

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
TUESDAY, JANUARY 11, 2000

The Board consisted of:

Thomas W.H. Phelps, Chairman
Patrick J. Delaney III, Clerk
Marshall A. Karol
Gilbert P. Wright, Jr.
Lauren S. O'Brien, Alternate

Notice was published in the Sudbury Town Crier on November 18 and 25, 1999, posted, mailed and read at this hearing.

Mr. Phelps, Chairman, explained to the applicant 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.

James Idelson was present to represent a petition for renewal of Special Permit 98-45 to maintain an 80-foot amateur radio tower at 96 Morse Road. He explained that the tower was installed during the past year and was inspected by the building Inspector. He showed pictures of the installation and the child-proof shielding.

Mr. Idelson has had no problems with the installation, or the conditions imposed, nor have there been any complaints from the neighbors. He was requesting renewal under the same conditions with the exception that he would like a longer renewal period, preferably one running concurrent with his amateur radio license which expires in 2007.

The Board explained that it has established guidelines for renewal of all special permits, regardless of their nature, with three years currently being the maximum after satisfying two concurrent renewal periods without any issues.

There were no questions from the Board or input from the audience. No abutters were present.

After deliberation the following motion was placed and seconded:

MOTION: 'To grant James & Sue Idelson, owners of property, renewal of Special Permit 98-45, granted under the provisions of Section IV,A,4 of the Zoning Bylaws, to maintain an 80-foot amateur radio tower, property located at 96 Morse Road, Residential Zone A-1, provided that:

1. Installation shall conform to all applicable building codes and wired in accordance with UL Standards.
2. Childproof shielding, no less than 10 feet in height, shall be maintained at the base of the tower.
3. A bond in the amount of \$550.00 to cover the costs of dismantling/removal of the tower, will continue to be held by the Town Treasurer.
4. This permit is non-transferable and will expire in two (2) years on January 11, 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 requires a special permit to operate an amateur ham radio hobby from his home. The Board finds this hobby to be in harmony with the general purpose and intent of the Zoning Bylaws. It further finds that the tower is in an appropriate location, not detrimental to the neighbors. It is not lighted or offensive as no smoke, noise or other nuisance is produced. Adequate and appropriate facilities have been provided for proper operation.

Although several abutters expressed concern at the initial hearing, none were present at this hearing. The petitioner has had no complaints since installation of the tower. Therefore, the Board finds a two-year renewal period appropriate for this petition.

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John MacKinnon was present to represent a petition for renewal of Special Permit 97-40 to allow the sale of antiques and collectibles at 5 Concord Road every other Sunday beginning in April and running through October. He was requesting renewal under the same conditions.

Mr. MacKinnon said there have been no problems associated with the permit, nor have there been any complaints from abutters. He said the sale is run by a woman from Wayland, and he would like to try for a more upscale operation.

There were no questions from the Board. No abutters were present. The public hearing was closed.

After deliberation the following motion was placed and seconded:

MOTION: "To grant John and Michael MacKinnon, applicants, renewal of Special Permit 97-40, granted under the provisions of Section III,B,3,q of the Zoning Bylaws, to allow the sale of antiques and collectibles only, property located at 5 Concord Road, Village Business District Zone, subject to the following:

1. The sale will be conducted every other Sunday from April through October.

2. Hours of sale to the public shall be from 10AM-4PM. There will be no significant commercial activity (dealer setup) before 9AM.
3. No activity, other than normal tenant/customer parking, shall be allowed on the Concord Road side of the building.
4. This permit is non-transferable and will expire in three years on January 11, 2003, 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 for the sale of antiques and collectibles. The Board finds that the use is in harmony with the general purpose and intent of the Bylaw, is in an appropriate location and does not significantly alter the character of the zoning district. The petitioners have conducted this operation for eight years and have complied with the terms of the permit. Further, it has been demonstrated that there are adequate and appropriate facilities for proper operation and the use does not cause undue traffic congestion or issues of safety. The Board notes that there were no abutters present to object to renewal of this permit.

Thomas W.H. Phelps, Chairman

Patrick J. Delaney III, Clerk

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John F. Sylvia, Alternate

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Mr. Phelps, Chairman, explained to the applicant 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.

Attorney Solomon was present, representing the petitioners Michael Griffin and Timothy McManus, also present, in a petition for renewal of Special Permit 98-58 to operate an automobile repair shop, including limited used-car sales at 684 Boston Post Road. He was requesting the Board consider a 2-year renewal period.

At the request of the Board, Attorney Solomon described the changes which have occurred since the permit was issued. He said there had been a previously paved area to the east and west side of the building which was broken up. That area has now been repaired.

In addition, a stockade fence has been erected along the back zone line of the property. It is an 8-foot fence with one section being 6 feet as the petitioners are waiting for a gate to be installed there.

As noted in the previous permit, Attorney Solomon said it is the petitioners' intent to pave the rear sometime this year, at which time gas and oil traps will be installed.

Plantings have also been made around the property.

In response to a question from Mr. Phelps regarding the west side, Attorney Solomon said there had been previously paved area around the property which included both the front

and portions of the east and west side. The portions on the east and west side that were previously paved were in disrepair. Those portions have been repaired. The petitioners have not gone beyond that. By July 2000, they hope to pave the rest of the property, which will include the back part of the west half which is currently not paved. When that area is paved, it will have grease and oil traps. Right now, he said nothing is parked there. All the paving that has been done to date was to repair the front and east to west previously paved areas.

Mr. Griffin confirmed the timetable for completion of the unpaved area to be this summer.

Mr. Wright read Condition 9 which states, "The unpaved area to the west of the building is not to be used for employee and customer parking until such time that it is paved and sloped in such a way that storm water runoff is collected in a catch basin equipped with a gas and oil trap." Attorney Solomon said this is the area which is proposed to be paved this summer.

Mr. Wright said he visited the property and confirmed that the paving has been done as described and the stockade fence is in place.

Bruce Kankanpaa, 11 Stone Road, abutter, supported renewal of the permit subject to completion of the paving and drainage, which he felt is critical. He said he was otherwise happy with the operation. He pointed out that at the last hearing Mr. Griffin said he had a 3-year timetable for completion of the paving and installation of the grease and oil traps. It appeared that Mr. Griffin was still on schedule.

Mr. Wright asked whether Condition 9 requires the remaining area to be paved. Mr. Delaney believed the original intent was that if any of that area was repaved, gas and oil traps would be installed. He said the petitioners have already started that process as they have indicated their intent to pave that area.

Attorney Solomon agreed that the intent is to pave the area. If, for some reason, it was not paved, then that area cannot be used, as is stated in Condition 9.

Mr. Phelps pointed out that the intent was to use that area. Otherwise, all of the cars are up front. He said the point is to get the cars in back which is more in line with the intent of the Bylaw.

Attorney Solomon did not believe this to be an issue because he said the petitioners fully intent to pave that area.

Lauren O'Brien, 687 Boston Post Road, abutter, supported renewal. Although the process has taken some time, she believed the petitioners were moving in the right direction.

There was no further input and the hearing was closed.

After deliberation the following motion was placed and seconded:

MOTION: "To grant Michael J. Griffin and Timothy M. McManus, applicants, renewal of Special Permit 98-58, granted under the provisions of Section III,B,2,f of the Zoning Bylaws, to operate an automobile repair shop, including limited used-car sales, property located at 684 Boston Post Road, Business District #6, provided that:

1. This Special Permit is to be for automotive mechanical repairs only. Automotive body repairs and painting are specifically prohibited.
2. The use is restricted to the business-zoned portion of the site.
3. Hours of operation shall be Monday through Friday 7:30AM-9PM, Saturday 9AM-7PM, Sunday 12-6PM.
4. All work is to be performed within the confines of the building except for incidental washing of vehicles with biodegradable soap.
5. There will be no outside storage of new or used parts, tires, assemblies, junk, trash or inoperable vehicles. Automobiles parked on the pavement to the west shall be limited to owner's cars, cars waiting to be serviced, and no more than two (2) cars for resale.
6. All exterior lights are to be wall mounted or mounted on exterior posts and are to be oriented to cast light downward only so as not to illuminate the residential areas abutting and across the street.
7. All residential areas not designated for planting areas are to be clear of debris and maintained.
8. An 8-ft. stockade fence shall be installed as soon as possible, but not later than July 2000. The fence shall be installed and maintained along the rear zone line as shown on a plan titled "Parking Layout" marked Exhibit A and dated December 8, 1998, which is incorporated and made a part of this Decision.

9. The unpaved area to the west of the building is not to be used for employee and customer parking until such time that it is paved and sloped in such a way that storm water runoff is collected in a catch basin equipped with a gas and oil trap.
10. Disposal of all hazardous waste and materials is to be in conformance with all local, state and federal regulations.
11. Floor drains shall conform to all local, state and federal regulations.
12. Sanitary facilities shall conform to all local, state and federal regulations.
13. A dumpster is to be provided for trash and will be screened from view.
14. The sale of used cars shall be restricted to one (1) per month. These vehicles shall not exceed two (2) on display as set forth in Condition 5 above.
15. There will be no pricing sign displayed or written on the front windows of any vehicle offered for sale except as required by state and federal law.
16. The applicants shall adhere to the requirements of Section III,B,a of the Zoning Bylaw, Prohibited Uses.
17. This permit is non-transferable and will expire in one (1) year on January 11, 2001, 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 Board finds that the proposed automobile repair shop is in harmony with the general purpose and intent of the Bylaw. The use is in an appropriate location, not detrimental to the neighborhood, and does not significantly alter the character of the zoning district. Adequate and appropriate facilities are provided for proper operation.

The Board notes that the timetable for paving and installation of the fence has been met, with the exception of the gate for the fence which is scheduled for July 2000. The petitioner has indicated a date of July 2000 for completion of the unpaved area as described in Condition 9.

Abutters to the rear and front of the building were present and supported renewal of this special permit.

The Board further finds a one-year renewal appropriate until such time as all conditions have been met, after which the Board may consider a longer renewal period.

Thomas W.H. Phelps, Chairman

Patrick J. Delaney III, Clerk

Marshall A. Karol

Gilbert P. Wright, Jr.

John F. Sylvia, Alternate

RICHARD RESSLER
365 Boston Post Road
00-4

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The Board was in receipt of a letter dated January 10, 2000 from the petitioner requesting he be allowed to withdraw his petition without prejudice.

The following motion was placed and seconded:

MOTION: "To grant a request from the petitioner to withdraw Petition 00-4 without prejudice."

(Petition for Special Permit to allow oversized primary and secondary signs to be located at 365 Boston Post Road, Suite 6 (Duck Soup))

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

Thomas W.H. Phelps, Chairman

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Marshall A. Karol

Gilbert P. Wright, Jr.

Lauren S. O'Brien, Alternate