

STANLEY & JEANNE GUTOWSKI
13 Birchwood Avenue
04-5

MINUTES OF THE PUBLIC HEARING CONTINUATION
SUDBURY BOARD OF APPEALS
TUESDAY, FEBRUARY 10, 2004

The Board consisted of:

Jonathan G. Gossels, Chairman
Jeffrey P. Klofft, Acting Clerk
Richard L. Burpee, Alternate
Melinda M. Berman, Alternate
Stephen A. Garanin, Alternate

The public hearing was reconvened by the Chairman, Mr. Gossels. The Board was in receipt of a letter dated January 27, 2004 from the petitioners requesting they be allowed to withdraw their application without prejudice. It is their intention to amend that application and refile at a later date.

The public hearing was then closed.

It was on motion unanimously voted to allow withdrawal of Case No. 04-5 without prejudice.

Jonathan G. Gossels, Chairman

Jeffrey P. Klofft, Acting Clerk

Richard L. Burpee, Alternate

Melinda M. Berman, Alternate

Stephen A. Garanin, Alternate

CASE 04-6 – JAMES & GERALDINE APOSTLE – 395 Boston Post Road – Applicants were not present. The public hearing was continued to March 9, 2004.

JAMES S. & SUE E. IDELSON

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
TUESDAY, FEBRUARY 10, 2004

The Board consisted of:

Jonathan G. Gossels, Chairman
Jeffrey P. Klofft, Acting Clerk
Richard L. Burpee, Alternate
Melinda M. Berman, Alternate
Stephen A. Garanin, Alternate

Notice was published in the Sudbury Town Crier on January 22 and 29, 2004, posted, mailed and read at this hearing.

Mr. Gossels, Chair, 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.

James Idelson was present to represent a petition for renewal of Special Permit 02-2 to maintain an 80-foot amateur radio tower at 96 Morse Road. The structure was erected in 1998. There have been no issues associated with the structure which Mr. Idelson explained has been maintained and in good repair. The radio tower is used primarily as a hobby; Mr. Idelson has also been designated a civil defense radio operator and has worked with the local fire department in this regard.

No changes to the conditions were being requested other than a longer renewal period than two years.

Mr. Gossels explained that under the Board's current guidelines the permit would be eligible for a three-year renewal period.

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

After deliberation the following motion was placed and seconded:

MOTION: "To grant James S. & Sue E. Idelson, owners of property, renewal of Special Permit 02-2, granted under the provisions of Section 2632 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.

JAMES S. & SUE E. IDELSON

2. Childproof shielding, no less than 10 feet in height, shall be maintained at the base of the tower.
3. This permit is non-transferable and will expire in three (3) years on February 10, 2007, 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. This tower has been operation since 1998 with no complaints from the neighborhood. The Board finds this structure 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 as well as ongoing maintenance to insure compliance with the conditions of the permit. Further, under the current guidelines, the Board finds a three-year renewal period to be appropriate in this case.

Jonathan G. Gossels, Chairman

Jeffrey P. Klofft, Acting Clerk

Richard L. Burpee, Alternate

Melinda M. Berman, Alternate

Stephen A. Garanin, Alternate

WAYNE WILK
17 Lillian Avenue
04-8

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
TUESDAY, FEBRUARY 10, 2004

The Board consisted of:

Jonathan G. Gossels, Chair
Jeffrey P. Klofft, Acting Clerk

Richard L. Burpee, Alternate
Melinda M. Berman, Alternate
Stephen A. Garanin, Alternate

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Mr. Gossels, Chair, 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.

Wayne Wilk was present to represent a petition for special permit to demolish an existing residence on a nonconforming lot and construct a larger new residence. He explained that in April 2002 the Board granted him a special permit; however, he was under the impression that the permit was good for two years. Although Mass. General Laws provide for a two-year period, Sudbury's bylaws allow for one year.

Copies of the plan as-built plan presented for the original petition were distributed. Mr. Wilk explained that his current petition results in no changes to the setbacks as originally proposed; however, the house is longer in size.

Jon: last time considerable time spent on the fact that one side of the proposed house would be very close to the lot line; it was also on a slight angle and there was discussion about possibly straightening it out.

Mr. Wilk said he doesn't intend to use the old foundation and will straighten the orientation of the house somewhat. He said he is also the abutter on the side in question and wants that side to be as aesthetically pleasing as possible.

Mr. Klofft asked for the size of the existing house. Mr. Wilk said the field card lists it as 648 s.f.

Mr. Garanin asked whether the actual setbacks could be confirmed.

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17 Lillian Avenue
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Mr. Wilk said two abutters recently had their properties surveyed and he was able to work of their markers to establish setbacks for the proposed house. He said there are bounds in the area.

Mr. Klofft voiced concern that a 6-foot side setback could be maintained for a single story but would be difficult to maintain for a 2-story structure without having to place a ladder on the other property.

Mr. Gossels asked whether there was a reason why the foundation couldn't be centered.

Mr. Wilk said there are tall pine trees and vegetation on the other side which provide screening to that abutter. He referenced the previous approval which notes that "every effort will be made to preserve the existing vegetated screen along the southerly property line."

Discussion followed on a possible resolution. Mr. Wilk was agreeable to a deed covenant to allow access onto the 15 Lillian Avenue property, if necessary, to provide maintenance.

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

After deliberation the following motion was placed and seconded:

MOTION: "To grant Wayne Wilk, 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 3,392 s.f., on a nonconforming lot, which will exceed the area of the original nonconforming structure, and which will result in side yard setback deficiencies of 8 feet \pm and 14 feet \pm , property located at 17 Lillian Avenue, Residential Zone A-1, subject to the following:

1. The new construction will be 32X53 feet and will be constructed in accordance with the septic design plan approved by the Board of Health under their Permit Number 03-4792 dated July 22, 2003. The garage will be located within the footprint as shown on the plan. Access to the new residence will be from Richard Avenue.
2. The setbacks of the new construction to Lillian Avenue and to the side yard lines will not be less than the setbacks of the existing house.
3. Every effort will be made to preserve the existing vegetated screen along the southerly property line.
4. A deed covenant will be required allowing access for maintenance purposes to the owners of 17 Lillian Avenue onto the adjoining property at 15 Lillian Avenue."

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This Special Permit shall lapse if construction has not begun, except for good cause, within 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 petitioner requires a Special Permit due to the nonconforming nature of the property. The Board finds that the proposed reconstruction, which will exceed the area of the original nonconforming structure, will not be substantially more detrimental than the existing nonconforming structure to the neighborhood. The new construction will not be less than the nonconforming setbacks of the existing house. The Board further finds that the proposed construction will enhance the appearance of the neighborhood in which many house have been upgraded.

Jonathan G. Gossels, Chair

Jeffrey P. Klofft, Acting Clerk

Richard L. Burpee, Alternate

Melinda M. Berman, Alternate

Stephen A. Garanin, Alternate

CITIZENS BANK
450 Boston Post Road
04-9

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
TUESDAY, FEBRUARY 10, 2004

The Board consisted of:

Jonathan G. Gossels, Chairman
Jeffrey P. Klofft, Acting Clerk
Richard L. Burpee, Alternate
Melinda M. Berman, Alternate
Stephen A. Garanin, Alternate

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Mr. Gossels, Chair, 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.

Amy Stewart and Thomas Cox were present representing Citizens Bank in a petition for special permit to allow a freestanding, wall and directional sign at 450 Boston Post Road. Ms. Stewart said the essence of the business, which is a community bank, requires signs to identify the building. The freestanding sign is needed to assist motorists passing along Boston Post Road to identify the business as is the directional sign to guide motorists onto the property. The wall sign is necessary to identify the building to shoppers across the road in that shopping plaza.

Ms. Stewart described the signs as colonial in style with the freestanding sign being double-faced and externally lit. Color renderings of the proposed signs were distributed to the Board.

Mr. Gossels asked whether the petitioners were familiar with the previous sign hearings for this property (Comfed Bank). Ms. Stewart said she did research the files and understood that there was some contention. Subsequently, Ms. Stewart went before the Design Review Board (DRB) and had attached that Board's letter to this petition. That letter, dated December 4, 2004, 2003, approves the freestanding sign as a temporary replacement subject to redesign and final approval by the DRB and ZBA as directed by the Building Inspector, approval of a wall-mounted sign, and approval of a directional sign in conformance with the bylaw.

Mr. Gossels said in the previous decision it appeared that the petitioner could have either a wall sign or a freestanding sign, but not both. There was substantial discussion regarding visual clutter and possible issues of lines of sight, among others.

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In response to a question from Mr. Klofft, Ms. Stewart said both the freestanding and directional signs are proposed to be located 15 feet from the street. She pointed out that it would be in the same location as those for the previous tenant. She referred to the site plan submitted with the application which provides an overview of the property and traffic flow.

Mr. Gossels said the DRB letter speaks to a conforming directional sign which doesn't seem to be the case for this application.

Ms. Stewart said the existing directional sign does conform to the Bylaw; however, she felt the overall appearance of the proposed sign has a more modern, cleaner look. After speaking with a DRB member, it was Ms. Stewart's impression that the Board was concerned with what fit into the directional sign. She added that she was not as concerned with the directional sign as the other ones.

Mr. Gossels said a community bank is a destination bank which primarily serves the community, and people know where their bank is. He had difficulty accepting the need for a sign to catch people's attention.

Ms. Stewart said this bank is the result of a recent conversion and people still might not know that it is now Citizens Bank. In addition, visitors who are passing through town need to be able to locate the bank.

Mr. Gossels said the Board was not talking about taking away the sign; the petitioner was asking for an additional sign.

Thomas Cox said Citizens Bank took over Community National Bank which wasn't very successful. He felt the environment should also be taken into consideration. He said the location is at a very busy corner on Boston Post Road and Nobscot Road, which comes in from Framingham. Added to that are also flashing lights, traffic lights and light poles. He said the DRB agreed that the cumulative impact of the additional sign would not have that much visual impact because of the nature of the business. Because the bank was not in a shopping area, it was competing for visibility on that road.

Mr. Gossels said he did not see the DRB letter as approving both the freestanding and wall sign.

Mr. Cox said he did not get the impression from the DRB meeting that they were opposed to two signs.

Mr. Gossels understood the letter to mean that if this Board approved two signs, the DRB would review the design. Although he felt the DRB letter didn't provide a clear recommendation, he did not believe it approved both signs.

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Ms. Berman felt the petitioners' argument for installing two signs could also be an argument for not installing two. She said that area is already so visually cluttered, the last thing anyone needs is another sign. While she understood the point about changing names, she could even see the freestanding sign on a temporary basis until people are familiar with the name change.

Discussion followed on the meaning of "temporary" as noted in the DRB letter. Mr. Cox said "temporary" had to do with the existing monument sign and the temporary sign was a refacing of the sign because it was different in appearance. He felt the DRB didn't have a problem with both signs because of the cumulative impact of activity in the area, but that it wasn't up to them to grant both signs. As to the temporary nature, it was not so much temporary to see how it looked, but temporary until all the permits were received.

Mr. Gossels said the spirit of the Bylaw is not to grant freestanding signs except for multi-tenant business centers. There has been a long standing practice to avoid allowing every business on Boston Post Road to have both wall-mounted signs and freestanding signs.

Ms. Stewart felt a bank is different from other businesses and identification is very important.

Mr. Gossels asked which sign would be the most important if a choice had to be made.

Mr. Cox said he would definitely need a freestanding sign. He still felt that an additional wall sign would not impact the overall cumulative impact and would not be overwhelming given the streetscape.

Discussion followed on sign design comparing the Citizens Bank design to the failed Community National Bank design with the Board noting perhaps the former bank's design contributed to its demise. The Board generally felt that the proposed design and bank logo would aid in identification of the bank. With regard to the directional sign, the Board felt this was needed but within the size confines of the Bylaw.

Mr. Cox said the most important signs to the bank are the freestanding sign and wall sign. To the extent that the Bylaw allows a 2 s.f. directional sign, he is willing to conform to that size. He again reiterated his reasons for the need for both signs. He also felt that allowing two signs would not set a precedent.

Ms. Berman said that would be argued by every business along Boston Post Road.

Mr. Gossels said the petitioner's have heard the concerns of the Board. He noted that a proposal is being made for this year's Town Meeting to change the Sign Bylaw, which if passed, may change the Bylaw dramatically. One aspect would change the spirit of the Bylaw from

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prohibition of freestanding signs to one of encouragement. He suggested it might be better for the petitioner to have the ZBA grant the petitions it would be likely to grant and withdraw the one which it might not approve.

The Board agreed with Mr. Gossels suggestion. Mr. Klofft added that a withdrawal would not preclude the petitioners' from returning to the ZBA irrespective of the outcome at Town Meeting.

Ms. Stewart and Mr. Cox requested that the wall sign portion of their be withdrawn without prejudice.

The public hearing was then closed.

The following motions were placed and seconded:

MOTION #1:

“To accept a request from the petitioner to withdraw without prejudice the application for a 23.59 s.f. wall sign.”

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

MOTION #2:

“To grant Citizens Bank, applicant, a Special Permit under the provisions of Section 1290 of the Zoning Bylaws, to allow the following signs at 450 Boston Post Road, Business District #5:

1. A 10.27 s.f. freestanding sign in accordance with Design Review Board recommendations.
2. A directional sign in conformance with the Bylaw at 2 square feet and a maximum of 3 ½ feet high.

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

REASONS: The petitioners requested a special permit to install both a wall sign and a freestanding sign for a newly converted bank property. It is the finding of the Board that two primary signs would not be in keeping with the spirit of the Bylaw which seeks to preclude proliferation of signs and visual clutter along Boston Post Road and other business areas. The Board further notes that a special permit granted for the former tenant allowed for a freestanding sign on condition that the wall sign be removed. It is the opinion of the Board that the freestanding sign will allow identification of the bank to motorists traveling along Boston Post Road. Further, the directional sign, as approved, is appropriate to guide customers into the premises for bank business. Both the freestanding sign and directional sign are considered adequate to serve the needs of this business without overly impacting the existing visual environment along the streetscape.

Jonathan G. Gossels, Chair

Jeffrey P. Klofft, Acting Clerk

Richard L. Burpee, Alternate

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Stephen A. Garanin, Alternate

