

IN BOARD OF SELECTMEN
MONDAY, NOVEMBER 28, 1983

Present: Chairman John E. Murray, Anne W. Donald and Myron J. Fox.

The statutory requirements as to notice having been fulfilled, the meeting was called to order at 7:30 p.m. by Chairman Murray.

Inflammable Storage License Application and Site Plan 74-131 Revision - Sudbury Automotive, Inc.

Present: Robert Pearlman, owner Sudbury Automotive; Fire Chief Michael Dunne; Building Inspector Joseph E. Scammon; Town Engineer James V. Merloni; Patrick J. Delaney, III, 206 Boston Post Road; Russell P. Kirby, 244 Boston Post Road, John C. Drobinski, 222 Boston Post Road; and Richard F. Brooks.

Chairman Murray convened a public hearing on the application for additional storage of inflammables of Robert Pearlman, Sudbury Automotive, Inc., to be stored on property located at 209 Boston Post Road, owned by Delta Land Trust of Sudbury, as follows:

Underground, 6,000 gallons gasoline, and
4,000 gallons diesel fuel;

Aboveground, 500 gallons motor oil.

The applicant is requesting a related revision to Site Plan 74-131 for a change in gasoline storage and the relocation of gasoline pump islands on said property (discussion on this matter continued from November 7, 1983).

Executive Secretary Richard E. Thompson noted receipt of the following communications subsequent to the November 7th meeting:

- from the Building Inspector, dated November 28, 1983, approving the license application for the inflammable storage;
- from the Health Director, dated November 21, 1983, changing his earlier verbal opinion that a monitoring well be installed on the property, because, upon inspection, he determined it to be an area with a low water table, and recommended instead that the tanks be encapsulated in a heavy duty PVC liner with a minimum of twelve inches of sand between the tanks and the liner to protect them from punctures during installation. The Health Director also requested the owners to schedule an inspection with him to review their monitoring and reporting procedures;
- a telephone message from Town Engineer James V. Merloni approving an extension of the existing island 6-8 feet westerly; the addition of a second small island with service on one side only, placed closer to the building (20 feet or more between the two islands); and underground storage as located on the plan submitted. (This eliminates the two-island configuration where the outside island would be very close to the road.);

- a petition dated November 23, signed by approximately twenty-six Sudbury residents, opposing the expansion of the gasoline storage.

Mr. Pearlman explained that in the revised configuration the pump islands would be no closer to the corner of Landham Road and Route 20. The approximate ten-foot extended island and the one-sided second island, Mr. Pearlman stated, would suffice for what he needs in order to serve his customers without having a traffic backup.

Relative to the issue regarding the staggered timing of installation of the gasoline tanks, Mr. Pearlman stated that he consulted with Engineer Bob Ghatti of Mobil Oil Corporation, who indicated rupturing is not a problem so long as the tanks are not pierced during installation and thirty-six inches is maintained between two tanks. This would apply to both fiberglass and steel tanks.

The Chief stated that one has to be more careful with a fiberglass tank than with a steel tank during this type of installation/removal.

Mr. Pearlman expressed his preference for steel tanks in which an alcohol mix could be stored if blends were changed in the future. Later during discussion, Mr. Pearlman stated that the tanks are old and, although they have been tested, he would like to upgrade by replacing them. Steel tanks can be opened and cleaned - maintenance is better than with fiberglass tanks.

Relative to the Health Director's above-noted requests, Mr. Pearlman expressed his opinion that meter readings and stick measures are the best precautions regarding leakage. He stated that he takes these precautions (at his other stations) two to three times per day, and that this type of monitoring can tell within one gallon what the volume of motor fuel is in each tank, and that any shortage would show up within one - two days.

Chairman Murray stated he was uncomfortable about another island being added, and expressed his preference that all the gasoline tanks should be installed at the same time.

Responding to both Chairman Murray and Selectman Fox, Mr. Pearlman stated that it would be his preference as well, but his cash flow is such that he cannot manage to complete the installation at one time. Mr. Pearlman explained that he had been offered money from Mobil for a high volume gasoline, self-service station, but his intention is to offer service and repairs, and that he is looking toward this being a viable investment and a service to the Town of Sudbury.

Responding to Selectman Donald, Mr. Pearlman stated he would like to replace the large tank now and phase in the other three in the near future. Responding to Selectman Fox, Mr. Pearlman stated that it will cost approximately \$50,000 extra to install these three tanks, that he is spending approximately \$40,000 for his immediate proposals (one tank replacement, island revisions, etc.).

Responding to Selectman Donald, the Building Inspector stated that his above-noted letter of approval pertains only to the storage application, not the site plan. (The Building Inspector's November 7 verbal report relative to the site plan requested Board of Appeals action because of the non-conforming setback of the building.)

Responding to Selectman Donald's expressed concern regarding traffic flow in the area and the perimeter of the property being too open to the street (no specific driveway), Mr. Pearlman pointed out that there is a certain amount of berm along the perimeter of the property; the Town Engineer stated that the curb cuts are approved (and permits issued) by the State Department of Public Works, and expressed his opinion that one cannot drive in or out indiscriminately.

Mr. Patrick J. Delaney, III, expressed his opinion that the proposed plan should be disapproved because it does not sufficiently address esthetics and safety issues for the following reasons:

- 1) There is still the problem of traffic congestion at the intersection of Landham Road and Boston Post Road at the gasoline station; that increasing the number of pumps would increase the traffic, creating a more hazardous intersection and cause a backup traffic situation. Mr. Delaney showed photographs demonstrating why he felt that a hazardous traffic and dangerous intersection situation exists.
- 2) The sign should be brought to conformity by being moved back toward the building.
- 3) The proposed new lighting is lower but the lenses are still exposed and, therefore, should be covered with shields to prevent shining across the street onto his property.
- 4) The proposed two-foot landscaped strip is not sufficient; it is neither consistent with the new bylaw to provide landscaping nor is it consistent with the landscaping of other gasoline stations in Town which, in general, have 10 to 15 foot planted strips. (It was his opinion that the Town was trying to move in a better direction as far as appearances are concerned.)
- 5) Increasing fuel storage also increases fire, explosion and leaking risks, and this gasoline station is located in a business island surrounded by residential homes, and it was his opinion that special consideration should apply in this instance - neither number of tanks nor number of gallons should increase.
- 6) Since the property changed hands, an A-frame type sign is in use and has been sitting with one leg actually on Route 20 because there is so little room on the property. Mr. Delaney questioned how there could possibly be room for another pumping island!

Mr. Pearlman responded to some of Mr. Delaney's points as follows:

- the gasoline station is properly located for its use in a Business District, contiguous to the residential zone;
- he plans to use the existing sign with no changes, therefore, does not require Sign Board review; (regarding the A-frame sign, the Building Inspector confirmed that it is not legal for Mr. Pearlman to use that sign unless it is approved by the Sign Review Board.)
- he pointed out the difficulties in conforming to current standards when working with an existing building;
- also, the increased storage capacity would actually reduce the number of fillings (of his tanks by large fuel trucks), thereby reducing the spill factor risk and fuel oil trucks traveling on Sudbury roads;
- later in the evening, Mr. Pearlman showed pictures of the proposed low profile lighting and explained how it compared to the existing brighter lights;
- also, increased storage will eliminate the backup of cars because, in his opinion, this problem is created since there are too few pumps for this gasoline station which handles a good volume of gasoline. (He said that other stations have the same number of customers/cars but do not have traffic backup because they have more pumps.)

Mr. Russell P. Kirby stated that he operated a service station a number of years ago and is familiar with all aspects of that work, and lives on Boston Post Road in the immediate area of the gasoline station, and has, therefore, observed the traffic situations there. Mr. Kirby read a prepared statement dated November 28, 1983, in opposition of the proposed site plan revisions and increased gasoline storage and submitted a copy of the same to the Selectmen for the record, (a complete text is available in the Selectmen's office).

Mr. John Drobinski expressed his opposition of the expansion of this gasoline station based on the safety problems already pointed out, and from the aspect of gasoline contaminants seeping into the ground/ground water from spills and/or leakage.

Selectman Fox stated his opinion that some of the concerns mentioned are justified; asked for an opinion from the Town Engineer regarding landscaping; and asked about closing the existing curb cut at the easterly end of the property (and locate their gasoline pumps on the westerly side of the building) as recommended by Mr. Kirby.

The Town Engineer stated that closing the curb cut as recommended would aggravate the situation more. He went on to say that any preferred changes to alter the Landham Road (Route 20 end) curb cut have to go through the State Department of Public Works since, in his opinion, the curb cut is on Boston Post Road and not on Landham Road. He also stated that, if Mr. Pearlman were starting from scratch, he could do things differently but felt that his plan as presented tonight was good.

(Later in the evening, Mr. Richard F. Brooks expressed his opinion that the zoning in this area had been done about twenty-two years ago after midnight at an Annual Town Meeting, and it was his belief curb cuts had never been applied for - that they were put in when the Boston Post Road was being repaved in about 1960.)

Later in the discussion, Mr. Pearlman stated that, if the tanks were moved to the westerly portion of the site, they would be too close to the proposed new buildings on the abutting property, as well as, too far away from the existing station (approximately eighty feet) requiring a kiosk-type structure constructed near the pumps. Also, it would disturb present landscaping and septic systems.

Responding to the Selectmen relative to landscaping, Mr. Merloni stated his opinion, in most cases, that maximum landscaping is appropriate, but, in this case, he felt it would aggravate the visibility problem which already exists along Route 20. However, Mr. Merloni further stated that more landscaping could be planted along the Landham Road border of the property.

There was a consensus of opinion by the Selectmen and the Town Engineer that extra gasoline pumps would not increase vehicular traffic going into the station. Mr. Delaney expressed opposite views in this regard, adding that more pumps lead to more spills during transfer of the fuel and reiterated his feelings that this is a special situation because of the residential neighborhood surrounding the station.

Responding to questioning by Selectman Fox regarding any fire or traffic hazard associated with increased storage and pumps, the Fire Chief stated there are more problems with self - service stations because of spills, not traffic problems with cars going in and out of stations.

With respect to staggered installation of tanks, the Fire Chief stated that a concrete wall between tanks is a good solution; this would help eliminate the problem of a tank collapsing or being punctured if the ground around it were disturbed. He also agreed that the Health Director's recommendation to encapsulate the tanks is appropriate.

Mr. Pearlman stated that encapsulating his tanks would be economically prohibitive. It is very expensive and, in his opinion, would not contain the gasoline if there were a leak; a concrete wall, on the other hand, he felt would give some protection when tanks were being installed; however, he felt both the wall and the vault would only be necessary if fiberglass tanks were used. He added that the low water table in the proposed area of this tank placement is a positive aspect in his favor.

The Fire Chief added that all the tanks are installed on concrete pads. Mr. Pearlman indicated he would like to re-define the placement of the tanks if it would avoid putting in concrete walls, etc.

Selectman Fox asked if, with this increased storage, this would be one of the largest stations in Town; Mr. Thompson responded that he believed it would not, but would provide the Board with a listing of the same during this week.

Mr. Drobinski stated that the bulk of the gasoline stations in Town are located in business districts, not near residential zones.

Selectman Fox asked the Town Engineer and the Fire Chief to do some thinking about issues raised again tonight relative to additional pumps, additional traffic caused by additional pumps, safety, and additional storage and to report back to the Board verbally or in writing prior to next Monday.

In conclusion, it was on motion by Chairman Murray unanimously

VOTED: To take the above-referenced applications under advisement until Monday, December, at 9:00 p.m. for the purposes of making a decision only. (Later rescheduled to 9:30 p.m.)

Package Store License/Thomas McManus, Sr.

Present: Thomas McManus, Sr., Wayside Package Store, Inc.

Mr. McManus submitted to the Board a request (dated November 28) that consideration be given to renewing his All Alcoholic Package Store License for 1984 in spite of the fact that he had sold the property including the building housing his package store located at 119 Boston Post Road. Said license expires December 31, 1983, and to be renewed it requires the Selectmen's approval before November 30.

Town Counsel Paul L. Kenny explained the options available pertaining to the renewal of said license, as follows:

- under State statute liquor licenses are automatically renewable during the month of November for the following calendar year provided that nothing has changed - ownership, location and type of license remains the same;
- if application is made and a license is transferred to a different owner or to a different location (whether or not the building is under construction) by the same owner, at any point before application is made for renewal in November, that November renewal would also be renewed automatically.
- Mr. McManus' situation, therefore, because the package store has been sold and there is not sufficient time before the end of November for him to transfer his license to another location (or individual), is that his license still would be valid until December 31 but cannot be automatically renewed for calendar 1984. However, if Mr. McManus plans to keep the license himself, and can find a new location which he can transfer it to, he can then file a transfer and a license renewal application which will be treated as a new license; these applications can be acted upon simultaneously at a public hearing, properly advertised, held by the Board of Selectmen as licensing authority of the Town.

Responding to Chairman Murray, Town Counsel stated that the Selectmen cannot renew Mr. McManus' license subject to Mr. McManus' finding a new location because of the November 30th deadline for action on renewals which must be for an individual as well as a location.

A provision under 15A allows a person to have plans for a building not yet in existence licensed and said license held until such time as the construction of the building is completed.

Mr. McManus stated he has had this license for forty-five years in the same location and the business has been run by family members. He further stated he would like the opportunity to come before the Board again and finalize the situation, and that he has been looking for a place along Route 20.

Mr. Vito Spadea was present and stated his interest in the license.

Ambulance Fees

Present: Fire Chief Michael Dunne.

After careful review and discussion of the Fire Chief's November 23 recommendation to raise the amount of ambulance fees charged by the Town on the basis that these fees are placed in the Ambulance Reserve for Appropriation Account and used toward ambulance lease/purchase costs and that, in his opinion, it would be appropriate to accumulate monies in this fund for a future lease/purchase ambulance, and specifically because Sudbury presently charges the lowest rates of surrounding towns, it was on motion by Selectman Fox unanimously

VOTED: To raise, effective January 1, 1984, the ambulance fee charged by the Sudbury Fire Department to eighty-five Dollars (\$85) plus Four Dollars (\$4) per mile to hospitals in towns outside of Marlboro, Concord, and Framingham, but excluding mutual aid assistance.

On recommendation by Selectman Fox, the Board agreed to review these fees on an annual basis.

Selectmen's Articles (Reports) - December 1 Deadline

Present: William H. Maurhoff, Finance Committee.

Following review and discussion, it was on motion by Chairman Murray unanimously

VOTED: To approve submission of the following Warrant Articles, and reports as noted, under the December 1 deadline, for inclusion in the Warrant for the 84ATM:

- Street Acceptance - Winter Street (report included)
- Street Acceptance - Powder Mill Road
- Amend Bylaws, Art. V,3 - Public Safety, Unlicensed Dogs (report included)
- Amend Bylaws, Art. IX,III,B - Permitted Uses, Business Districts (report included)
- Amend Bylaws, Art. IX,V,J - Signs

Sale of Tax Possession Parcel - Stone Road (report included)
Change Name of Longfellow Street (report included)
Disposition of Loring School

Preservation Restriction - Hosmer House

It was on motion unanimously

VOTED: To sign an agreement with the Massachusetts Historical Commission granting a preservation restriction on property located at 310 Concord Road, known as the Hosmer House, as required in connection with a grant from the Massachusetts Historical Commission.

Site Plan Vote Form

The Board approved a form vote to be used for site plan approvals, as amended, further subject to clarification from Town Counsel on portions numbered 10a and 10b.

Selectman Fox directed the Executive Secretary to give notice to the Building Inspector that he personally will ask that a site plan hearing be denied or continued if the site plan has not been properly filed. Selectman Fox expressed great concern regarding the re-submission of old site plans which do not reflect the site as it is built or reflect the proposed changes. He expressed his opinion that the Selectmen and other Town officials should not have to see a plan for the first time at the scheduled hearing and be expected to act or make a decision on the same; rather, an accurate plan depicting what is under consideration should be submitted prior to the scheduled hearing so that the Selectmen, the Building Inspector, the Town Engineer and any other Town agency which the Selectmen rely on can review it beforehand.

Relative to site plan hearing procedures, it was noted by the Executive Secretary that this complements what Selectman Fox had expressed at the Board's meeting of November 7 that the re-submission of very old site plans should have some bearing on whether or not a full site plan hearing is made a requirement of the application for change, and the Building Inspector should use this as a guideline in determining the same.

The Executive Secretary was directed to schedule the above-captioned subject for the December 5th agenda for final review and approval.

Printing Bid - 83 Annual Town Report/TM Proceedings

In accordance with the recommendation, dated November 28, 1983, from the Town Report Preparation Committee, it was on motion by Selectman Fox unanimously

VOTED: To accept the bid dated November 9, 1983, for the printing of the 1983 Annual Town Report submitted by Hi-Tech Graphics, of Fitchburg, Massachusetts, at cost of \$45 per page, which includes typesetting of all pages, galley proofs, paste-up and perfect binding, in accordance with the Town's specifications;

and it was further

VOTED: To accept the bid dated November 9, 1983, for the printing of the 1983 Town Meeting Proceedings submitted by Carlsberg Printers Inc., of Waltham, Massachusetts, at a cost of \$5.58 per page, in accordance with the Town's specifications.

Speed Humps - Dudley Road

It was on motion by Selectman Donald unanimously

VOTED: To refer to the Town Engineer for his information a communication dated November 21, 1983, from Stephen D. Rich, representing the Dudley Road Safety Committee, on the subject of speed humps and painting of the center line on Dudley Road, and directed the Executive Secretary to communicate to the Dudley Road Safety Committee, in response to said communication, that, after good consideration it is now the consensus of the Board not to proceed with the installation of speed humps on Dudley Road (or any other road in Town) because of concern involving possible liability and corresponding litigation.

Minutes

It was on motion by Selectman Donald unanimously

VOTED: To approve the minutes of the Regular Session of November 21, 1983, as amended.

Police Regional Training Program

The Board acknowledged receipt of a November 22 communication from Administrative Assistant Peter Lembo to the Tewksbury Police Chief requesting that Sudbury be accepted as an active member of the Regional Training Program.

Executive Session

At 10:50 p.m. it was on motion by roll call

VOTED: To enter into Executive Session for the purpose of discussing litigation where open discussion of the same may have a detrimental effect.

(Roll call vote: Chairman Murray, in favor; Selectman Donald, in favor; Selectman Fox, in favor.)

Chairman Murray announced that Open Session would not reconvene following the Executive Session.

There being no further business to come before the Board, the meeting was adjourned at 11:15 p.m.

Attest:
Richard E. Thompson
Executive Secretary-Clerk