

MINUTES OF THE PUBLIC HEARING CONTINUATION
SUDBURY BOARD OF APPEALS
TUESDAY, APRIL 11, 2006

The Board consisted of:

Stephen M. Richmond, Chairman
Jeffrey P. Klofft, Clerk
Jonathan G. Gossels
Constantine Athanas
Richard L. Burpee, Alternate

The public hearing was reconvened by the Chairman, Mr. Richmond.

Attorney Lisa Mead submitted a letter dated April 10, 2006 containing supplemental information with regard to her additional research in an attempt to find guidance from another jurisdiction to aid in this case. Ms. Mead said she looked at cases in Maine, New Hampshire, Rhode Island and Connecticut and found there was nothing on point. She elaborated on her findings which are detailed in the letter.

Ms. Mead stated she couldn't find any authority directly on point but would point out that although a portion of the property was slivered off, the lot still retained the dimensional requirements under the provisions of the nonconforming lot statute of 1955 that was applicable to the lot.

Mr. Richmond expressed the Board's appreciation for Ms. Mead's additional research. There were no further comments from the Board. The hearing was closed.

The following motion was placed and seconded:

MOTION: "To overturn a decision of the Building Inspector that property shown on Town Map H-09 as Lot 026 Goodmans Hill Road is not a legal non-conforming lot."

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

REASONS: The Board held three public hearing sessions on this appeal and found that the applicant failed to establish that a lot remained a buildable lot where it was previously a pre-existing non-conforming lot but had subsequently been materially altered to decrease the area of the lot. In evaluating this application, the Board found no controlling precedent that would call for the overturning of the decision of the Building Inspector, and in balance determined that the alteration of the lot after it became a pre-existing non-conforming lot eliminated the protection for such lots provided by the Zoning Act and the Sudbury Zoning Bylaw.

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At the request of Lisa Mead, attorney for the applicant, a motion was made, seconded and unanimously voted to allow the applicant to withdraw this petition without prejudice.

(Variance to allow a buildable lot having insufficient area and frontage)

Stephen M. Richmond, Chairman

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NORMAN FREEMAN
10 Dudley Road
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The hearing was reconvened by the Chairman, Mr. Richmond. The previous hearing was continued in order for the applicant to provide a sketch of the house design depicting the exterior layout which would include the proposed hairdressing studio.

Mr. Freeman submitted a sketch of the proposed design. The garage doors will be removed and replaced with windows and an entrance door. The Board was satisfied with the design. There were no further comments and the hearing was closed.

The following motion was placed and seconded:

MOTION: "To grant Norman Freeman, owner of property, a Special Permit under the provisions of Section 2340 of the Zoning Bylaws, to conduct a Home Business, specifically a hairdressing studio, property located at 10 Dudley Road, Residential Zone A-1, subject to the following:

1. Hours of operation will be Monday-Friday, 8AM-6PM, with two days allowed for extended hours to 9PM, Saturday, 10AM-5PM, and occasional hours only on Sunday.

2. All parking will be located in the driveway on the property. No on-street parking will be allowed.
3. No more than two client vehicles will be parked on the premises at any one time.
4. No more than one employee, other than the residents of the premises will be allowed.
5. Any sign identifying the operation must comply with Section 3200 of the Sign Bylaw.
6. No more than forty (40) clients per week, associated with this business, will be allowed.
7. All waste materials from this business will drain into a tight tank which is separate from the home septic system. The tank will be emptied when full, and in any event least every two years.
8. This permit is non-transferable and will expire in one (1) year on April 11, 2007, 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 a special permit to operate a hairdressing studio on the premises. The Board finds that the proposed operation will satisfy the requirements for a Special Permit Home Business. It will be in an appropriate location and will not exhibit any exterior indication of its presence. The residential appearance of the dwelling will be retained so as not to be detrimental to the neighborhood or alter the character of the zoning district.

The petitioner has demonstrated that adequate and appropriate facilities will be provided for the proper operation of the proposed use. Specifically, there is adequate off-street parking and a tight tank, separate from the primary septic system, will be used for storage of waste materials prior to disposal in accordance with applicable regulations.

The Board expressed some concerns about the potential intensity of the proposed use, but felt that the absence of abutter concerns, the location of the lot, and the limited duration of the special permit allowed for a finding that with the conditions imposed regarding hours of operation, parking, waste disposal and number of clients, this business will not be detrimental or offensive to the neighborhood. Further, a one-year term will allow for evaluation in order to insure compatibility with the neighborhood.

Stephen M. Richmond, Chairman

Jeffrey P. Klofft, Clerk

Jonathan G. Gossels

Constantine Athanas

