

LINDA L. MATTSSEN  
598 Boston Post Road  
05-1

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
TUESDAY, MARCH 8, 2005

The Board consisted of:

Jonathan G. Gossels, Chairman  
Stephen M. Richmond, Clerk  
Richard D. Vetstein, Alternate  
Constantine Athanas, Alternate

Notice was published in the Sudbury Town Crier on December 23 and 30, 2004, posted, mailed and read at this hearing. The hearing was continued from January 11, 2005 to this date with no testimony having been heard on January 11.

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.

Linda Mattsen was present to represent a petition for renewal of Special Permit 01-33 to operate an antique shop at 598 Boston Post Road.

Mr. Gossels read the list of conditions applicable to this permit. Ms. Mattsen had no problems with any of them. She was requesting renewal under the same conditions. There have been no complaints from abutters.

Mr. Gossels explained that the renewal periods have change and that Ms. Mattsen would be eligible for a 5-year renewal.

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

The following motion was placed and seconded:

MOTION: "To grant Linda M. Mattsen, owner of property, renewal of Special Permit 01-33, granted under the provisions of Section 2340 of the Zoning Bylaws, to conduct a Home Business, specifically an antique shop, property located at 598 Boston Post Road, Residential Zone A, provided that:

1. Hours of operation shall be Wednesday through Sunday from 9AM-5PM.

2. The antique shop shall be conducted from the garage on the premises.
3. No exterior storage will be allowed.
4. A sign will be allowed in conformance with the Bylaw.
5. No flags or banners relating to the business shall be displayed on the premises.
6. All parking shall be off-street.
7. No more than one employee, other than family members, shall be employed in conjunction with this operation.
8. This permit is non-transferable and will expire in five (5) years on March 8, 2010, and the Board will consider renewal upon receipt of proper application on or before that date.”

VOTED: In favor: 4 (unanimous) Opposed: 0

REASONS: The petitioner seeks to renew a special permit to operate an antique shop. The business has been in operation for the past thirteen years with no traffic problems or complaints from abutters. The Board finds that the use is in harmony with the general intent of the Bylaws, is in an appropriate location and does not by its presence significantly alter the character of the zoning district. Adequate and appropriate facilities have been provided for proper operation. The Board notes that no abutters were present to oppose renewal. The Board finds a five-year renewal period to be appropriate for this case.

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Jonathan G. Gossels, Chairman

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Stephen M. Richmond, Clerk

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Richard D. Vetstein, Alternate

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Constantine Athanas, Alternate

PETER CHURCHILL  
4 Puffer Lane  
05-13

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
TUESDAY, MARCH 8, 2005

The Board consisted of:

Jonathan G. Gossels, Chairman  
Stephen M. Richmond, Clerk  
Elizabeth A. Taylor  
Richard D. Vetstein, Alternate  
Constantine Athanas, Alternate

Notice was published in the Sudbury Town Crier on February 17 and 24, 2005, 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.

Peter Churchill was present to represent a petition for renewal of Special Permit 03-9 to conduct massage therapy at his home at 4 Puffer Lane. He said this is the third renewal of his permit.

Mr. Gossels read the conditions of the previous permit asking whether Mr. Churchill had problems with any of them. Mr. Churchill did not. No changes were being requested. In response to further questions, he said there have been no issues with neighbors or the parking.

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

The following motion was placed and seconded:

MOTION: "To grant Peter S. Churchill, owner of property, renewal of Special Permit 03-9, granted under the provisions of Section 2340 of the Zoning Bylaws, to conduct a Home Business, specifically the practice of massage therapy, property located at 4 Puffer Lane, Residential Zone A-1, provided that:

1. Hours of operation will be Monday-Thursday, 9AM-5PM.
2. No more than six clients per day will be allowed.

PETER CHURCHILL  
4 Puffer Lane  
05-13 Page 2

3. No more than two residential employees will be allowed. Non-residents are not allowed.
4. No sign will be permitted.
5. All parking will be on the premises. No parking on the street is allowed.
6. This permit is non-transferable and will expire in three (3) years on March 8, 2008, 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 massage therapy as a home business. The Board finds the use to be in harmony with the general intent and purpose of the Bylaw. It is in an appropriate location, not detrimental to the neighborhood and does not by its presence significantly alter the character of the zoning district. Adequate and appropriate facilities have been provided for proper operation. The business has been in operation for five years with no problems or complaints from the neighbors; therefore, the Board finds a three-year renewal period to be appropriate.

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Jonathan Gossels, Chairman

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Stephen M. Richmond, Clerk

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Elizabeth A. Taylor

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Richard D. Vetstein, Alternate

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Constantine Athanas, Alternate

MARK & JODY KABLACK  
46 Poplar Street  
05-14

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APEALS  
TUESDAY, MARCH 8, 2005

The Board consisted of:

Jonathan G. Gossels, Chairman  
Stephen M. Richmond, Clerk  
Elizabeth A. Taylor

Richard D. Vetstein, Alternate  
Constantine Athanas

Notice was published in the Sudbury Town Crier on February 17 and 24, 2005, 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.

Mark Kablack was present to represent a petition for a Special Permit to alter and enlarge a nonconforming structure by constructing a 2-story, 1,325 s.f. addition which will result in a rear yard setback deficiency of 8 feet 7 inches.

Mr. Kablack explained that he is in the middle of a house addition. The lot is a corner lot with frontage on Poplar Street and Dutton Road. The house has an address of 46 Poplar Street. The oldest part of the house has been in existence for over 70 years and has always had an address of 46 Poplar Street and has taken its legal frontage from that street. It is sited approximately 13 feet off Poplar Street.

Because of the closeness of the house to the street, when the addition was planned, it was decided to define the front yard from Dutton Road for purposes of setback. This would place the proposed addition within the required setbacks. The Building Inspector made the determination that the nonconformity would not be increased as a result of using Dutton Road for setback purposes.

However, Mr. Kablack said what he didn't know was that the application for a building permit automatically triggered an application for address change. Immediately, a mechanism was put into place which started mail delivery to 446 Dutton Road.

Mr. Kablack would prefer to keep 46 Poplar Street as his address as it has been for the past 15 years he has lived there and for the 70+ years the house has been in existence. This

MARK & JODY KABLACK  
46 Poplar Street  
05-14 Page 2

would require going back to using Poplar Street as the required legal frontage. As a result what was planned as a side yard actually becomes the rear yard necessitating this request for Special Permit.

The rear yard setback requirement is 30 feet and the side yard is 20 feet. The addition complies with the side yard requirement but not the rear yard.

Mr. Kablack presented pictures of the property which show the construction. The closest neighbor to this construction is on Dutton Road and this house is 20 feet from the side property line and Mr. Kablack's addition is 20-21 feet from the property line with a stockade fence separating the two properties.

Mr. Gossels said he agreed with the Building Inspector in that the construction is not increasing the nonconformity. Rather, he felt this to be more of a technical request to avoid the inconvenience of an unwanted address change. The other members were also in agreement.

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

The following motion was placed and seconded:

MOTION: "To grant Mark & Jody Kablack, owners of property, a Special Permit under the provisions of Section 2420 of the Zoning Bylaws, to alter and enlarge a nonconforming structure by constructing a 1,325 s.f. 2-story addition, which will result in a rear yard setback deficiency of 8 feet 7 inches ±, property located at 46 Poplar Street, Residential Zone A-1."

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 construction, which will result in a rear yard setback deficiency, will not be substantially more detrimental to the neighborhood than the existing nonconforming structure. The Board agrees with the Building Inspector that the construction is not increasing the nonconformity and is more of a technical change which will allow the petitioner to retain his current address.

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Jonathan G. Gossels, Chairman

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Stephen M. Richmond

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Elizabeth A. Taylor

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Richard D. Vetstein, Alternate

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Constantine Athanas

KNIGHT & LAVELANET  
35 Robbins Road  
05-15

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
TUESDAY, MARCH 8, 2005

The Board consisted of:

Jonathan A. Gossels, Chairman

Stephen M. Richmond, Clerk  
Elizabeth A. Taylor  
Jeffrey P. Klofft  
Constantine Athanas

Notice was published in the Sudbury Town Crier on February 17 and 24, 2005, 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.

Kelly Knight was present to represent a petition for Special Permit to alter and enlarge a nonconforming structure by constructing a garage and farmers porch which will result in a side yard deficiency of 3 feet and a front yard deficiency of 11 feet for the garage and a front yard deficiency of 11 feet for the farmer's porch.

Ms. Knight explained that the lot is comprised of 10,000 s.f. with an existing 1952 cape-style house. It is proposed to build an addition in the area of the one-car garage and storage area. There will be a 2-car garage in front, a family room in the back with two bedrooms above the garage.

The Board was in receipt of the elevation plans which were submitted with the application. Mr. Gossels said this really is a very small lot. While he liked the design which he felt was in scale with the house, even at the scale proposed, he felt it was a lot of house on a tiny lot. He asked what drove the proposed dimensions. His concern was with the size of the garage, the fact that the house is already very close to the street and the front yard deficiency is being increased.

Ms. Knight said the deficiency needs to be increased in order to be able to construct the 2-car garage and to have good access to the family room in back. Initially, she wanted to keep the garage at the same front line of the house; however, because of the location of the septic tank, the family room could not be placed further back.

KNIGHT & LAVELANET  
35 Robbins Road  
05-15 Page 2

Discussion followed on the elevation plans. Mr. Richmond said he liked the idea of the farmer's porch which he felt offset and softened the garage addition.

Ms. Taylor said she understood the hardship of not be able to have a good access to the family room. From the plans it appeared that the proposed design would accomplish this whereas moving it further back would take up most of the access.

Mr. Vetstein had no problem with the plans. He felt the size was in scale with the existing house.

Arthur Doty, 24 Robbins Road, abutter, asked whether the dimensions of the proposed addition would exceed the existing house. Mr. Gossels said they would.

Mr. Doty asked whether the dimensions being proposed this evening were subject to change. Mr. Gossels said the Special Permit, if approved, would include specific dimensions.

There were no further questions from the Board. No other abutters were present to speak to this petition. The hearing was closed.

The following motion was placed and seconded:

MOTION: "To grant Kelly Knight & Alain Lavelanet, owners of property, a Special Permit under the provisions of Section 2420 of the Zoning Bylaws, to alter and enlarge a nonconforming structure by constructing a 24 ½ X 22 foot garage and a 4 X 16 ½ foot farmers porch, which will result in a side yard setback deficiency of 3 feet ± (garage), and a front yard setback deficiency of 11 feet ±, (garage & porch), property located at 35 Robbins 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: (4) Richmond, Taylor, Vetstein, Athanas Abstain: (1) Gossels

REASONS: The petitioner requires a special permit due to the nonconforming nature of the property. A majority of the Board found that the proposed construction, which will result in side yard and front yard setback deficiencies, will not be substantially more detrimental to the neighborhood than the existing nonconforming structure. Although the lot is small in size, it was felt that the proposed addition was appropriate in terms of scale to the existing house. It will allow for proper flow through the interior and result in an addition of a usable size for the owners.

KNIGHT & LAVELANET  
35 Robbins Road  
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Jonathan G. Gossels, Chairman

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Stephen M. Richmond, Clerk

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Elizabeth A. Taylor

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Richard D. Vetstein, Alternate

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Constantine Athanas, Alternate

THOMAS R. & THERESA M. KNEELAND  
16 Curry Lane  
05-16

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
TUESDAY, MARCH 8, 2005

The Board consisted of:

Jonathan G. Gossels, Chairman  
Stephen M. Richmond, Clerk  
Elizabeth A. Taylor  
Richard D. Vetstein, Alternate  
Constantine Athanas, Alternate

Notice was published in the Sudbury Town Crier on February 17 and 24, 2005, 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.

Thomas & Theresa Kneeland were present to represent a petition for a Special Permit to allow demolition of an existing residence and constructing of a larger residence on a nonconforming lot. Mr. Kneeland explained that he purchased the house at 16 Curry Lane, which is behind their house at 29 Longfellow Road. The house was sold as a tear down. It is a 1,400 s.f. ranch on a slab and is in disrepair.

It is proposed to construct a 3,000 s.f., 2-story house with a garage on the side. Although the living space will be doubled, the overall footprint will increase by 10%. The house will conform to all setback requirements. It also has Title 5 septic system design approval.

Ms. Kneeland said this is the third house on the street that has undergone reconstruction.

Mr. Gossels noted that new house will correct the odd angle at which the old house is sited. He felt the scale was consistent with the new houses in the neighborhood. He said the old house is 50 feet from the front property line; 50 feet for a 2-story house will have a different impact. He asked why the proposed setbacks were chosen.

Mr. Kneeland said there was no reason for the location.

Mr. Gossels felt that neighborhood was a prime location for reconstructions. He felt if it was going to be redeveloped it should be done using setbacks appropriate to the height. His preference would be 60-65 feet back.

THOMAS & THERESA KNEELAND  
16 Curry Lane  
05-16 Page 2

Ms. Taylor asked if there were any septic system constraints.

Mr. Kneeland said the septic system will be located in the front. If he moved back 15 feet, the driveway would be longer and perhaps a couple more trees would have to be removed.

Mr. Richmond asked what the cost of demolition would be. Mr. Kneeland estimated it between \$7,500-\$10,000.

Mr. Gossels reviewed the Construction After Demolition Guidelines. The Kneelands had no problems with the guidelines. He was also agreeable to moving the house back 15 additional feet.

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

The following motion was placed and seconded:

MOTION: "To grant Thomas R. & Theresa M. Kneeland, 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 3,000 s.f., which will exceed the area of the original nonconforming structure, said residence to conform to all zoning setback requirements, property located at 16 Curry Lane, Residential Zone A-1, subject to the following:

1. The front yard setback of the new residence shall be not less than 65.5 feet  $\pm$  from the front property line.
2. 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.
3. Construction must be completed no later than one (1) year after commencement."

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 proposed 2-story colonial, which will replace a 1950s ranch-style house is appropriate in terms of scale and design and is similar to other reconstructions in the neighborhood. Further, the petitioners have agreed to move the house further back on the lot to allow for a more pleasing streetscape which will not be intrusive to the neighborhood. No abutters were present to oppose this petition.

THOMAS & THERESA KNEELAND  
16 Curry Lane  
05-16 Page 3

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Jonathan G. Gossels, Chairman

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Stephen M. Richmond, Clerk

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Elizabeth A. Taylor

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Richard D. Vetstein, Alternate

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Constantine Athanas

NEIL HARVEY/BUSINESS MGMT SVCS INC.  
38 Longfellow Road  
05-17

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
TUESDAY, MARCH 8, 2005

The Board consisted of:

Jonathan G. Gossels, Chairman  
Stephen M. Richmond, Clerk  
Elizabeth A. Taylor  
Richard D. Vetstein, Alternate  
Constantine Athanas, Alternate

Notice was published in the Sudbury Town Crier on February 17 and 24, 2005, 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.

Attorney Joshua Fox, was present representing the project principals, Neil Harvey and Scot Faber, also present, in a petition for Special Permit to allow demolition of an existing residence and construction of a larger residence on a nonconforming lot.

Mr. Fox explained that the proposed new residence will have no greater than 3,300 s.f. of living area. The lot is nonconforming in size and frontage. The lot is relatively flat and there will be no grading changes. The setbacks will be 52 from the front, 21 feet and 48 feet on the sides, and in excess of 100 feet in the rear. It is felt that with these setbacks, the 2-story home will be in scale with the lot.

Mr. Fox said Mr. Faber spoken with most, if not all, of the neighbors and has reviewed the application with those neighbors. He submitted, for the record, a letter of support signed by nine neighbors.

Mr. Gossels felt the proposed house is appropriate in scale. However, since it will be going from a single to a 2-story, he asked whether there was any ability to move it back slightly.

Mr. Fox said there would have been no problem; however, there is a pond in the rear of the lot. The applicant has been before the Conservation Commission as it is just outside the buffer zone. Any movement further back would require a filing of Notice of Intent with the Conservation Commission.

NEIL HARVEY/BUSINESS MGMT SVCS INC.  
38 Longfellow Road  
05-17 Page 2

Given that the lot is narrow, Mr. Gossels noted that one side is just over the minimum side yard setback. He asked whether it would be possible to move it further over to give that neighbor more relief.

Mr. Harvey said moving it over would present a problem. He said there is an existing septic system in place which will be reused and there is a specific separation required for the trenches to the house. A sketch of the sewage disposal design for this property was submitted for the record.

It was also pointed out by Mr. Faber that the north face of the house, which has the smaller side yard setback of 21 feet, is one-story and will have less of an impact on that neighbor.

Mr. Gossels asked the applicants to speak to the height which shows as 34.3 feet which is very close to the limit of 35 feet.

Mr. Harvey said the house was designed in an attempt to minimize the impact and graded it up to provide a scale to ground the house. However, from an aesthetic point of view he didn't want a smaller pitch roof which would lose the character of the house. He factored in a 2-foot 4-inch foundation which could be brought down, but it was felt that proper construction benefits from being a bit higher. There are also water table concerns so it is preferable to have the house somewhat elevated.

Mr. Gossels expressed with regard to the close proximity to the street. Ms. Taylor asked whether there was any room at all to go further back.

Mr. Harvey said Conservation Commission restraints prevent moving it back further. He added that one of the things that appealed to the neighbors was that they (Harvey & Faber) were trying to keep the house in scale. He said less than half of the façade has the higher roof. It is done at no benefit except for aesthetics and some minor function; i.e., snow. He said he did everything he could do to not create a grand façade.

Mr. Gossels said he had not been aware of the complications with the lot. He said were those complications not to be there, he would be more insistent on relocating the house.

Mr. Vetstein asked about the wetlands. Mr. Harvey said he met with the Conservation Coordinator Debbie Dineen who was pleased that the construction would be outside of the buffer for the pond which is located just outside the southeast corner of the lot. He pointed that area out on the plot plan noting that although they are within 100 feet of the pond, the property is grandfathered. Since there would be no construction beyond the current area, the Conservation Commission would issue a negative determination. Any construction further back would require a filing of a Notice of Intent.

NEIL HARVEY/BUSINESS MGMT SVCS INC.  
38 Longfellow Road  
05-17 Page 3

Mr. Gossels read from the Demolition After Construction Guidelines asking whether the applicants had any problems with the two conditions which are generally imposed. They did not.

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

The following motion was placed and seconded:

MOTION: "To grant Neil R. Harvey, applicant, Business Mgmt Svcs Inc., 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 3,300 s.f., which will exceed the area of the original nonconforming structure, said residence to conform to all zoning setback requirements, property located at 38 Longfellow Road, Residential Zone A-1, subject to the following:

1. 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.
2. Construction must be completed no later than one year after commencement.”

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 Board finds the proposed structure will be appropriate in scale and design and was sited so that the one-story portion will have less of an impact on that neighbor where the side setback is almost to the minimum allowed. Although the Board would have preferred the house to be sited further back, it recognizes the constraints with regard to the buffer required for the pond area located on the corner of the lot as well as the septic system constraints which preclude a greater side yard setback distance.

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Jonathan G. Gossels, Chairman

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Stephen M. Richmond, Clerk

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Elizabeth A. Taylor

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Richard D. Vetstein, Alternate

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Constantine Athanas