

CYNTHIA HOWE  
36 Birchwood Avenue  
03-29

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
TUESDAY, AUGUST 19, 2003

The Board consisted of:

Jonathan G. Gossels, Chairman  
Stephen M. Richmond, Clerk  
Patrick J. Delaney III  
Thomas W.H. Phelps  
Melinda M. Berman, Alternate

Notice of the hearing was published in the Sudbury Town Crier on July 31 and August 7, 2003, posted, mailed and read at this hearing.

Cynthia Howe was present to request an amendment to Special Permit 03-29, granted by the Board on May 13, 2003. She explained that the original drawing showed a walk-out box window; however this was not included on the plot plan footprint. As a result, this window increases the front yard and street centerline setback deficiencies by one foot.

In addition, Ms. Howe said the original Special Permit reflected a not-to-exceed square footage of 2,400. This did not include the exercise pool area which is located inside the house. As a result, the total square footage of the house including the garage and pool is approximately 3,184 s.f.

From the plans, Ms. Howe pointed out the box window area as well as the area of the pool. She explained that nothing has changed from what was presented originally. The square footage changed because the box window on the modular contractor's plan was not included in the engineer's plot plan. This has now been shown on the revised plot plan.

Following further review of the plot plan and questions for clarification of the status of the pool as living space, the hearing was closed.

After deliberation the following motion was placed and seconded:

MOTION: "To amend Special Permit 03-29, as follows:

Delete the wording of the Motion in its entirety substituting in lieu thereof the following:

"To grant Cynthia Howe, owner of property, a Special Permit under the provisions of Section 2460 of the Zoning Bylaws, to allow demolition of an existing residence and construction of a new residence not to exceed 3,184 s.f., which includes the garage and pool, which will exceed the area of the original nonconforming structure and will result in side yard setback deficiencies

of 10 feet  $\pm$  and 15 feet  $\pm$ , a front yard setback deficiency of 7 feet  $\pm$  and street centerline setback deficiency of 17 feet  $\pm$ , property located at 36 Birchwood Avenue, Residential Zone A-1.”

All other terms and conditions of the original Special Permit will remain in full force and effect.

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

REASONS: The petitioner requires an amendment to her original special permit due to an error in the plot plan to reflect a walk-out window. The petitioner also requests the indoor exercise pool be designated as living space and included as part of the square footage. The Board finds there to be no change from what was originally presented as part of the construction plans and finds the resulting one-foot increase in setback deficiency slight. The Board also agrees that the indoor pool area should be considered as part of the square footage and has amended that figure to reflect this and to include in that figure the garage area as well.

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Jonathan G. Gossels, Chairman

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Stephen M. Richmond, Clerk

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Patrick J. Delaney III

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Thomas W.H. Phelps

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Melinda M. Berman, Alternate

CELIA HINRICHS  
169 Powers Road  
03-45

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
TUESDAY, AUGUST 19, 2003

The Board consisted of:

Jonathan G. Gossels, Chairman  
Stephen M. Richmond, Clerk

Patrick J. Delaney III  
Thomas W.H. Phelps  
Melinda M. Berman, Alternate

Notice was published in the Sudbury Town Crier on July 10 and 17, 2003, posted, mailed and read at the July 29, 2003 hearing.

The Board was in receipt of a letter dated July 16, 2003 from Celia Hinrichs requesting the hearing be continued to August 19, 2003. The Board agreed to a continuance. No testimony was taken on July 29, 2003.

At the August 19, 2003 hearing, Mr. Gossels, 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 00-20 to conduct a part-time optometry practice from her home at 169 Powers Road. Ms. Hinrichs explained the nature of her optometry practice which is referral based and conducted in the lower level of her home.

Ms. Hinrichs said this is the fourth renewal of her permit. No changes are being requested. No complaints from neighbors have been received with regard to this business. Ms. Hinrichs said she is the sole employee and no other employees are contemplated.

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 00-20 under the provisions of Section 2340 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:

CELIA HINRICHS  
169 Powers Road  
03-45 Page 2

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 August 19, 2006, 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 an optometry practice in her home. The Board finds that 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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Jonathan G. Gossels, Chairman

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Stephen M. Richmond, Clerk

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Patrick J. Delaney III

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Thomas W.H. Phelps

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Melinda M. Berman, Alternate

HAROLD J. SALANT D/B/A SUDBURY AUTO SALES  
9 Old County Road  
03-47

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
TUESDAY, AUGUST 19, 2003

The Board consisted of:

Jonathan G. Gossels, Chairman  
Stephen M. Richmond, Clerk  
Patrick J. Delaney III  
Thomas W.H. Phelps  
Melinda M. Berman, Alternate

Notice was published in the Sudbury Town Crier on July 31 and August 7, 2003, posted, mailed and read at this hearing.

Mr. Gossels, 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.

Harold Salant was present to represent a petition for renewal of Special Permit 02-31 to allow motor vehicle sales at 9 Old County Road. He explained that he operates an insurance business on Concord Road and comes across cars going up for sale, either by word of mouth, referrals, and the internet or from Brothers Mechanics on Old County Road. He then is able to offer these vehicles for sale to existing clients.

Mr. Salant said his intent is to keep a low profile. No vehicles are ever left overnight on the property at Old Country Road. There is no inventory or business presence at the insurance agency on Concord Road.

In response to a question from the Board, Mr. Salant said his business is doing all right; he is hoping to do more but not to be an intrusive business.

In response to questions from the Board, Mr. Salant said he was not aware of any issues or complaints with regard to the business. He was requesting renewal under the same conditions.

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

After deliberation the following motion was placed and seconded:

HAROLD J. SALANT D/B/A SUDBURY AUTO SALES  
9 Old County Road  
03-47 Page 2

MOTION: "To grant Harold J. Salant, d/b/a Sudbury Auto Sales, applicant, a Special Permit under the provisions of Section 2230,A,C,12 of the Zoning Bylaws, to allow motor vehicle sales, property located at 9 Old County Road, Industrial District 12, subject to the following:

1. A maximum of three (3) vehicles shall be parked on the premises.
2. Compliance with the requirements of the Fire Chief with regard to fire extinguishers.
3. No signs will be allowed.

4. This permit is limited to the buying and selling of second hand motor vehicles only. Assembly and disassembly of motor vehicles is excluded.
5. This permit is non-transferable and will expire in two (2) years on August 19, 2005, 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 for the sale of used motor vehicles which is a permitted use in the zoning district with the granting of a special permit. The petitioner has been in operation for one year and there have been no issues associated with the permit. The Board finds that the allowed storage of three vehicles is adequate for the use and is not detrimental to adjoining zoning districts or neighboring properties due to odor, smoke, noise, sewage, or refuse materials. The Board further finds a two-year renewal period appropriate to insure the operation continues to meet the criteria for the granting of a special permit.

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Jonathan G. Gossels, Chairman

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Stephen M. Richmond, Clerk

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Patrick J. Delaney III

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Thomas W.H. Phelps

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Melinda M. Berman, Alternate

STANLEY M. & NINA HARGUS  
45 Elaine Road  
03-48

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
TUESDAY, AUGUST 19, 2003

The Board consisted of:

Jonathan G. Gossels, Chairman  
Stephen M. Richmond, Clerk'  
Patrick J. Delaney III  
Thomas W.H. Phelps  
Melinda M. Berman, Alternate

Notice was published in the Sudbury Town Crier on July 31 and August 7, 2003, posted, mailed and read at this hearing.

Mr. Gossels, 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.

Stanley and Nina Hargus were present to represent a petition for Special Permit to allow demolition of an existing residence and construction of a new residence on a nonconforming lot, which will exceed the area of the original nonconforming structure.

Mr. Hargus explained that he found this property and would like to build a larger house than the one which currently exists. The existing house comprises approximately 1,772 s.f.; the proposed house would be 3,548 s.f. and will conform to all zoning setback requirements. The resulting footprint is not much larger since the new house will be a 2-story structure as opposed to the existing one-story house. In addition, with the orientation of the new house, it is proposed to change the house address from Elaine Road to Ford Road.

The Board reviewed the plot plan and the renderings of the proposed house. Mr. Gossels noted the rendering contained a notation that the elevations did not apply to the Elaine Road property. He asked for an explanation.

Mr. Hargus explained that that plan was meant to show the design of the proposed house. The elevations were from the builder's plans for another property. He said the Elaine Road property is flat and not sloping as shown on the plan, and the house will be built on level property. Also, since the new house will overlap the old one, demolition will occur prior to construction and the septic tank will probably be upgraded to a 1,500 gallon tank.

Sharon Tentarelli, 5 Curry Lane, abutter, voiced two concerns, one being the trend in the neighborhood to tear down and rebuild on a hill, the other the removal of large trees.

Mr. Hargus responded that the soils on this property do not warrant building up the house. Ms. Hargus added that the attraction of this lot was that it was level.

With regard to the trees, Ms. Hargus said there is no intent to remove the trees along the edge of the property. They prefer the mature landscaping. Mr. Hargus said there is a lot of expanse between the rear abutter and the trees in that area will also be retained.

There were no further questions from the Board or input from the audience. The public hearing was closed.

After deliberation the following motion was placed and seconded:

MOTION: "To grant Stanley M. & Nina C. Hargus, applicants, William & Jane Smith, owners of property, a Special Permit under the provisions of Section 2460 of the Zoning Bylaws, to allow demolition of an existing residence and construction of a new residence, not to exceed 3,548 s.f., on a nonconforming lot, which will exceed the area of the original nonconforming structure, said residence to conform to all zoning setback requirements, property located at 45 Elaine Road, Residential Zone A-1."

This Special Permit shall lapse if construction has not begun, except for good cause, within twelve (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.

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

REASONS: The petitioners require a Special Permit due to the nonconforming nature of the property. The Board finds that the proposed construction of a new residence, which will exceed the area of the original nonconforming structure, will not be substantially more detrimental to the neighborhood. The new residence will conform to all setback requirements and is not substantially larger in footprint size as the 2-story structure will replace an existing one-story structure. The Board finds the size and design will blend in with the surrounding homes. Further, the petitioners have indicated that the mature trees along the edges of the property will be retained thus maintaining the character of the neighborhood.

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Jonathan G. Gossels, Chairman

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Stephen M. Richmond, Clerk

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Patrick J. Delaney III

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Thomas W.H. Phelps



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Melinda M. Berman, Alternate