

IN BOARD OF SELECTMEN
MONDAY, APRIL 30, 1979

Present: Chairman John E. Murray, Robert J. Hotch and William J. Cossart.

The statutory requirements as to notice having been fulfilled, the meeting was called to order at 7:00 P.M. by Chairman Murray in the Lincoln-Sudbury Regional High School Library.

Site Plan Application #79-203 - The Wendworth Corporation, 103-119
Boston Post Road

Present: Patrick J. Mallowney, The Wendworth Corp; George Bezkozovainy, Tippetts-Abbett-McCarthy-Stratton Engineers and Architects; Joseph R. Sullivan, Engineer; D. Barry Hill, attorney for The Wendworth Corp.; Francis E. White, Building Inspector; James V. Merloni, Town Engineer; Judith A. Cope, Conservation Commission; Barbara F. Pryor, Chairman of Sign Reviw Board; Robert F. Dionisi and Olga P. Reed, Planning Board; Edward L. Glazer, Finance Committee; Richard F. Brooks and approximately three other interested residents.

In accordance with Article IX, Section V, Paragraph A of the Sudbury Bylaws, the Board considered Site Plan Application #79-203 of Albert E. McManus Trust and The Wendworth Corporation, for property owned by Albert E. McManus Trust, located between 103-119 Boston Post Road.

The Executive Secretary reported that all appropriate abutters and Town officials had been notified, and that the following communications, which he read, have been received regarding the same: 1) a report dated April 19, 1979, from the Town Engineer recommending approval of the off-street parking (and suggesting white painted lines to mark parking spaces and traffic flow) and vehicular access to and from the site, and recommending the following proposals relative to storm drainage: a) construction of the two leaching basins in accordance with a plan: "Typical Drainage Leaching Structure" by the Town of Sudbury Engineering Department, and b) an increase in size of the recharge basin to accommodate total runoff from the developed site; and further recommending an additional traffic study completed during peak hours of traffic and restaurant operation and that site plan approval provide for possible police officer for traffic contol; 2) a report dated April 24, 1979, from the Planning Board recommending "majority" approval of the site plan subject to the applicant's compliance to the Town Engineer's communication of April 19th and further subject to Board of Appeals action to grant a variance for the drive-up window; 3) a communication from the Building Inspector dated March 24, 1979, recommending disapproval due to no favorable action by the Board of Appeals concerning the drive-up window or by the Sign Review Board for the signs, 4) a report dated April 25, 1979, from the Sign Review Board indicating the proposed signs to be in violation of the Sign Bylaw; 5) a report dated April 24, 1979, from the Conservation Commission noting the requirement of a Wetlands Protection Act hearing due to concern with construction and drainage of the proposed recharge basin located 20' from the Flood Plain, and informing the Board that the applicant filed for a determination of applicability but has not yet followed through with

WPA filing and 6) a letter from Attorney D. Barry Hill dated April 23, 1979, enclosing a Traffic Impact Analysis, compiled as requested at the previous hearing of The Wendworth Corp. site plan application held on November 6, 1978.

It was noted by Selectmen Cossart that no report had been received from the Board of Health; however, later in the discussion Chairman James Healy appeared and stated the site plan as submitted met Board of Health requirements.

Attorney D. Barry Hill addressed the individual concerns as follows: 1) parking requirements are no problem to comply with; 2) leach basins have been corrected in accordance with the Town Engineer suggestions; 3) the recharge basin has been expanded and rip-rap overflow swale has been developed on the plan; 4) a gap analysis summary has been prepared as requested by the Engineering Department (Mr. Hill distributed copies prepared by Mr. George Bezkozovainy of Tippetts-Abbott-McCarthy-Stratton Engineers and Architects), and Mr. Hill stated that this gap summary substantiates that the traffic Impact Analysis is valid because there are enough safe gaps (6 seconds or more) to handle the traffic Wendy's Restaurant will generate.

There was some discussion relative to the particulars of the gap study, during which Selectman Cossart pointed out that during the peak hour of 4:15-5:15 p.m. there is less than a gap a minute; Mr. Bezkozovainy stated that the survey was done on the basis of 15 minute periods, and it was determined that there would be a minimum of 8 + a maximum of 13 gaps each 15 minutes, which is, in his opinion, adequate.

The Town Engineer expressed concern regarding lack of gap measurements on a given Saturday between 2:00 and 5:00 P.M., which in his opinion, constitutes peak restaurant operations. Mr. Bezkozovainy pointed out that although peak restaurant operations may be between 2:00 and 5:00 P.M. on Saturdays, the volume of traffic would be lower. Mr. Merloni stated, however, that traffic on Route 20 on Saturday is extremely heavy in Sudbury, especially due to the use by residents of the adjacent landfill site. The Selectmen concurred.

Judith A. Cope, commented personally on the following: 1) the concept of a fast food restaurant in the Town of Sudbury, and its general negative effect on the Town, as well as the impact of the increased traffic generated by Wendy's to the possible consideration of the widening of Route 20; 2) the impact of increased use of the Town's Sanitary Landfill; and 3) discrepancies in the Traffic Impact Analysis and Route 20 Gap Study Summary due to lack of consideration of traffic generated from out of Town.

Selectman Hotch asked if the applicants are proceeding with the Wetlands Protection filing requested by the Conservation Commission; Atty. Hill stated that the applicant filed a notice of intent, but that said filing only relates to a hearing prior to construction of the storm drainage and does not affect the site plan approval.

Mr. Thompson commented that the Board could approve the site plan subject to compliance to the Conservation Commission's request that a Wetlands Protection Act hearing be held and compliance with the Sign Bylaw and approval of the Sign Review Board.

Mr. Joseph R. Sullivan, Site Plan Engineer, stated that the applicant could not obtain approval from the Conservation Commission until all other approvals of Town boards are obtained.

Building Inspector Francis E. White questioned the clearance from the State Department of Public Works (DPW) relative to curb cuts, and asked if there were any changes on the access shown on the site plan. Applicant Patrick J. Mallowney stated that the State approved the curb cut 6-8 months ago, and that there is no change in the access. Mr. Thompson again pointed out that the Town Engineer approved the vehicular access to and from the site with adequate turning radius at the intersection of the drive and the Boston Post Road, and, although a copy of the curb cut approval was not available tonight, the applicants could not proceed without obtaining the curb cut approval by the State.

In answer to Mr. Richard F. Brooks, Atty. Hill stated that the proposed site for Wendy's Restaurant is located in an Industrial Zone, and that restaurants are allowed in Industrial Zones.

Selectman Cossart later pointed out that a drive-up window is not allowed in an Industrial Zone, and that this would require Board of Appeals action. It was suggested by the applicants that they would reconsider construction of Wendy's if a drive-up window were not allowed.

Mr. Brooks asked if there would be a coordinated approach to parking and access on the entire lot (including the package store site) and expressed some concern regarding the drainage on the lot. In answer to Mr. Brooks Atty. Hill stated that parking would be confined to the sides and rear, not in front of the building along Route 20, and that an effort is being made to sell and/or make changes in the appearance of the package store, but that the two are on different lots.

Mr. Sullivan responded that they would comply to the revision of two leaching basins and a separate catch basin, requested by the Town Engineer for a 5-year storm, on the site, which would be a loamed and seeded area. Mr. Brooks commented that this area may become a "catch-all" for litter.

Mr. Brooks also commented that there is a conflict with J.T.'s Restaurant across the street in that their parking presently overflows into the vacant lot proposed to be used for Wendy's; he also questioned who would be responsible for payment of police coverage on Saturdays, if necessary. Mr. Thompson responded that it is not the Town's obligation to provide police coverage, but the responsibility of the management of the restaurant to provide for a "paid detail", if required.

Mr. Brooks stated his opinion that this type of restaurant is usually sign orientated and suggested that the Selectmen make the final approval after the sign review board has made its recommendation.

Barbara F. Pryor personally commented on the general inconvenience to the Town to have the additional traffic problems on Route 20 anticipated by this fast food establishment and questioned whether the gap study showed adequate "double gaps" for cross traffic turns.

Both Selectmen Hotch and Cossart commented on the additional traffic inconveniences anticipated by the insertion of a Wendy's on Route 20, especially on Saturdays when many residents use the Landfill, and reaffirmed the many concerns of both those present and expressed by residents prior to tonight's hearing regarding

the impact of Wendy's on the landfill area.

Mr. Mallowney stated that he would be willing to truck the rubbish out of town.

Following further discussion it was on motion unanimously

VOTED: To continue the hearing of The Wendworth Corp. 103-119 Boston Post Road, Site Plan Application #79-203, by mutual consent of both parties, not for general discussion but to address further questions of the Board to the petitioners, until the Board's regular meeting on May 7, 1979, at 7:00 P.M.

Ephraim's of Sudbury - Weekday Entertainment License

Present: Donald Wagoner, Manager of Ephraim's of Sudbury.

Executive Secretary Richard E. Thompson stated that Mr. Wagoner had applied for an amendment to his present background music only weekday entertainment license for Ephraim's of Sudbury to include live entertainment; i.e. 1-4 entertainers at any given time. Mr. Thompson recommended that the Board consider a weekday entertainment license for 1-3 entertainers to keep uniformity within the Town among all establishments presently holding entertainment licenses.

Mr. Wagoner questioned the use of a group of 3 or more entertainers hired by individuals for private parties such as, weddings, and Bar Mitzvahs. The Executive Secretary stated that he believed that no license is required for this purpose if the entertainers are hired by the individuals for the purpose of a private party to be held at Ephraim's. Town Counsel concurred.

In answer to Selectman Cossart, Mr. Wagoner stated that he is interested only in entertainment suitable to the atmosphere of Ephraim's - "low-key" type of music, such as: a singer with a piano or guitarist (light jazz) accompaniment; he explained that Ephraim's could accommodate a wedding party upstairs, using the Garden Room for dancing and the other areas surrounding it would be used for dining and other festivities. Mr. Wagoner also explained that during the holidays, he might consider hiring minstrels who would serenade at individual tables or sing holiday carols.

Mr. Wagoner and the Board of Selectmen agreed that Ephraim's should be closed to the public during private parties, such as weddings or Bar Mitzvahs due to the limited seating capacity.

Mr. Brooks commented that the Selectmen should be sensitive to the views of some people regarding the issuance of liquor and entertainment licenses to establishments located near the Town Centre.

Selectman Hotch commented that he was not concerned with the restriction of the license relative to the number of entertainers, but the intent of the restaurant owner. Selectman Hotch also commented in response to Mr. Brooks, that a restaurant could not survive without a liquor license, and that was the position of the Board at the time the liquor license was issued to Ephraim's; however, this new board was not involved in the original issuance of the liquor license.

Mr. Wagoner appealed to the Board to have confidence in his judgement in the style of music and/or the type of entertainment - that many restaurant businesses have been ruined because of the type of entertainment provided.

The Executive Secretary added that a liquor license is issued for one year only and can be revoked at any time with very little successful appeal rights, and stated that to the best of his knowledge, there have been no complaints with any establishments in Town in connection with entertainment licenses.

Selectman Cossart suggested restricting Mr. Wagoner's entertainment license to one live entertainer, either a singer or a musician, on the basis that he would like to have some tangible demonstrations of cooperation by the management of Ephraim's to comply with Town officials and the bylaws of the Town.

Chairman Murray concurred and pointed out that the two other establishments who hold entertainment licenses for 1-3 entertainers are located on Route 20.

Following further discussion it was on motion unanimously

VOTED: To approve an application for a weekday entertainment license dated April 23, 1979, from Donald Wagoner, Manager, Todd-Wagoner Corporation, for Ephraim's of Sudbury, Village Green, for taped background music and one musician from 6 p.m. to 12 midnight only at any given time.

Chairman Murray recessed the meeting at 8:00 P.M. for the Annual Town Meeting; the meeting was called back to order at 9:00 P.M.

License Renewals - Sudbury Bowladrome, Inc.

It was on motion unanimously

VOTED: To grant to Sudbury Bowladrome, Inc., 136 Boston Post Road, Sudbury, renewal of the following licenses:

a. License to operate twenty-four (24) bowling alleys on weekdays from 8:00 a.m. to 12:00 midnight and on Sundays from 9:00 a.m. to 11:00 p.m.; and six (6) pocket billiard tables on weekdays from 8:00 a.m. to 12:00 midnight for the year commencing May 1, 1979;

b. License for Public Entertainment on the Lord's Day to operate six (6) pocket billiard tables from 1:00 p.m. to 11:00 p.m. commencing May 27, 1979 to May 18, 1980; and

c. License for Public Entertainment on the Lord's Day to operate Automatic Amusement Devices (pinball machines) from 1:00 p.m. to 11:00 p.m. commencing July 1, 1979 to June 22, 1980.

Sale of Poppies

Following discussion it was on motion unanimously

VOTED: To grant permission to Guy L. Dietrich, Chaplain, Sudbury American Legion Post No. 191, to solicit donations by sale of poppies at Star Market,

First National and MacKinnon's Package Store shopping areas, as requested in his communication dated April 17, 1979, on May 24, 25 and 26, 1979, subject to receiving authorization from the Chief of Police, and subject to receiving authorization from the proprietors of the areas where he is requesting to sell.

Chapter 90 Funds - Department of Public Works

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

VOTED: To sign a memorandum of agreement between the Massachusetts Department of Public Works and the Town of Sudbury relating to the acceptance and use of Chapter 90 funds in the amount of \$90,600 as allotted by the Department of Public Works by vote of August 17, 1977.

Minutes

It was on motion by Selectman Hotch unanimously

VOTED: To approve the minutes of the regular session of April 23, 1979, as drafted.

Current Items of Interest

Chairman Murray reported to the Board that the salaries and job descriptions of the School Department clerical personnel will be submitted for comparison with the Classification Plan for the Special Town Meeting, and that the Personnel Board will be meeting on Wednesday night to discuss the same.

The Executive Secretary reminded the Board that they have been invited to march in the Memorial Day Parade on Monday, May 28th.

There being no further business to come before the Board, the meeting was adjourned at 9:40 P.M.

Attest: _____
Richard E. Thompson
Executive Secretary-Clerk