

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
TUESDAY, JUNE 27, 2000

The Board consisted of:

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

Notice was published in the Sudbury Town Crier on June 8 and 15, 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.

Celia Hinrichs was present to represent a petition for renewal of Special Permit 98-22 to conduct a part-time optometry practice from her home at 169 Powers Road. Ms. Hinrichs explained that the operation consists of a small private practice in visual rehabilitation which is referral based. She does not sell eyeglasses.

Renewal was being requested under the same conditions. Ms. Hinrichs said there have been no complaints with regard to her business.

Mr. Phelps read a letter dated June 16, 2000 from the Planning Board which voted to recommend renewal.

There were no questions from the Board nor were there any abutters present. The hearing was closed.

After deliberation the following motion was placed and seconded:

MOTION: "To grant Celia Hinrichs, owner of property, renewal of Special Permit 98-22, granted under the provisions of Section III,A,1,c of the Zoning Bylaws, to conduct a Home Business, specifically an optometry practice, property located at 169 Powers Road, Residential Zone A-1, provided that:

1. Hours of Operation shall be Tuesday through Thursday, from 9AM to 5PM.

2. A maximum of five patients per day will be allowed.
3. No exterior indication of the Home Business, other than a sign in accordance with the Zoning Bylaws will be permitted. No display of commercial flags is allowed.
4. All parking will be off-street.
5. This permit is non-transferable and will expire in three years on June 27, 2003, and the Board will consider renewal upon receipt of proper application on or before that date.”

VOTED: In favor: 5 (unanimous) Opposed:

REASONS: The petitioner seeks renewal of a special permit to conduct an optometry practice in her home. The Board finds the use is in harmony with the general purpose and intent of the Bylaw, 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 the proper operation of the use. There have been no complaints with regard to this operation and no abutters were present to oppose renewal.

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Thomas W.H. Phelps, Chairman

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Mark A. Kablack, Clerk

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Dennis Prefontaine, Executive Director of the Knox Trail Council #244, Boy Scouts of America, was present to represent a petition for Special Permit to erect two signs stating the Rules of Conduct, and a third "Welcome" sign, to be located on the reservation at 1 Nobscot Road which is on the Framingham/Sudbury line.

Mr. Prefontaine said there is major construction going on at the site which will be continuing through next year. The construction is primarily restoration.

Because of the increased numbers of casual and planned groups visiting the site over the past year or so, it has been found that there is a need for signage to identify the Rules of Conduct for the area.

Mr. Prefontaine said he went to the Design Review Board (DRB) in early spring with plans for the signs. The DRB, after making their recommendations, referred him to the Board of Appeals for a special permit.

At the time the design was presented to the DRB, the intent was to have the Assabet Valley School construct the signs at no charge. However, since the additional step of going before this Board was required, school is on vacation and the project will be put on hold until the fall if approval is granted.

Mr. Prefontaine pointed out the location of the signs from the map submitted with the application. The first sign will be located at the back of the front parking lot and will be approximately 85 feet from the street. The second sign will be located at the back of the rear parking lot approximately 284 feet from the street. Both signs will be identical and will state the rules and regulations of the reservation. Each sign will be 22 square feet.

A third "Welcome" sign will be located to the right of the totem poles. Mr. Prefontaine marked the location as being approximately 50-60 feet from the street.

In response to a question from Mr. Delaney, Mr. Prefontaine said an existing sign located between the flagpoles is a map of the property and will remain. The "Knox Trail" sign at the front of the property, which was knocked down by a truck, will be put back up. That sign was not damaged; only new brackets are needed.

There will be no illumination for any of the signs being requested.

With regard to the operation, Mr. Prefontaine explained that last year 9,000 people were documented as having visited the reservation. He said over the past years there has been little vandalism which has been attributed to the fact that the numbers themselves provide a form of self-policing. In addition, there is a full-time ranger living on the premises.

Mr. Phelps read the following letters:

- from the Planning Board dated June 16, 2000 which voted to recommend approval.
- from the DRB dated June 16, 2000 which voted to recommend approval of two 22 square foot signs stating the rules of conduct, to be located 85 and 284 respectively from the street. In addition, the DRB recommended approval of a "Welcome" sign, not to exceed 16 square feet, to be located near the entrance to the reservation.

Mr. Prefontaine affirmed that his application was in conformance with the DRB recommendations.

There were no further questions. No abutters were present. The hearing was closed.

After deliberation the following motion was placed and seconded:

MOTION: "To grant Dennis R. Prefontaine, applicant, Knox Trail Council #244, Boy Scouts of America, owners of property, a Special Permit under the provisions of Section V,D,12 of the Zoning Bylaws, to erect three freestanding signs, in addition to those existing on the property,

the location as shown in plan titled "Proposed Signage" dated April 18, 2000 prepared by Lanes End, Framingham, MA, submitted with the application and marked by the applicant with the location of the "Welcome" sign. This plan is incorporated by reference and made a part of this Decision. Property is located at 1 Nobscot Road, Residential Zone C-1.

The signs shall be as follows:

1. Two 22 s.f. signs, stating the Rules of Conduct for those using the reservation, to be located at the back of each of two parking areas, 85 feet and 284 feet respectively from the street.
2. One "Welcome" sign, not to exceed 16 s.f. in size, to be located near the entrance of the reservation, approximately 60 feet from the street."

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

REASONS: The petitioner requires a Special Permit to erect three signs on the Boy Scout reservation property. The Board finds the proposed signage to be necessary to provide rules and guidance to the increasing numbers of visitors frequenting the reservation for passive activities. The design has been approved by the Design Review Board. They will be located a considerable distance from the street and will not interfere with traffic or visually impact abutters in the area.

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Thomas W.H. Phelps, Chairman

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Peter Cooke, Wellman Associates, Inc., was present representing Omnipoint Communications MB Operations LLC.

Mr. Cooke explained that since he was before this Board in March 2000 at which time a Special Permit was granted for installation of a wireless communications facility at Feeley Park, he has been before the Conservation Commission and has received an Order of Conditions as well as Site Plan approval from the Selectmen. Copies of those documents were submitted as part of the application package.

Mr. Cooke was present this evening for the next step which is a Special Permit for work within a flood plain zone. If approval is granted, he will then proceed to the final step which is an application to the Planning Board for a Water Resource Protection District Special Permit.

A brief overview was given by Mr. Cooke of the proposed installation to refresh the Board's memory. Also submitted were photographs of the project. He pointed out that the installation requires only electric and telephone utilities and monthly maintenance visits. There will be no back-up generator although there is a plug to which a generator could be connected.

In response to a question from Mr. Kablack, Mr. Cooke said the entire installation, including the equipment cabinets, is located within the flood plain zone. They are outside of the wetlands but fall within the buffer zone.

Mr. Delaney asked whether there would be any storage of chemicals within the cabinets. Mr. Cooke explained that there are jell cell batteries; however, they are self-contained and would not be exposed to water if there were a flood. There will be no fuel stored inside the cabinet since there is no back-up generator.

Although, as previously stated, there is a plug to which a generator could be connected, Mr. Cooke did not believe this site would require the type of cabinet needed to house a generator. He explained that the site is monitored 24 hours/day, seven days/week through the Providence, RI office.

Mr. Wright asked about the roadway. Mr. Cooke said the roadway will be gravel with a gate to limit access.

Cathy Spring, Edwards & Kelsey, further elaborated on monitoring procedures and safeguards.

Mr. Phelps read a letter from the Planning Board dated June 16, 2000 which voted to recommend approval of the petition.

There were no further comments. The hearing was closed.

After deliberation the following motion was placed and seconded:

MOTION: "To grant Omnipoint Communications, MB Operations LLC, applicant, Town of Sudbury, owner of property, a Special Permit under the provisions of Section III,E of the Zoning Bylaws, for work within a Flood Plain District, property shown on Town Property Map L08 as Parcel 012, Raymond Road (Feeley Park), Residential Zone A-1."

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

REASONS: The petitioner requires a Special Permit for proposed work within a Flood Plain District. The Board finds that the work will not result in any risk of pollution or contamination of any waterway or pond, reduction of seasonal high water storage areas, reduction of ground water absorption areas which serve the public water supply, or other derogation from the intent or purpose of the Bylaw. The petitioner has received a Special Permit from this Board to install the facility. Additionally, the petitioner has applied for and received the necessary approvals from the Selectmen and Conservation Commission, and will be applying to the Planning Board for a Water Resource Protection District Special Permit which is the final step in the process.

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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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Gilbert P. Wright, Jr.

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Lauren S. O'Brien, Alternate

DAVID J. POOR  
10 Birchwood Avenue  
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David Poor was present to represent a petition for Special Permit to alter and enlarge a non-conforming structure by constructing a 15-foot 10-inch by 29-foot 2-story addition, and an extension of the farmers porch (previously granted under Special Permit 00-18) at 10 Birchwood Avenue.

Mr. Poor explained that he made a mistake in his previous application which was caught by Building Inspector John Hepting. He said his previous application failed to take into account the fact that the intent of the farmers porch was to wrap around to a proposed second story addition along the side of the house. His property is comprised of a corner lot bounded by Birchwood Avenue and Arborwood Road. The Arborwood Road side, where construction of the addition is proposed, is governed by the street centerline setback which is 65 feet.

As a result, Mr. Poor said he requires a Special Permit for street centerline setback deficiency in order to construct the 2-story addition. Additionally, in order for the farmers porch to wrap around to that construction, an additional 3 feet 10 inches is required on the porch.

Mr. Poor submitted a plot plan showing the proposed construction which includes a kitchen and bath expansion to accommodate his growing family. He stated that this is the final plan which, if approved, will be constructed.

Mr. Phelps read a letter dated June 16, 2000 from the Planning Board which voted to take no position on the petition.

Further discussion centered on the applicable setback for corner lots and road width after which there were no further comments. The hearing was closed.

After deliberation the following motion was placed and seconded:

MOTION: "To grant David J. Poor, owner of property, a Special Permit under the provisions of Section I,D,3 of the Zoning Bylaws, to alter and enlarge a nonconforming structure by constructing a 15-foot 10-inch by 29-foot 2-story addition, and an extension of the farmers porch by 3 feet 10 inches, which will result in a side yard setback deficiency of 1 ½ feet and a street centerline setback deficiency of 26 feet 7 inches ± on Arborwood Road, property located at 10 Birchwood Avenue, Residential Zone A-1."

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

REASONS: The property in question is comprised of a corner lot bounded by two streets. The petitioner was initially granted a special permit to construct a farmers porch which would result in a street centerline setback deficiency on one street. In order to wrap the porch around to a proposed addition on the side of the house a second Special Permit is required since an additional street centerline setback deficiency will result on the side street.

The Board finds that the proposed construction will not be substantially more detrimental than the existing nonconformity to the neighborhood. The neighbors were aware of the original intent and scope of the proposed construction and were in favor of that construction. The Board further finds that the proposed construction will enhance the appearance of the structure and compliment the neighborhood as well.

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