

IN BOARD OF SUDBURY SELECTMEN
TUESDAY, MARCH 25, 2008

Present: Chairman John C. Drobinski, Vice-Chairman Lawrence W. O'Brien, Selectman William J. Keller, Jr., and Director of Planning and Community Development Jody Kablack

Absent: Town Manager Maureen G. Valente

The statutory requirements as to notice having been complied with, the meeting was convened at 7:34 p.m. in the Lower Town Hall, 322 Concord Road.

Opening Remarks

Chairman Drobinski reminded everyone that the Town Election will be on March 31, 2008 from 7:00 a.m. to 8:00 p.m., and he encouraged voter participation. He noted that there will be two override questions regarding the operating budget on the ballot. He also mentioned that the Annual 2008 Town Meeting will begin on April 7, 2008 at 7:30 p.m. at the Lincoln-Sudbury Regional High School Auditorium, and encouraged residents to attend. He urged residents to acquaint themselves with the 2008 Annual Town Meeting Warrant, which has been delivered to local households. Chairman Drobinski recommended that anyone who has questions on any articles, or who needs further information, should contact the Board of Selectmen's Office, the Town Clerk's Office, or the Planning Office.

Chairman Drobinski reported that Town Manager Valente will be absent from tonight's meeting. In Ms. Valente's absence, the Director of Planning and Community Development, Jody Kablack, was welcomed to the meeting.

It was on motion unanimously

VOTED: To appoint the Director of Planning and Community Development, Jody Kablack, as Secretary and Clerk Pro Tem, in the absence of Town Manager Maureen Valente, for the March 25, 2008 Board of Selectmen's meeting.

Public Hearing: BMW Dealership - Request for Site Plan Modifications

Present: Joshua Fox, Attorney for Herb Chambers, Bruce Ey, Schofield Brothers of New England, Inc., Dave Fenton, Project Manager for Herb Chambers, Director of Planning and Community Development Jody Kablack

At 7:36 p.m., Chairman Drobinski opened the public hearing, which was continued from March 11, 2008, regarding the request from Herb Chambers for the modifications on the approved site plan for a BMW dealership dated November 9, 2006 and the approved Special Permits to reduce the landscape buffer requirement and to allow 31 reserved parking spaces.

Ms. Kablack noted that the Public Hearing was duly publicized in the *Sudbury Town Crier* on February 21, February 28 and March 6, 2008, and abutters were duly notified. She stated that the Board was in receipt of the following materials: a Request for Modification form dated February 14, 2008 has been filed by Herb Chambers Boston Post Road, Inc.; a letter to the Board explaining the need for the modifications, revised plans and Stormwater Management Design and Runoff Calculations Report Addendum from Schofield Brothers of New England, Inc. dated February 14, 2008; a letter to the Board from the Design Review Board dated February 15, 2008, stating its support of the request and requesting further review of signage designs, a letter from the Planning Board stating its support for approval of the request for modifications to the Site Plan from the Herb Chambers BMW, a letter from Town Counsel Paul

Kenny dated February 29, 2008, regarding the need for amendments to Zoning Board Special Permits, a report from Ms. Kablack dated March 20, 2008, including comments and recommendations from Department heads, an email message from Joshua Fox dated March 20, 2008, modifying a previous request by the applicant to eliminate the condition prohibiting car carriers from entering the site from Route 20 east, and a letter from Department of Public Works Director William Place dated March 21, 2008 noting comments regarding the request for modifications. Ms. Kablack further reported that a draft Site Plan Modification Decision for SP#06-382 regarding Herb Chambers Boston Post Road, Inc. was prepared today and distributed to the Board for review.

Local permitting attorney for the applicant, Joshua Fox, explained that the requested modifications are minor, and that the only material change is a request for an additional Special Permit to allow reserve parking for 31 spaces. He provided a brief summary of the project history with Foreign Motors West, who has since transferred ownership and development rights for the 68 Old County Road location to Herb Chambers, Inc. Mr. Fox stated that over a dozen public hearings have been held regarding the project with various Town boards. He further stated that all Town permit-granting authorities have deemed the project plans satisfactory to date, and many boards and committees have expressed support for the project. Mr. Fox noted that the former Stanmar Office Park was demolished in an orderly and clean fashion, and the site is ready for construction to commence. Mr. Fox explained that the revised plans depict the changes for parking spaces now required to facilitate the safe delivery of vehicles by car carriers and for better vehicular and pedestrian-traffic circulation.

Mr. Fox explained that the modifications requested tonight result from the philosophy of the Herb Chambers organization to maintain all operations on site, including the delivery and unloading of vehicles by car carriers. Foreign Motors West had originally planned to receive cars off-site to be driven to the location. In order to better accommodate access to the site by the specialized BMW car-carriers, the driveways' curb cuts have been slightly widened and the parking spaces have been reorganized in a more efficient pattern. Thus, a waiver is being requested for 31 active parking spaces, accounting for 10% of the required spaces under the zoning bylaws. Mr. Fox emphasized that, although the applicant has no present plans for off-site vehicle storage, the applicant would prefer to have no future restrictions placed in this regard.

Mr. Fox further noted that minimal changes have been made to the building structure, which has been reduced slightly. Smoky-glass has been added to the second story, and the design has been simplified. In addition, the applicant is requesting a Special Permit waiver to decrease the easterly landscape buffer by less than one foot, while also increasing the westerly and northerly buffers in certain locations.

Mr. Fox noted that along with the requested parking waiver, the applicant has also requested an extension for the construction-trailer permit through April 1, 2009, and an extension for project completion to two years from the date of approval for these modifications. These extensions are necessary due to the delays experienced during the change in ownership.

Mr. Fox stated that applicant also requests that the Board remove the previous condition #21 to the Special Permit regarding delivery-time restrictions, since the modifications have efficiently altered the original need for these requirements. It was further stated that due to the improvements which will be made, and paid for by the developer, to the Old County Road intersection that this condition no longer seems necessary. However, the applicant is agreeable to instituting limitations in the future if deemed necessary by appropriate Town officials.

Mr. Fox explained that signage for the site is in the preliminary stages, and will need future review and Special Permit approval by the Design Review Board and Zoning Board of Appeals. The site's visibility

from the east presents challenges for signage. The applicant would prefer approval of a free-standing pylon sign, of an appropriate height so as to attract customers, and to safely help navigate them to the location. Mr. Fox emphasized that he views this site as one of those zoned business areas that present special site distance circumstances which necessarily requires waiver-relief.

At 7:51 p.m., Engineer Bruce Ey addressed the Board to further describe the design modifications by use of overlay plans and exhibits. He reiterated the applicant's operational philosophy of containing all services on-site. Thus, the design has been modified to accommodate the large turning radius required by BMW car carriers. He emphasized that the car carriers will be able to move around the entire building from one driveway to the other. He also stated that the building has been reduced slightly in footprint, and that the original impervious area will be slightly decreased. The landscape buffers will also be slightly adjusted by the modifications.

Mr. Ey further explained that a few catch basins were repositioned due to the changes made to parking spaces. He also stated that modifications have been made to raise portions of Old County Road for improved drainage purposes. Through this project, approximately 750 feet of Boston Post Road and 650 feet of Old County Road will be rebuilt. He also noted that there will be a widening of the curb cuts at Old County Road. Mr. Ey reported that all appropriate plans have been submitted to the Mass. Highway Department beginning in April 2007, and that all roads have been designed according to Mass. Highway specifications.

Mr. Ey further explained the utility complications for the area. He described poles which will need to be relocated, and the preference of the applicant for underground cabling. However, initial communications with NStar have been frustrating, since NStar is requesting \$350,000 for the necessary work. Mr. Ey, noted that the original cost estimate for the applicant to improve the intersection of Route 20 and Old County Road was \$250,000, but it will more likely exceed \$750,000. Herb Chambers Inc. Project Manager Dave Fenton is negotiating with NStar for a more reasonable price for moving the required power lines. All parties are hoping that NStar will cooperate in a fair manner. Chairman Drobinski suggested that the Board write a letter to help facilitate the NStar negotiations. Mr. Fenton thanked the Board for its offer, but said he is making progress with the NStar discussions, and believes a mutually acceptable agreement can be reached.

Ms. Kablack noted that even if the applicant is successful with tonight's request, the applicant will need to come before this Board again for two future utility petitions: one to install guy wire and the other for a new pole on the easterly corner of the site. A brief discussion regarding the cabling of the guy wire ensued. Chairman Drobinski asked if a steel pole can be used instead of a wooden pole to eliminate the bending issue.

In response to a question from the Board, Mr. Ey briefly reviewed the planned screening by vegetation and fencing. He noted that the dumpster will be located in the northeast area, and that it will be enclosed.

Craig Gruber, 187 Goodman's Hill Road, stated that he has followed this project throughout its many hearings. He acknowledged that the plans submitted have been thoughtful. However, Mr. Gruber stated he has concerns regarding the project. He noted that test drives on Goodman's Hill Road should be prohibited rather than merely discouraged. Mr. Gruber stated a concern regarding the Town granting landscape-buffer waivers and other variances. In general, he believes the buffers and bylaws exist for a reason, and they should be upheld. He also noted the possible change to traffic patterns, with car carriers now traveling to the site, which were not planned for originally.

Mr. Fox stated that the applicant appreciates the comments of Mr. Gruber and abutters. He noted that the discouragement of test drives on Goodman's Hill Road is a condition in both the Selectman's previously approved Decision and the Special Permit approved by the Zoning Board of Appeals for Herb Chambers,

Inc. Mr. Fox also stated that the applicant is willing to work with employees to accurately instruct them as to what are appropriate and allowed test-drive routes.

Mr. Fox also stated that landscape-buffer issues have been discussed with the Wingate abutting-property representatives. Ms. Kablack highlighted that the applicant has maintained, and not deviated from, the existing disturbed landscape footprint. Chairman Drobinski opined that the plans provide adequate and significant buffers surrounding the proposed site. He shared a modified plan with Mr. Gruber to better demonstrate the proposed buffers.

A brief discussion ensued regarding delivery-time restrictions for the site. Vice-Chairman O'Brien agreed with Mr. Gruber that the possibility exists for potential noise disturbance from the unloading activity of the cars. He said he is inclined to not approve a 24-hour delivery schedule. Selectman Keller opined that he is inclined to provide a provision within the decision to revisit the need for restrictions if problems present themselves at a later date.

Chairman Drobinski thanked Mr. Gruber for his comments. He informed Mr. Gruber that the Board is in the position to monitor the traffic situation in the future, and he hopes that all parties can work together to make the project and site work for the good of the community. Mr. Gruber stated that he and his neighbors have collected useful traffic data, which will help the Police Department and Town officials monitor the effects of the project in the future.

Selectman Keller asked Mr. Fenton to explain how Herb Chambers, Inc. has come to Sudbury. Mr. Fenton stated that Herb Chambers owns 42 auto dealerships, mostly in Eastern Massachusetts. The organization's association with Sudbury resulted from the company's acquisition of Foreign Motors West. With this acquisition, Herb Chambers, Inc. inherited the Foreign Motors West plans for the Sudbury dealership. He stated that his company was pleased with the fine work done previously to prepare for the new development. He also noted that Sudbury appears to be a community with strong market potential. Mr. Fenton highlighted that the company will be heavily invested in Sudbury, with its BMW and Land Rover dealerships. He further stated that he has been impressed with everyone from the Town offices and departments he has worked with, and finds the Town to be first-class. In closing, Mr. Fenton stated that his company looks forward to the work ahead, and it is anxious to become operational.

Vice-Chairman O'Brien questioned whether more time should be granted for the construction trailer permit extension. After a brief discussion, the consensus was that the extension should be granted through August 1, 2009.

Mr. Fox suggested that, if the Board is inclined to somewhat restrict car-delivery activities, perhaps the unloading of vehicles could be restricted from 10:00 p.m. to 6:00 a.m., if the noise is deemed to be a problem. Vice-Chairman O'Brien noted that the Wingate nursing-home facility, which abuts the property, may have issues with noisy car deliveries in the middle of the night.

Ms. Kablack reminded the Board that a draft Site Plan Modification Decision for SP#06-382 regarding Herb Chambers Boston Post Road, Inc. has been prepared and distributed to the Board for review. She presented to the Board a few revisions to the draft, which she and Mr. Fox agreed upon this afternoon.

It was on motion unanimously

VOTED: To approve modifications to Site Plan application #06-382 of BMW on 1) the approved Site Plan dated November 9, 2006, in accordance with Town of Sudbury Zoning Bylaw Section 6300, specifically conditions 14, 21, and 39; 2) approve a Special Permit to reduce the landscape buffer requirement in

accordance with Zoning Bylaw Section 3531 and 3543 to 12.2 feet (12.4 ft. originally approved); and 3) a Special Permit to allow 31 reserve parking spaces is accordance with Zoning Bylaw Section 3113, in conjunction with a proposal to construct a BMW dealership on property located at 68 Old County Road, Map K11 parcels 4 and p/o 52, owned by Herb Chambers of Sudbury and zoned Industrial, subject to a review tomorrow by the Board's Chairman to ensure that the amendments presented tonight by Ms. Kablack, the request for the construction-trailer permit extension be granted through August 1, 2009, and that unloading of vehicles be restricted from 10:00 p.m. to 6:00 a.m., if noise is deemed to be a problem, have all been incorporated into the draft Site Plan Modification Decision for SP#06-382 regarding Herb Chambers Boston Post Road, Inc. as reviewed this evening .

Ms. Kablack noted that the applicant will need to apply to the Zoning Board of Appeals as well for a modification to its most recent Special Permit condition regarding the delivery of car carriers only between 9:00 a.m. and 3:30 p.m. Vice-Chairman O'Brien also requested that Ms. Kablack coordinate, on behalf of the Board, a written communication expressing its support of approval for this modification to the Zoning Board of Appeals.

Vice-Chairman O'Brien also suggested that the applicant return to a future Board meeting to present its sign designs. If acceptable and benefiting the public safety of the community, Mr. O'Brien suggested that the Board would also be willing to appropriately communicate its support on behalf of the applicant.

Chairman Drobinski requested that Ms. Kablack coordinate with the Town Manager, on behalf of the Board, communication with Sudbury's NStar Community Relations Representative to help expedite the work required by the applicant. Mr. Fenton thanked the Board for these gestures of support.

It was also on motion unanimously

VOTED: To close the Public Hearing regarding the request from Herb Chambers Boston Post Road, Inc. for modifications to Site Plan application #06-382 of BMW on 1) the approved Site Plan dated November 9, 2006, in accordance with Town of Sudbury Zoning Bylaw Section 6300, specifically conditions 14, 21, and 39; 2) approve a Special Permit to reduce the landscape buffer requirement in accordance with Zoning Bylaw Section 3531 and 3543 to 12.2 feet (12.4 ft. originally approved); and 3) a Special Permit to allow 31 reserve parking spaces is accordance with Zoning Bylaw Section 3113, in conjunction with a proposal to construct a BMW dealership on property located at 68 Old County Road, Map K11 parcels 4 and p/o 52, owned by Herb Chambers of Sudbury and zoned Industrial.

Middlesex Savings Bank - Site Plan Discussion

Present: Director of Planning and Community Development Jody Kablack

At 8:59 p.m., Director of Planning and Community Development Jody Kablack reported to the Board that the applicant is awaiting pertinent information regarding curb cuts from the Massachusetts Highway Department, and thereby requests that this discussion be rescheduled.

The discussion was rescheduled by the Board to its April 15, 2008 meeting.

Minutes

It was on motion unanimously

VOTED: To approve the regular and executive session minutes of March 11, 2008.

Annual Sudbury Spring Sprint Triathlon

It was on motion unanimously

VOTED: To grant a Special Permit to Bill Fiske, Race Director, for the Annual Sudbury Spring Sprint Triathlon, a swim/bicycle/foot race event on Sunday, May 11, 2008, from 7 a.m. to 10 a.m., utilizing the loop of Fairbank, Maynard, and Hudson Roads for a bicycle race and the loop of Fairbank Road, Butler Place, Willis Lake Drive, Basswood Avenue, Crystal Lake Drive and Hudson Road for a foot race, beginning and ending at the Atkinson Pool, subject to conditions imposed by the Sudbury Police Department, including provision of three paid police details to direct traffic, and the applicant providing for cleanup of any litter created by race participants or staff.

Willow Hill School - One-Day Wine and Malt Beverages License

It was on motion unanimously

VOTED: To grant a one-day Wine and Malt Beverages License to Deborah G. Driskell, representing the Willow Hill School, to be exercised on Saturday, April 5, 2008, from 7:00 p.m. to 10:00 p.m. at the Willow Hill School, 98 Haynes Road, to accommodate a fundraising dinner.

Community Emergency Response Team - Donation

It was on motion unanimously

VOTED: To accept, on behalf of the Town of Sudbury, a cash donation of \$35 from the Sudbury Villagers to be used by the Community Emergency Response Team to be expended under the direction of the Fire Chief.

Community Emergency Response Team - Donation

Ms. Kablack distributed to the Board an email message dated March 18, 2008, from Fire Chief Ken MacLean to the Board, wherein he formally requests the Board's approval of the listed donations.

It was on motion unanimously

VOTED: To accept, on behalf of the Town of Sudbury, donations valued at \$172 from the Sudbury Villagers necessary to go to the Community Emergency Response Team to help create "go bag" emergency kits for the elderly and others in need and to be dispensed under the direction of the Fire Chief.

Fire Permits Revolving Account - Spending Authorization Increase

It was on motion unanimously

VOTED: To approve an increase in the authorized expenditure limit for the Fire Department Revolving Account from \$12,000 to \$30,000 for FY08 as the account is now receiving all permit fees.

Senior Tax Deferral - Amendment to Previous Vote

It was on motion unanimously

VOTED: To amend the Board of Selectmen's February 26, 2008 vote from "to request that the Town Manager instruct Town Counsel to draft a letter of endorsement from the Board, including appropriate language, to amend the State's Circuit Breaker legislation regarding income taxes" to read: "VOTED: To amend the State's Circuit Breaker legislation so that, for the purpose of determining eligibility for the Circuit Breaker credit, persons who have deferred their property taxes by signing a 'tax deferral and recovery agreement' shall be considered to have paid their taxes in cash on that date," as requested by David Levington, Senior Tax Deferral Study Committee member, on March 12, 2008.

Reports From the Board of Selectmen

Selectman Keller stated that he has been thinking a lot about the Town finances and the upcoming override votes on March 31st. Although unable to attend, he did watch much of the Budget Forum, which was televised last night. Mr. Keller acknowledged the dedication given to the Town's budget process, which he hopes residents will appreciate as they cast their votes. He also hopes citizens will keep in mind why Town operational costs increase each year, just as one's own personal budget does.

Vice-Chairman O'Brien noted that the Town budget is also foremost in his mind. In addition, Vice-Chairman O'Brien attended a meeting in Concord last week regarding the proposed Concord Alexan development. He reported that the Concord Zoning Board of Appeals recognizes Sudbury's concerns regarding traffic and other matters, and seems willing to work cooperatively towards a successful project. Mr. O'Brien will continue to attend future public hearings on the development.

On behalf of the Board, Vice-Chairman O'Brien will attend a celebration on March 27 to congratulate and present a proclamation to Ms. Agnes Hawes on her 100th birthday, and acknowledging her as Sudbury's oldest resident. Mr. O'Brien provided a brief history of Ms. Hawes life in Sudbury.

Chairman Drobinski attended the Budget Forum last night, which he thought was well done. He opined that it is very important for residents to continue to educate themselves on the Town's finances prior to voting on the override questions next week. He urged the community to participate in the Town Election on March 31, 2008.

Reports From the Director of Planning and Community Development **Community Preservation Fund Town Meeting Articles - Update**

Director of Planning and Community Development Jody Kablack also attended the Budget Forum last night. She was surprised that no questions were raised regarding the Community Preservation Fund Warrant Articles, since they represent significant sums of money. She emphasized that the Community Preservation Fund has enough money in reserve to finance the articles.

Ms. Kablack stated that a 20-year bond cost estimate has been done for the two Nobscot property acquisition articles. She noted that over a 20-year timeframe the average taxpayer's cost is estimated to be \$1700 for the proposed \$7.5 million land purchases.

Ms. Kablack announced that site walks of the Nobscot Mountain parcels have been arranged for March 29 and April 5 at 10:00 a.m., and also on March 30 and April 6 at 2:00 p.m.. Ms. Kablack further stated that the Conservation Commission may also schedule similar information walks regarding the proposed CSX land acquisition. Additional information about these scheduled informational walks is posted on the Town website.

Open Space and Recreation Plan - Update

Ms. Kablack announced that the Draft Open Space and Recreation Plan will be distributed to boards and committees, and it will be available on the Town website, in June 2008.

Sudbury Town Center Improvement Committee

Ms. Kablack reported that the Town Center Improvement Committee will soon choose a survey firm. Collaborative meetings will then be scheduled to continue to work with First Parish towards acceptable options.

Agnes Hawes - 100th Birthday Proclamation and Boston Post Cane Certificate

It was on motion unanimously

VOTED: To sign a proclamation designating March 27, 2008 as Agnes Hawes Day to commemorate the 100th Anniversary of her birth and to sign a Boston Post Cane Certificate acknowledging Ms. Agnes Hawes as Sudbury's oldest resident, and congratulating her on this milestone achievement.

Sudbury Housing Trust - Habitat for Humanity - Local Initiative Plan Application

It was on motion unanimously

VOTED: For Chairman John Drobinski, as the Town's chief elected official, to sign the required endorsement letter, as presented this evening, for the Local Initiative Plan application supporting the Habitat for Humanity project at the corner of Pratt's Mill and Dutton Roads to be sent to the Department of Housing and Community Development.

Metropolitan Area Planning Council - Request for Legislative Support

At the request of Town Manager Valente, Ms. Kablack distributed to the Board, for review and discussion purposes, copies of a draft letter from the Board, dated March 25, 2008, to be sent to State Representative Thomas Conroy, urging the support of legislation to encourage resource-sharing among municipalities. Chairman Drobinski stated that he discussed this today with Ms. Valente, who supports the proposal.

Vice-Chairman O'Brien noted that, during Budget Review Task Force meetings, the regionalization of services is often broached.

It was on motion unanimously

VOTED: To send the draft letter from the Board, dated March 25, 2008, as prepared by the Town Manager and reviewed this evening, to State Representative Thomas Conroy, urging the support of S.2401, *An Act Relative to Intermunicipal Agreements*, to encourage resource-sharing among municipalities.

Executive Session

At 9:16 p.m., Chairman Drobinski announced the close of the regular meeting and it was on roll call unanimously

VOTED: To go into Executive Session for the purpose of discussing land negotiations.

Chairman Drobinski announced regular session would not reconvene following Executive Session.

There being no further business, the meeting adjourned at 9:16 p.m.

Attest: _____

Jody Kablack
Director of Planning and Community Development -
Clerk Pro Tem