

IN BOARD OF SELECTMEN  
TUESDAY, MARCH 16, 2004

Present: Chairman Kirsten D. Roopenian, Selectmen John C. Drobinski and Lawrence W. O'Brien.

The statutory requirement as to notice having been complied with, the meeting was convened at 7:30 p.m. at the Fairbank Community Center, 40 Fairbank Road.

**Opening Remarks**

Chairman Roopenian reminded residents of the Annual Town Election on March 29 and noted there are several contested races for positions as well as a non-binding ballot question. She announced the League of Women Voters was sponsoring a Candidates Night for Wednesday, March 17, at the Goodnow Library.

**Minutes**

It was on motion unanimously

VOTED: To approve the minutes of the regular sessions of February 24 and March 2, 2004, as drafted.

**Sudbury Earth Week**

It was on motion unanimously

VOTED: To proclaim April 25 to May 1, 2004 as Sudbury Earth Week and to designate May 1, 2004 as Spring Cleanup Day.

**Muscular Dystrophy Bike Marathon**

It was on motion unanimously

VOTED: To grant permission for the Muscular Dystrophy Bike Marathon to go through Sudbury along Route 20 on June 5, 2004, as set forth in a communication received March 4, 2004, from Neil Keane, Boston Firefighters M.D.A. Committee, subject to any requirements of the Sudbury Police Department.

**Sudbury Newcomer's Club – Alcoholic Beverages License**

It was on motion unanimously

VOTED: To grant a one-day permit for the sale of all alcoholic beverages to be drunk on the premises, to Sudbury Newcomer's Club, c/o Catherine Sutherby, 363 Old Lancaster Road, to accommodate a Comedy and Dance Party, the permit to be exercised between the hours of 7:00 p.m. to 11:00 p.m. on May 22, 2004, at 96 Peakham Road, Sudbury, subject to proof of insurance coverage, the condition that any professional bartender(s) be TIPS-trained, and the request that all bartenders be cognizant of patron ages and liquor consumption.

**Sudbury Little League – Velocity Sports Performance Center**

It was on motion unanimously

VOTED: To grant a one-day permit for the sale of wines and malt beverages only to be drunk on the premises to Sudbury Little League, c/o Patty Greene, 32 Ironworks Road, to accommodate a social gathering, the permit to be exercised between the hours of 8:00 p.m. and 11:00 p.m. on May 8, 2004, at Velocity Sports Performance

Center, 31 Union Avenue, Chiswick Park, subject to proof of insurance coverage, the condition that any professional bartender(s) be TIPS-trained, and the request that all bartenders be cognizant of patron ages and liquor consumption.

### **Board of Appeals/Earth Removal Board Appointments**

It was on motion unanimously

VOTED: To appoint Associate Members Elizabeth A. Taylor and Jeffrey P. Klofft as full members of the Board of Appeals and as alternate members of the Earth Removal Board to fill existing vacancies for terms to expire April 30, 2005 and April 30, 2008, respectively, as recommended by the Board of Appeals in a letter dated February 25, 2004.

### **Site Plan #SP02-367M2 - Willow Hill School**

Present: Judith Vaillancourt, Applicant; Thomas Peterman, McManus/Peterman Architects; Jody Kablack, Town Planner.

Notice of the Public Hearing was posted and advertised in the *Sudbury Town Crier* on March 11, 2004. Abutters, according to the Assessor's records, were provided written notice by first class mail. Appropriate boards and officials were notified and requested to report to the Selectmen. The following application documents and reports have been received:

1. Application dated February 25, 2004, received February 26, 2004, for a modification of Site Plan 02-367, as amended September 16, 2003, for the Willow Hill School, 98 Haynes Road, to modify Condition 13 as follows:
  - 1) Delete Condition 13.(b) requiring the School to construct a five-foot walkway along approximately 500 feet of the School's property and extending approximately 300 feet northerly to connect to the existing walkway at the intersection of Haynes Road and Puffer Lane.
  - 2) Accept from the School a \$24,000 contribution to the Town of Sudbury's walkway program in lieu of building the sidewalk required by this condition.
  - 3) Retain Condition 13.(a) so that the recorded walkway easement will remain in place should the Town choose to construct this walkway at some future time.
2. Report from the Building Inspector dated March 8, 2004, stating: a) The proposed sidewalk will connect to an existing sidewalk to the north and provide the ability for future expansion to the south. b) Although the walkway will cross both the entrance and exit to the school, the walkway signage will provide any necessary warning and make pedestrians aware of the school traffic. c) His department believes the proposed sidewalk will not be dangerous and the School should build the walkway as previously agreed to.
3. Report from the Town Engineer/Director of Public Works dated March 11, 2004, commenting: a) The construction of this portion of walkway will provide a connection to the overall walkway network, improve sight distance along Haynes Road north of the Willow Hill School entrance, and provide safe access for children and pedestrians. b) Relative to the proposal of the School that the walkway be built on the west side of Haynes Road, easements will most likely be required from three or four abutters, a field survey will be required and easement documents prepared and recorded. He recommends all costs for easements should be paid for by Willow Hill School, and that the School contact the abutters before a final decision is made. He concludes that, if one abutter rejects granting a walkway easement, Willow Hill should construct the 800 feet of walkway as stated in the decision.

4. Report from the Planning Board dated March 11, 2004, recommending approval of the requested site plan modification with the following observations: a) The Planning Board recognizes a clear need for a walkway in this neighborhood. b) The Planning opines the location of the walkway would be better suited on the opposite side of the street, with additional information, such as easements, being necessary. c) The amount of funds offered by the School is significant; and, consistent with the original intent of the site plan, if possible, the funds should be earmarked to be used for construction of a walkway for the neighborhood.
5. Report from the Conservation Coordinator dated March 11, 2004, reporting as follows: a) The Commission determined that no wetland issues were directly involved in this modification; however, they encourage pedestrian connectivity throughout Town. b) The proponent's argument that the walkway would eventually have to cross the street to avoid the wetlands buffer is not a reasonable argument, as the Commission has routinely permitted work in the 100' adjacent uplands resource area (buffer) for walkway construction along busy roadways. c) Should the Selectmen approve the modification, the Commission recommends the School's payment in lieu of construction should reflect the actual cost of construction of the Haynes Road walkway as designed, and the funds should be earmarked for construction of the Town's top priority walkway.
6. Report from the Fire Chief dated March 10, 2004, stating he feels a walkway in this area is desirable for linkage in connection with the Haynes School, but he has no preference for which side of the street it is on.
7. Report from the Police Chief dated March 11, 2004, stating that the Police Department agrees that the west side of Haynes Road would be preferable for construction of the walkway because it would connect with the existing walkway near Dunster Road; however, the Department feels strongly that if the required easements on the west side cannot be obtained quickly, or it would lead to a significant delay in construction, the walkway should be constructed as originally planned and agreed to. The Department sees no safety issues with the original walkway plan.

Town Manager Valente briefly reviewed reports received to date.

Mr. Thomas Peterman, McManus/Peterman Architects, stated the applicant's desire to contribute monies to the Town's Walkway Fund, allowing the Town to construct the walkway, citing construction delays and the inclusion of the walkway construction as a condition for an Occupancy Permit could prevent the school from opening on schedule in June. He stated also they would prefer the walkway be constructed on the opposite side [west] of the road, due to safety concerns for pedestrians on the east side. Utilizing a sketch, Mr. Peterman pointed out areas of safety concern, specifically, crossing entrance and exit for the school, poor sight distance along the road at the crosswalk, and the absence of construction obstacles on the opposite side of the road. He opined difficulty in obtaining easements in two areas of proposed walkway construction on the east (school) side.

Ms. Jody Kablack, Town Planner, stated one easement on the east side has been secured, and the property owner for the other piece has not yet been approached as the property recently changed hands. She opined the walkway has no legal impediments remaining. She stated further the Planning Board heard the applicant at its last meeting and, at that time, agreed to accept funds in lieu of the school being responsible for the construction.

Ms. Ellen Donahue, 60 Haynes Road, stated the walkway should be placed on the east side. She opined it is the only place it makes sense, connecting it with the existing network, and that there is no safe place to cross over if it is placed on the other side. Crossing guards assist the schoolchildren crossing the street during peak times before and after school. She stated the abutters have been very patient with all the construction and daily backup of traffic during drop-off and pick-up. Ms. Donahue stated the applicant should be held to its original agreement to construct the walkway as part of its site plan approval.

Ms. Nancy Weatherby, 309 Marlboro Road, stated the first time she received a letter about walkway easements was several days ago, with no explanation as to why this action was requested. She concurred with Ms. Donahue's comments that the walkway should be placed on the east side of the street. She opined that no property owners on the west side were interested in granting an easement.

Chairman Roopenian asked all west side abutters if anyone was planning on granting an easement. There was no affirmative response from the audience.

Mr. Thomas Greenwood, 126 Haynes Road, stated his preference for the walkway to be constructed on the east side. His children would then not have to cross the street to get to school.

Mr. Peterman reiterated the applicant's concerns about construction timetables and safety issues for east side construction. Selectman O'Brien opined the west side to be a difficult place to construct the walkway due to the existing narrowness of the road. He asked Mr. Peterman if the project has scheduled the walkway construction yet. He responded the work would have to begin within the next several weeks to remain on schedule, unavoidable delays notwithstanding. Jody Kablack, Town Planner, stated walkways are low on the DPW priority list, and there is no guarantee it would be constructed before the school would open.

There was brief discussion on placement of the walkway on the east side, either behind the stone wall or roadside. Selectman Drobinski reminded everyone of the Police Chief's statement that he has no concerns for safety with the existing proposed placement. Ms. Vaillancourt stated that, if it is the Board's desire, she will work with her construction crew to construct the walkway as close to timetable as possible. Selectman Drobinski stated a site walk would indicate to the Board if progress is being made and a determination formed at that time relative to issuance of an Occupancy Permit.

It was on motion unanimously

VOTED: To deny the application dated February 25, 2004, of Willow Hill School, 98 Haynes Road, requesting elimination of walkway construction and to require the applicant to construct the walkway as agreed in Site Plan Approval of SP02-367, dated July 8, 2002, and to meet with the applicant at a later date to determine that significant progress is being made toward completion of the walkway before granting a Certificate of Occupancy.

#### **2004 Annual Town Meeting – Layout of Streets**

Town Manager Valente briefly reviewed the steps necessary for street acceptance. Tonight the Board is asked to vote the street layout, which means said streets will be considered at Town Meeting. The Board reviewed the following information: (1) report, dated March 11, 2004, from the Planning Board, recommending acceptance of Twillingate Lane, Camperdown Lane Extension, and Spruce Lane, as it anticipates their completion this spring; (2) report, dated March 11, 2004, from the DPW Director/Town Engineer, outlining the status of the streets at this time; and (3) report, dated March 11, 2004, from the Conservation Commission, stating the Commission has requested as-built plans from the developers but anticipated no issues with any of the streets.

It was on motion unanimously

VOTED: To lay out, relocate and/or alter the following Town ways as shown on plans prepared by the Town of Engineering Department and placed on file in the Town Clerk's office, for acceptance by the 2004 Annual Town Meeting under Article 12:

Twillingate Lane, from Hudson Road to a dead end, a distance of approximately 465 feet;  
Spruce Lane, from Hudson Road to a dead end, a distance of approximately 420 feet; and  
Camperdown Lane (portion), from the end of the public way of Camperdown Lane to a dead  
end, a distance of approximately 420 feet;

and further, that all layouts are subject to meeting the conditions and requirements deemed necessary by the Board of Selectmen prior to the execution and recording of an Order of Taking.

### **Tax Classification Hearing**

Present: Maureen Hafner, Director of Assessing; David Berry, Trevor Haydon, Board of Assessors.

At 8:35 p.m., Chairman Roopenian convened a Public Hearing in accordance with General Laws Chapter 40, section 56, as amended, to determine what percentage of the local tax levy will be borne by each class of real and personal property relative to setting the Fiscal Year 2004 tax rate.

Ms. Maureen Hafner, Director of Assessing, distributed revised informational booklets describing the tax classification process and guided the discussion, allowing for questions from the Board, if any.

With regard to **Open Space**, she stated the Board of Assessors has designated no land as open space.

It was on motion unanimously

VOTED: To approve no discount for Open Space.

With regard to a **Small Commercial Exemption**, Ms. Hafner stated the Board of Assessors has not designated any small business parcels that may be eligible for a small business exemption. No entities meet the criteria for such a designation at this time, i.e., 10 or fewer employees, with a property valuation of less than one million, and all businesses in a building must qualify for the exemption.

It was on motion unanimously

VOTED: To approve no Small Commercial Exemption.

With regard to a **Residential Exemption**, Ms. Hafner indicated this exemption could actually hurt low-income senior citizens whose properties are valued higher than the Average FY04 Single Family Assessment of \$596,200. The tax burden for the properties with lower assessments with this exemption would then shift to the remaining properties in the class. Discussion followed.

It was on motion unanimously

VOTED: To approve no Residential Exemption at this time.

The Board briefly discussed aspects of setting the **Residential Factor** which calculates how much of the tax burden will be borne by the residential class. Chapter 200 of the General Laws limits the Town of Sudbury currently to a maximum factor of 150%. As these factors are determined annually, it is possible to have a significantly higher factor one year than the previous, in order to allow some sort of tax relief from time to time. Any tax relief granted to either the commercial or residential sector would then be shifted to the other for that taxable year.

After discussion, it was on motion unanimously

VOTED: To set the Residential Factor at 97.0075 with a CIP shift of 1.50, setting the residential tax rate at 13.46, the commercial, industrial and personal property (CIP) at 20.81, pending certification by the State Department of Revenue.

At this time, Ms. Hafner informed the Board the Excess Levy amount will be approximately \$127,000, which can be used for future budgeting.

The Board thanked Ms. Hafner and the Board of Assessors for their hard work in revaluation of properties this year.

**Site Plan Application #04-373 -- Ti-Sales, 36 Hudson Road**

Present: Kevin Tighe, President, Tighe Sales, Inc.

At 9:08 p.m. Chairman Roopenian convened a Public Hearing for continued consideration of the application of Ti-Sales, Inc., for a minor Site Plan, in accordance with Sudbury Zoning Bylaw Article 6000, Section 6300, Site Plan Review, to construct a two-story building addition of approximately 1,944 sq. ft. of office floor space, with revised parking areas providing ten additional spaces, on property located at 36 Hudson Road, zoned Residential A-1 and Business District 7.

The Board and applicant reviewed a Draft Decision prepared by Town staff and approved by Town Counsel.

With regard to Condition 9, Mr. Kevin Tighe, President, Tighe Sales, Inc., stated he is assuming the existing vegetation line follows the western property line and would like the Board to know he will place the fence with that in mind.

As for Condition 10, he opined no amount of landscaping will change the fact that a chain link fence is a chain link fence, and asked for a clarification of "supplemental landscaping." Mr. Tighe stated he spoke with the owner of the cell tower who declared no intention of installing landscaping on that section of the property. Jody Kablack, Town Planner, suggested Mr. Tighe add 5-7 arborvitae or similar planting along the western fence area to minimize visual impact of the fence. Condition 10 states the Board can require additional landscaping after a site walk.

Mr. Tighe stated he spoke with the abutter to the east to discuss the removal of trees to increase sight distance, and reported the abutter objected to the removal of trees but not shrubs and brush [Condition 13]. Mr. Gilmartin, the abutter, indicated to Mr. Tighe that the trees created a sound barrier for traffic noise from Hudson Road.

Based upon a determination that the foregoing evidence, together with the plans submitted, conformed to the intent and purpose of the Zoning Bylaw requirements, a motion was made and unanimously approved as follows:

VOTED: To approve Site Plan Application No. 04-373 of Ti-Sales, Inc., to construct a two-story building addition of approximately 1944 square feet of office floor space and revised parking areas providing ten additional spaces, on property located at 36 Hudson Road, as shown on plans entitled, "Building Addition

36 Hudson Road Sudbury, MA, Owned by: Lawrence W. Tighe, Tr. of Hudson Rd Trust #1", comprised of 3 sheets drawn by Consolidated Design Group, Inc. and Zanca Land Surveyors, Inc., (Sheets 1 & 2, Title Sheet and Existing Condition Plan, dated December 18, 2003; Sheet 3, Proposed Site Plan, dated January 15, 2004), and 6 sheets drawn by Leaf Design Associates containing floor plans and elevations, dated October 16, 2003, subject to compliance with all governmental laws and regulations including, but not limited to Wetlands Protection Act and Sudbury Wetlands Administration Bylaw, zoning, building and health laws and regulations, and further subject to the following conditions insofar as they apply to the property:

1. Determination of the depth of the water table in the area of the proposed catch basins and stormwater infiltration trench by the applicant. Final approval of the drainage system, including traps, catch basins, and periodic maintenance by the Town Engineer shall be required.
2. Placement of all new utilities underground.
3. No wells for water supply to be installed on the site.
4. The grant of an earth removal permit by the Earth Removal Board, if applicable.
5. Approval of signs or advertising devices as required under applicable provisions of the Zoning Bylaw.
6. No storage or use of chemicals on site except in conformity with guidelines and requirements of the Board of Health and the Fire Chief; the owner or operator of the site shall comply with the Massachusetts Oil and Hazardous Materials Release Prevention and Response Act, M.G.L. Chapter 21#, as amended, and all regulations issued thereunder.
7. Any disposal or removal of effluent and wastes generated on the site shall conform to the requirements of the Board of Health, Town Engineer and/or Conservation Commission, as appropriate.
8. If required by the Board of Health, Conservation Commission and/or Board of Selectmen, the applicant shall install one or more monitoring wells, or other protective device, on the site, including the Town's right of access for periodic testing and monitoring thereof.
9. As agreed by the applicant, the plans shall be amended to include a fence along the western property line as it abuts Town property, for a length of approximately 270 feet. The fencing shall be installed inside the existing line of vegetation, and removal of existing vegetation shall be minimized to the extent practicable. Fencing shall be similar to the green, chain link fencing recently installed by the applicant in the front of the property.
10. Supplemental landscaping will be installed along the fence at the western property boundary where existing vegetation is lacking, to the extent practicable without disturbing access, to minimize the visual impact of the fence. Landscaping the celltower enclosure shall be considered also. Prior to issuance of an occupancy permit for the addition, the Selectmen or their representative shall view the property for compliance with this condition. If, in the opinion of the Selectmen, additional screening is required, the applicant shall forthwith rectify such complaint with the planting of additional vegetation.
11. Exterior lighting to be directed away from adjacent properties and have shields and shall be in conformance with Section 3427f of the Zoning Bylaw. When site is not in use, only minimal security lighting shall be used.
12. No use of salt or chemical de-icers on the site unless approved by the Conservation Commission.

13. The applicant shall contact the abutter to the east to discuss the removal of trees which block the line of sight to the east for entering and exiting traffic.
14. Submission of an "as built" site plan. Any change in the physical condition of the site, including changes in the location or design of structures or systems, following approval of the site plan, will require approval of the Board of Selectmen.
15. No Building Permit shall be issued until this Decision has been recorded in the Middlesex South Registry of Deeds, the plans are approved and signed, and certain items noted above [1], as specified by the Board, are complied with.
16. No occupancy Permit shall be issued until certain items noted above [2, 3, 4, 5, 6, 7, 8, 9, 10, 11, & 14], as specified by the Board, are complied with.
17. This approval shall lapse if construction and a substantial use thereof have not commenced except for good cause within two (2) years from the effective date of said approval.

**Citizen of the Year – Sudbury Grange**

The Board congratulated Ms. Berthe Lessard, 55 Hudson Road, on being selected Citizen of the Year from the Sudbury Grange, and will be sending her a letter of congratulations.

**Donation – AllEnergy**

It was on motion unanimously

VOTED: To accept a donation in the amount of \$18,702.84 from AllEnergy, Exelon Energy Company, for the purpose of paying future energy costs of the Town of Sudbury, to be deposited into the appropriate Building Department utilities account and expended by the Building Inspector for its intended purpose.

**Donation – Newbridge Homes**

It was on motion unanimously

VOTED: To accept a donation in the amount of \$840 from Newbridge Homes, Inc. in connection with the completion of the Spruce Lane project, to be placed in the Tree Replacement Fund and administered and expended under the direction of the Director of Public Works.

There being no further business, the meeting adjourned at 9:26 p.m.

Attest: \_\_\_\_\_  
Maureen G. Valente  
Town Manager-Clerk