

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
TUESDAY, JULY 31, 2007

The Board consisted of:

Jeffrey P. Klofft, Chairman
Elizabeth A. Taylor, Clerk
Richard D. Vetstein, Associate
Benjamin D. Stevenson, Associate

Notice was published in the Sudbury Town Crier on July 12 and 19, 2007, posted, mailed and read at this hearing.

Mr. Klofft, 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 Land Court within twenty days after the decision has been filed with the Town Clerk, and that possible other appeals may exist under current law.

Dr. Gail McNeill, Elliott and Phyllis McNeill were present to represent a petition for renewal of Special Permit 04-30 to operate a veterinary kennel and clinic at 21 Union Avenue. The business has been in operation since 1985. No changes, other than a 5-year term, were being requested.

Dr. McNeill said her business is doing well. There have been no issues or complaints from the abutters. She has complied with the conditions of the special permit.

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 Dr. Gail W. McNeill, applicant, A. Elliott & Phyllis E. McNeill, & Gail W. McNeill, owners of property, renewal of Special Permit 04-30, granted under the provisions of Section 2313 of the Zoning Bylaws, to allow the continued operation of a veterinary kennel and clinic, property located at 21 Union Avenue, Business District #5, provided that:

1. Dogs are to be allowed in the outside run only between 7:30AM and 9AM, 5PM and 5:30PM, 7:30PM and 8:30PM Monday through Saturday, and between 10AM and 10:30AM, and 5PM and 5:30PM on Sundays.
2. The building shall use a climate control system so that all doors and windows can be kept closed year round to preclude the issuance of noise from the building.
3. Except as modified herein, the conditions of the site plan dated March 5, 1984 shall be complied with.

4. This permit is non-transferable and will expire in five (5) years on July 31, 2012, 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 a kennel which has been in operation for twenty-two years. The Board finds that the location of the activity in a business district which has minimal abutter contact within 100 feet is an appropriate location and not detrimental to the neighborhood in and of itself. The use of a kennel in a business district is in harmony with the Zoning Bylaws in that a kennel is an allowed use by special permit.

The building within which the kennel operates was built for this specific use. Therefore, the Board finds that the facility is appropriate. As to the issue of whether the use is detrimental or offensive due to the effects of lighting, odors, smoke, noise, sewage, refuse materials or other visual nuisances, the Board finds that there is some noise which, if not controlled, could be considered detrimental. However, by limiting the hours during which dogs may be out, as well as requiring the closure of windows and doors to the times set forth in the Decision, the Board finds that the detrimental effects, if any, would be minimal to the neighboring properties.

The Board further notes that no abutters were present to voice objections to renewal of this special permit, nor do records indicate any opposition for the past several years. For this reason, the Board finds a renewal term of five years to be appropriate.

Jeffrey P. Klofft, Chairman

Elizabeth A. Taylor, Clerk

Richard D. Vetstein, Associate

Benjamin D. Stevenson, Associate

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
TUESDAY, JULY 31, 2007

The Board consisted of:

Jeffrey P. Klofft, Chairman
Elizabeth A. Taylor, Clerk
Richard D. Vetstein, Associate
Benjamin D. Stevenson, Associate

Notice was published in the Sudbury Town Crier on July 12 and 19, 2007, posted, mailed and read at this hearing.

Mr. Klofft, 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 Land Court within twenty days after the decision has been filed with the Town Clerk, and that possible other appeals may exist under current law.

John Bellantoni/Ridgewood Construction, applicant, was present to represent a petition for a special permit to allow demolition of an existing residence and construction of a new residence which will exceed the area of the original nonconforming residence at 344 Peakham Road. The existing house is 2,481 s.f.; the proposed house will be 5,100 s.f. and will conform to all setback requirements. It will be located approximately 115 feet from the front property line. The property is comprised of 61,298 s.f.

Mr. Bellantoni said he is a builder and plans to construct the house and move to this property.

In response to questions from the Board, Mr. Bellantoni said he will maintain the existing tree line from the street and most of the trees along the back will remain.

Mr. Klofft asked the intent of the carriage house located towards the rear.

Mr. Bellantoni said it is a 6-bay structure to be used for storage of his personal antique cars. The cars will utilize the new driveway and a portion of the existing driveway to access the carriage house. His plan is to leave the existing driveway in place.

Lee Michaels, 199 Horse Pond Road, abutting to the rear, voiced concern with regard to the size of the proposed house. She did not feel it was in keeping with the neighborhood. She also had concerns with regard to the buffer noting that her house faces Noyes Lane and her driveway runs alongside the back side of this property. Her garage is very close to the property line. She would want the applicant to preserve the line of screening along the back side of his property.

Mr. Klofft asked how the front screening will be maintained given that the septic system will be in the front.

Mr. Bellantoni said he will only remove the trees necessary to accommodate the septic system. He said this area is heavily wooded and the new house will not be able to be seen from the street.

With regard to a question on the driveway, Mr. Bellantoni said a portion of it is on the abutting property and he was unaware of any easement for that driveway. He said it is not a shared driveway and he does not want to remove it if it is not on his property. He will not be

using that driveway, except for that portion on his property for access to the carriage house. He plans to use the new one that will be constructed on his property.

Beth LaFortune, 342 Peakham Road, abutter to the driveway side, said there is no driveway easement.

Ms. Michaels asked whether the Historical Society has been contacted with regard to the house.

John Hickey, current owner, said the Historical Society has determined that the house has no historical value and can be demolished.

Ms. Michaels asked about the length of construction. Mr. Klofft said standard conditions provide for construction to begin within one year of issuance of the special permit and one year to finish.

Ms. LaFortune said although there is no driveway easement, there is an easement to allow her abutter to construct a cesspool on her property. While she understood the septic system will be located in a different area, she wanted to be sure she didn't end up with a septic system on her property for a 5,100 s.f. house. She wasn't sure this easement was still valid under Title 5, but wanted her concerns noted for the record.

Ms. LaFortune also expressed concern for the size of the proposed house. She said even though it won't be seen directly from the street, it will be seen from her house and backyard.

Ms. LaFortune pointed out the location of her driveway and the existing driveway. She said if the plan is to leave the driveway to crumble, she would have concerns.

Mr. Vetstein asked whether Ms. LaFortune would have an objection to removal of the portion of the driveway on her property. She said she would not.

Mr. Vetstein felt this to be an issue that could be resolved between the two neighbors.

Mr. Hickey said this property is heavily wooded and there are no wetlands. With regard to development in the area, he said many houses along Peakham Road and Horse Pond Road have been redeveloped into larger homes. Further, although circumstances caused him to put his property up for sale, he felt it a plus that the applicant plans to live there.

Mr. Stevenson asked about the existing carriage house. Mr. Bellantoni said it will be removed as it is in disrepair.

Discussion followed on the driveway. Mr. Vetstein asked if Mr. Bellantoni would object to a condition requiring the existing driveway to be removed.

Mr. Bellantoni said his concern was with liability, specifically if something was to happen on the abutter's property.

Mr. Klofft said he was not comfortable with two driveways and felt there were two choices – (1) take out the driveway and find a way to make an arrangement with the neighbor or (2) obtain a use easement and use the existing driveway for the new house.

Mr. Bellantoni said he would be willing to eliminate the driveway provided his attorney is able to draw up the necessary paperwork. Ms. LaFortune said she would be willing to work with Mr. Bellantoni to arrive at a satisfactory arrangement.

Screening was discussed in the area where the driveway would be eliminated. Mr. Bellantoni was willing to plant grass in that area. He did not see the need for additional plantings.

With regard to the carriage house, Mr. Klofft felt that although it is large, it is located within the building envelope. The siting of it is such that the side, rather than the longer length, would be seen from the Michaels property, and it might provide some shielding to her.

There was no further input. The hearing was closed.

The following motion was placed and seconded:

MOTION: “To grant Ridgewood Construction, Inc., applicant, Susan E. & John A. Hickey, Jr., owners of property, a Special Permit under the provisions of Section 2460B of the Zoning Bylaws, to allow demolition of an existing residence and construction of a new residence not to exceed 5,100 s.f., which will exceed the area of the original nonconforming structure, said residence to conform to all zoning setback requirements, property located at 344 Peakham Road, Residential Zone A-1, as follows:

1. The new house will be constructed as shown on the plot plan prepared by Thomas Land Surveyors, Hudson, MA, dated May 16, 2007, which is incorporated and made part of this Special Permit.
2. The existing driveway that currently services the property will be removed in its entirety.
3. The screening on all sides of the property shall be maintained to the greatest extent feasible.
4. 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.
5. Construction must be completed no later than one year after commencement.”

VOTED: In favor: 4 (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 will not be substantially more detrimental to the neighborhood than the existing nonconforming structure. The proposed house location is consistent with the Board's guidelines for Demolitions and Reconstructions. It will not be seen from the street and, although larger in size, is a cape style which will not present a looming effect on the neighbors. The applicant has agreed to maintain as much of the existing screening as practical and will work with his neighbor to remove the existing driveway.

Jeffrey P. Klofft, Chairman

Elizabeth A. Taylor, Clerk

Richard D. Vetstein, Associate

Benjamin D. Stevenson, Associate

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
TUESDAY, JULY 31, 2007

The Board consisted of:

Jeffrey P. Klofft, Chairman
Elizabeth A. Taylor, Clerk
Richard D. Vetstein, Associate
Benjamin D. Stevenson, Associate

Notice was published in the Sudbury Town Crier on July 12 and 19, 2007, posted, mailed and read at this hearing.

Mr. Klofft, 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 Land Court within twenty days after the decision has been filed with the Town Clerk, and that possible other appeals may exist under current law.

Scott Miller and Robert Parente were present to represent a special permit to allow demolition of an existing residence and construction of a new residence which will exceed the area of the original nonconforming residence at 83 Hemlock Road.

Mr. Miller explained that he originally looked into remodeling the house; however, the house is an outdated model. The existing septic system in the rear failed and testing was done on the left and right side and is proposed for the right side as shown on the plot plan. That side

faces Willow Street and is heavily wooded. He pointed out the area to be cleared and graded for the new septic. The woods along that side will all be preserved.

In order to preserve trees and provide a buffer for the neighbor to the left, the house was sited as far to the right as possible.

There are a fair amount of trees in the back, and even with the proposed clearing for a back yard, the house will almost non-visible to the rear abutter. Mr. Miller pointed out the area proposed to be cleared which will leave an area of 5-10 feet in the rear which fans out more towards the sides. The idea is to preserve as many trees as possible.

The house is designed to fit in with the front elevation and contains staggered roof lines as shown on the elevation plans. Because the lot is wide, but not deep, Mr. Miller would like some flexibility with the front yard setback. The plan proposes 58 feet, but if he were allowed no less than 50 feet, that would allow him to preserve more trees in the back and create a better buffer.

Mr. Miller said he spoke with the abutter on the left and is agreeable to planting approximately six, 6-8-foot evergreens on that side.

Yael Dar, 77 Hemlock, abutter, said there is no screening on her side because there are all tall oaks. She would like to see a written condition requiring the screening.

There was no further input. The hearing was closed.

The following motion was placed and seconded:

MOTION: "To grant Newbridge Construction Company, applicant, Irene Wilson & Sandra Chappel, owners of property, a Special Permit under the provisions of Section 2460B of the Zoning Bylaws, to allow demolition of an existing residence and construction of a new residence not to exceed 3,500 s.f., which will exceed the area of the original nonconforming structure, said residence to conform to all zoning setbacks, property located at 83 Hemlock Road, Residential Zone A-1, as follows:

1. The submitted plan shows the new house positioned 58 feet from the front lot line as well as the maximum area of clearing in the rear of the new house. The decision allows the applicant to position the house as close as 50 feet from the front lot line. For each foot forward that the new house is moved closer to the front lot line, the clear area behind the house will be reduced by one foot.
2. No less than six 6-8-foot tall evergreen trees will be planted along the property line to screen the property at 77 Hemlock Road.
3. 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.

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

VOTED: In favor: 4 (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 will not be substantially more detrimental to the neighborhood than the existing nonconforming structure. The design and scale will not cause a looming effect on the streetscape. Further, given the depth of the lot, the Board has agreed to allow flexibility in the front yard setback siting in order to retain more of a tree buffer for the rear abutter. Additionally, the petitioner has agreed to provide additional screening along the left side of the house to further shield that abutter from the visual impact of a larger house. The Board notes that this is one of several reconstructions in the general area and the intent is to accommodate these reconstructions without undue impact on the neighbors.

Jeffrey P. Klofft, Chairman

Elizabeth A. Taylor, Clerk

Richard D. Vetstein, Associate

Benjamin D. Stevenson, Associate

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
TUESDAY, JULY 31, 2007

The Board consisted of:

Jeffrey P. Klofft, Chairman
Elizabeth A. Taylor, Clerk
Richard D. Vetstein, Associate

Benjamin D. Stevenson, Associate

Notice was published in the Sudbury Town Crier on July 12 and 19, 2007, posted, mailed and read at this hearing.

Mr. Klofft, 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 Land 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 & Harriet Anderson were present to represent a petition for Special Permit to construct a 2-story addition on a non-conforming structure which will result in a side yard setback deficiency.

Mr. Anderson explained that the addition will add a second garage bay with a second floor addition. The setback deficiency will be approximately 6 feet. Also included with the application was a letter from David Missirian, 133 Concord Road, abutter most affected, who had no objection to the petition.

The Board reviewed the plans submitted with the application. There was no further input. The hearing was closed.

The following motion was placed and seconded:

MOTION: "To grant Thomas W. & Harriet Y. Anderson, 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 10'6"X24'6" 2-story addition, which will result in a side yard setback deficiency of not less than 6 feet, property located at 137 Concord 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.

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

REASONS: The petitioners require a Special Permit due to the nonconforming nature of the property. The Board finds that the proposed alteration and enlargement will not be substantially more detrimental to the neighborhood than the existing nonconforming structure. The addition of a second garage bay and second floor addition is appropriate in size and scale and will enhance the appearance of the existing structure. Further, the abutter who would be most affected had no objection to the petition.

Jeffrey P. Klofft, Chairman

Elizabeth A. Taylor, Clerk

Richard D. Vetstein, Associate

Benjamin D. Stevenson, Associate

