

CASE 11-46  
D. Demitri, Trustee of Old South  
Realty Trust  
407 Boston Post Road

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
Monday, December 5, 2011

The Board consisted of:

Elizabeth T. Quirk, Chair; Jonathan F.X. O'Brien, Acting Clerk; Jonathan G. Gossels; Jonas D.L. McCray, Associate; and Jonathan W. Patch, Associate.

Notice was published in the *Sudbury Town Crier* on November 17 and November 24, 2011, posted, mailed and read at this hearing.

Ms. Quirk, as 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.

Attorney Robert Dionisi was present on behalf of the applicant to request a special permit to allow a twenty square foot freestanding, double-faced business sign at 407 Boston Post Road at the site of the new TD Bank building. Daniel Pollack, with Bergmeyer Associates, Josh Swerling, with Bohler Engineering, and Rick Curtin, representing the applicant, were also present. Mr. Dionisi said that the sign's location along frontage on Boston Post Road was marked on the site plan.

Mr. Pollack explained the dimensions of the sign as measuring five feet wide and five feet tall. The sign façade itself was approximately three feet nine inches tall and the remainder of the sign was a stone base. He said that the sign would have similar materials as the signs that were recently installed at the new Wayland and Framingham TD Bank sites.

Mr. Pollack said that the sign would be externally lit from the top down.

The Board then discussed why a special permit was necessary and agreed that the reasons are that the lot is in a residential zone and that the property has a little less than the required 250 feet of frontage.

Mr. Gossels said that as a Board the ZBA would like to see the business be successful and to do so requires a sign.

Ms. Quirk said that the sign meets the commercial building bylaw requirements in that it has a maximum of twenty square feet of total signage and is located twelve feet from the property line.

Mr. Dionisi referenced a letter from the Sudbury Board of Selectmen dated November 15, 2011 that approved construction of the sign during the Site Plan review process.

Mr. O'Brien asked for confirmation about the lighting and whether white lights would be used. Mr. Pollack said that the lighting would be consistent with the Sudbury bylaws.

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The Board then discussed whether hours of illumination should be imposed, however given that the site will have a 24-hour ATM machine and drive-thru at the site, the Board agreed that no conditions on hours of illumination would be appropriate.

No neighbors were present to speak about the proposal. As there were no further questions from the Board or audience, the hearing was closed.

The following motion was placed and seconded:

MOTION: "To grant D. Demetri, Trustee of Old South Street Realty Trust, applicant, and D&D Realty Trust II, Edward Davis Trustee, owner, a Special Permit under the provisions of Section 3290 of the Zoning Bylaws, to allow a twenty square foot free-standing, double-faced business sign on a residentially zoned lot with 180 feet of frontage, property located at 407 Boston Post Road, Residential Zone A-1, provided that

1. Only white lights shall be used for direct illumination. Illumination shall be shaded, shielded, directed and maintained at a sufficiently low intensity and brightness that it shall not affect the safe vision of operators of vehicles moving within the premises or on any adjacent public or private ways."

VOTED: In favor: 5 (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 size and design of the sign is consistent with the scale and architecture of the building. 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 cause visual confusion, glare, or offensive lighting in the area, nor will it interfere with traffic safety.

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Elizabeth T. Quirk, Chair

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Jonas D.L. McCray, Associate

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Jonathan G. Gossels

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Jonathan W. Patch, Associate

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Jonathan F.X. O'Brien, Acting Clerk

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Ms. Quirk, as 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.

Applicant and owner, Celia Hinrichs, was present to request a renewal of a special permit for a home business, specifically for her optometry practice that has been in operation since 1996. Ms. Hinrichs said that she has been before the ZBA many times for renewals that have always been granted. The last term granted was for a period of five years. She reported that in that time she has not received any complaints about the operation from any neighbors.

Ms. Quirk noted that no complaints have been filed with the Town either.

Given that there have been no noted problems Mr. Gossels suggested that the ZBA consider extending the renewal period for longer than five years.

Ms. Hinrichs said that her business continues to be successful and she sees only one patient at a time.

Mr. Stevenson asked about the number of cars allowed at the property at one time. Ms. Hinrichs said that language in her application referred to the fact that parking should be off-street with enough spaces in the driveway to accommodate overlap with patients. There was no condition in the special permit that specifically mentioned a limit on cars, but one condition did state that parking should be off-street. The Board agreed to keep the language as is.

No neighbors were present to speak about the proposal. As there were no further questions from the Board or audience, the hearing was closed.

The following motion was placed and seconded:

MOTION: "To grant Celia Hinrichs, applicant and owner of property, renewal of Special Permit 06-45, granted under the provisions of Section 2340 of the Zoning Bylaws, to conduct a Home Business, specifically an optometry practice, property located at 169 Powers Road, Residential Zone A-1, provided that:

1. Hours of operation shall be Tuesday through Thursday, from 9 a.m. to 5 p.m.

2. A maximum of five patients per day will be allowed.
3. No exterior indication of the home business, other than a sign in conformance with the Zoning Bylaws will be permitted. No display of commercial flags is allowed.
4. All parking will be off-street.
5. This permit is non-transferable and will expire in ten years on December 5, 2021, and the Board will consider renewal upon receipt of proper application on or before that date.”

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

Members present and voting: Elizabeth T. Quirk, Chair; Benjamin D. Stevenson, Clerk; Jonathan G. Gossels; Jonathan F.X. O’Brien; and Jonathan W. Patch, Associate.

REASONS: The petitioner seeks renewal of a special permit to conduct an optometry practice in her home. This operation has existed since 1996. The Board finds that the use is in harmony with the general purpose and intent of the Bylaw, is in an appropriate location, is not detrimental to the neighborhood, and does not by its presence significantly alter the character of the zoning district. Adequate and appropriate facilities are provided for proper operation. Since there have been no complaints with regard to this operation and no abutters were present to oppose renewal, the Board finds a ten-year renewal period to be appropriate in this case.

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Elizabeth T. Quirk, Chair

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Jonathan F.X. O’Brien, Acting Clerk

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Benjamin D. Stevenson

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Jonathan W. Patch, Associate

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Jonathan G. Gossels