

MINUTES  
SUDBURY BOARD OF APPEALS  
WEDNESDAY, OCTOBER 11, 2006

The Board consisted of:

Stephen M. Richmond, Chairman  
Jeffrey P. Klofft, Clerk  
Jonathan G. Gossels  
Elizabeth A. Taylor  
Constantine Athanas  
Richard D. Vetstein, Associate  
Jonas D.L. McCray, Associate

Request for Variance Extension – Frugal Flower – 736 Boston Post Road

Craig Wambolt was present to request a 6-month extension of the variances which were granted by the Board on October 18, 2005 and filed with the Town Clerk on November 1, 2005. (Case Numbers 05-42,43,44,45,46). He explained that he has all his approvals in place, has posted a bond, and is prepared to break ground shortly.

The reason for the request is because of Mr. Wambolt's concern that although the timeline would indicate that construction would begin prior to the one-year expiration, events not under his control could occur to prevent construction from commencing. Hence, the request for a 6-month extension.

Following a brief discussion, it was on motion unanimously voted to grant a six-month extension of the variances granted under Case Numbers 05-42,43,44,45,46 to May 1, 2007. (Voting: Richmond, Klofft, Gossels, Taylor, Athanas)

Continue Public Hearing – Daniel & Sharon Dillon – 1011 Concord Road – Case 06-39

The Board was in receipt of a request to continue this case to the next available meeting date. It was on motion unanimously voted to continue the public hearing to December 12, 2006. (Voting: Richmond, Klofft, Gossels, Athanas, Vetstein, McCray)

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Stephen M. Richmond, Chairman

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MINUTES OF THE PUBLIC HEARING CONTINUATION  
SUDBURY BOARD OF APPEALS  
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The public hearing was reconvened by the Chairman, Mr. Richmond.

The Board was in receipt of revised house and plot plans. Kenneth Chung explained that as a result of the Board's recommendation at the August 22<sup>nd</sup> hearing he has increased the front yard setback from 40 feet to 60 feet, the footprint of the house footprint has been reduced from 83X60 feet to 70X55 feet, square footage of the proposed house has been reduced from 4,200 s.f. to 3,850 s.f., and the existing 2-car garage will be demolished.

Mr. Klofft noted that at the last hearing there was discussion of the disposition of the garage/shed building. He asked if the entire structure is proposed to be taken down.

Mr. Chung said the garage will be removed but the shed will remain.

Mr. Klofft asked how large the shed was. Ms. Cho said the shed is 26X32 feet.

Mr. Richmond said at the last hearing the Board had received pictures of the shed which were submitted by some neighbors. He said it looks like a very tall structure. Ms. Cho said the shed has a walk-up attic and the roof has a tall pitch.

The Board reviewed the revised house plans. Mr. Gossels said he was much more comfortable with the relocation of the house although he felt the size of the house was understated. He was not comfortable with the intent to keep the shed.

Mr. Klofft concurred. He, too, felt the size of the house was vastly understated because of the unfinished attic. Given the size of the house and the lots in the area, he felt it would not be out of character, however, any portion of the other structure is too much on the lot.

Mr. Richmond explained that although the revised house plans are consistent with what the Board requested, the dilemma is with the size of the shed, which is as large as some houses in Sudbury. He felt the visual appearance is that of two houses on the lot.

Considerable discussion followed with the Board expressing skepticism that the shed should be permitted to remain. Additionally, Mr. Klofft's rough calculations of the size of the proposed house indicate the house has the potential to have 5,500 s.f. of living space even though some of that space is not currently proposed to be finished. He said there are a lot of large houses in the area and in and of itself a house of this size would be in keeping with what would potentially be built in that area – but not with the shed.

Mr. Richmond said the Board was not going to be able to reach agreement to support this petition to include the shed. Three options were available – the Board could vote this evening, the applicants could withdraw their application with the option of resubmitting in the future, or the hearing could be continued.

The applicants were reluctant to remove the shed at this time and requested they be allowed to withdraw.

Mr. Klofft commented that should the applicants withdraw and decide to resubmit, that the square footage of the house should be more accurately reflected as being in the 5,500 s.f. range.

A motion was made, seconded and unanimously voted to allow the applicant to withdraw this petition without prejudice and to waive a subsequent filing fee.

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Stephen M. Richmond, Chairman

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Jeffrey P. Klofft, Clerk

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Jonathan G. Gossels

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Constantine Athanas

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Richard D. Vetstein, Associate

Case 06-44 – Chung

MINUTES OF THE PUBLIC HEARING CONTINUATION  
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The public hearing was reconvened by the Chairman, Mr. Richmond. This petition was for a special permit to allow a single accessory dwelling unit at 19 Elsbeth Road.

A motion was made, seconded and unanimously voted to allow the applicant to withdraw petition 06-44 without prejudice.

This petition is moot since the Board allowed the petitioner to withdraw petition 06-43 without prejudice. That petition was for a special permit to allow demolition of an existing structure and construction of a larger structure on a nonconforming lot.

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Stephen M. Richmond, Chairman

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Jeffrey P. Klofft, Clerk

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Jonathan G. Gossels

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Constantine Athanas

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Richard D. Vetstein, Associate

Case 06-34 – Griffin & McManus

MINUTES OF THE PUBLIC HEARING CONTINUATION  
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The Board consisted of:

Jeffrey P. Klofft, Acting Chairman  
Jonathan G. Gossels, Acting Clerk  
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The hearing was reconvened by the Acting chairman, Mr. Klofft.

Attorney Robert Solomon distributed copies of a supplement to the diagram which was submitted at the July 18<sup>th</sup> hearing. The proposal deals with the two businesses, Volvo Service, which is operated by Mr. Griffin and Toyota Service which is operated by Mr. McManus.

The supplement proposes the parking limitations for each business as follows:

- To the immediate west side of the building, in the paved area north of the front of the building, both Volvo Service and Toyota Service each seek to park no more than eight long-term service-project vehicles and/or business related vehicles on the paved portion of the lot, for a total of sixteen vehicles.
- On the paved area on the front/west side of the building, Volvo Service intends to park short-term customer vehicles and the vehicle driven to work by the business owner. This is the area marked on the diagram in blue diagonal slashes.
- On the paved area on the east side of the building and immediately in front of the building, marked on the diagram in pink vertical slashes, Toyota Service intends to park short-term customer service vehicles and the vehicle which the owner drives to work. Additionally, Toyota Service intends to park an addition two work related vehicles in this area.
- To the rear of the property on the west side, that area not presently being paved, Volvo Service and Toyota Service each seek to park one of the vehicle trailers, which have no engines, for a total of two trailers.
- Volvo Service agrees to park no boats on the property and to only have motor coaches or similar vehicles on the property which are actively being serviced.

Discussion followed on the parking diagram. The Board had several questions in order to clarify the total anticipated number of cars.

Mr. Klofft noted at the previous hearing there was also a question with regard to the work being done by the cabinet maker occupying the back portion of the building.

Mr. Griffin said he discussed the situation with him to the effect that on Sundays or holidays he must keep the door closed if power tools are being used in order not to disturb the neighbors. He said the cabinet maker had no problem with this.

Mr. Klofft asked where that person parked his vehicle. Mr. Griffin said he parks on the pavement on the west side between the Toyota and Volvo long-term areas unless he is unloading supplies into his area of the building.

Mr. Klofft said the proposed numbers come to 34 cars. He asked Building Inspector James Kelly whether he was comfortable with that number.

Mr. Kelly said he couldn't say. He said he saw 23 cars out there and it seemed crowded. He mentioned that with the BMW service center, the number of cars allowed was based on the number of service bays.

Mr. Solomon said this situation is different. He said this is a small, independent business. The property has been used for automotive use since about 1914.

Mr. Klofft asked how many bays were in the building. Mr. Griffin said there are six bays.

Mr. Klofft said there is also the question of taxes.

Mr. Solomon they are working on taxes now. There may be a change in the ownership structure and that is presently under discussion. He anticipated that they will be current on present taxes and are going to take care of the arrears – certainly by the beginning of the next fiscal year, and as soon as they work out all of their financial arrangements.

Mr. Gossels said the Board received a copy of an email dated October 4, 2006 from Kevin Moreau with the Fire Department relative to the poor condition of the roof. He asked for comments.

Mr. Solomon said he had not seen that email. He said no one wants an unsafe roof. If that is the case, they'll address it.

Mr. Kelly said he would follow up on this. He felt the concern was with the safety of the firefighters should there be a fire.

Discussion followed on a comparison of the latest plan and the plan submitted for the previous renewal. Mr. Kankanpaa had concerns as to how the lot could accommodate that number without cars having to be driven on the grass area.

Mr. Solomon felt the diagram demonstrated that the number of cars proposed could be accommodated. He said for the size of the paved lot, this would be a relatively small number of vehicles.

Mr. Klofft said there was an issue about selling cars. He asked if this was still occurring.

Mr. Solomon said they are not selling cars because they're not current on their taxes. Until they're current, they don't have a permit. They won't be renewing their permit until they become current on their taxes.

Mr. Kankanpaa wanted to be sure the vehicles are not using the residential zone.

With regard to a comment by Mr. Kankanpaa relative to the east side of the building, Mr. Klofft said there was nothing in the original permit that restricted them from using the east side of the building. It was his opinion that if the pavement is only in the business district, and

they're keeping the cars on the pavement, the Board would not be expanding the permit from what was originally granted.

Mr. Kankanpaa said there was a condition in the original permit that all employee and customer cars shall be parked to the west side. Mr. Kloffft read from the previous permit which did not list a condition with regard to this. Mr. Kankanpaa said somehow it got dropped.

Mr. Kloffft felt that if this area is within the business district, it would be difficult to restrict the applicants from using it as long as the number of vehicles is limited.

There was no further input. The hearing was closed.

The following motion was placed and seconded:

MOTION: "To grant Michael J. Griffin and Timothy M. McManus, applicants, renewal of Special Permit 04-26, granted under the provisions of Section 2230, Appendix, A,C, Use 12 & 14 of the Zoning Bylaws, to operate an automobile repair shop, including limited used-car sales, property located at 684 Boston Post Road, Business District #6, provided that:

1. This Special Permit is to be for automotive mechanical repairs and incidental body repairs only. Automotive painting is specifically prohibited.
2. The use is restricted to be business-zoned portion of the site.
3. Hours of operation shall be Monday through Friday 7:30AM-9PM, Saturday 9AM-7PM, and Sunday 12-6PM.
4. All work is to be performed within the confines of the building except for incidental washing of vehicles with biodegradable soap.
5. There will be no outside storage of new or used parts, tires, assemblies, junk, trash or inoperable vehicles. Automobiles parked on the pavement to the west shall be limited to owners' cars, cars waiting to be serviced, and no more than two (2) cars for resale.
6. All exterior lights are to be wall mounted or mounted on exterior posts and are to be oriented to cast light downward only so as not to illuminate the residential areas abutting and across the street.
7. All residential areas not designated for planting areas are to be clear of debris and maintained.
8. The unpaved area to the west of the building is not to be used for employee and customer parking until such time that it is paved and sloped in such a way that storm water runoff is collected in a catch basin equipped with a gas and oil trap.

9. Disposal of all hazardous waste and materials is to be in conformance with all local, state and federal regulations.
10. Floor drains shall conform to all local, state and federal regulations.
11. Sanitary facilities shall conform to all local, state and federal regulations.
12. A dumpster is to be provided for trash and will be screened from view.
13. The applicants shall adhere to the requirements of Section 2230, Prohibited Uses, of the Zoning Bylaw.
14. Parking of vehicles shall be in accordance with the "Temporary Parking Layout" plan, stamped by the Town Clerk on July 18, 2006, including the written "Parking Proposal" submitted at this hearing, which are marked as Exhibits 1 & 2 respectively.
15. No more than thirty-three (33) total vehicles shall be parked on the paved parking areas. There will be no parking on the unpaved business areas.
16. Any work being done by the cabinet maker occupying the rear portion of the building which involves the use of power tools will require those doors to be closed during business days before 7AM and after 7PM, and all Sundays and holidays.
17. The fence along the rear zone line will be properly maintained and kept in good condition at all times.
18. The only trailers which will be permissible are non motorized trailers which may be parked in the unpaved business zoned area.
19. This permit is non-transferable and will expire in one (1) year on October 11, 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 petitioners request renewal of a special permit on property which has been used for automotive purposes for the past 50-60 years. Although in a business district, it is abutted by residential properties to the rear and across the street. Over the years, the Board has imposed conditions in an attempt to find a harmonious balance between the business and the residents in the area. With this renewal the Board has imposed added conditions which specifically define the number and type of vehicles which may be parked on the premises and the location of that parking. Further, a one-year renewal period has been imposed to allow for monitoring purposes.

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Jeffrey P. Klofft, Acting Chairman



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Jonathan G. Gossels, Acting Clerk

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Elizabeth A. Taylor

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Constantine Athanas

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Jonas D.L. McCray, Associate

