

SUSAN LITOWITZ
199 Concord Road
05-21

MINUTES OF THE PUBLIC HEARING CONTINUATION
SUDBURY BOARD OF APPEALS
TUESDAY, MAY 31, 2005

The Board consisted of:

Jonathan G. Gossels, Chairman
Stephen M. Richmond, Clerk
Elizabeth A. Taylor
Jeffrey P. Klofft
Constantine Athanas, Alternate

The public hearing was reconvened by the Chairman, Mr. Gossels. The initial public hearing of April 28, 2005 was continued in order for the petitioners to supply plans on how rainwater from the proposed project would be handled on the property.

Susan Litowitz & Jon Hill were present and submitted a plan prepared by Rainwater Recovery Systems, LLC, Waltham, MA, titled "Provisional Layout Plan – Rainwater Harvesting System – 199 Concord Road, Sudbury, MA" dated May 28, 2005, consisting of 3 sheets.

Mr. Hill said the plan proposes adding a rainwater recovery system which collects water from downspouts storing it in an underground tank which is approximately 6,000 gallons and can hold almost three months worth of water. Spillover will go to a dry well. This system will be for the new addition and part of the kitchen area. Also submitted were calculations for estimated rainwater amounts which could be collected from the roof. These were elaborated on by the applicant.

Elizabeth Mecler, abutter, asked where the tank would be located. Mr. Hill pointed out the area on the plan which will be in front of the garden area. He then pointed out the location of the dry well to be used for spillover.

Mr. Gossels asked whether there would be a swale. He wanted to be sure that the changing of the slope would not allow surface runoff, either from frozen gutters or other means, to encroach on the neighbors.

Mr. Hill said he would be creating less of a slope because he will be putting in a tree line which will be bermed up slightly. There will be landscaping in that area as shown on the plan submitted with the application.

Further discussion centered on whether a berm, or a swale was necessary.

Mr. Richmond said the construction of this addition is going to displace ground which was going to displace water. He said the Board asked for engineering calculations to show how much water would be produced on the roof and how it would be diverted. He asked whether the plan and calculations resolved the concerns of the abutters.

Mr. Oram said he did not have a worry. Ms. Mecler was satisfied with the plan.

Mr. Gossels suggested that a request be made that during construction the Building Inspector measure that the addition is located according to the plans.

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

The following motion was placed and seconded:

MOTION: "To grant Susan Litowitz, owner 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 17X35 foot (815 s.f.) addition, which will result in a 7 foot \pm side yard setback deficiency, property located at 199 Concord Road, Residential Zone A-1, subject to the following:

1. The roof area of the addition is limited to the addition as shown on the plan submitted with the application, marked as Exhibit #1, which is incorporated and made a part of this Decision.
2. The roof drainage capture system will be installed as shown on plan dated May 28, 2005, titled "Provisional Layout Plan – Rainwater Harvesting System", prepared by Rainwater Recovery Systems, LLC, Waltham, MA, Sheets 1-3. Water will be discharged to a tank no smaller than 6,000 gallons with spillover to a dry well located lower on the property than the storage tank.
3. Plantings will be located as shown on the Planting Plan submitted with the application prepared by Dana Schock dated February 2, 2005, marked as Exhibit #2 which is incorporated and made a part of this Decision."

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 petitioners require a Special Permit due to the nonconforming nature of the property. The Board finds that the proposed construction, which will result in a side yard setback deficiency, will not be substantially more detrimental to the neighborhood than the

existing nonconforming structure. The proposed construction is appropriate in scale and the setback deficiency will not cause a visual impact to the neighbors. The Board did express concerns with regard to potential impact in terms of water runoff from the proposed construction. As a result, the petitioners submitted an engineered rainwater recovery system plan to address the runoff alleviating the concerns expressed by the Board and two abutting neighbors. In addition, the planting plan which is made a condition of the decision will act as a barrier to any potential runoff.

Jonathan G. Gossels, Chairman

Stephen M. Richmond, Clerk

Elizabeth A. Taylor

Jeffrey P. Klofft

Constantine Athanas, Alternate

LEONARD NOCE
36 Village Road
05-26

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
TUESDAY, MAY 31, 2005

The Board consisted of:

Jonathan G. Gossels, Chairman
Stephen M. Richmond, Clerk
Elizabeth A. Taylor
Jeffrey P. Klofft
Constantine Athanas, Alternate

Notice was published in the Sudbury Town Crier on May 12 and 19, 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.

Leonard Noce was present to represent a petition for Special Permit to allow demolition of an existing residence and construction of a new residence which will exceed the area of the original nonconforming structure at 36 Village Road.

Mr. Noce explained that he originally had planned to add a second floor to the existing first floor, but the foundation didn't have the integrity to support a second floor. As a result he plans to construct the house on the same footprint holding to the same setbacks which are within current zoning requirements.

Mr. Gossels said the house to the right has had a large addition and that house is set further back from the street. He said generally when the Board receives applications where a single story house is being replaced with a 2 ½ story house, they prefer to see it pushed further back from the road than the initial small house. He asked whether Mr. Noce had considered this.

Mr. Noce said this house has a new septic system; he pointed out the location of the tank and leaching field. To move the house further back would probably require the tank to be relocated.

Understanding this, Mr. Gossels felt relocating the tank is not the same as redoing the whole field. His feeling was that the end result will be a house which is much taller and which will be there for a long time. For the price of relocating the tank he wouldn't want to have the house in the wrong place forever.

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In response to a question from Mr. Klofft as to how close the structure could be to the closest point of the field, Mr. Noce said the requirement is 10 feet to the tank and 25 feet to the field.

Mr. Gossels said if the house could be moved back 2 feet and the house squared to be parallel to the edge of the road, there would be a gain of 2 feet plus the rotation.

Mr. Richmond was not sure he would want to cause the inconvenience of moving the tank to gain just 2 feet.

Mr. Noce said the new house will have a drive-under garage and walkout basement. He described the contours of the land noting his preference was to have built a second story onto the first floor if the structural integrity had been there.

While understanding this, Mr. Gossels said the result will be a much taller house close to the road. He said in dealing with teardowns the Board has tried to address the impact on the neighborhoods in an attempt to minimize the looming impact caused by new 2-story houses with an added roof height, which he felt changes the character of the neighborhood.

Mr. Klofft said there are two large mature oak trees shown on the plan. He asked if Mr. Noce was planning to keep them.

Mr. Noce said they were close to the proposed house.

Ms. Taylor asked the distance of the new house to the street.

Mr. Noce said it was 45 feet.

Mr. Gossels asked if Mr. Noce could rotate the new house pulling back the furthest point so it is more parallel to the street.

Mr. Noce was not sure this could be done.

Working from the Septage Disposal Plan submitted with the application, several scenarios were discussed, taking into account the design of the house, the location of the septic system and the contours of the land.

There was general agreement between the Board and Mr. Noce that the house could be pivoted to be more parallel to the street and moved back as close as practical to the 25 foot requirement from the leaching field. Mr. Noce felt the walkout basement and under-garage could still work. He said he would prefer not to have to move the septic tank; however, with a walkout basement he could be as close as 5 feet from the tank.

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Mr. Gossels felt this would achieve, as much as possible, the Board's desire for these reconstructions to be located further back on the property. He added that he found the architectural plans to be appropriate in terms of style and scale – his only intent was to prevent a looming impact on the neighborhood.

There were no further questions from the Board. No abutters were present.

Mr. Noce noted the hearing notice was advertised as a not to exceed 2,512 s.f. He asked if that could be increased by 300 s.f. to allow for the ability to finish the basement area.

Mr. Gossels said Town Counsel had ruled on a previous case that since the footprint was not changing, the change in square footage is not material. The Board was in agreement to allow for the ability to add that additional living space.

The hearing was closed:

The following motion was placed and seconded:

MOTION: “To grant Leonard Noce, 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 with the living space above ground level not to exceed 2,512 s.f., which will exceed the area of the original nonconforming structure, said residence to be placed as close to 25 feet to the leach field and squared so as to be as parallel to the street as is practical, property located at 36 Village Road, Residential Zone A-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.

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

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

REASONS: The petitioner requires a Special Permit because of the nonconforming nature of the property. The Board finds that the proposed construction, which will result in a side yard setback deficiency, will not be substantially more detrimental to the neighborhood than the existing nonconforming structure. The proposed new house will be appropriate in scale and design. Further, aware of the Board’s concern that replacement of single story houses with 2-story houses tends to cause a looming effect along the streetscape, the petitioner has agreed to move the house further back and rotate it so that it is more parallel to the street. The Board finds that this realignment will result in a more aesthetic streetscape which will not be detrimental and will enhance the neighborhood.

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Jonathan G. Gossels, Chairman

Stephen M. Richmond, Clerk

Elizabeth A. Taylor

Jeffrey P. Klofft

Constantine Athanas, Alternate

SEAN & KARI WHITE
27 Spring Street
05-27

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
TUESDAY, MAY 31, 2005

The Board consisted of:

Jonathan G. Gossels, Chairman
Stephen M. Richmond, Clerk
Elizabeth A. Taylor
Jeffrey P. Klofft
Constantine Athanas, Alternate

Notice was published in the Sudbury Town Crier on May 12 and 19, 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.

Sean and Kari White 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 is larger than the original nonconforming structure at 27 Spring Street.

Mr. White explained that the new house will make the lot more conforming because the existing house encroaches on a side setback and the new house would be centered on the lot and would conform to the current setback requirements.

Mr. Gossels said this neighborhood is relatively homogeneous with houses that are approximately the same size. He said this will be a very large house on this particular lot and will be relatively close to the road. He reiterated the Board's concerns expressed for the previous petition that when a single story house is being replaced with a 2 ½ story house, the preference is to see it pushed further back from the road than the initial small house because of the potential for the larger house to loom over the road ultimately affecting the character of the neighborhood.

Mr. White said he took some pictures of the neighborhood and there are houses similar to what he was proposing. He said the neighborhood has many different styles of houses.

Mr. Gossels asked whether the petitioners considered the house immediately to the left which is a relatively large cape but, because of the way the roof line is, it has the effect of not looming over the street.

SEAN & KARI WHITE
27 Spring Street
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Mr. White said the problem is that the square footage inside reduces the floor area. He said they are looking for a 3-bedroom house.

Mr. Gossels pointed out that the lot is relatively deep. He asked whether the house could be located further back.

Mr. White said there were some grading issues and the septic system is located in the rear. In addition, the new house doesn't show the bulkhead at the back of the house.

Mr. Gossels asked why, at a minimum, the new house couldn't back up to where the existing house is now.

Mr. White said he would then have the issue of the bulkhead backing up too close to the septic tank.

Mr. Gossels felt the bulkhead could be placed in another area since the house hasn't been built yet. He asked why the bulkhead had to go in that particular location.

Mr. White pointed out the kitchen area where there are sliding glass doors and the bulkhead would interfere with those doors. In response to whether the bulkhead could be placed at the side, he said he would then be encroaching on that setback.

Mr. Klofft wasn't sure the bulkhead counted with regard to setback since it's an add-on. He said if the bulkhead wasn't there, theoretically there would be a set of concrete steps going down to a door that would be within the foundation.

Mr. White said he would be agreeable to moving it if that were the case.

Mr. Gossels said at a minimum he would not want to see the new house closer than the existing one. He said the Whites are going from a low house to a tall house.

Mr. Athanas added that the only improvement is a slight shift on the left hand side setback; otherwise the house is closer to the street, and it is higher.

Further discussion followed on the location of the new house and whether relocating the septic tank would be a feasible option. Mr. White had concerns regarding the grading of the yard which would have to be lowered.

The consensus of the Board was that the new house would be an improvement over the existing house, but the location was closer and not an improvement. Mr. Klofft agreed. Ms. Taylor also agreed, especially with the style of the garage being in front of the house. She said there is really not enough space to put it to the side and get a driveway in also. She could

SEAN & KARI WHITE

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understand the placement of the garage in front but would like to see it put back as far as possible.

Mr. Klofft asked whether the garage would be parallel to the front of the house.

Mr. White said it protrudes out to the front.

Mr. Klofft asked whether from a design point that whole portion of the garage could be shifted back.

Mr. White said it would be easier to pull the house back. To change the garage would change the floor plan of the house. He said the kitchen lines up with the family room. If he could bring the house back and deal with the bulkhead and septic system, he felt it might be possible to do.

Further discussion followed on how far the house should be set back from the street.

Mr. Richmond said the setback set by the Building Department is 40 feet; he asked why the Board would push for a 60-foot setback.

Mr. Gossels said this is a very narrow nonconforming lot. Mr. Klofft added that even given the narrowness of the lot, to build a number of houses on a series of narrow lots with those houses at the minimum frontage limit is unacceptable.

Mr. Richmond said he understood the Board's concerns but would recommend pushing the house back 10-12 feet so that instead of being 40 feet from the front, it would be 50-52 feet.

Mr. Gossels said he would be comfortable with Mr. Richmond's recommendation.

Because of the location of the septic tank, the Board felt a specific figure could not be used. Mr. Richmond suggested approval with a condition that the house be moved back so that the rear of the house is within 10 feet of the septic system.

Mr. White said this still leaves the bulkhead; he did not know the requirements.

Mr. Gossels said many houses are being built which don't have bulkheads. They have stairs that go up to the garage. He said there are other alternatives.

The standard Demolition Guidelines conditions were then reviewed with the petitioners who had no problems with any of them.

SEAN & KARI WHITE
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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 Sean & Kari White, 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 2,460 s.f., which will exceed the area of the original nonconforming structure, said residence to conform to all zoning setback requirements, property located at 27 Spring Street, Residential Zone A-1, subject to the following:

1. The new house shall be constructed in accordance with the Certified Plot Plan dated March 30, 2005, prepared by Acton Survey & Engineering, Inc., Acton, MA, except that the proposed house as shown on the plan will be moved back to within approximately 10 feet of the septic tank.
2. 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.
3. 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 because of the nonconforming nature of the property. The Board finds that the proposed construction, will not be substantially more detrimental to the neighborhood than the existing nonconforming structure. The petitioners are agreeable to moving the new house further back to avoid a looming effect as a result of the larger, taller structure. The new house is similar in style to some of the other homes in the neighborhood. It will be a visual improvement over the existing house and an enhancement to the neighborhood. The Board notes that no abutters were present to oppose this petition.

Jonathan G. Gossels, Chairman

Stephen M. Richmond, Clerk

Elizabeth A. Taylor

Jeffrey P. Klofft

Constantine Athanas

