

CASE 09-19
Michael Griffin
684 Boston Post Road

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
Monday, August 3, 2009

The Board consisted of:
Elizabeth T. Quirk, Chair, Stephen A. Garanin, acting as Clerk, Jonas D.L. McCray, and Benjamin D. Stevenson

Notice was published in the *Sudbury Town Crier* on July 16 and July 23, 2009, posted, mailed and read at this hearing.

Ms. Quirk, Chair, explained the requirements necessary to substantiate the granting of a special permit. She 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.

Michael Griffin, owner of Sudbury Volvo Service, was present to represent a petition for a renewal of special permit to allow the operation of an automobile repair shop with limited used-car sales. The property is located at 684 Boston Post Road.

Mr. Griffin explained that there have been no changes to the business since the last renewal of the special permit. He said that he is up to date with payment of the town's fees and taxes and that there have been no complaints about the property. The fire department appears to be pleased with the work on the rebuilding of the circa 1924 roof. Steel framing has been replaced in the back of the property and work will continue around the building toward the front. He added that he was disappointed to once be labeled as the biggest eyesore on Route 20 and is taking measures to improve the property.

Mr. Garanin asked about the status of the cabinet maker who is a tenant in the back of the property and if there have been any complaints about noise from that business. Mr. Griffin said that there have been no complaints and that the cabinet maker keeps his door shut while machinery is in use and has been abiding by the conditions for hours of operations.

Mr. Stevenson asked about the renewal period and why it had previously been a two-year renewal, but was reduced to a one year duration at the last hearing. Mr. Griffin answered that the renewal period had been reduced as a result of a past tenant who was ignoring the conditions and parking cars all over the property.

Bruce Kankanpaa of 11 Stone Road spoke as a direct abutter in favor of renewal of the special permit provided that the applicant remains in compliance with renewal conditions.

The Board briefly discussed extending the renewal period to two years. When asked whether Mr. Griffin was amenable to renewal under the same conditions, he answered yes, but for the record he does feel that requiring the cabinet maker to keep his doors shut during weekend hours of operation is somewhat unreasonable because he has been able to work with the cabinet maker to ensure that he follows the conditions. There was no discussion about changing that condition.

There were no further comments from the Board or audience. The hearing was closed.

The following motion was placed and seconded:

MOTION: "To grant Michael J. Griffin, applicant, renewal of Special Permit 08-1, 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 the business-zoned portion of the site.
3. Hours of operation shall be Monday through Friday 7:30 a.m.-9:00 p.m., Saturday 9:00 a.m.-7:00 p.m., and Sunday 12:00 noon-6:00 p.m.
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 owner's 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 applicant 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", 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 7:00 a.m. and after 7:00 p.m. and all Saturdays, Sundays and holidays.
17. The fence along the rear zone will be properly maintained and kept in good condition at all times.
18. The only trailers which will be permitted are non-motorized trailers which may be parked in the unpaved business zoned area.
19. This permit is non transferable and will expire on August 3, 2011, 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 renewal as sole owner for a special permit which has been used for automotive purposes for 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 residents in the area. The

Board is encouraged by the ability of the owner to move forward with physical improvements to the property and finds that a two-year term of renewal is appropriate for this case.

Elizabeth T. Quirk, Chair

Stephen A. Garanin

Jonas D.L. McCray

Benjamin D. Stevenson

CASE 09-20, 21
Herb Chambers BMW of Sudbury
68 Old County Road

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
Monday, August 3, 2009

The Board consisted of:
Elizabeth T. Quirk, Chair, Stephen A. Garanin, Jonas D.L. McCray, and Benjamin D. Stevenson

Notice was published in the *Sudbury Town Crier* on July 16 and July 23, 2009, posted, mailed and read at this hearing.

Ms. Quirk, Chair, explained the requirements necessary to substantiate the granting of a special permit. She 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.

Ms. Quirk then addressed the applicants, noting for the record that while there was a quorum present the Board consisted of four members at this hearing. She presented the applicants with the option to proceed with the hearing or withdraw without prejudice until the full Board could convene. The applicants preferred to proceed with the hearing given that the building is nearly complete and BMW would like to stay on schedule with construction.

Joshua M. Fox, Attorney at Rollins, Rollins and Fox, and Sal Sachetta, Corporate Construction and Facilities Manager for the Herb Chambers Company, were present on behalf of Herb Chambers BMW of Sudbury to represent two petitions for special permits to install signage at the new BMW dealership, property located at 68 Old County Road. Mr. Fox presented two photo simulations created per the request of Planning Director Jody Kablack. The photographs show both the proposed affixed signage and freestanding signage. One rendering shows the freestanding pylon sign at a height of 25 feet and the second shows the pylon sign standing 10 feet high. Mr. Fox said that the sign bylaw was written years ago when commercial buildings of this size and magnitude were not under consideration, so they clearly need zoning relief for the proposed signs.

Given the varied nature of the signage, the Board agreed to discuss the plans for both proposals at this hearing but would consider and vote on the two proposals separately, beginning with Case #09-20, the petition for the fixed signage.

The applicant is proposing one fixed, primary sign along the front of the building measuring 89 square feet +/- . The sign has one BMW icon and the words "BMW of Sudbury." The words "Herb Chambers" as appear on the sign in the photo renderings have been eliminated from the design. The sign will be internally illuminated to give the effect of channel lighting. Only the lettering would be lit and not the background panel. Two circular BMW icons situated on a plate

measuring 11 square feet would appear at the front easterly corner of the building. The BMW icons would also be internally illuminated. Along the east elevation by the service entrance is a secondary sign which has another BMW icon and the word "service" to identify the entrance. The sign plus the icon measures 42 square feet.

The applicants have presented their proposals to the Design Review Board. The ZBA had in its receipt a letter from Frank Riepe, Chairman of the Design Review Board, dated June 11, 2009 stating that the DRB considers the proposed signage, "of a high standard, tasteful and well considered," and therefore the DRB unanimously recommends that the ZBA grant the necessary special permits.

Ms. Quirk asked Mr. Fox to explain the difference between his proposal and the amount of signage that is permitted as of right. Mr. Fox said that 60 square feet is permitted with 75% of that which can be allocated for primary signage. Signage in this proposal measures 153 square feet including the back panels and not just the lettering.

Mr. Fox said that in looking at the dealership as a whole it is the applicant's opinion that the signage is consistent with the scale and size of the building and is therefore in harmony with the Zoning Bylaws, is not detrimental to the neighborhood, and does not derogate from the intent of the Zoning Bylaw. Therefore he respectfully asks that the ZBA grant the necessary special permits to allow the signage as shown in the elevations and in the plans that have been submitted to the Board.

Case #09-21 proposes a combination of directional signage and a single free-standing sign. Mr. Fox referenced the site plan submitted to the Board which shows the location of all directional signs. The directional signs consist of white panels with lettering. They will not be illuminated and there will be no BMW logos on them. The proposed freestanding sign consists of a 25 foot pylon with three double-sided panels, set back 13 ½ feet from the front property line. The Zoning Bylaw requires a 20 foot setback from the front and a height cap of 10 feet as of right. The sign would be lit from the ground up and there would be additional internal illumination for the BMW logo which measures 54 ¼ square inches in diameter on both sides of the sign. The lettering itself would not be lit.

Mr. Fox explained that the reason for the request for such significant height variation from the Zoning Bylaws is because of the unique nature of the lot and the building's situation on it in comparison to other businesses that have significant frontage on Boston Post Road. Mr. Fox explained that the building is set back behind Sky Restaurant, which sits up on a higher grade than the BMW dealership, perhaps up to ten to fifteen feet higher. BMW has concerns about visibility from Boston Post Road (Route 20) and he suggested that a 10 foot pylon sign would have little or no visibility from Route 20. BMW is trying to ensure that their signage is visible from over the parking lot of Sky Restaurant, but not over the restaurant building itself. Mr. Fox

said that in fact BMW had at one point considered a 40 foot highway sign, but given the fragile nature of the project they rejected that option and scaled back their plans to a 25 foot sign as currently proposed. Mr. Fox said the sign can only be seen by motorists driving east down Boston Post Road (Route 20), that it defines the main entrance to the dealership, and it gives people an opportunity to safely get into the new turn lane. Coming from the west people will not be able to fully see the sign, but rather only a glimpse of it, so it will still be difficult for people to slow down to maneuver into the turn lane, even with the new intersection made possible at the expense of Herb Chambers. The applicants want a large enough sign to provide drivers with an opportunity to see the BMW dealership and safely slow down, put on their signals, and prepare to make the sharp turn into the dealership which is sharper than a 90 degree angle. Mr. Fox said that BMW feels there is a significant safety feature to having the 25 foot sign in place and that is why they are asking for the zoning relief. He then presented the photographic renderings showing both the 25 foot and 10 foot signs to provide a comparison between the two options.

Ms. Quirk thanked Mr. Fox for his presentation and for the photo simulations which helped provide a visual, but said that she felt the sign was still extremely tall. She said that she has driven by the site in both directions to view the site lines and understands the concerns about safety for drivers. However, she suggested that since the building is so recognizable, particularly with the BMW logos, the fixed signage could possibly be enough of an advertisement for the business and for alerting drivers. She agreed that the pylon sign is mostly helpful for drivers heading east and pointed out that there really are very few options for drivers heading west due to the topography. However, she felt that a sign wouldn't really help with that problem said that it was overkill to have the signage for people heading east to see. Mr. Fox explained that due to the angle of the building drivers heading east would primarily see the side of the building facing Wingate at Sudbury, but that it is not until drivers are right at the intersection of Old County Road that they can see the building. They can see down Old County Road but not the dealership itself.

Mr. Garanin echoed Ms. Quirk's comments by saying that he feels the building itself is enough of an advertisement because of its large size and the recognizable logos. He didn't see the need for lighting the signs and expressed concerns that if lit the building would be too much like a beacon in the night.

Mr. Fox explained that most manufacturers today require the larger signs and said that while those who live in town may recognize the building BMW has concerns about out-of-towners finding the BMW dealership. So they are trying not only to improve safety at the intersection but also to capture the attention of out-of-towners who may be heading west looking for the dealership.

Ms. Quirk suggested that people may not perhaps even see the sign when driving west. Mr. Fox argued that you can see a glimpse of it from Papa Gino's and Sky Restaurant. Ms. Quirk then

said that people can see the building itself and said that the building looks enough like a car dealership to accomplish the objective of guiding people to it with the affixed signage only.

Mr. Stevenson said that he heard the same arguments from the presentation as Ms. Quirk and Mr. Garanin about a 25 foot sign not being necessary, but he also questioned as an alternative the removal of the middle panel on the pylon sign, which is blank without any logo or lettering and which would create a shorter sign. Mr. Fox said the sign is important from both directions as it will capture the eye much faster than the building alone. Mr. Fox said that without the middle panel the sign would measure under 20 feet. He said that the middle panel is necessary for the height needed to see the sign coming from the west. Mr. Sachetta said that the three-panel design was a manufacturing feature and that the middle panel can't be taken out of the standard design. He said that smaller signs can be ordered but then everything becomes reduced on a smaller sign, not just the height. He said that the point of providing the two photo simulations was to show how the building dwarfs the smaller, 10 foot sign and that the 25 foot sign is more in scale with the building.

Ms. Quirk said that the BMW building is a unique site and that it can't be compared to Route 9 because it sits so close to a residential neighborhood.

For the record, Ms. Quirk referenced a memo dated August 3, 2009 written by Jody Kablack, Director of Planning and Community Development. Ms. Kablack mentioned several issues regarding the BMW proposal that she wanted brought to the ZBA's attention. She suggested that photo simulations, provided by the applicants at the meeting, would be critical for decision making. She then offered for consideration alternatives to the current proposal such as increasing the size of the fixed signage in order to eliminate the freestanding sign, or if the freestanding sign was going to be approved she asked that the Board consider making it a condition that any illumination of signs be turned off during hours when the dealership is closed. Ms. Kablack also noted that she has received a number of complaints about the size of a flag that is currently being flown at the property. She suggested that the flag, given its large size, may be serving as an advertising device. She also said that it was brought to her attention from a member of the Board of Selectmen that the spot light on the flag was shining westward into the residential neighborhood and she suggested moving the direction of the spotlight to the southeast where there are no residences.

Ms. Quirk also noted that the Board was in receipt of a memo dated August 3, 2009 from Chris Morely, a member of the Planning Board and Chair of the Community Preservation Committee. Mr. Morely also pointed out contextual issues he had with the size of the flag and the freestanding sign, and also the quality and condition of the existing street vegetation. He was in support of using the fixed signage as the only means of signage at the site and noted that the well-designed building might provide enough visibility for the dealership.

Ms. Quirk asked Building Inspector Jim Kelly about the Town's ability to regulate flags. He replied that there is nothing in the bylaws to regulate the size of flags. Ms. Quirk said that she felt that the flag was being used to draw attention to the building. She noted that it is BMW's right to put it up, but its use affects consideration for favorably allowing additional signage.

Mr. Sachetta said that it was not Herb Chambers' intent to use the flag as a means for advertising. He explained that Mr. Chambers is a veteran and a very patriotic man and said that they have put up bigger flags elsewhere. Ms. Quirk responded that she is not questioning Mr. Chambers' patriotism but that she and others have read the use of the flag differently.

Mr. Sachetta then asked if the Board would be amenable to a smaller freestanding sign that would be just under 20 feet high. The manufacturer might have a smaller sign. Mr. Sachetta said that a scaled down version could be made, but Mr. Fox reminded the Board that a smaller sign would not provide any visibility from the west although it could be seen from the east.

Mr. Fox again referenced the DRB's support of the sign. Ms. Quirk replied that the Design Review Board's main concern is aesthetics of design, while the ZBA is concerned about the impact on neighbors and that this site is partially within a residential neighborhood.

Mr. Garanin asked whether or not the sign could be moved back farther from its proposed location. Mr. Fox explained that there is a light pole that would be in the way of the easterly view of the sign so that pole determined location. Mr. Garanin said that he still felt that the building's fixed signage and logos would be enough, but he suggested perhaps moving the sign more to the west. Mr. Fox said that the landscaping would then obscure the sign if moved west. Mr. Sachetta explained that sight lines and landscaping are not shown on the photographic renderings but he reminded the Board that they are held to the landscaping plan as previously approved.

Mr. Stevenson said that if BMW has a right to a sign and if ten feet is too small and 25 feet is too big then he would be in support of a medium sized sign estimated to be 19 feet high. Mr. McCray agreed. For point of comparison Mr. Fox noted other examples of signs in town such as the sign at Shaw's Plaza which stands around 13 feet. He reminded the Board that 19 foot sign shrinks the total sign, not just the height and he wanted to be sure that the sign was still in scale with the building. The 19 foot sign would rise to just under the roofline of the building.

Ms. Quirk said that she wanted to see another photographic rendering before she would agree to a smaller freestanding sign.

Jim Kelly asked about the illumination of the freestanding sign. Mr. Fox said that just the BMW logo would be internally illuminated and that is what is being asked for in the application for

special permit. Mr. Fox said that the lighting could be turned off during non-business hours as recommended by Ms. Kablack.

A discussion ensued about bi-furcating the application for Case #09-21 so that the directional signs could be approved and the freestanding sign could be addressed at a later date. The Board did not feel that could be done.

In regard to directional signage Mr. Fox said that the signs are fairly basic, simply to direct patrons around the building and to customer retail and parking areas. The signs stand at 6 ½ feet high and there are no BMW logos on them. Mr. Garanin said that he likes their interesting design concept and low scale and he likes that they are not lit. Ms. Quirk and Mr. Stevenson agreed that they don't see them as being problematic. Mr. Fox also added that they would be seen from the street, but that trees will partially block them.

With progress being made on Case #09-20 the Board discussed approval of the special permit for fixed signage on the building.

In regard to Case #09-21, Mr. Fox formally requested that the hearing be continued to September 21, 2009, the next meeting of the Board. A new rendering showing the sign at 20 feet will be provided to the Board in advance of the next meeting. It was suggested that the simulations also show views from the direction of Sky Restaurant.

There were no further comments from the Board or audience. The hearing was continued to September 21, 2009.

The following motion was placed and seconded:

Case #09-20

MOTION: "To grant Herb Chambers of Sudbury, Inc., DBA Herb Chambers BMW of Sudbury, applicant, Stanley Snider, owner, a Special Permit under the provisions of Section 3290 of the Zoning Bylaws, to allow 153 square feet of affixed signage as proposed in the application dated June 29, 2009, property located at 68 Old County Road, Industrial District #2, Residential Zones A-1 & C-2."

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

REASONS: The petitioner requires a special permit to install signage not otherwise provided for in the Bylaw. The Board finds that the location of the property justifies the granting of a special permit for these signs.

The size and design of the signs is consistent with the scale and architecture of the building. The signs will not be a detriment to the surrounding area and will not alter the character of the zoning district which is zoned as a combination of industrial business and residential. The signs will not cause visual confusion, glare, or offensive lighting in the area, nor will they interfere with traffic safety. It is the Board's opinion that the signs will aid motorists seeking to locate the business on Old County Road.

The Board notes that after a meeting between the applicant and the Design Review Board, the DRB has recommended that the Zoning Board of Appeals consider the exceptions requested.

Elizabeth T. Quirk, Chair

Stephen A. Garanin

Jonas D.L. McCray

Benjamin D. Stevenson

CASE 09-22
Stanislav Mezhebovsky
15 Willis Road

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
Monday, August 3, 2009

The Board consisted of:
Elizabeth T. Quirk, Chair, Stephen A. Garanin, Jonas D.L. McCray, and Benjamin D. Stevenson

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Ms. Quirk, Chair, explained the requirements necessary to substantiate the granting of a special permit. She 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.

Stanislav Mezhebovsky, applicant and owner, presented a petition for a special permit to allow demolition of an existing structure and construction of a new residence not to exceed 2,000 square feet, which will result in a front yard setback deficiency of seven plus or minus feet and a rear yard setback deficiency of two plus or minus feet. The property is located at 15 Willis Lake Road.

Mr. Mezhebovsky said that since the plans for his house were approved on November 17, 2008 (Case 08-29) now, due to family circumstances, he needs more room within his house. He said that he feels the plan is more in compliance with setback requirements and explained that due to the somewhat difficult layout of the original design plans and due to financing constraints he is now proposing building in the colonial style. He said that contractors have recommended that this style is more affordable.

It was noted that the new proposal is for a two-story house rather than a single story. Willis Lake Drive currently has a mix of one- and two-story houses with few ranch style homes left on the road and so the two-story plan would not be out of scale with neighbors' houses. The house is essentially in the same location as the approved plans, but as Mr. McCray pointed out, although the house is increasing in height, the footprint of the house will be reduced in width.

When asked about the number of bedrooms Mr. Mezhebovsky said that there would be three bedrooms as in the old plans and that the septic system, which can accommodate up to four bedrooms, would not need to be changed.

There was a brief discussion among the Board about how because there is such varied housing stock in the area the plan is reasonable and good looking and therefore appropriate.

No neighbors were present at the hearing.

There were no further comments from the Board or audience. The hearing was closed.

The following motion was placed and seconded:

MOTION: "To grant Stanislav Mezhebovsky, owner of property, a Special Permit under the provisions of Section 2460B of the Zoning Bylaws, to allow demolition of an existing structure and construction of a new residence not to exceed 2,000 s.f., which will result in a front yard setback deficiency of 7 feet \pm and a rear yard setback deficiency of 2 feet \pm , property located at 15 Willis Lake Drive, Residential Zone A-1, as follows:

1. The new house will be constructed in the location shown on the plan titled "Proposed Plot Plan 15 Willis Lake Drive", dated October 3, 2008, prepared by Applewood Survey LLC, Holliston, MA 01746
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: 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 reconstruction is modest in size and the design will be compatible with the surrounding homes in the neighborhood.

Elizabeth T. Quirk, Chair

Jonas D. L. McCray

Stephen A. Garanin

Benjamin D. Stevenson

CASE 09-23
Andrew and Stephanie Lewis
616 Peakham Road

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
Monday, August 3, 2009

The Board consisted of:
Elizabeth T. Quirk, Chair, Stephen A. Garanin, Jonas D.L. McCray, and Benjamin D. Stevenson

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Andrew Lewis, applicant and owner presented a petition for a special permit to allow demolition of an existing structure and construction of a new residence that would exceed the total floor area of the original structure. The property is located at 616 Peakham Road. Mr. Lewis explained that he and his wife purchased the house from his wife's grandfather, who had owned it for over 60 years. His children are now fifth generation Sudbury residents. The existing house is in poor shape, so the intent had been to buy it and build a new house on the property. Mr. Lewis said that the existing house is located 14 ½ feet from the road and is sited on a narrow lot with a lot of frontage. Its current location does not meet front or rear setback requirements. Therefore, safety concerns drive consideration for rebuilding.

The new house would be approximately 2,500 square feet. As to style, Mr. Lewis included in his application a photo of an existing house at 133 Hudson Road that the new house would replicate, with exceptions being slight changes to the garage and second story height. Mr. Lewis' house would stand two feet lower than the Hudson Road property. Mr. Lewis mentioned for the record that there will also be a bulkhead at the rear of the property that is not shown on the plan.

When asked whether or not Mr. Lewis had spoken to his neighbors he said that while he has few neighbors they appear to be in favor of the plans. No neighbors were present at the hearing.

Mr. Lewis said that he intends to keep the existing barn on the property and refurbish it. He has already obtained a permit to do so and has had an architect look at it. The barn door would be changed to improve its aesthetic.

There were no further comments from the Board or audience. The hearing was closed.

The following motion was placed and seconded:

MOTION: “To grant Andrew and Stephanie Lewis, owners of property, a Special Permit under the provisions of Section 2460B of the Zoning Bylaws, to allow demolition of an existing structure and construction of a new residence that would exceed the total floor area of the original structure, property located at 616 Peakham Road, Residential Zone A-1, as follows:

1. The new house will be constructed in the location shown on the plan titled “Proposed Plot Plan 616 Peakham Road,” dated June 30, 2009, prepared by Inland Survey, Inc, d/b/a Zanca Land Surveying, Stow, MA 01775.
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: 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 reconstruction is modest in size and the design will be compatible with the surrounding homes in the neighborhood.

Elizabeth T. Quirk, Chair

Jonas D. L. McCray

Stephen A. Garanin

Benjamin D. Stevenson

CASE 09-24
Pet Nannies at Stone Tavern Farm
554 Boston Post Road

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
Monday, August 3, 2009

The Board consisted of:
Elizabeth T. Quirk, Chair, Stephen A. Garanin, Jonas D.L. McCray, and Benjamin D. Stevenson

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Ann Stone, Sharon Sutherland, and Jamie Denn were present to represent a petition for renewal of Special Permit 07-45 to operate a kennel on the premises. Renewal was being requested under the same conditions as the original permit with one exception, that the applicants want to increase the number of dogs allowed on the premises from 30 to 50 dogs. Ms. Stone said that while they don't envision keeping 50 dogs on the premises at all times, the increase would provide flexibility for operations and ensure that the business remains in compliance in regard to capacity during busy sessions within the day, such as during client drop-offs and pick-ups. To illustrate her point Ms. Stone said that on any given day Pet Nannies could have up to 30 dogs on the premises when morning clients are picking up and afternoon clients are dropping off their dogs at the same time. But at other times of the day the facility may not be as full.

Ms. Stone said that business has been steadily growing and there have been no issues or complaints with regard to the operation of the business, and, with the exception of the number of allowable dogs, the applicants are comfortable with imposing the current conditions.

Ms. Quirk expressed her concerns about raising the number of dogs stating that fifty dogs seems like a lot of dogs. She then inquired about the staff to dog ratio and about supervision of the dogs given the business' location on busy Boston Post Road. The applicants explained their system for grouping and cycling dogs according to their behavior and size and described their security features which include a series of gates and fencing to protect the dogs against escape. They also mentioned the additional indoor space available in the carriage house where the dogs play. With the layout of the facility the applicants felt that the business could accommodate the increased number of dogs.

In regard to identification, the applicants said that all of the dogs arrive with their own personal collars and identification tags with their owners' addresses and telephone numbers. Ms. Stone

said that making the dogs wear additional facility identification tags was labor intensive for staff and suggested that it probably wasn't necessary since the dogs already have their own identification issued from the Town of Sudbury. They mentioned that their business differs from other kennels in town because they do not board the dogs overnight, but rather operate the service only during daytime hours when dogs wear collars at all times. If a dog were ever to run from the facility a found dog could easily be identified. The Board agreed that the previously enforced condition requiring facility identification should be eliminated and that requiring personal identification tags only for the dogs would be sufficient.

The applicants also said that there are virtually no close neighbors so that noise from barking dogs has not been a nuisance to anyone. They said that the dogs are only unusually loud when horses go by the property and they didn't feel the additional dogs would increase the level of noise.

Mr. Stevenson said that he was impressed that business has been growing during the slow economy. The applicants replied that they can tell that the dogs are happy to be there because they are excited to get out of their owners' cars to run around the facility.

Michael Griffin of 684 Boston Post Road spoke in support of the renewal of the special permit. He explained that he often rides his bicycle past the property and never sees roaming dogs or hears much barking and that given the success of this small business in this economy he feels the Board should consider approval of the special permit.

Ms. Quirk mentioned that the Board was also in receipt of an e-mail from John and Pat Drobinski, clients of Pet Nannies, who said that they have been using their services for a year for their dog and have found their operation to be professional, safe, efficient, and clean. As such they support a favorable ruling on their application for permit renewal.

The Board then discussed imposing a condition to allow an increased number of dogs only at certain busy times, but determined that the system may be difficult for staff to enforce because the client schedule changes daily and on an as-needed basis. Alternatively the Board discussed increasing the number of allowable dogs to no more than forty and increasing the staff ratio to eight to one for a period of two years and assessing this system when the permit is up for renewal.

There were no further questions. The hearing was closed.

The following motion was placed and seconded:

MOTION: "To grant Anne Stone, Sharon Sutherland, and Jamie Denn, applicants, renewal of Special Permit 07-45, granted under the provisions of Section 2313 of the Zoning Bylaws, to operate a kennel on the premises, property located at 554 Boston Post Road, Residential Zone A-1, subject to the following:

1. A kennel license will be required for this operation.
2. The dogs do not become a nuisance.
3. The maximum number of dogs allowed on the property is forty (40).
4. There will be an 8:1 ratio of dogs to people allowed for this operation.
5. All dogs must wear tags which identify their owners' address and telephone numbers.
6. Each dog being dropped off must be on leash from the car to the facility.
7. No dogs will be allowed off leash in the area shown on the plan marked Exhibit #1 which is made part of this Special Permit.
8. Waste disposal shall be in accordance with Board of Health requirements.
9. No commercial activity consisting of breeding or sale of dogs will be allowed on the property.
10. Hours of operation shall be from 7:00 a.m.-6:00 p.m. No overnight boarding of dogs will be allowed.
11. A sign in conformance with the Bylaw will be allowed.
12. Any complaints received by the applicants shall be reported immediately to the Dog Officer.
13. This permit is non-transferable and will expire in two (2) years on August 3, 2011, 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 petitioners seek renewal of a special permit to operate a kennel on the premises. This kennel has been in operation for three (3) years and there have been no problems associated with the operation or complaints from abutters.

The use is allowed in all districts by Special Permit from the Board of Appeals. The Board finds the use to be in harmony with the general purpose and intent of the Bylaw. It is in an appropriate location, not detrimental to the neighborhood and does not by its presence significantly alter the character of the zoning district. The property consists of a large tract of land which contains a working farm stand located between two commercial businesses. The facility is not visible from Route 20. Adequate and appropriate facilities have been provided for proper operation. The animals are restricted to the area as shown in the plot plan which is made part of this decision to ensure that the use will not be offensive to the adjoining zoning districts or neighboring properties.

The Board finds that a 2-year renewal period will allow for review to insure proper operation.

Elizabeth T. Quirk, Chair

Jonas D. L. McCray

Stephen A. Garanin

Benjamin D. Stevenson

CASE 09-25
Adam Green
802 Concord Road

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
Monday, August 3, 2009

The Board consisted of:
Elizabeth T. Quirk, Chair, Stephen A. Garanin, Jonas D.L. McCray, and Benjamin D. Stevenson

Notice was published in the *Sudbury Town Crier* on July 16 and July 23, 2009, posted, mailed and read at this hearing.

Ms. Quirk, Chair, explained the requirements necessary to substantiate the granting of a special permit. She 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.

Adam Green was present to represent a petition for a Special Permit to install a ten square foot freestanding sign to be located at the end of his driveway in order to advertise his small, home studio photography business located at 802 Concord Road, Masterpiece Portraits, Inc. Mr. Green is a photographer of children's portraits and he said that clients often come from out of town, sometimes from 50 miles away, and because they are unfamiliar with the area and Concord Road in particular, he wants a sign to identify his business and point out the address for clients driving along the residential road.

Having consulted the use tables of the Bylaws Ms. Quirk asked for clarification on business operations out of his home. Mr. Green operates his business from his residence under Section 2330 of the Zoning Bylaws as a Home Business as of Right. He has one client per day and there is little or no environmental impact from the business at that site. The Board was in receipt of a copy of Mr. Green's business certificate.

Mr. Green said that the sizing of his sign is similar to a realtor's sign. The main sign with the two additional pieces along the bottom measure within the allowable dimensions of the bylaw. The square-shaped, wooden sign will be light gray with dark red lettering, and hung from a metal post with a scrolled bracket. As for location, Mr. Green plans to install the sign ten feet from the roadway at the end of his driveway. The Board determined that the sign was nice-looking and well-designed.

Mr. Garanin questioned whether or not the Bylaws allow for advertising on the sign in the way of telephone numbers and web site URLs, which Mr. Green proposes displaying. Mr. Green said that he would be willing to take the telephone number and web address off of the sign if necessary. The Board discussed the fact that there are not many home business signs of this nature in the residential areas of town to serve as an example and debated whether the name of

the studio would be sufficient to mark the property as a business and guide clients to it. Mr. Stevenson said that he feels the telephone number and web site were integral parts of the sign and necessary for this small business.

The Board asked whether or not Mr. Green planned to illuminate the sign. Mr. Green said that he had intended to light it from the top down. The Board agreed that lighting would not be allowed under the terms of the Bylaws.

Ms. Quirk asked whether or not Mr. Green had spoken to his neighbors about the sign plans. He said that he had and noted that two neighbors, who are also clients, and two additional neighbors appeared fine with the proposed sign. No neighbors were present at the hearing.

There were no further questions. The hearing was closed.

The following motion was placed and seconded:

MOTION: "To grant Adam Green, applicant and owner of property, a Special Permit pursuant to Section 3290 of the Zoning Bylaws, to allow a non-illuminated ten square foot freestanding sign on a residential property located at 802 Concord Road, Residential Zone A-1.

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

REASONS: The petitioner requires a special permit to install a ten foot freestanding sign on a residential property not otherwise provided for in the Bylaw. The Board finds that the nature of the business justifies the granting of a special permit for the sign.

The sign's design and its post are consistent with the architecture of the house. The sign will not be a detriment to the surrounding area and will not alter the character of the zoning district. The sign will not be illuminated and therefore it will not cause visual confusion, glare, or offensive lighting in the area, nor will it interfere with traffic safety. It is the Board's opinion that the sign will be an aid to motorists seeking to locate the business.

Elizabeth T. Quirk, Chair

Jonas D. L. McCray

Stephen A. Garanin

Benjamin D. Stevenson