

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
Monday, February 6, 2012

The Board consisted of:

Elizabeth T. Quirk, Chair; Benjamin D. Stevenson, Clerk; Jeffrey P. Klofft; Jonathan F.X. O'Brien; and Nancy G. Rubenstein, Associate.

Notice was published in the *Sudbury Town Crier* on January 19 and January 26, 2012, 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.

Applicant and property owner Michael Neustadt was present to request a special permit to build a porch onto his house at 35 Birchwood Avenue. The porch would result in a setback deficiency of four feet.

Mr. Neustadt said that he had spoken with his neighbors about the project and the neighbors were supportive.

Ms. Quirk asked Mr. Neustadt to clarify the location of the porch and explain the orientation of the site sketch. Mr. Neustadt said that he is building a conforming addition onto one corner of this house and said that the porch would be on the opposite corner where a rear deck is currently located. He said that the porch would be L-shaped, extending out farther from the side wall of the house and running down toward the front slightly.

The Board discussed that the actual encroachment into the setback would be approximately four feet.

Ms. Rubenstein asked about a large tree that stands in the vicinity of the proposed porch. Mr. Neustadt said that he is not planning to remove the tree. He said he would rather would build the porch around the tree or make the porch smaller if need be. He has had a tree surgeon assess the health of the tree and was assured that it was quite stable.

Referencing the architectural sketch Mr. Stevenson asked Mr. Neustadt to describe how the porch would look when finished. Mr. Neustadt said that he is currently planning to build a seasonal covered and screened porch, however he may want to consider a three-season porch at a later point. Bud Hayworth is the builder and he specializes in traditional post and beam style carpentry.

No neighbors were present at the hearing to speak about the renewal.

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 Stacey and Michael Neustadt, applicants and owners of property, a Special Permit under the provisions of Section 2420 of the Zoning Bylaws, to construct a 19x8 square foot porch on a nonconforming lot which will result in a side yard setback deficiency of four (4) feet, property located at 35 Birchwood Avenue, 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: 5 Opposed: 0

REASONS: The petitioners require a special permit due to the nonconforming nature of the property. The Board finds that the proposed alteration appeared reasonable, would improve the house, and will not be more detrimental to the neighborhood than the existing nonconforming structure. The Board noted that no abutters were present at this hearing to oppose this petition.

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Attorney Joshua Fox was present on behalf of Herb Chambers of Sudbury, Inc. along with Heather Dudko, of Pattison Sign Group to request that the ZBA grant a special permit for approximately 86 square feet of affixed wall signage and also a freestanding business sign that would measure approximately 100 square feet. The amount of signage requested was in excess of the maximum signage allowed under the bylaws.

Mr. Fox began by reminding the Board about the Jaguar wall sign for which Herb Chambers recently received a special permit in October 2011. The intent was to keep this sign as part of the new signage plan. Mr. Fox also mentioned that Herb Chambers Jaguar may be redesigning the shared Land Rover and Jaguar building in the next year or so in order to feature the brands separately. Therefore he would be presenting new proposals for permits during that process.

Mr. Fox explained that the proposal before the Board includes three separate signs to be posted on the façade of the existing green brick tower. Signs would include an oval Land Rover sign, a rectangular Range Rover sign, and the word Sudbury, which currently exists and would be re-used, all stacked one above the other on the tower. The Land Rover sign measures 27 square feet, the Range Rover sign measures 21.18 square feet, and the Sudbury sign measures 8 square feet. The Land Rover and Range Rover signs would be internally illuminated with a soft, white light. The existing ground spotlight would no longer be used. Ground lighting proved problematic with maintenance due to its location within the landscaping, and with snow removal.

The proposal also included a four square foot welcome, or entry sign that would be located at the building's entrance. That sign would not be illuminated.

Mr. O'Brien and Mr. Stevenson questioned the placement of the signs on the tower. Mr. Fox said that the top height of the signs would begin at around 26 feet, making the Land Rover oval level with the roofline of the building. The tower itself rises slightly higher than the building. He said that the starting height was a recommendation of Sudbury's Design Review Board with whom he met.

As to the lighting, Ms. Dudko said that the aluminum Land Rover and Range Rover signs would not be fully face-lit, but the lighting would have a soft, halo effect around the outline of the signs.

Ms. Quirk said that typically the ZBA does not approve of internally illuminated signs but given the site's location and the tasteful design she felt this lighting was appropriate.

In regard to the freestanding sign Mr. Fox said that the DRB had asked for a revised design. The initial proposal was for a fourteen foot high panel on top of an eight inch foundation. The sign would have been five and half feet wide. Mr. Fox said that he realized that the sign was big and tall and, after talking with the site engineer Bruce Saluk at Schofield Brothers, he determined that it might not meet the front setback if it were to be placed in the old sign's current location. Mr. Fox then submitted for consideration a new design for an eleven foot, four inch high panel sign. He then said he would try to locate the sign within the setbacks but it may have to be moved out of the existing planting bed.

The Board discussed that visibility could be an issue. They also determined that the sign needs to stand within the Sudbury Town Line rather than on Wayland's portion of the lot.

In the end, Mr. Fox said that given the setback issue the freestanding sign panel may measure nine feet in height on an additional eight or nine inch pedestal. The Board discussed that the sign should be no closer than thirteen feet from the road. The issue then became whether or not the hearing notice was appropriately advertised. Since the freestanding sign plan was not yet solidified Mr. Fox requested a withdrawal of the application without prejudice so that he could resubmit the full proposal for the wall signs and freestanding signs.

Ms. Rubenstein noted that the silver sign could be very bright with sun shining on it. She wanted confirmation that it would be made of non-glare or non-reflective material to avoid blinding drivers on Boston Post Road. The Board discussed whether a sample could be brought to a future hearing.

Mr. O'Brien asked about the composition of the sign should it be hit by a car. Mr. Fox said that while it would be made of aluminum it would not be as solid as a telephone pole.

Mr. Klofft wanted to know how much of the screening would be lost since screening was a consideration in the original special permit for the Herb Chambers building. Mr. Fox said that the area would be replanted.

No neighbors were present at the hearing to speak about the renewal.

As there were no further questions from the Board or audience, the hearing was closed.

The following motion was placed and seconded:

MOTION: "To accept a request from the Applicant to withdraw Case 12-4 without prejudice."

(Request for a Special Permit for 86± square feet of affixed wall signage and a 100± square foot freestanding, double-faced business sign at 82 Boston Post Road)

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

REASONS: The Board and the applicant felt that the proposal for the freestanding sign needed revising to address the size and setback issues. By withdrawing the application without prejudice, the proposal could be finalized with the appropriate siting and an application for a special permit would be submitted at a later date.

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Elizabeth T. Quirk, Chair

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Jonathan F.X. O'Brien

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Applicants Heather and Richard Clement requested a renewal of ZBA special permit 11-9 to operate a kennel, Tails by the Wayside, at 882 Boston Post Road. There were to be no changes to the facility or to the operations therein. The ZBA had not received word of any complaint from neighbors or clients. Ms. Quirk read into the record a letter dated February 5, 2012 from the Animal Control Officer, Jennifer Condon, stating that their office had conducted a site inspection on February 5, 2012 and their findings were positive and the kennel and facility were found to be well-organized, clean, and had no identifiable problems.

The Board discussed that in light of the fact that there had been no issues since the kennel had increased the number of dogs at the facility in March 2011 a longer renewal term would be appropriate. Since the special permit had been renewed a number of times and all of the conditions have been complied with, the Board agreed to extend the renewal term to five years.

No neighbors were present at the hearing to speak about the renewal.

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 Tails By The Wayside, LLC, applicant, Richard J. & Heather C. Clement, owners of property, renewal of Special Permit 11-9, granted under the provisions of Section 2313 of the Zoning Bylaws, to operate a kennel on the premises, property located at 882 Boston Post Road, Wayside Inn Historic Preservation Zone, subject to the following:

1. The dogs do not become a nuisance.
2. The maximum number of dogs allowed on the property is twenty (20) boarding dogs plus a pet.
3. All boarding dogs must wear tags which identify the business.

4. Only ten (10) boarding dogs will be allowed outside at a time, under supervision, within the fenced-in area. This condition does not apply to the family pet.
5. Any complaints should be reported immediately to the Dog Officer.
6. Compost bin(s) shall be provided for disposal of dog waste. The number and capacity of the bin(s) shall be appropriate for the number of dogs. The composting system must be placed at least 100 feet from the property line.
7. In the event the shallow well is brought back into use, it shall be tested for nitrates and coliform bacteria within the terms of this permit, with results sent to the Board of Health Director.
8. No commercial activity consisting of breeding or sale of dogs will be allowed on the property.
9. No sign advertising the kennel will be allowed.
10. This permit is non-transferable and will expire in one year on February 6, 2017, and the Board will consider renewal upon receipt of proper application on or before that date.”

VOTED: In favor: 5 Opposed: 0

REASONS: The petitioner is requesting renewal of a Special Permit to operate a kennel on the premises. The Board finds that the petitioner has generally complied with the conditions of the permit. In addition, the premises were inspected by the Dog Officer who found no problems with the operation and found the premises to be well-organized and clean. The Board finds that a five-year renewal period would be appropriate.

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Elizabeth T. Quirk, Chair

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