

IN BOARD OF SELECTMEN
MONDAY, JUNE 10, 1974

Present: Chairman John C. Powers, John E. Taft and William F. Toomey.

The statutory requirements as to notice having been complied with, the meeting was called to order at 7:30 p.m. by Chairman John C. Powers.

Hearing - Application for License for Underground Storage of Fuel Oil, Donald P. Peirce, 55 Maple Avenue

Present: Fire Chief Albert St. Germain; Francis E. White, Zoning Enforcement Agent.

Under the provisions of Chapter 148 of the General Laws, Chairman Powers opened a hearing on the application of Donald P. Peirce, 55 Maple Avenue, for a license to store, underground, two (2) 9,975-gallon tanks of residual fuel oils #4-#5-#6, for a total increase in storage of 19,950 gallons.

The Executive Secretary stated that the notices of tonight's hearing had been sent to the abutters by first-class, rather than certified, mail, as stipulated by General Laws, which would, in Town Counsel's opinion, invalidate the hearing.

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

VOTED: To table, without prejudice, consideration of the above-referenced application until June 24, 1974, to allow the Board to properly notify abutters of the hearing;

and it was further

VOTED: To request from Mr. Peirce a comprehensive site plan which will show the location and present capacity of the two existing storage tanks and the location and capacity of the proposed storage tanks.

Later in the evening, Mr. Peirce appeared, and it was on motion

VOTED: To remove from the table consideration of the above-referenced application. (Chairman Powers and Selectman Taft in favor; Selectman Toomey opposed.)

The Board related its earlier action to Mr. Peirce.

Mr. Peirce stated that he did not presently have a plan indicating the location of the storage tanks, but could plot their location on an existing plan of his greenhouse structures.

Mr. Peirce explained that he has at this time two underground tanks for storage of fuel oil, each having a capacity of 9,975 gallons

with a 25-gallon drum sealed within, and that these are used to heat 23,000 square feet of greenhouses, a boiler house, and a packing room. Mr. Peirce stated that he has requested the additional storage tanks to provide heat for a proposed additional 23,000 square feet of greenhouses.

The Board directed the Zoning Enforcement Agent to work with Mr. Peirce in connection with the preparation of a plan to be presented to the Board, and it was again unanimously

VOTED: To table consideration of the above-referenced application until June 24, 1974, to allow the Board to properly notify abutters of the hearing and to receive additional information from the applicant.

Minutes

The Board voted to approve the minutes of the Town Fathers' Forum of May 29, 1974, and the regular meeting of June 3, 1974, as submitted.

Reserve Fund Transfer Requests

Following consideration, it was on motion unanimously

VOTED: To approve a request for a transfer (#0582) from the Reserve Fund to Account 501-41 Selectmen - Travel, in the amount of \$450.00 necessitated by a reduction by the Finance Committee of original budget request from \$3950.00 to \$3,000.00 and by unforeseen expenses relating to the highway investigation (Account 501-41 is used for meetings and conferences of Selectmen, Executive Secretary meetings, mileage for Selectmen, Executive Secretary, Town Accountant, Custodians, etc.);

and it was further

VOTED: To approve a request for a transfer (#0583) from the Reserve Fund to Account 950-11, Blue Cross/Blue Shield, in the amount of \$1101.84, necessitated by unforeseen expenses relating to the cost of the Master Medical plan under Blue Cross/Blue Shield agreed upon in the 1974 labor negotiation contracts and becomes effective June 10, 1974.

The Executive Secretary stated that he will attend the Finance Committee meeting on June 13th, at which these requests will be considered.

Application for Waiver for Exterior Sign, 708 Boston Post Road

Present: Francis E. White, Zoning Enforcement Agent; Elise L. Laliberte, applicant.

Mrs. Laliberte met with the Board relative to her application for a waiver to change the wording on an existing exterior sign at 708 Boston Post Road.

Following discussion, it was on motion unanimously

VOTED: To grant a waiver for exterior sign to Elise L. Laliberte, under Town Bylaws Article IX, Section V, J, 4, for property located at 708 Boston Post Road, in accordance with a plan of Adam & Elise Realty submitted by the applicant.

Muscular Dystrophy Association

The Board noted receipt of a communication dated May 29, 1974, from the District Director of the Muscular Dystrophy Associations of America, Inc., relative to their annual drive for contributions in Sudbury.

Hearing - Article 26 - Add Transportation Corridors to Official Map

Present: Eben Stevens of the Planning Board, William Whiting, Alphonso Marsh, Myron Fox, Ira Potell, Ralph Barton, Charles Blose, and George White, and approximately ten other abutters.

Under the provisions of General Laws, Chapter 41, Section 31F, Chairman Powers opened the hearing on Article 26 - Add Transportation Corridors to Official Map, voted at the 1974 Annual Town Meeting.

The Executive Secretary stated that passage of Article 26 at the 1974 Annual Town Meeting had designated use of the railroad rights-of-way as transportation corridors, if said rights-of-way become abandoned by the railroads.

Mr. Thompson further reported that in a communication dated May 8, 1974, Town Counsel had stated that under G. L. c. 41, Section 81F, no such change or addition shall become effective until after a public hearing before the Selectmen and that tonight's hearing was being held to fulfill that requirement.

Chairman Powers read the motion under the article and the report of the Planning Board as printed in the 1974 Annual Town Meeting warrant.

Mr. Stevens of the Planning Board stated that enactment of the zoning bylaw change would reserve the land within the railroad rights-of-way for specific use as transportation corridors.

In response to a question concerning the definition of the term "transportation corridor", Town Counsel stated that if the term is not specifically defined in the General Laws, it shall be construed

according to the common and approved usage of the language -- unless the term had acquired a peculiar and appropriate meaning -- and if it has, that meaning shall be used.

The abutters expressed their concern that the right-of-way might possibly be used for an extension of Route 290 which would, if this became fact, require land takings.

The Board stated that Town Meeting action would protect the Boston & Maine and Penn Central rights-of-way for community mass transportation and not for a Town or State taking and if this land is designated for a transportation use only, it could not be joined to abutting property or be used for other purposes.

Mr. William Whiting, 47 Stonebrook Road, commented that towns to the west of Sudbury have abandoned railroad rights-of-way and have not taken similar action.

Mr. Stevens responded that if the article is approved, the Planning Board would contact other towns, requesting that they adopt similar zoning for mass transit purposes.

Selectman Toomey questioned whether the rights-of-way could be designated as transportation corridors with the provision that they not be used for vehicular traffic and requested Town Counsel to consider the matter.

Mr. Alphonso Marsh, 111 Horse Pond Road, stated his opposition toward the rights-of-way being maintained for transportation purposes as it causes a disruption of residential areas. Mr. Marsh stated that he would like to see alternatives such as Town control for conservation uses or that the land be offered to abutters. Mr. Marsh also objected to the usage of the term "transportation corridor" as a designation on the Map.

Mr. Myron Fox, 125 Horse Pond Road, stated that he was of the opinion that if this land were put to any use other than the present one, a situation might be created wherein damages would have to be paid to involved abutters. Mr. Fox also stated that while it might not be the intent of the present Board that these transportation corridors be used as super-highways, it might some time in the future with another Board come into this usage and that any increase in the use of these corridors might lead to a taking of the land by eminent domain.

Chairman Powers stated that tonight's hearing involves a zoning change to the Official Map of the Town and that a zoning article does not contain eminent domain authorization. Chairman Powers further stated that this particular article does not propose that the Town of Sudbury purchase, obtain, or gather the land in any way, in fee or otherwise, but only to designate on its Official Map the railroad rights-of-way as transportation corridors.

Town Counsel stated that the statute on Official Maps, Chapter 47 Section 81F, covers many things, among them a provision for injury to a person's property.

Ira Potell, 148 Nobscot Road, questioned under whose responsibility the land would fall if it reverts to the original owner, commenting that at the present time the railroad tracks are used by motorcyclists.

Mr. Ralph Barton, 235 Marlboro Road, stated that abandoned land, which may be used now or in the future, would have no owner or police control and if designated as transportation corridors might gain some type of control.

Mr. Stevens stated that the Planning Board feels an obligation to the Town to look toward future planning and is of the opinion that these rights-of-way are the key to any mass transportation of the future.

The Executive Secretary stated that this proposal was voted upon by the Town Meeting and that it should be pointed out that this action could be changed by any future Special or Annual Town Meeting.

The abutters again expressed their concern with reduction of individual property values, and Mr. Fox stated that the abutters were concerned with the location of mass transportation, not the transportation itself, and that he was of the opinion that Chapter 79 eminent domain damages would be filed if this action is upheld.

Several abutters stated that they had received no notice of the proposed article which was to be voted upon in Town Meeting other than the Warrant itself. Mr. Charles Blose, 95 Austin Road, stated that although he had received notice of tonight's hearing, not all abutters to the rights-of-way had.

In response to a question as to the purpose of tonight's hearing whereas the Town has already voted the zoning change, Town Counsel stated that the hearing was held to approve the Town Meeting vote to see if anyone is damaged by the action. Mr. Turner stated that if the abutters show damage, the Selectmen take this into consideration.

Mr. Barton commented that, if over a period of time, nothing happens to these corridors, the Town can revote the issue, and the Board was in agreement.

Mr. George White, 186 Nobscot Road, questioned whether the location of the Sudbury Water District's well in the area of Nobscot Road had been considered and was told that the State Board of Health would have jurisdiction over pollution to the well.

Chairman Powers stated that tonight's hearing was for the Board's instruction as well as that of the abutters, that there are many options being explored in mass transportation and problems relating to where and how it should go, and that the abutters' comments on the subject have been helpful to the Board.

Common Victualer License - Pizza alla Pietra, Inc., 447 Boston Post Road

Present: Francis E. White, Building Inspector; Antonio Giovane, applicant; Gerardo Fabiano, associate.

The Executive Secretary stated that reports relative to an application for a common victualer license for Pizza alla Pietra, Inc., 447 Boston Post Road had been received from the Director of the Board of Health, dated May 24, 1974, and from the Fire Chief, dated May 10, 1974, and that two reports had been received from the Building Inspector, dated May 8, 1974, and June 3, 1974. Mr. Thompson stated that all reports set forth individual recommendations to bring the application into compliance and that these should be met before its consideration by the Board.

The Building Inspector stated that he had reviewed his recommendations with the applicant and that it had been agreed that the application could be brought into compliance in approximately two weeks.

Mr. Giovane stated that he and his associate, Mr. Fabiano, have been operating similar businesses at two locations in Lynn for the past ten years, incorporated under the name of Caruso's Pizza.

The Board directed the Building Inspector to work with the applicant to coordinate compliance with all the above-referenced departmental reports.

It was on motion unanimously

VOTED: To table consideration of granting a Common Victualer License to Antonio Giovane, 447 Boston Post Road, until such time as the Building Inspector notifies the Board that compliance is complete.

Highway Commission

The Board noted receipt of a communication dated June 2, 1974, from the Highway Commission, a copy of a communication dated June 2, 1974, from the Highway Commission to the Planning Board and a copy of a communication dated June 3, 1974, from the Highway Commission to the Board of Health, all of which were referred to the Executive Secretary for a report at a later date.

S. 1582 - Managerial Employees - Collective Bargaining Law

The Selectmen received a communication dated June 6, 1974, from the Massachusetts League of Cities and Towns which notified the Board that the Massachusetts Senate had overridden Governor Sargent's veto of S.1582, which changed the definition of managerial employees in the new collective bargaining law. The notice stated that consideration of the bill by the House was scheduled for June 11th.

The Board directed the Executive Secretary to contact Representative Gannett, requesting that she vote to sustain the Governor's veto and defeat Senate Bill 1582.

Summer Schedule - Board of Selectmen

It was on motion unanimously

VOTED: To approve the summer schedule proposed by the Executive Secretary for meetings to be held on alternate Mondays during July and August, with meetings scheduled for July 1, July 15, July 29, August 12, August 26, and September 9; thereafter to resume a regular weekly schedule; and it was further

VOTED: To dispense with the Town Fathers' Forum during the months of July and August.

The Executive Secretary was requested to forward a copy of the summer schedule to all boards, commissions, committees, and departments.

Sudbury Housing Authority - Housing for the Elderly - Access Road

The Board received a notice from the Sudbury Housing Authority inviting them to participate in a public meeting, which had been rescheduled from May 21st to June 12th at 7:30 p.m., in the lower Town Hall, on the subject of a change in access road to the proposed housing for elderly of low income on the former Oliver land.

The Board agreed to attend and to participate in the meeting.

Executive Session


At 9:30 p.m. it was on motion unanimously

VOTED: To enter into executive session for the purpose of discussing, deliberating, or voting on appointments and on matters, which if made public, might adversely affect the financial interest of the Town.

There being no business to come before the Board, it was on motion unanimously

VOTED: To adjourn the meeting at 11:20 p.m.

Attest:


Richard E. Thompson
Executive Secretary-Clerk