

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
THURSDAY, NOVEMBER 13, 2003

The Board consisted of:

Richard L. Burpee, Acting Chair
Stephen A. Garanin, Acting Clerk
Elizabeth A. Taylor
Patrick J. Delaney III, Alternate
Thomas W.H. Phelps, Alternate

Notice was published in the Sudbury Town Crier on October 30 and November 6, 2003, posted, mailed and read at this hearing.

Mr. Burpee, Acting Chair, convened the public hearing which is an appeal of a decision of the Building Inspector to issue a building permit for the construction of a pool at 96 Lincoln Lane. The appeal was filed under the provisions of M.G.L., Chapter 40A, Section 15.

Julia Euling, 55 Lincoln Road, provided an overview of the circumstances which necessitated the appeal. She said she, as well as other neighbors, observed earth being removed from the Jadul property. Subsequently, she contacted the Building Inspector and was told that Brian Jadul had applied for, and had received, a building permit to construct a pool on his property. Mr. Kelly said he had no authority to withhold issuance of the permit as Mr. Jadul was complying with the setbacks and the pool would be constructed by a pool company in compliance with the required codes.

Ms. Euling said she also looked at the plans showing the location of the pool. As a result, because of concerns with regard to potential adverse impacts on the wells in the area, an appeal was filed to the Board of Appeals.

Following receipt of the appeal in the Town Clerk's Office, Mr. Kelly issued a stop work order to Mr. Jadul, and all further work ceased.

Ms. Euling said under the pretext of constructing a pool, the Jaduls were removing the entire hill behind their house. In addition, she said all of the residents rely on wells for their water supply and this hill is an integral part of the recharge system and ultimate water quality. She did not agree that only 90 yards of earth had been removed as was noted by the Building Inspector on the plan submitted for the investigation hearing.

Discussion followed on the location of the pool and the relationship of the earth being removed to the Earth Removal Permit voted by the ERB.

Based on the investigation previously conducted and concluded earlier this evening, Mr. Burpee asked whether it was the intention of the Jaduls not to remove any additional earth in connection with the pool; that any earth removal will be in connection with the Earth Removal Permit and further, that the pool will be constructed within the contours of the land that will have been excavated pursuant to the Earth Removal Permit.

Mr. & Ms. Jadul both affirmed this to be the case.

Mr. Delaney said under the requirements of the Zoning Bylaw, the Building Inspector took the correct action in issuing the permit for a pool. This appeal and subsequent cease and desist allowed the Board and abutters to be present this evening to resolve the issue as was done during the investigation.

With regard to the neighbors' concerns for the amount of earth removal, Mr. Garanin reminded the neighbors that Condition 6 of the Earth Removal Permit requires the trucking company to keep and maintain logs for at least one year of the actual amount of earth trucked from the site and that the Board has the authority to request those records.

There was no further input and the hearing was closed.

Following deliberation the following motion was placed and seconded:

MOTION: "To uphold the decision of the Building Inspector to issue a building permit for the construction of a pool at 96 Lincoln Lane, Residential Zone A-1."

In favor: 5 (unanimous) Opposed: 0

REASONS: In the matter of the appeal of the Building Inspector's decision to issue a permit to construct a pool at 96 Lincoln Lane, the Board finds that the Building Inspector acted properly and in conformance with the Town of Sudbury's Zoning Bylaws with regard to setbacks and construction standards.

The appeal brought by the neighbors contends that construction of the pool and its associated earth removal will be detrimental to the wells in the area which rely on the recharge system to maintain water quality.

The Board notes that the earth previously removed for the pool is included in the total amount proposed for earth removal which is noted in the Earth Removal Permit voted by the ERB. Further, it has been demonstrated and certified in a hydrology report prepared by Carr Research Laboratory, Inc., that the total amount of proposed earth removal "will not cause or exacerbate water quality issues, including but not limited to elevated levels of sodium, lead, silt, reduced flow or corrosion, with drinking water wells on adjacent properties."

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