

MICHAEL & LORRAINE MAGUIRE
10 Beechwood Avenue
00-16

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
TUESDAY, MAY 23, 2000

The Board consisted of:

Thomas W.H. Phelps, Chairman
Patrick J. Delaney III, Acting Clerk
Gilbert P. Wright, Jr.
Melinda M. Berman, Alternate
Lauren S. O'Brien, Alternate

Notice was published in the Sudbury Town Crier on May 4 and 11, 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.

Michael Maguire was present to represent a petition for Special Permit to construct an 18-foot round above-ground swimming pool at 10 Beechwood Avenue.

The lot comprises 5,000 s.f. Construction of the pool will result in a side yard setback deficiency of 10 feet and a rear yard setback deficiency of 20 feet. Mr. Maguire submitted a flyer which pictures the pool and provides dimensions.

The Board questioned whether a permit was needed since this appears to be a temporary structure. Mr. Maguire said he spoke with the Building Inspector who told him he must apply for a Special Permit.

Mr. Phelps read letters from abutters at 11 Beechwood Avenue, 6 Beechwood Avenue, 14 Oakwood Avenue and 7 Oakwood Avenue, all in support of the petition. Also read was a letter dated May 19, 2000 from the Planning Board which voted to take no position on the petition.

The Board reviewed the plan submitted with the application. 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 Michael & Lorraine Maguire, owners of property, a Special Permit under the provisions of Section I,D,3 of the Zoning Bylaws, to construct an 18-foot round above-ground swimming pool which will result in a side yard setback deficiency of 10 feet \pm , and a rear yard setback deficiency of 20 feet \pm , property located at 10 Beechwood Avenue, Residential Zone A-1.”

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

REASONS: The petitioner requires a Special Permit to construct an above-ground pool on a nonconforming lot. The Board finds that the proposed pool, which will result in side yard and rear yard setback deficiencies, will not be substantially more detrimental than the existing nonconformity to the neighborhood. The Board notes that all of the immediate abutters were in support of the petition. No abutters were present to oppose the petition.

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Ken and Karin Manning were present to represent a petition for Special Permit to conduct a Home Business, specifically, Psychology, at 112 Powers Road. The business would be conducted in a barn on the property.

The application states that the Mannings work with individuals, couples, families, educators, and consult to businesses on teaching about well being and psychological health. Mr. Manner explained that he currently has a counseling practice in Belmont. He would like to practice from his home. Karin Manning is an educator.

In response to questions from the Board, Mr. Manning said that in addition to single clients, there may be group sessions of 6-8 people. There is adequate parking space on his property. At this point he does not conduct groups, however, there may be potential to do so. He said he would be still keeping a day in the Belmont office.

With regard to the Home Business, Mr. Manning would anticipate hours of 8AM-7PM, Monday through Friday. Ms. Manning would be seeing people in the morning.

There would be no other employees and no sign at the street. There may be a sign on the barn to direct people to that location. It would not be visible from the street.

Mr. Phelps expressed concern with regard to group sessions since this would result in a lot of cars being parked at one time.

Mr. Wright asked what parameters could be lived with. Mr. Manning said he would occasionally conduct a training program on the weekend, perhaps once a month. Occasionally there would also be a single training session two weekends a month. If an evening group was run, he would estimate the hours to be from 7-9PM, consisting of groups of approximately eight people perhaps twice a month.

Mr. Delaney pointed out and explained the Bylaw condition which restricts the number of employees. He asked whether the Mannings understood this condition. They both replied in the affirmative.

In addition, Mr. Delaney explained that an initial permit is granted for one year. If a permit is granted, and if there are no problems, should the Mannings desire to make changes, they may request them when filing for renewal.

Mr. Phelps read a letter dated May 19, 2000 from the Planning Board which voted to recommend approval.

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 Ken and Karin Manning, owners of property, a Special Permit under the provisions of Section III,A,1,c of the Zoning Bylaws, to conduct a Home Business, specifically Psychology, in the barn located on the property located at 112 Powers Road, Residential Zone A-1, provided that:

1. Hours of operation will be 8AM-6PM, Monday through Saturday.
2. All parking shall be on the premises. No street parking will be allowed.
3. No more than eight (8) car trips per day will be allowed.
4. No employees, other than the residents, will be allowed.
5. There will be no exterior indication of the Home Business. No sign will be allowed on the street. Any sign erected shall not be visible from the road and sign size shall be in conformance with the Bylaw. No display of commercial flags will be allowed.
6. No additional exterior lighting will be allowed.
7. This permit is non-transferable and will expire in one year on May 23, 2001, and the Board will consider renewal upon receipt of proper application on or before that date."

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

KEN & KARIN MANNING
112 Powers Road
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REASONS: The petitioners require a Special Permit to conduct a Home Business. The Board finds that the proposed use will be in harmony with the general intent and purpose of the Bylaw. It will be in an appropriate location, not detrimental to the neighborhood, and will not by its presence significantly alter the character of the zoning district. The Board has imposed conditions with regard to hours of operation and vehicle trips to insure there will be no adverse impact on the neighborhood in terms of visibility, traffic and safety. Accordingly, it has set a one-year renewal period for review and monitoring purposes.

Thomas W.H. Phelps, Chairman

Patrick J. Delaney III, Acting Clerk

Gilbert P. Wright, Jr.

Melinda M. Berman, Alternate

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DAVID J. POOR
10 Birchwood Avenue
00-18

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David Poor was present to represent a petition for special permit to alter and enlarge a nonconforming structure by constructing a 36X7 foot farmer's porch at 10 Birchwood Avenue. The proposed construction will result in a street centerline setback deficiency of 13 feet.

Mr. Poor described the proposed construction from the sketch provided with the application. There is an existing deck at the side of the house. The intent is to wrap the porch around to the deck area. The deck area will be subsequently removed and replaced with an addition.

The Board reviewed the plan. This property consists of a corner lot with frontage on two streets, Birchwood Avenue and Arborwood Road. There was some question as to what setbacks applied to corner lots and the applicability of using both street centerline and front yard setbacks when calling out deficiencies. There was also some question as to whether a special permit was required for the Arborwood side portion for this special permit.

The Board agreed to suspend this hearing to allow for the hearing of the next petition, and then return to the hearing. Following the close of that hearing, this hearing was resumed. Abutters Geraldine Boyd, 6 Birchwood Avenue, and Mary Dunne, 14 Arborwood Road, were present to voice their support of this petition. They felt the construction would be a definite improvement which would enhance the appearance of the street and benefit the neighborhood as well.

Mr. Phelps noted that a number of abutter letters in support of the petition were submitted as part of the application package. He also read a letter dated May 19, 2000 from the Planning Board which voted to take no position on the petition.

Further discussion centered on whether street centerline setbacks applied for both streets on corner lots. The Board was inclined towards the side yard setback being applicable. (Secretary's Note: The plan depicts the porch wrapping around to the existing deck which is planned to be removed. It shows the farmer's porch as not extending beyond the footprint of the existing deck. Therefore, it appears that there is no increase in setback deficiency from the Arborwood Road side.)

The public 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 36X7 foot farmers porch, which will result in a front yard setback deficiency of 10 feet \pm , and a street centerline setback deficiency of 13 feet \pm on Birchwood Avenue, property located at 10 Birchwood Avenue, Residential Zone A-1."

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

REASONS: The petitioner seeks a special permit alter and enlarge a nonconforming structure. The Board finds that the proposed construction, a farmers porch, which will result in a street centerline setback deficiency, will not be substantially more detrimental than the existing nonconformity to the neighborhood. The proposed construction will enhance the appearance of the property and benefit the neighborhood. Two abutters were present to voice their support. In addition, several letters were submitted by abutters, all of whom supported the petition.

Thomas W.H. Phelps, Chairman

Patrick J. Delaney III, Acting Clerk

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Edward Tucker was present representing a petition for renewal of Special Permit 98-18 to allow a wholesale retail use at 55 Union Avenue. Mr. Tucker said he is requesting no changes to the previous permit.

Mr. Phelps read a letter dated May 19, 2000 from the Planning Board which was unable to make a recommendation since it had not received a copy of the plot plan as required by Condition 2 of the Decision. The letter notes the Planning Board is not opposed to the renewal but wants the plan to be on record so that any future changes to this site can be documented.

Mary Corley, ZBA Secretary, noted a plot plan was submitted along with the application. The plan indicates no changes from the previous permit. A copy was forwarded to the Planning Board for their records.

The Board noted there do not appear to have been any issues with regard to this operation during the past year. Mr. Phelps commented on the Secretarial Sign on the premises. Mr. Tucker said that person has retired. He expects another tenant providing the same service to rent that space.

There were no further questions from the Board. The hearing was closed.

After deliberation the following motion was placed and seconded:

MOTION: "To grant Tucker Nominee Trust, owner to property, renewal of Special Permit 98-18, granted under the provisions of Section III,C,2,d of the Zoning Bylaws, to allow a wholesale/retail apparel operation, property located at 55 Union Avenue, Industrial District #2, subject to the following:

1. Hours of operation to be Monday through Sunday, 9AM-6PM, except from Thanksgiving through Christmas when hours will be increased Monday through Friday to 9AM-9PM.
2. Submittal of a plot plan showing the entire floor area of the building, with locus of IRR Apparel, detailing area of retail, storage, changing rooms, etc., not to exceed 32% of the total area of the building.
3. Compliance with Section V,A,1&2 of the Zoning Bylaws.
4. Compliance with Section V,D, Sign Bylaw.
5. This permit is non-transferable and will expire in three years on May 23, 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 for a special permit for a retail operation in a portion of an existing building located in an industrial district. The Board finds the use to be in harmony with the general purpose and intent of the Bylaw. The location is appropriate, not detrimental or offensive to the adjoining properties, and does not significantly alter the character of the zoning district. Adequate and appropriate facilities are provided for proper operation. The use does not cause undue traffic congestion in the immediate area. The Board notes there have been no problems associated with this operation since the granting of the last permit renewal.

Thomas W.H. Phelps, Chairman

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