

MINUTES OF THE PUBLIC HEARING CONTINUATION
SUDBURY BOARD OF APPEALS
TUESDAY, JUNE 13, 2006

The Board consisted of:

Stephen M. Richmond, Chairman
Jeffrey P. Klofft, Clerk
Jonathan G. Gossels
Constantine Athanas
Nancy G. Rubenstein, Alternate

Also: Selectmen Lawrence O'Brien

For the Applicant: Attorney Joshua M. Fox
Bruce Ey, Schofield Brothers
Frederick Tierney, Richard Glasheen, Foreign Motors West

The hearing was reconvened by the Chairman Mr. Richmond. The Board was in receipt of the following correspondence relative to the application:

- Email dated May 19, 2006 from Joshua Fox including memos dated March 28 and May 1, 2006 from Brian Beisel, Conley Associates, Traffic Consultant
- Letter dated May 25, 2006 from Attorney Dennis R. Brown to Selectmen Keller, Drobinski & O'Brien
- Memo dated May 26, 2006 from Brian Beisel (Boston Post Road Intersection Accident Data)
- Progress print of building setback dated June 2, 2006
- Email dated June 7, 2006 which includes a parking analysis and building sketches
- Letter dated June 12, 2006 from Selectman Keller
- Memo dated June 12, 2006 from Planning Director Kablack

Mr. Fox described the latest proposal which shifts the building and canopy back an additional 18 feet. There will now be a 43-foot landscape buffer between the canopy and the front property line. The main structure will be set back 58 feet.

By shifting the building back, some new vehicle storage will be lost. Between the combination of new vehicle storage and parking there will be a net loss of 11 spaces.

Screening will still be as proposed along the northerly and westerly side borders.

Mr. Fox said the major difference between this plan and the last proposal is the shifting back of the building by 18 feet. He said this plan was brought to the Selectmen's meeting last week and they subsequently sent a letter to the ZBA. He read an excerpt from that letter "The Board is supporting of this new plan, and feels that it accomplishes the goals of both boards in reducing

the building mass by decreasing its size and creating a larger front yard setback. The Board intends to approve this building size and location in its site plan approval.:

Mr. Fox added that traffic issues, landscaping, lighting and total site configuration remain to be dealt with.

Mr. Gossels said he is in favor of this project but is not satisfied with the site plan. He felt the building was too big which is causing the problems. At the last hearing he expected a larger reduction than 10%, and he would personally like to see the building moved back to 60 feet. He said the Board attempts to push new home construction for demolitions and reconstructions back further – this is a huge structure that is only 43 feet back.

Mr. Gossels said he has two issues: He would like to see the building sited further back and the other is the issue of public safety on Route 20.

Mr. Ey said the problem is that parking is geared not so much for customer parking but for new vehicle storage. If the building is moved back and the bylaw doesn't allow parking in front of the building, they are losing a good portion of the site.

Mr. Gossels understood this but felt part of the solution is that there needs to be a smaller building.

Mr. Fox said the open space requirement is 33% and this project is at 31%. They are set back 130 feet from the rear lot line, almost 300 feet from the easterly lot line, and 57 feet from the westerly lot line. He felt they have put their best foot forward to try and make this work for the business and for the town.

Mr. Richmond said he was concerned with traffic. He said if the parking that is needed on site is directly tied to the amount of expected business, that directly impacts the traffic issue.

He said he would personally be comfortable with the proposed setback on this plan if he knew the traffic would work. If he was not comfortable with the traffic then he would say the size of the building needs to be reduced which would then reduce the amount of parking, volume of business, and traffic trips and turns.

Mr. Fox said his traffic engineer wasn't present this evening. He said the Planning Director, Jody Kablack, is looking at traffic impacts and mitigation with the Town Engineer and what they seem to be suggesting is that they need to see traffic mitigation in the form of actual improvements to the Old County Road intersection before they will allow BMW to open for business. On top of that they are looking for a contribution toward the greater traffic study for the whole Route 20 corridor and a contribution towards possibly a light at the intersection of Landham Road and Boston Post Road, all of which BMW is committed to do. Mr. Fox said traffic counts were submitted as well as an analysis of actual counts at Land Rover. He said they tried to draw an analogy to this project in scale and submitted that to the Board. He said to

Conley Associates credibility, their projected traffic counts were right on target with Land Rover's post operation actual counts.

At Mr. Richmond's request, Mr. O'Brien provided an overview of the Selectmen's meeting with the applicants. He said they were working with basically Plans 1,2, & 3 and were of the understanding that the ZBA was reasonably satisfied with the size and the placement of the building. The Selectmen felt that the 10% reduction was adequate and felt strongly that in this exact location, the proposed reduction in size in Plan 3 fits the surrounding area.

Mr. O'Brien said the Selectmen felt that the 43-foot landscape buffer was adequate and indicated that they would be looking at the landscape plan very carefully. The public safety issue was also discussed and, with that in mind, Mr. O'Brien and Ms. Kablack discussed their visit to the Mercedes Benz facility in Westwood on Route 1. This particular dealership was a bit smaller in size but the lot size was approximately the same. Following a tour of the premises, they came away with an understanding that if this happens here, with traffic improvements, it could work comfortably.

Mr. O'Brien referred to Ms. Kablack's memo to the Selectmen dated June 12, 2006 in which Ms. Kablack and Mr. Place recommended four conditions with regard to mitigation of potential traffic impacts from the proposed BMW facility. It was his understanding that Mr. Place was suggesting reshaping of the intersection at Old County Road and Boston Post Road so that traffic would have to actually stop before making the turn. In addition, attempts are being made to meet with Mass. Highway to discuss turning lanes and whether Goodmans Hill Road or Landham Road is best suited for lights.

Condition 3 of the memo would require a contribution towards the engineering and design of a traffic signal at the Landham Road/Route 20 intersection; however, installation of a signal should not be a condition of approval of the BMW dealership as this is a state highway and it could take five or more years to be approved.

Discussion followed on how the traffic would work at the intersection in conjunction with signalization. It appeared that the majority of the Board felt that more answers were needed to insure that the impact from this business wouldn't overwhelm the road. They did not feel they had those answers at this time.

Mr. Richmond felt that the public safety concern would not be addressed if the town ends up with contributions towards potential impacts with only a commitment that there is going to be a study done and a turn which is going to be sharpened. He wanted to understand the costs, the timing and the actual improvements that will be made to insure people can safely turn into and out of that area. He felt all parties' interests were aligned in terms of wanting to make sure the intersection is safe, but it was too much of a leap to leave this open without a resolution.

Mr. O'Brien suggested holding a joint meeting between the Selectmen and ZBA and invite the Town Engineer to attend for the purposes of expediency.

Mr. Richmond felt the suggestion of a joint meeting was a good one and he would suggest this be done soon. He asked for a non-binding straw vote among the members of the Board as to their feelings on the location of the building as shown on Plan 3 so that the applicant could get a sense of how the individual Board members felt on this issue.

Mr. Richmond was fine with the location of the building if the public safety issue can be solved.

Mr. Klofft said Plan 3 was acceptable but not ideal.

Mr. Gossels felt the building was too close and should be moved further back.

Mr. Athanas was comfortable with the Plan 3 and would also be fine with it slightly more forward with more landscaping.

Ms. Rubenstein liked Plan 3 but would have preferred the landscaping be carried all the way across to the right side.

It was agreed to coordinate with Ms. Kablack to schedule a date for the joint meeting.

The hearing was continued to June 29, 2006.

Stephen M. Richmond, Chairman

Jeffrey P. Klofft, Clerk

Jonathan G. Gossels

Constantine Athanas

Nancy G. Rubenstein, Alternate