Josh Fox, Rollins, Rollins, and Fox, and Chuck Katz, property manager of 410 Boston Post Road (Rugged Bear Plaza), were present to request a special permit for a free-standing, double-faced aluminum business sign measuring approximately 88.33 square feet at a height no greater than eight feet. The proposed sign would be located approximately two feet seven inches from the front yard creating a front yard setback deficiency of approximately seventeen feet.

The panels for the plaza sign would be burgundy with white lettering. The cap would be black and the posts would be a deep aluminum satin. Mr. Patch asked about the color choice for the cap versus the posts and Mr. Katz said that he preferred the cap to be black so that the Rugged Bear logo would stand out.

Mr. Katz said that he had been before the Design Review Board to discuss the proposed sign and has incorporated their suggestions into the proposal for the ZBA which resulted in a reduced size. The Board was in receipt of a memo dated July 10, 2013 from Dan Martin, Chair of the Design Review Board, which recommended approval of the business sign as modified. Mr. Fox said that the nine inch panels are as small as they can be. He noted that the ZBA had permitted larger signs around town such as across the street at Sudbury Crossing and in Independence Plaza on the corner of Boston Post Road and Concord Road.

Mr. Katz said that the new sign would replace the multiple portable signs at the property. The Board then discussed the Building Inspector's recommendation that the site would not be eligible for portable A-frame signs. Mr. Katz agreed to that condition of the Special Permit and once the existing permits for temporary signs expire no new portable signs would be allowed.

Mr. Stevenson then asked whether there were any further comments or questions from the Board or from the public. There being none the hearing was closed.

The following motion was placed and seconded:

MOTION: "To grant SignArt, Inc., applicant, and Katz Irrevocable Trust, owner, a Special Permit under the provisions of Section 3265B of the Zoning Bylaw, to allow an 88.33 square foot freestanding business

sign to be located approximately 2 feet 7 inches from the front yard resulting in a front yard setback deficiency of approximately 17 feet, property located at 410 Boston Post Road, Business District #5, provided that

1. The sign will be installed in the location as submitted in the application dated August, 21, 2013, and in the modified as-shown rendering dated September 11, 2013, which are incorporated into and made part of this Special Permit.
2. The height of the sign shall not exceed eight feet.
3. The colors used for the sign panels shall be burgundy and black with white lettering as discussed with the Sudbury Design Review Board. Posts would be aluminum satin.
4. No portable A-frame signs or banners are allowed at the site once the existing temporary sign permits expire.
5. The sign shall conform to Sudbury's Lighting Bylaw. Illumination shall be maintained at a sufficiently low intensity and brightness that it shall not affect the safe vision of operators of vehicles moving within the premises or on any adjacent public or private ways.

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

REASONS: The petitioner requires a special permit to install a freestanding business sign in a location that will result in a front yard setback deficiency. The applicant has met with the Design Review Board and incorporated their suggestions to make a smaller sign than originally proposed. The Board finds that the location of the property justifies the granting of a special permit. The Board further finds that 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 Business District #5 and it will not cause visual confusion, glare, or offensive lighting in the area, nor will it interfere with traffic safety.

Benjamin D. Stevenson, Chair

Jonathan G. Gossels

Jonathan W. Patch, Acting Clerk

Elizabeth T. Quirk

Nicholas B. Palmer, Associate