

Case 07-54
Christopher Hayes
28 Wright Road

MINUTES OF THE PUBLIC HEARING CONTINUATION
SUDBURY BOARD OF APPEALS
NOVEMBER 19, 2007

The Board consisted of:

Elizabeth A. Taylor, Acting Chairman
Stephen A. Garanin, Acting Clerk
Jonathan G. Gossels
Jonas D.L. McCray, Associate

The public hearing was reconvened by the Acting Chair; Ms. Taylor who noted the Board was in receipt of a memo from the neighbors dated November 13, 2007. Mr. Hayes indicated he had also received a copy of that memo.

Ms. Taylor said at the last hearing Mr. Hayes was asked to meet with the neighbors to see what kind of progress could be made collectively as a group.

Mr. Hayes said he met with the neighbors. Water was a concern. He said he has an engineer who will be working on this as dry wells will not work. His engineer will try to come up with the best option.

Mr. Gossels asked if Mr. Hayes had a copy of the deed restrictions. Mr. Hayes submitted a copy of the covenant and plan showing the lots covered under this covenant for the record.

Ms. Taylor felt the deed covenants to be between the parties to the contract and outside of the Board's jurisdiction.

Mr. Gossels felt they go to the issue as to what the neighbors have a right to reasonably expect.

Mr. Hayes said the highlighted properties on the plan don't comply with the covenant.

The Board reviewed the plan which basically covered the garage issue and fencing issues.

Ms. Taylor said the size of the addition is a huge issue for the neighbors. She asked if Mr. Hayes had any productive conversation with your neighbors on that topic.

Mr. Hayes said he had. He added that he was well under the guidelines for an accessory dwelling which is 1,200 s.f. of living space. He said the unheated stairwell is 44 s.f. which brings it to less than that.

Ms. Taylor agreed that Mr. Hayes was within the technical bounds of what is allowed as was evidenced by the Building Inspector's letter submitted with the application. She said the Board must find in its decision that creating this accessory dwelling will not be detrimental to the neighborhood.

For the neighbors' benefit, she added that if this were not to be used as an accessory dwelling, Mr. Hayes had the right to build an addition of this size for whatever use he wanted to make of it within zoning. The structure is well within the building envelope.

Mr. Gossels asked whether Mr. Hayes' discussions with the neighbors resulted in any redesign of the addition.

Mr. Hayes said he changed the garage door to a single door and changed the location and size of some windows to provide more symmetry. He said there was no reduction in size because it conforms to the accessory dwelling size requirements.

Ms. Taylor said the bylaw requires the appearance of the structure to look like a single family dwelling. From the front elevation, it appears to comply; however, she was not sure it complied from the side. Mr. Gossels said he shared that concern, as did Mr. Garatin.

Mr. Hayes showed the Board the revisions he made to the plan. Ms. Taylor said it looks like another single family has been attached to the existing house. She felt the long side extension will impact that neighbor as there is not much vegetation on that side.

Mr. Gossels said he was hoping for a slightly reduced plan or alternative design to minimize impact. He said only the windows and doors have been changed.

Jonathan Ehrmann, 37 Wright Road, across the street, saw a structure the size of a small home. He felt the way it's configured with an independent roof will look like a home as opposed to an addition. From a diagonal standpoint he will be looking at both structures, which is quite a lengthy extension.

Santa Jean DeSantis, 25 Wright Road, directly across the street, said none of the neighbors have any objection to Mr. Hayes having an accessory dwelling for his mother. She said it's the size of the construction. It's not incorporated into the house so that it looks as part of the structure. In addition, the land is wet and there are water problems. She said it's not about whether it can be built but whether it's appropriate, adding that a lot of the size is dictated by the garage space to house vehicles.

Mary Alberico, 11 Beckwith Street, 25-year resident, said after hearing this evening that Mr. Hayes could build the addition if it were not an accessory dwelling unit, and hearing the Board's concern about the appearance of the structure, it seemed to her that the concern was not with the use of the addition as an apartment for Mr. Hayes' mother.

Ms. Taylor explained that in granting the permit, the applicant must comply with several subparts. One is size, which Mr. Hayes does comply with. Another is that the Board must find that it will not be detrimental to the neighborhood and that it will not resemble anything other

than a single family home. Ms. Taylor said the Board is supportive of accessory dwelling units as one solution to affordable housing for senior citizens in Sudbury. Further, she said the Board would be willing to work with Mr. Hayes to come up with a plan more suitable to the neighborhood.

Ms. Alberico said there are many other houses in town with additions of much greater size situated similar to what Mr. Hayes is proposing. She then asked, and was granted, permission to read a statement attesting to the character of Mr. Hayes.

Mr. Gossels said he is supportive of in-law apartments. However, this one has problems. He said the revised plan only changes some windows and adds a single garage door. He could not approve this design because it does not look like a single family house.

Mr. Garanin agreed. He said Mr. Hayes is adding considerably to the size of the house. In addition, the structure as designed is barely attached and appears to loom.

Building Inspector James Kelly said this has been a difficult permit application. He said he first spoke with Mr. Hayes about a year ago and believed Mr. Hayes would like to have the garage as much as he wants the apartment.

Mr. Kelly felt there to be a problem with the Bylaw in that when one has the absolute right to build these structures, there is no review. He said he sees garages this size every day as well as barns.

He said this is the first time that it has come up to this extent, and as he saw it, when there are setbacks, heights, lot coverages, septic – those are the parameters. The use inside the building – for this particular use – is by special permit. Some of this language in the Bylaw was inserted to prevent the town from not passing this bylaw which was very important concept which needed to be introduced because of the nature of housing. Mr. Kelly felt the town shouldn't lose sight of the importance of sharing a home with your family.

Ms. Taylor said the Board is fully supportive of that.

Mr. Kelly felt the difficult part is how to join that with what otherwise is permitted.

Mr. Gossels said the problem is with the design. It does not look like a single family house.

After further discussion, the Board was in general agreement that this design was not acceptable. Ms. Taylor explained the options available and suggested that Mr. Hayes might want to consider a withdrawal without prejudice to reevaluate his design and return at a later date with an alternate plan.

After the process for re-submittal was explained, Mr. Hayes requested his application be withdrawn.

A motion was made, seconded and unanimously voted to allow this application to be withdrawn without prejudice and to waive a subsequent filing fee.

Elizabeth A. Taylor, Acting Chair

Stephen A. Garanin, Acting Clerk

Jonathan G. Gossels

Jonas D.L. McCray, Associate

Case 07-12
Maillet Homes, Inc.
33 Victoria Road

MINUTES
SUDBURY BOARD OF APPEALS
NOVEMBER 19, 2007

The Board consisted of:

Elizabeth A. Taylor, Acting Chair
Nancy G. Rubenstein, Acting Clerk
Jonathan G. Gossels
Stephen A. Garanin
Jonas D.L. McCray, Alternate

The meeting was called to order by the Acting Chair, Ms. Taylor, for the purpose of hearing a request to amend Special Permit Case 07-12 which was granted by the Board on February 27, 2007.

Michael Maillet, applicant, explained that at the original hearing the abutter to the left of this property expressed concern that there could be runoff issues on his property. In granting the permit the Board imposed a condition requiring installation of roof drains to divert water to dry wells including a drainage system along the driveway to collect runoff. Mr. Maillet said these were installed, but because the abutter's house was so close to the property line he moved the foundation 7 feet over to the right to eliminate any potential problems with water runoff.

Mr. Maillet said at the time of construction he did not think that moving it over would be an issue because the house was still within the required setbacks. However, the issue arose when he applied for the occupancy permit.

The Board reviewed the as-built submitted by Mr. Maillet. Mr. Gossels said it appeared that the changes were made in the spirit of helping a neighbor and that there was no negative impact of any kind. He believed approving the as-built plan to be a minor administrative matter.

There were no abutters present.

A motion was made, seconded and unanimously voted to amend Special Permit 07-12 to reflect the house to be constructed in accordance with Foundation As-Built Plan prepared by Zanca Land Surveying, Stow, MA dated May 15, 2007.

Elizabeth A. Taylor, Acting Chairman

Nancy G. Rubenstein, Acting Clerk

Jonathan G. Gossels

Stephen A. Garanin

Jonas D.L. McCray, Associate

Case 05-28
The Villages at Old County Road
6 Old County Road

MINUTES
SUDBURY BOARD OF APPEALS
NOVEMBER 19, 2007

The Board consisted of:

Elizabeth A. Taylor, Acting Chair
Nancy G. Rubenstein, Acting Clerk
Jonathan G. Gossels
Stephen A. Garanin
Jonas D.L. McCray, Associate

The meeting was convened by the Chair, Ms. Taylor.

The Villages at Old County Road – Case 05-28 – Request for Determination that Proposed Changes be deemed insubstantial

Present: Attorney Joshua M. Fox, Benjamin Stevens, Developer

The Board was in receipt of the following:

- Letter dated October 5, 2007 from Attorney Fox with supporting documentation for the proposed change
- Letter dated October 25, 2007 from Attorney Fox extending the 20-day requirement for determination by the Board.

- Elevation sketches of proposed sunrooms (3 sheets) submitted at this meeting
- Email dated September 27, 2007 & October 1, 2007 from Ben Stevens to Leslie Leon and response from Ms. Leon dated October 10, 2007 submitted at this meeting

Mr. Fox explained that in the original site plan there was appurtenant to each unit either a patio or deck. This proposal would allow the developer the option enclosing those, using the same footprint, with a 3-season porch. This would be an upgrade and only for the market-rate units.

Mr. Stevens said this is a common request – he said his competition throughout the town has this option. He added that he sent his plan to Lesley Leon, the only abutter, who emailed back that she had no objection.

A letter was also sent to the Conservation Commission as a lot of the decks are in the buffer zone. An email was received indicating that the Commission had no problem as long as the footprint remains the same.

Mr. Stevens said there could be a maximum of 27 porches. With the current market condition he said it would probably only be on the end units bringing it down to a maximum of 20.

From the plan, Mr. Stevens pointed out those areas where the porches would be an option. He said the comprehensive permit decision didn't exclude 3-season porches. It did say that they could not be enclosed by the residents after the developer completed the development.

Mr. Gossels said that condition was meant to preserve the balance between development and open space that was reached for the site. He would be supportive of the change but expressed concern that they not be put where they are highly visible.

Discussion followed on where the porches might be allowed and the visual impact on other units. From the plan, Mr. Stevens described how the porches would look. He said Units 22-25 are the most visible from the street and are the most aggressively priced units. He would be amenable to eliminating them from the option if the Board so desired.

Mr. Gossels felt this went too far with the footprint adding more density compared to what was agreed in the comprehensive permit. He said he would have no problem with the option being allowed along the outer perimeter.

Following further discussion there was general agreement among the Board to limit the option to Units 1 through 21.

A question was raised as to whether this option could be limited to only the market-rate units. Mr. Stevens said this would not be an issue because it would be an option upgrade.

There was no further input and the following motion was placed and seconded:

MOTION: “The Board of Appeals determines that the proposed modification to the Comprehensive Permit Decision 05-28 for The Villages at Old County Road, is an insubstantial change, and that it will allow Units 1 through 21 the option to have 3-season porches as requested by the developer. This option is prohibited for all other units.”

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

Elizabeth A. Taylor, Acting Chair

Nancy G. Rubenstein, Acting Clerk

Jonathan G. Gossels

Stephen A. Garanin

Jonas D.L. McCray, Associate