

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
Monday, March 2, 2015

The Board consisted of:

Benjamin D. Stevenson, Chair; Jonathan F.X. O'Brien, Clerk; Jonathan G. Gossels; Jeffrey P. Klofft; and Nicholas B. Palmer.

ZBA Chairman Benjamin Stevenson explained the requirements necessary to substantiate the granting of a Special Permit. He said 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 Robert Brais returned to request a Special Permit under the provisions of Sections 4100 and 4166 of the Zoning Bylaw to transfer 11 cubic yards of soil in zone AE to provide flood protection for his property located at 79 Jarman Road.

The hearing had been continued because some members of the Board wanted more documentation and confirmation of the Conservation Commission's approval of the Order of Conditions.

The Board was in receipt of an e-mail from Debbie Howell, Conservation Consultant, dated January 16, 2015 stating that the Conservation Commission was satisfied with Mr. Brais' proposal given the approval of Assistant Planning Director Jim Kupfer and Town Engineer Bill Place. The Board was also in receipt of a copy of the Order of Conditions.

Mr. Stevenson felt that the applicant had done what the ZBA had asked of him.

Mr. Palmer questioned whether the copy of the Order of Conditions was signed since the copy that he had was not signed. Mr. Brais produced a signed copy.

Mr. O'Brien asked whether DEP needed to sign off. Mr. Brais said that it was his understanding that sign-off was not needed at this time.

Mr. Palmer then pointed out a comment Mr. Place made stating that an as-built plan needed to be signed by an engineer, however the Conservation Commission did not include mention of that in the Order of Conditions. The Board discussed this at length and it was felt that a condition could be added to the decision that an as-built certification from the professional engineer be submitted to the ZBA file.

Given that the ninety-day time limit for final action by the Board was nearing the deadline Mr. Brais granted the ZBA an Extension of Time for filing the decision. The ZBA voted to accept the agreement and Mr. Stevenson signed the Extension of Time form granting the ZBA until March 10 to file the decision.

Mr. Stevenson asked whether any neighbors were present who wished to speak. None were present. There were no further comments from the Board or audience. The hearing was closed.

The following motion was made and seconded:

MOTION: "To grant Robert Brais, applicant and owner, a Special Permit under the provisions of Sections 4100 and 4166 of the Zoning Bylaw, to transfer 11 cubic yards of soil in zone AE to provide flood protection to property located at 79 Jarman Road, Residential Zone C-1, as follows:

1. An as-built certification from the professional engineer shall be submitted to the ZBA file.
2. This Special Permit shall lapse if work has not begun, except for good cause, within twelve (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. Work must be completed no later than one year after commencement."

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

REASONS: The Board finds that the petitioner has met the requirements for granting a special permit and considers this alteration to be satisfactory particularly in light of the approval of the Conservation Commission, Town Engineer, and Assistant Planner. Additionally, no neighbors were present to express any concerns.

---

Benjamin D. Stevenson, Chair

---

Nicholas B. Palmer

---

Jonathan F.X. O'Brien, Clerk

---

Jeffrey P. Klofft

---

Jonathan G. Gossels

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
Monday, March 2, 2015

The Board consisted of:

Benjamin D. Stevenson, Chair; Jonathan F.X. O'Brien, Clerk; Jonathan G. Gossels; Jeffrey P. Klofft; and Nicholas B. Palmer.

ZBA Chairman Benjamin Stevenson explained the requirements necessary to substantiate the granting of a Special Permit. He said 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.

Genevieve Richardson was present to request a Special Permit under the provisions of Sections 2313 to raise up to six hens on her property located at 55 Phillips Road. Ms. Richardson said that her family is interested in raising the hens as pets to teach their children where food comes from and to have access to healthy eggs. She said that they have a nice-sized backyard that could support and camouflage the coop. Ms. Richardson said that she had spoken with her neighbors. One neighbor had no concerns and one had concerns. E-mail correspondence was included in the application to illustrate what the concerns were and how Ms. Richardson intended to address the issues.

Mr. Stevenson asked whether any neighbors were present who wished to speak.

James Peck, 49 Philips Road, was opposed to the coop. He said that the intent of the bylaw is to ensure that the coop is in an appropriate location and does not alter the character of the neighborhood. He said that there are no other chickens in the area. He said that the coop should not be detrimental to neighboring properties due to odors, noise, sewage, etc. He has lived in the neighborhood for ten years and has never had any prior issues. He noted that all of the neighborhood children get along and play in each other's yards, but he was concerned that the coop would attract predators given that the area is heavily wooded at the edge of the Great Woods Reservation area. With predators he had concerns about the safety of the kids. He has a puppy that he is concerned about and any potential for the puppy to bark at the chickens. He is also concerned about the value of his home decreasing due to the presence of chickens. He felt that the Richardson's back yard was too small for the coop and there was no place to put it that would be unobtrusive from the perspective of his home. He felt that the coop would be sitting on his property line. He said that if he wanted to sell his home the coop would affect the ability to sell it. While he applauds the Richardson's effort to have healthy food and is in support of pets, he also sees negatives to the coop, namely the noise, attraction of predators, danger due to predators, and decreased property values. He said that he did not want to cause problems among neighbors but as most of his family's savings is in his house he wanted to continue with the quiet enjoyment of the property.

Mr. Stevenson noted that the board has been through several requests for special permits for chickens before. He said that the town at Town Meeting passed the bylaw to allow chickens in all districts and the ZBA is therefore tasked with following the bylaw. He said that the Town vote does give property owners the right to have coops if neighbors' concerns are met.

Mr. Peck said that the Richardsons said that coop would not be located near them, but he wanted confirmation that that would truly be the case. He urged the ZBA not to approve the special permit because he wants to minimize the effects on his property.

Mr. Stevenson said that it has been the ZBA's experience that coops work pretty well and generally the concerns are worse than the reality. However, the details should be worked out to address screening and safety.

Mr. Peck said he was not sure how noise is dealt with. Mr. Klofft said that it has been the ZBA's experience that chickens are not noisy in the absence of roosters. Nor is there typically offensive odor.

Mr. Gossels asked about plans for waste disposal. Ms. Richardson explained that waste would be used for composting in the woody area and described a sand filtration system in the bottom of coop. She said that in her research she discovered that the hens do not generate a large amount of waste. Mr. Peck did not find that solution minimal since the waste would be swept into the yard potentially attracting predators. Mr. Gossels agreed that the plan to dump the waste into the woods did not sound like a good plan. He suggested that Ms. Richardson consider a plastic composter and suggested that the disposal composter may be a condition of the special permit. Other board members agreed.

Mr. Klofft asked for clarification on the coop's location. Ms. Richardson said that it would stand in the woody area which she estimated was about thirty feet deep. The woods are in the center of the back of her property. She said that coop would have an enclosed run and would be surrounded by trees. Mr. Peck said that location is very close to his property.

Mr. Klofft felt that the coop would be a good distance away. He did not see it as a significant intrusion.

Mr. Palmer asked Mr. Peck what is his view currently. Mr. Peck said that he can see a clear view to Webster Circle. He described small shrub trees in the back which do not provide screening. He thought that he would be able to see the coop clearly from his back deck.

Mr. Stevenson and Mr. Klofft felt that the Richardson's had a big lot. Mr. Palmer, however said that sight line poses a different story. Ms. Richardson said that she would put vegetative screening in the area if need be and she would consider alternative disposal mechanisms.

Mr. Klofft reiterated the fact that the bylaw allows coops within all zoning areas. He noted that most coops have been benign and approximated that the Board has approved perhaps fifteen permits and there have been no complaints. He noted that many coops have been approved in much more densely settled neighborhoods. Mr. Stevenson said that if the ZBA approves the permit there is renewal period to ensure that there are no issues.

Mr. Peck asked about fences. Mr. Palmer said that a fence could be a consideration, however the board discussed using landscaping with evergreens to make a more natural screening.

Ryan Larrenaga, 15 Webster Circle, said that the coop would be within his line of site from his house. He too was worried about predators as he has young children and pets. He said he was not comfortable with

the plans for the coop and feels that the coop, while there may be some benefits for the Richardsons, would be a cost to neighborhood.

Mr. Klofft said that there appear to be a lot of woods in between the houses in the back. Mr. Larrenaga said, however, that the woods are part of the Great Woods Reservation and contain tall pines so there is, in fact, a sight line between the trees.

Mr. Gossels reminded those present that Town Meeting approved coops in all districts and the ZBA has decided upon a number of coop cases, so they have had experience. He recommended approval with the added conditions for screening the coop on all sides and for dealing with waste disposal. He also said that the ZBA usually imposes a term limit on special permits for chickens so that if the coop is not working out then issues can be addressed at renewal time. Mr. Larrenaga wondered whether it would be difficult to deny a renewal if the coop is already installed. Mr. Gossels said that they have never had problems with coops. In addition the Building Inspector, Mark Herweck, is also the Zoning Enforcement Agent and if there are concerns or issues that come up after the coop is installed neighbors can inform him and he will look into the matter.

Mr. Herweck was present. He said that he has received zero complaints about existing chicken coops. He has, however, received complaints about roosters that were not permitted. Mr. Herweck suggested that Ms. Richardson talk with the Board of Health about waste disposal because there are ways to dispose of it so that neighbors are not subject to any offensive odor.

Melinda Manente, 23 Webster Circle, said that she has voiced her concerns to Ms. Richardson directly. She has the same concerns as her neighbors about noise, property values, and predators. She felt that the coop might be visible from all angles given the shape of the lot and she had concerns about how the coop would look. Ms. Richardson said that she is amenable to adding landscaping to mitigate the view. Ms. Manente said that at this point it is difficult to anticipate problems so it would be good to have an opportunity to voice concerns later. However, she said she hopes that the ZBA would not approve the coop but she appreciated the opportunity to express concerns.

Mr. Peck said that he wished the ZBA would reconsider approval. Mr. Gossels said that the ZBA is charged with administering what Town Meeting approved. Mr. Stevenson added that the ZBA needs to strike a balance between all parties because coops are allowed in all districts.

The Board then discussed screening, waste disposal, a short permit period, and the fact that a low-watt light would be allowed in the coop.

In regard to screening Mr. Klofft suggested that on three sides of the coop three evergreens should be planted to thicken the understory for a total of nine evergreens. He said that landscaping should be effective and the plan should be mutually agreeable to the applicant and the abutters.

Mr. Palmer asked about the possibility of a fence. Ms. Richardson felt that vegetative screening would be more appropriate for the landscape.

Mr. Gossels suggested that the case be continued so that the applicant can show the ZBA both a landscape plan and a waste management plan. Mr. O'Brien did not think that a continuance was necessary because

the applicant could work with the Board of Health on the waste disposal plan and if the screening is not good then it can be revised during the renewal period.

Mr. Peck asked about the height of the coop. Ms. Richardson said that it would be approximately four feet high.

Mr. Klofft also recommended continuing the case so that a landscape plan could be worked out. He noted that the coop's location should be identified along with the species of vegetation. The waste management plan should be presented as well. The Board agreed adding that the interim time could be used to talk with neighbors.

An extension of time for filing the decision would be required so the ZBA Secretary would work that out with the applicant.

Mr. Stevenson asked whether anyone else from the audience wished to speak about the case. There were no further comments from the Board or audience. Given that the majority of the Board wanted see the landscape and waste disposal plans before rendering a decision, a motion was made to continue the hearing to Monday, April 13, 2015 at 7:30 p.m. at the Town Hall.

---

Benjamin D. Stevenson, Chair

---

Nicholas B. Palmer

---

Jonathan F.X. O'Brien, Clerk

---

Jeffrey P. Klofft

---

Jonathan G. Gossels

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
Monday, March 2, 2015

The Board consisted of:

Benjamin D. Stevenson, Chair; Jonathan F.X. O'Brien, Clerk; Jonathan G. Gossels; Jeffrey P. Klofft; and Nicholas B. Palmer.

ZBA Chairman Benjamin Stevenson explained the requirements necessary to substantiate the granting of a Special Permit. He said 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 Architect Frank Riepe was present to request a Special Permit under the provisions of Sections 2420 of the Zoning Bylaw, to construct an attached two-car garage on a nonconforming lot to be located approximately twenty-two feet from the front property line resulting in a front yard setback deficiency of approximately eighteen feet, at property located at 218 Mossman Road. He said that it was necessary for the new garage to intrude on the setback due to natural restrictions of the site.

Mr. Riepe explained that the existing house currently had no garage as the old garage had been converted into family room probably twenty years ago. He noted that the lot was a pre-existing nonconforming lot of approximately 29,000 square feet. The location for the proposed garage is snuggled up to a rock outcropping which is visible and extends from the property line to the street. He anticipated having to do some blasting of ledge for the foundation. He explained why a two-car garage was necessary and pointed out a breezeway across the front of house. He said that the proposal for the coming year is building the garage and necessary paving. Conforming amendments would be sought at a later date.

Mr. Stevenson asked why the garage could not be pushed backward. Mr. Riepe said that if the garage were pushed back then it would box in the family room so that room would have no access to natural light. He noted that phase two of the home renovation plan is to renovate the family room and fix the ceiling height. The wing would become more of a salt-box eventually. If the garage were moved back it would impact future plans to renovate.

Frank referenced a first-floor plan included in his application which showed the layout of the addition and renovation.

Mr. Klofft asked about the peak height of the garage. While the height was not indicated in his application Mr. Riepe said that it would be twenty-three feet high.

The garage will be perpendicular to street. Mr. Stevenson suggested that the garage in the new addition was going to be large.

Mr. Gossels said that the structure is twenty-three feet high and would not, therefore, be looming over street. He said that the rock would break up the view from the street as well. Mr. O'Brien was not

concerned about the plans as he felt that the façade was well broken up and the garage was essentially a minor modification. He added that the rear wing would also be renovated in the future.

Mr. Stevenson said that he also agreed that the low roof height at 23 feet, cape style, and broken façade, made for a well-thought architectural plan. While noted that the granting of a special permit would allow a big intrusion on the forty foot front setback he was sold on the plan.

Mr. Klofft asked about the design benefit of the dormer. Mr. Riepe said that it breaks up the plane of the roof and creates a small element. The dormer is a compact three foot dormer with a small casement window.

Mr. Riepe added that the area between the proposed garage and street is heavily vegetated. Mossman Road is level so the house does not sit up high. It would essentially be tucked away.

Mr. Stevenson asked whether any member of the public wished to speak on behalf of the project.

Brian White at 215 Mossman asked to see the diagrams. Mr. Riepe explained the plans. Mr. White said that he would hardly see the garage from his perspective and does not see a problem with the proposal. He noted that Mossman Road is narrow so the cars would not see much. He said that the road is heavily treed on both sides of road. He had no objections and felt that the project was a good thing for the homeowners to do.

Mr. Klofft thought that he was ok with the plans but would have preferred to see a front elevation to know for sure. He felt that this was a big encroachment. Mr. Palmer also was not yet sold. Mr. Gossels said that the lot was awkward to work with and Mr. O'Brien said that the neighbor most impacted appears in support of the plans.

Mr. Stevenson said that this house would have more elevations and angles than most houses that the ZBA has seen. He wanted to know what were the major concerns.

Mr. Palmer asked if it was the Board's habit to approve a special permit without seeing a complete front elevation. Mr. O'Brien said that the board had done so in the past. Mr. Klofft said that he wanted to see an elevation from the street view before a vote was taken. Discussion was tabled while Mr. Riepe went to his office and returned later with an elevation.

Mr. Riepe argued his position again stating that the house sat on a preexisting nonconforming lot that was severely constrained by the shape and contours of the lot. He said that there were virtually no other options to position the garage. Mr. Klofft asked about moving the garage back and reconfiguring the entrance into the garage. Mr. Riepe said that he could not move the garage back and still get into the doors because there is a rock outcropping there. He said that if the garage were pushed back then the end of the house would be blocked off and the wing would lose the southern light.

He felt that the existing configuration, while closer to the street, makes a modest presence. He felt that it was not intruding on street even though it was closer.



Mr. Stevenson said that while eighteen feet is a large deficiency he did not see that there was much complaint from neighbors.

Mr. Gossels and Mr. O'Brien said that a special permit can allow for exceptions and the neighbor who attended the meeting appeared fine with the project. They supported the nice design. Mr. O'Brien elaborated by saying that the architect is taking into consideration the aesthetics of the home.

Mr. Gossels said that the garage was a low structure. He noted the outcropping of rock and screening by vegetation. The geography lends itself to the design.

Mr. Stevenson said that on balance this plan is better than nothing going forward. He said that he could get behind it in its current form.

Mr. Palmer was still disappointed by the elevation provided as he thought it did not offer enough of a view.

Jeff cautioned that the ZBA may make inconsistent decisions. Mr. Gossels suggested that the ZBA instead looks at applications on a case-by-case basis. The overall goal is to try to make major renovations better for the town.

Mr. O'Brien said that the ZBA would be substituting its judgment for the architect's and the homeowner's and the neighbor was fine with the proposal. He said that in his opinion the garage was architecturally designed and well-placed.

Associate ZBA Member John Riordon commented that he felt that the applicant proposed an attractive plan and suggested that the ZBA would not want to approve a plain structure with the garage facing the street. He liked the oblique angle and attractive addition to neighborhood.

Mr. Stevenson asked whether any other neighbors were present who wished to speak. There were no further comments from the Board or audience. The hearing was closed.

The following motion was made and seconded:

MOTION: "To grant Frank Riepe, applicant, and James and Lesley Evans, owners, a Special Permit under the provisions of Sections 2420 of the Zoning Bylaw, to construct an attached two-car garage on a nonconforming lot to be located approximately 22 feet from the front property line resulting in a front yard setback deficiency of approximately 18 feet, at property located at 218 Mossman Road, Residential Zone A-1, as follows:

1. The garage will be constructed as shown on the plan dated January 9, 2015 prepared by Building Arts that is incorporated into and made part of this application for a Special Permit.
2. This Special Permit shall lapse if construction has not begun, except for good cause, within twelve (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                      Opposed: 0                      Abstained: 1 (Palmer)

REASONS: The petitioner requires a Special Permit due to the nonconforming nature of the property. The Board finds that the proposed garage, which will create front yard setback deficiencies, will not be substantially more nonconforming than the existing nonconformity to the neighborhood. The closest neighbor was present to express his support and therefore the proposal was unanimously approved.

\_\_\_\_\_  
Benjamin D. Stevenson, Chair

\_\_\_\_\_  
Nicholas B. Palmer

\_\_\_\_\_  
Jonathan F.X. O'Brien, Clerk

\_\_\_\_\_  
Jeffrey P. Klofft

\_\_\_\_\_  
Jonathan G. Gossels

\_\_\_\_\_

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
Monday, March 2, 2015

The Board consisted of:  
Benjamin D. Stevenson, Chair; Jonathan F.X. O'Brien, Clerk; Jonathan G. Gossels; Jeffrey P. Klofft; and  
Nicholas B. Palmer.

ZBA Chairman Benjamin Stevenson explained the requirements necessary to substantiate the granting of a Special Permit. He said 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.

Margaret Espinola was present to request a Special Permit under the provisions of Sections 2340 of the Zoning Bylaw conduct a home business for a psychotherapy practice at 224 Goodmans Hill Road. She explained that since 1990 she has been practicing part time with a group in Lexington and Sudbury. However, she now wants to wind down her business and work with clients from home until retirement.

Mr. Klofft asked how many clients she estimates scheduling per week. Ms. Espinola said that she would like to see at least six and maybe nine for perhaps a day and a half per week. She said that she sees only individuals and not groups.

Ms. Espinola said that she has checked with the closest neighbor and he congratulated her saying that it was a good move.

Ms. Espinola said that she did not plan to have any signage or advertising and she would not be seeking new clients.

In light of recent weather Mr. Stevenson asked about the driveway which has an incline. Ms. Espinola said that she hires a plow company and in the case of poor winter weather she would cancel appointments. Typically the driveway is double the width. Client visits would be spaced out so that traffic is not a problem.

Mr. Stevenson felt that the proposal was a good one.

Mr. Klofft asked how long the business may go on. Ms. Espinola said that she is not certain when she will retire. To ensure that there are no problems with the business Mr. Klofft then suggested following normal term limit procedures and which was a one-year permit with the option to renew at the end of the year.

The board then discussed adding in the following conditions to the usual home business conditions. There shall be no signage, the applicant may have up to ten clients per week, and the permit shall expire in one year.

Mr. Stevenson asked whether any neighbors were present who wished to speak. None were present. There were no further comments from the Board or audience. The hearing was closed.

The following motion was made and seconded:

MOTION: “To grant Margaret Espinola, applicant and owner, a Special Permit under the provisions of Sections 2340 of the Zoning Bylaw, to conduct a Home Business, specifically for a psychotherapy practice, at property located at 224 Goodmans Hill Road, Residential Zone A-1, as follows:

1. The use must be clearly incidental and secondary to the use of the premises for residential purposes.
2. There will be no employees on the premises.
3. Up to ten clients per week may be allowed.
4. There will be no exterior commercial signage or lighting.
5. This permit is non-transferable and will expire in one (1) year on March 2, 2016, and the Board will consider renewal upon receipt of proper application on or before that date.”

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

REASONS: The Board finds the use to be in harmony with the intent and general purpose of the Bylaw. It is in an appropriate location, is not detrimental or offensive to the neighborhood, and does not significantly alter the character of the zoning district. Adequate facilities are to be provided for the proper operation of the use. Given that this is a new venture, the Board finds a one-year renewal period to be appropriate.

---

Benjamin D. Stevenson, Chair

---

Nicholas B. Palmer

---

Jonathan F.X. O’Brien, Clerk

---

Jeffrey P. Klofft

---

Jonathan G. Gossels