

PETER S. CHURCHILL  
4 Puffer Lane  
00-42

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
TUESDAY, DECEMBER 19, 2000

The Board consisted of:

Thomas W.H. Phelps, Chairman  
Mark A. Kablack, Clerk  
Patrick J. Delaney III  
Lauren S. O'Brien  
Stephen Richmond, Alternate

Notice was published in the Sudbury Town Crier on November 30 and December 7, 2000, posted, mailed and read at this hearing.

Mr. Phelps, Chairman, 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 District Court within twenty days after the decision has been filed with the Town Clerk, and that possible other appeals may exist under current law.

Peter Churchill was present to represent a petition for renewal of special Permit 99-53 to conduct massage therapy at his home at 4 Puffer Lane. He said he has practicing for one year with no problems or complaints from the neighbors. He was requesting renewal under the same conditions.

Mr. Delaney pointed out that Condition 3 does not allow for any non-resident employees. Mr. Churchill stated that he has adhered to this condition and he does not intend to have any other employees.

Christopher Kurth, 113 Haynes Road, spoke in favor of renewal. He said this is an unobtrusive activity.

Verbal support by way of a telephone call was received from Lewis Russell, Russell's Greenhouses, Wayland.

There were no further questions. The public hearing was closed.

After deliberation the following motion was placed and seconded:

MOTION: "To grant Peter S. Churchill, owner of property, renewal of Special Permit 99-53, granted under the provisions of Section III,A,1,c of the Zoning Bylaws, to conduct a Home

Business, specifically the practice of massage therapy, property located at 4 Puffer Lane, Residential Zone A-1, provided that:

1. Hours of operation will be Monday-Thursday, 9AM-5PM.
2. No more than six clients per day will be allowed.
3. No other employee associated with this business will be allowed.
4. No sign will be permitted.
5. All parking will be on the premises. No parking on the street is allowed.
6. This permit is non-transferable and will expire in two (2) years on December 19, 2002, and the Board will consider renewal upon receipt of proper application on or before that date.”

VOTED: In favor 5 (unanimous) Opposed: 0

REASONS: The petitioner seeks renewal of a special permit to conduct massage therapy as a home business. The Board finds the use to be in harmony with the general intent and purpose of the Bylaw. It is in an appropriate location, not detrimental to the neighborhood and does not by its presence significantly alter the character of the zoning district. Adequate and appropriate facilities have been provided for proper operation. The business has been in operation for one year with no problems or complaints from the neighbors; therefore, the Board finds a two-year renewal period to be appropriate.

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Thomas W.H. Phelps, Chairman

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John Williams was present, representing Gravestar, Inc., in a petition for special permit to erect a freestanding, double-faced sign to identify the Children's Activity Park at Sudbury Plaza, 509 Boston Post Road.

Mr. Williams explained that a temporary sign currently exists at the activity park. However, there is nothing in the Bylaw which correlates to this specific type of sign which is the reason for the application for special permit.

In response to questions from the Board, Mr. Williams said the proposed sign will be the same size as the temporary one except that the legs will be higher in order that the sign can be seen above the picket fence. The approximate height from the ground to the bottom of the sign is 3 ½ feet. Color scheme is the same as that submitted with the application.

The Board reviewed the drawing, sign rendering and photographs submitted with the application. They noted that some signs in the Plaza have been redesigned to replace the older ones. Mr. Kablack asked whether any additional signs are anticipated.

Mr. Williams said new entrance signs will be put up to replace the old ones. He also anticipates putting in some replacement directional signs in the spring.

Mr. Delaney asked whether the sign would be illuminated. Mr. Williams said it would not.

Mr. Phelps read a letter from the Design Review Board dated April 27, 2000 to Building Inspector Hepting which recommends approval conditional upon the granting of a special permit by the Board of Appeals for a sign not provided for under the Bylaw.

There were no further questions. The public hearing was closed.

After deliberation the following motion was placed and seconded:

MOTION: "To grant Gravestar Incorporated, applicant, a Special Permit under the provisions of Section V,D,12 of the Zoning Bylaws, to erect a 14.625 s.f. freestanding double-faced sign in accordance with Sign Location Plan Dwg. No. C100 dated 08/31/00, prepared by CID Associates, 280 Summer Street, Boston, MA, and Sign Rendering Plan dated 9/12/00 prepared by Murphy & Murphy, 32 Arnold Street, Providence, RI, provided that said sign will not be illuminated and will be less than 4 feet from ground level to the bottom of the sign."

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

REASONS: The petitioner requires a special permit to erect a sign which is not specifically addressed in the Town Bylaws. The Board finds that the proposed sign will identify an amenity provided by the applicant, specifically a children's park, and will allow for identification of this park as being available for use by the community. The Board finds that there will be no visual nuisance associated with the sign as there will be no illumination of any kind, nor by its presence will it cause traffic issues in the area. It finds that in this particular case the granting of a special permit will not nullify or derogate from the intent of the Bylaw.

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Thomas W.H. Phelps, Chairman

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Mark A. Kablack, Clerk

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Patrick J. Delaney III

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Lauren S. O'Brien

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Stephen Richmond, Alternate

DRUMLIN DEVELOPMENT LLC  
(Orchard Hill Assisted Living Facility)  
761 Boston Post Road  
Case Number: 00-44

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SUDBURY BOARD OF APPEALS  
TUESDAY, DECEMBER 19, 2000

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Mr. Phelps explained that this hearing has been scheduled pursuant to Dept. of Community Affairs CMR 760 31:03 to consider changes after issuance of the Comprehensive Permit Case Number 96-15. Specifically, Condition 5 of the Permit states "A single entrance sign shall be relocated to attain a setback of at least 26 feet from the edge of pavement. This revised location may necessitate a minor modification in the shape of detention basin #2. This sign shall be no more than 6 feet by 4 feet and less than 8 feet tall and illuminated on each side by intensity and color equivalent to that of a 75 watt incandescent lamp."

The applicant is requesting a change to allow, in lieu of Condition 5, the Board's acceptance of the two existing signs in their respective locations as shown on the Planting and Material Plan, Sheet L-1 dated February 5, 1998.

Mr. Phelps referenced the site walk conducted on October 14, 2000 to discuss outstanding items and Condition 5 pertaining to the sign requirement. It was determined that the sign issue represented a substantial change and required a public hearing.

Attorney David Wallace was present, representing the applicant, Clifford Hughes in this petition for a change. He said the site visit included the building interior and basically the front exterior. He was not sure how the original permit was written in terms of amount of landscaping; however, he thought perhaps more was provided than what was actually required.

Attorney Wallace believed the main issue is the two signs. He said the original permit condition required a single sign which was set back. During the construction period he said the Town Engineer and Building Inspector walked the land and there appeared to be a need for a visual cue so motorists would know where to turn. The deceleration lane was good; however cues were needed both east and west, hence two signs. In addition a picket fence was added to

bring one's eye to the driveway. Attorney Wallace said these were not in the initial plans, but as construction began they were added for safety.

Mr. Delaney said the original condition does not specify a single sided sign. He said the Board's concern with the original proposal was the 5-foot setback to the deceleration lane. Cars exiting Orchard Hills, if the sign is positioned closer could block the view of traffic. It was decided to increase the setback somewhat to 26 feet from the curb. He added that because the condition did not specify single sided, it could be double sided. The idea was to keep the elevation low.

Mr. Delaney said with the two signs in the existing location and the 70-watt illumination, what is there now is what the Board did not want to have. He said the sign on the right can block traffic safety and could create a hazard if cars are backed up at the entrance. He said the signs are too close to the road and at right angles interfere with visibility. When he walked the site, he found the same issues which the Board was concerned about originally. He said with the original plan the single sign could be double sided and located back so as to not interfere with visibility.

Ms. O'Brien, who was also present at the site walk, concurred with Mr. Delaney noting she, too, experienced visibility issues with regard to the signs and their location.

Attorney Wallace asked Mr. Hughes if he had experienced any traffic or visibility problems. Mr. Hughes said he did not. Attorney Wallace said practically speaking the visual cue outweighs any defects, noting he looks for a sign and fence, especially at night.

Mr. Phelps asked how large the signs are. Mr. Delaney replied that they are similar in size to what was proposed. However, he said they are too close to the road and block visibility.

Mr. Phelps asked why the two signs were not placed further back thus avoiding at least the safety issue.

Mr. Hughes said he ran it by Town Engineer and the Building Inspector. He said those were the plans he submitted. He did not think the sign was a substantial change. It was an oversight on his part.

Landscaping was discussed as it was one of the outstanding issues which needed approval from the Board. Mr. Hughes showed the original plan, the evolution to the second plan and the plan which was submitted for approval. all were included in the package submitted to the Board for this evening's discussion. Also submitted was the final as-built plan.

Mr. Delaney gave an overview of what he envisioned the look of the building and landscaping during the initial proposal, and the reality of what is there now. He said the building sits high, is large, and will always be prominent regardless of the amount of the landscaping. However, he would tend to have no problem with the amount of landscaping there now.

Richard White, 781 Boston Post Road, direct abutter, said he wife felt the evergreens along the parking area for the day care center were too sparse.

Following further discussion it was the consensus of those present that the evergreens are relatively new and as they grow will fill in that area.

Mr. Kablack asked whether there was a stop line at the driveway entrance. Mr. Hughes was not sure.

Mr. Delaney commented on the interior of the building which he said is beautiful.

There were no further comments and the public hearing was closed.

The Board then began its deliberations with considerable discussion focusing on the safety issue as it relates to the number and location of the signs. Also discussed was the fact that Mr. Hughes accepted Condition 5 of the discussion but proceeded to erect two signs without coming back to the Board for a change.

The Board agreed that Mr. Phelps should speak with Town Engineer as to his recommendation on sign location and whether he sees a safety issue. Should Town Engineer have no issue, the matter will be further discussed and voted at a later meeting.

With regard to the landscaping, it was unanimously voted to accept the landscaping portion of the Planting and Materials Plan (excluding sign locations), prepared by Architects Planners, Portsmouth, NH dated February 5, 1998.

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Thomas W.H. Phelps, Chairman

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