

IN BOARD OF SELECTMEN  
MONDAY, MARCH 29, 1995

Present: Chairman Lawrence L. Blacker and Maryann K. Clark. Selectman Drobinski arrived at 8:45 p.m.

The statutory requirements as to notice having been met, the meeting was convened at 7:30 p.m. at the Fairbank Senior Center by Chairman Blacker.

Site Plan Special Permit 95-320 - CellularONE

Present: CellularONE representative, Tony Miller; Robert J. Enos, Architectural Engineer, Tutela Engineering Associates; Lt. Ronald Nix, Sudbury Police Department, and Richard Carroll, Superintendent, Sudbury Water District.

The Board convened a public hearing to consider the application received February 16, 1995, of CellularONE, 100 Lowder Brook Drive, Westwood, MA 02090, for a Site Plan Special Permit to install a 151.54 foot cellular telephone communication tower and 484 sq. ft. building, on property owned by the Sudbury Water District off Rt. 117, shown on Town Property Map C12, Parcel 004, in Research District No. 1.

Notice of the Public Hearing was duly posted, and advertised in the Sudbury Town Crier on March 9 and March 16, 1995. Parties of interest, being abutters within 300 feet according to the Assessors, were provided written notice by first class mail. Additionally, the Planning Boards of Acton, Concord, Lincoln, Maynard, Framingham, Marlboro, Stow, Wayland and Hudson were provided written notice by first class mail.

The Board acknowledged receipt of the following:

1. Application for site plan approval dated February 2, 1995, from CellularONE, 100 Lowder Brook Drive, Westwood, MA, for the installation of a cellular phone communication tower and building, which included the following:
  - a. A communication dated January 25, 1995 from Domenic V. Tutela, P.E., President, Tutela Engineering Associates, regarding the proposed installation of a CellularONE communication tower facility upon the site of the Sudbury Water District's gravel borrow pit located on the northwest side of North Road at the Sudbury/Concord Town Line.
  - b. Communication dated January 26, 1995, from Superintendent Richard P. Carroll, Sudbury Water District, stating that the Sudbury Water District has entered into a new agreement with CellularONE to provide space for the installation of a tower and control building on District property, and noted that the proposal was reviewed by the District's engineering consultant, Dr. Ed Chiang and the Department of Environmental Protection, who found this to be a safe use for this location.
  - c. Copy of a plan and accompanying letter from the Sudbury Engineering Dept. that was originally submitted to the Board of Selectmen on February 6, 1981.

- d. Memorandum of agreement between the Town of Sudbury and the Sudbury Water District dated May 11, 1981.
  - e. Communication dated November 5, 1987, from the Sudbury Engineering Department explaining their findings as a result of a topographic survey of the Borrow Pit located on the Sudbury Water District Property, North Road.
  - f. Plan entitled, "Plan Showing Sudbury Water District Borrow Pit, North Road, Sudbury, Massachusetts", prepared by Town of Sudbury Engineering Dept., dated February 22, 1989.
  - g. Proposed site plan entitled, "CellularONE Communication Tower, Sudbury Water District Borrow Pit, North Road, Sudbury, MA", prepared by Tutela Engineering Associates, dated January, 1995, (3 sheets).
2. Communication dated March 14, 1995, from Town Engineer I. William Place outlining the following concerns:
- a. Expired Order of Conditions for the North Road Borrow Pit, and suggesting that a Request for Determination be filed relative to the proposed work.
  - b. Question regarding the retention basin included in the original Order of Conditions referenced on a plan dated February 22, 1989, and the proposed location of the facility, which is located within the retention area, thus making construction of the retention basin very difficult.
  - c. Application to the Board of Appeals is required under Section IV, A4, of the Zoning Bylaws.
  - d. Suggest installation of a security gate at the North Road entrance, with one lock accessible only by CellularONE, Highway Department and Sudbury Water District.
  - e. Installation of overhead utilities as proposed is prohibited by Town Bylaw Art. XX.
  - f. Will access be available to the Town for the installation of a repeater for the Police, Fire and Highway Departments' communication systems.
  - g. Suggest installation of a security light(s) in conformance with Zoning Bylaw Art. IX,V,A,7f.
3. Communication dated March 15, 1995, from Fire Chief Michael C. Dunne stating no objection provided the tower is enclosed to prevent unauthorized access, and that the permit be conditioned on the Fire Department's being able in the future to have access to the offered space on the tower and in the communications building for public safety radio equipment, at no cost to the Town.
4. Communication dated March 24, 1995, from Town Planner Jody A. Kablack, recommending approval with the conditions that the equipment located on the tower be limited to 12 antennas and that CellularONE be prohibited from sub-leasing space on the tower for any purpose other than municipal uses.
5. Communication dated March 29, 1995, from Building Inspector John B. Hepting, reiterating the same concerns as the Engineering Department regarding 1) the special permit from the Zoning Board of

Appeals for any tower installation, 2) the Town be allowed access to space on the tower, and 3) security lighting be installed.

6. A verbal communication dated March 29, 1995, from Health Director Robert C. Leupold, stating no problems with approval.

7. A communication dated March 29, 1995 from Motorola Communications to Police Lieutenant Ronald Nix regarding a quote for a Satellite Voting Receiver for use by Town agencies; specifically the Police Department.

Mr. Robert Enos, Architectural Engineer for this project, explained the proposal and displayed a map of the area and a sketch of the construction. He noted that there will be an 8 foot chain link fence around the facility, and that it will be unmanned and will have no sanitary facilities. He added that no pavement is proposed and that approximately 1% of the surface will be impervious. No liquid fuel or hazardous wastes will be present, thus there will be no effect on the water resources.

Lt. Ronald Nix explained that the Police Department has experienced a number of "dead spots" in certain areas of Town, with the North Road area being one of them, and has wanted to have a tower constructed to eliminate loss of communication in these areas. Lt. Nix continued that the Police Department is very much in favor of this tower construction by CellularONE because our use of the tower radio will enable the Police Department to stay in radio contact in this part of Town where we are now experiencing "dead spots".

Water Department Superintendent Richard Carroll commented that this proposed facility will have no impact on the water resources in Town or the Water District. He said that the revenues received will be targeted for maintenance of water tanks.

Resident Ralph Tyler asked what the revenues would be, and suggested that consideration should be given to constructing this facility on recreation land, so they may benefit from much needed revenues for the improvement of the recreation areas.

Selectman Clark expressed her concern over the possibility of vandalism due to a visible fence. Mr. Enos showed that the fence would not be visible from the road. He also noted that the fence will be secured and the building will have an alarm system and that no climbing pegs will be on the tower for the first 30 feet. She also questioned the need for lighting on the tower, and Mr. Miller responded that the FAA did not require lights on the tower.

On the recommendation of the Executive Secretary, it was on motion unanimously

VOTED: To approve Site Plan Special Permit Application #95-320, of CellularONE, 100 Lowder Brook Drive, Westwood, MA 02090, for permission to install a 151.54 foot Cellular telephone communication tower and 484 sq. ft. building, on property to be leased from the Town of Sudbury Water District off Route 117, shown on Town Property Map C12, Parcel 004, in Research District No. 1, subject to Town Counsel review of documentation and preparation of a conditional Decision incorporating the foregoing recommendations and discussion for the Board of Selectmen to sign.

The site plan was retained by the applicant for revision and resubmission for signature.

Arriving late, Mr. Stephen Verrill introduced himself as an abutter to the property where the tower is to be constructed. He explained that he had difficulty locating the meeting place, thus, his reason for being late to the hearing. Mr. Verrill stated he is concerned with what might happen to the value of his property located on Route 117, with the construction of this tower, and asked if other locations, such as recreation areas, were considered. Upon review of the map showing the location and the elevation, Mr. Thompson responded that the Town's main concern is to ensure communication in this area, and while the tower will not completely be hidden, this location was tested to be ideal for the purposes explained.

Site Plan #95-321 - Herbie's Home Made Ice Cream - 103 Boston Post Road

Present: Bruce Ricciardelli, Builder, and Philip K. Lewis, Applicant.

The Board convened a public hearing to consider the application of Philip K. Lewis, 181 Leland Farm Road, Ashland, d/b/a Herbie's Home Made Ice Cream, (revised filing received March 21, 1995) for a Site Plan Special Permit for a change in use to an ice cream store with nineteen seats, for property located at 103 Boston Post Road, Industrial District #4, owned by Claire McManus of Shrewsbury.

Notice of the Public Hearing was duly posted, and advertised in the Sudbury Town Crier on March 9 and March 16, 1995. Parties of interest, being abutters within 300 feet according to the Assessors, were provided written notice by first class mail. Additionally, the Planning Boards of Acton, Concord, Lincoln, Maynard, Framingham, Marlboro, Stow, Wayland and Hudson were provided written notice by first class mail.

The Board acknowledged receipt of the following:

1. Application for site plan approval dated March 1, 1995, enclosing revised plan entitled, "Site Plan of Land in SUDBURY, MA Prepared for Bruce Ricciardelli", dated March 20, 1995, drawn by Paul Alexander Survey Associates, and a floor plan.
2. Communication dated March 23, 1995, from Town Engineer I. William Place, noting the following recommendations:
  - a. Recommendation to require the applicant to obtain either new curb cut(s) or comply with an approved existing curb cut from the Mass. Highway Department, District 3.
  - b. Compliance with Article V, Section 30 of Town Bylaws that requires a driveway permit from the Engineering Department.
  - c. The plan should show the location of loading spaces and method of refuse disposal.
  - d. Installation of one leaching catch basin along the easterly rounding of the 24' wide entrance to prevent storm water runoff onto Route 20.
3. Verbal communication dated March 24, 1995, from Conservation Coordinator Deborah Montemerlo stating that the Commission has no concerns.

4. Communication dated March 24, 1995, from Town Planner Jody Kablack, noting the Planning Board's approval subject to the following conditions:
  - a. Revise the site plan to include the location of the walk-up, take-out window; outdoor lighting (location, type and intensity); number of seats in the restaurant; and dumpster location.
  - b. Obtain the necessary curb cut permits as required by Mass. Highway Department and improve curbing along the frontage of the property on Route 20.
  - c. Solve all drainage issues on site, specifically the flow onto Route 20, with approval of the Town Engineer.
  - d. Comply with landscape requirements and describe the types of vegetation proposed, approximate size of plants and quantity.
5. Verbal communication dated March 28, 1995, from Fire Chief Michael C. Dunne, stating no problems with this site plan.
6. Communication dated March 29, 1995, from Building Inspector John B. Hepting commenting as follows:
  - a. Although the parking is shown to the side rather than the rear, it appears appropriate since the site and structure are pre-existing, non-conforming.
  - b. The Selectmen may wish to condition the site plan as to planting materials and location being in accordance with recommended approval of the Design Review Board.
7. Communication dated March 29, 1995, from Design Review Board Chairman, Frank W. Riepe, stating agreement with concerns already documented, but the Design Review Board would like the opportunity to comment on the finalized, full-scale plan.
8. Verbal communication from the Health Director, dated March 29, 1995, stating no problems with the plan.
9. Application for Common Victualler License, dated March 3, 1995, from Philip K. Lewis, d/b/a Herbie's Home Made Ice Cream.

It was on motion unanimously

VOTED: To waive regulations regarding site plan scale, accepting the scale of 1" = 30' for this site plan.

Following discussion and a review of the revised Site Plan, it was on motion by Selectman Drobinski, unanimously

VOTED: To approve Site Plan Special Permit #95-321 of Philip K. Lewis, 181 Leland Farm Road, Ashland, MA, d/b/a Herbie's Home Made Ice Cream, for a change in use to an ice cream store, for property located at 103 Boston Post Road, Industrial District #4, owned by Claire McManus of Shrewsbury, subject to Town Counsel review of documentation and preparation of a conditional Decision incorporating the foregoing recommendations for the Board of Selectmen to sign.

The site plan was retained by the applicant for revision and resubmission for signature.

And it was further

VOTED: To grant a Common Victualler License to Philip K. Lewis of Ashland, d/b/a Herbie's Home Made Ice Cream, for an ice cream store with nineteen seats, for property located at 103 Boston Post Road, ID #4, owned by Claire McManus of Shrewsbury, subject to the Board of Selectmen signing a final Decision to be prepared by Town Counsel.

Minutes

It was on motion unanimously

VOTED: To approve the minutes of March 13, 1995 and March 22, 1995 as amended.

Council on Aging - Van Donation

It was on motion unanimously

VOTED: To accept \$130.77 in miscellaneous donations for deposit into the Council on Aging Van Donation Account and to authorize the Council on Aging to expend the same for purposes of operating and maintaining the Council on Aging vans.

Sudbury Supervisory Association - Donation to Town Charity/Discretionary Fund

In response to a communication dated March 16, 1995, from the Sudbury Supervisory Association, it was on motion unanimously

VOTED: To accept a donation made in the memory of Warren E. Boyce in the amount of \$100 from the Sudbury Supervisory Association to be deposited into the Charity/Discretionary Fund.

Town Manager Screening Committee - Meeting

At the request of the Town Manager Screening Committee, it was on motion unanimously

VOTED: To schedule a special meeting of the Board of Selectmen on Thursday, April 6, 1995, at 7:30 p.m. to meet in joint session with the Town Manager Screening Committee at its request.

Walkway Easements

It was on motion unanimously

VOTED: To accept on behalf of the Town, the following walkway easements:

1. Granted by Phyllis Rosenfeld of 64 Carriage Way, dated September 12, 1994, on Lot 12, shown on plan entitled, "Easement Plan of Land in Sudbury, MA (Middlesex County), dated June 5, 1990, revised August 8, 1990, drawn by Beals and Thomas, Inc.;

2. Granted by Peter and Janice Chantiles of 84 Carriage Way, dated December 9, 1994, on Lot 13, shown on plan described above;

3. Granted by Arthur DeMelle of 6 Henry's Mill Lane, dated January 6, 1995, on Lot 1, shown on plan described above; and

4. Granted by Steve E. and Sherie L. Reese of 14 Henry's Mill Lane, dated January 21, 1995, on Lot 2, shown on plan described above.

Annual Schedule - Selectmen's Meetings

It was on motion unanimously

VOTED: To approve an annual schedule of Selectmen's meetings for May 1995 through April 1996.

Parkinson Land - Farming Agreement

It was on motion unanimously

VOTED: To sign an agreement with Earl Meader of Wayside Farm to allow him to plant and harvest hay on the Parkinson Land off Hudson Road.

Indemnification Agreement - Blue Cross and Blue Shield

Upon review, it was on motion unanimously

VOTED: To sign an Indemnification Agreement with Blue Cross and Blue Shield of Massachusetts, Inc. and the monitoring firm, Sterling Administrators, regarding the provision of confidential claims information to the Monitoring Firm solely for audit purposes.

Metropolitan Area Planning Council (MAPC) - Appointment

The Board acknowledged receipt of a communication dated March 14, 1995, from MAPC Executive Director David C. Soule, reminding the Town to appoint a representative to the MAPC, as the current term expires on April 30, 1995.

Selectman Clark questioned if there might be another candidate interested in this appointment other than Ursula Lyons, who has served as the Town's representative for several years. Ms. Clark also asked what was meant by membership being a legal requirement and what binding authority is placed on the representative. Mr. Thompson responded that it is strictly an advisory position.

It was on motion unanimously

VOTED: To appoint Ursula Lyons as Sudbury's representative to the Metropolitan Area Planning Council for a three-year term to expire April 30, 1998.

Local Emergency Planning Committees (LEPC) - Regionalization

At the request of Fire Chief Michael C. Dunne in a communication dated March 14, 1995, it was on motion unanimously

VOTED: To endorse an effort to regionalize the individual Local Emergency Planning Committees of the communities in Fire District 14.

Utility Petition #95-8 - Dutton Road

Present: JoAnne O'Leary, Community Relations Representative, and Ronald Kirven, Operations Manager, Boston Edison Company.

The Board convened a public hearing to consider the petition of Boston Edison Company and New England Telephone and Telegraph Company for permission to install approximately 125 feet of conduit in Dutton Road to provide underground electric service to a new subdivision.

Secretary Thompson informed that all abutters had been notified and approval was recommended by Building Inspector John B. Hepting and Wiring Inspector Arthur Richard on March 17, 1995.

It was on motion unanimously

VOTED: To approve Utility Petition 95-8 of Boston Edison Company and New England Telephone and Telegraph Company for permission to install approximately 125 feet of conduit, as shown on Boston Edison Company Plan of: Dutton Road, Sudbury, dated February 15, 1995, and New England Telephone and Telegraph Company Plan for: Telephone Conduit, No. 95-05, dated March 15, 1995, under the following public way of the Town:

Dutton Road - southerly thence turning easterly approximately 815 feet  
south of Tanbark Road, a distance of about 125 feet - conduit

Ms. O'Leary presented a letter, dated March 29, 1995, from Boston Edison regarding the proposed amendment to Article XX of the Sudbury Bylaws, (Article 44 of the Town Meeting Warrant) urging rejection of this proposed Article.

Secretary Thompson noted that the Board has also received a letter from Joe Zukowski, Regional Director, Public Affairs & Market Development at NYNEX, dated March 27, 1995, also urging rejection.

Mr. Ronald Kervin remarked that he believes Boston Edison meets the bylaw requirements as they are written, and if changed, could result in added expense to both Boston Edison and the Town. He expressed that Boston Edison is open to other ideas and solutions.



Medicare Supplemental Group Coverage

The Board acknowledged receipt of a communication dated March 2, 1995, from Melody B. Barlow, Managing Director of Cook & Company, informing of Cook & Company's intended termination of Medicare supplement claim payment capability, effective May 1, 1995. In response, Sterling Administrators received quotes for supplemental coverage from three different carriers, which are outlined in a communication from Arthur L. Bomengen, Sterling Administrators, dated March 20, 1995.

On the recommendation of Arthur L. Bomengen in behalf of the Insurance Advisory Committee, it was on motion unanimously

VOTED: To contract with Blue Cross and Blue Shield to provide its Medex plan at \$145.26 per month for those retirees who are Medicare eligible, effective May 1, 1995, to replace the existing contract for Medicare supplement claim coverage with Cook & Company, and it was further

VOTED: To approve the Town's payment to be 52.5% of the premium rate, for the period May 1, 1995 to December 31, 1995.

Secretary Thompson informed that for the period beginning January 1, 1996, the Town will proceed to go out to bid for the entire package, and that a 50/50 contribution ratio for retirees will then be recommended.

Annual Town Meeting Warrant Review

Present: Town Moderator Thomas G. Dignan, Jr.

At 8:00 p.m. Chairman Blacker turned the meeting over to Town Moderator Thomas G. Dignan, Jr., who conducted the Warrant Review for the 1995 Annual Town Meeting which will commence April 3, 1995. Those persons who will present each article and those who desired advance recognition to speak on certain articles identified themselves for the Moderator in order to expedite the town meeting.

Town Meeting Matters

Present: Ralph Tyler.

State of the Town Address: Chairman Blacker stated he would make a few changes of his own to the speech and it was so agreed.

Article Reports:

Article 4. The Board agreed unanimously in opposing the amendment to the "Act Establishing a Board of Selectmen - Town Manager Form of Administration in the Town of Sudbury".

Article 15. Selectman Clark stated she is opposed to Cluster Development because she objects to the change that excludes the 100 ft. buffer. Chairman Blacker suggested she talk with Town Planner Jody Kablack. Mr. Thompson noted that the Planning Board has tried to make it more attractive for the developer.

Article 21. The Board unanimously agreed to support Article 21 - Amend Zoning Bylaw - Delete District 10.

Article 26. Because of their differences of opinion on this article, the Board will speak individually. Selectman Clark favors the requirement of a site plan review of municipal facilities because she thinks it will provide disclosure. Chairman Blacker stated he is against it. He added he does not understand the purpose of it and believes it would lead to micromanaging. Mr. Thompson informed that the Permanent Building Committee is concerned it will create additional problems and costs for the Town regarding the site plans and permits and they oppose it.

Article 27. Chairman Blacker pointed out that #2 and #3 of this Article need further explanation before positions can be taken.

Article 28. Chairman Blacker expressed he believes this Article limits the builder and is opposed to it because he believes it to be micromanaging. Mr. Blacker stated that zoning is the only answer to providing low to moderate income housing and that it needs to be rezoned ahead of time. The Board will speak individually on this Article.

Article 44. There was much discussion regarding the types of things that would be regulated concerning overhead utilities, i.e., how to run the wires from one location to another; the color of the wires. Chairman Blacker expressed that he is against this article, noting that most of the items referred to in the Article to be regulated would mean additional time and money from both the Town and Boston Edison. He said he supports enforcement to eliminate the many double poles, but thinks we are overstepping our bounds when asking to regulate wiring, etc. Selectman Clark commented that the overhead wiring is a mess. She believes that no one has taken Boston Edison to task with regard to maintenance, and thinks they should, and further believes that this might be a step in the right direction.

Ms. Clark stated that she would like to see the Planning Board put together a plan followed by a hearing with Boston Edison. Mr. Thompson said that Boston Edison has been put on notice for removing double poles, but he is not sure that this bylaw addresses this issue. Since the Board could not reach consensus, they will speak individually on this Article.

#### Hosmer House Fund - Christmas Decorations

In response to an invoice dated March 18, 1995, received from Sudbury Historical Commission members Clay and June Allen, in the amount of \$496 for Christmas decorations for the 1994 season for the Hosmer House, it was on motion unanimously

VOTED: To approve an expenditure from the E. B. Hosmer Account in the amount of \$496.00 for Christmas decorations for the 1994 season at the Hosmer House.

#### Memo of Understanding - Fire Department

Upon review, and on the recommendation of Chairman Blacker, it was on motion unanimously

VOTED: To sign the Memo of Understanding, between the Town of Sudbury and Local 2023, Sudbury Permanent Firefighters Association, I.A.F.F., dated March 25, 1995, with the duration of agreement reopener period of October 1, which is consistent with all other Town contracts.

Reserve Fund Transfer No. 95-13

It was on motion unanimously

VOTED: To approve Reserve Fund Transfer No. 95-13 dated March 27, 1995, in the amount of \$571.59 to Selectmen's General Expense Account for the Town Manager Screening Committee's reimbursement for applicant's travel expenses.

Technology Initiatives - John Baranowsky

The Board acknowledged receipt of a communication dated March 21, 1995, to the Board of Selectmen from John Baranowsky concerning linking technology initiatives with the schools and the library, and what is being done by the steering committee to oversee all technology related long-term planning issues and expenditures for the Town.

Legal Affairs

Secretary Thompson reported that, following review of the Bylaws, Town Counsel Paul Kenny opined that because he has already participated in at least one competitive review procedure that he would not have to repeat it, but the Town has already advertised. Selectman Clark suggested there may be a typographical error in Section 5, paragraph (a)... "continuous terms for **no** more than 36 months". After discussion, the Board agreed it best to continue with solicitation of proposals for legal services.

World War II - 50th Anniversary Celebration - Letter from Governor Weld

The Board acknowledged receipt of a communication dated March 21, 1995, from Governor William F. Weld, encouraging Massachusetts cities and towns to celebrate the Allies' victory by holding events commemorating our World War II veterans. The Board indicated it would like to have some form of local recognition planned if possible.

Sudbury Supervisory Association

The Board received from the Sudbury Supervisory Association a communication dated March 20, 1995 requesting a side letter drafted by the Sudbury Supervisory Association be added to their 1995-1997 contract.

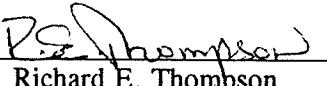
The Board took the matter under advisement and asked the Executive Secretary to review and report further to the Board.

MetroWest Water Resources Committee - Representative

The Board acknowledged receipt of a communication dated March 16, 1995, from George Wallace, MetroWest Water Resources Committee, a standing committee of the MetroWest Growth Management Committee, requesting the Town to review the status of its appointee and confirm that person's future commitment.

Secretary Thompson asked the Board for its opinion, and said he would contact the current appointee, Ursula Lyons, to determine if she would still be interested in serving on this committee.

There being no further business, the meeting was adjourned at 10:50 p.m.

Attest:   
Richard E. Thompson  
Executive Secretary-Clerk