

IN BOARD OF SELECTMEN
MONDAY, JANUARY 23, 1984

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

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

Presentation of Girl Scout Cookies

Present: Barbara Cook, Service Committee; and daughters, Girl Scouts Katy and Erin.

During a cookie presentation to the Selectmen by the two Girl Scouts present, it was noted that Girl Scout cookie sales for 1984 would take place between January 20 and February 5.

Utility Petition 84-4 - Union Avenue

Present: Robert Malis, Boston Edison Company.

In conformity with General Laws, Chapter 166, Sections 21 and 22, the Board considered Utility Petition 84-4 of New England Telephone and Telegraph Company and Boston Edison Company, for permission to lay and maintain, and a location for, such a line of conduits and manholes with the necessary wires and cables therein, under the following way of the Town:

Union Avenue - northwesterly approximately 350 feet southwest of Station Road, a distance of about 15 feet - conduit.

Executive Secretary Richard E. Thompson noted that all appropriate abutters and Town Officials had been notified, and noted receipt of a joint favorable reply from the Building and Wiring Inspectors, dated January 20, 1984.

It was on motion unanimously

VOTED: To approve Utility Petition 84-4 of New England Telephone and Telegraph Company and Boston Edison Company, as described above, and as shown on plans entitled, "Plan for Conduit Location To Accompany Petition of New England Telephone and Telegraph Company", dated January 11, 1984, and "Plan of Union Ave., Sudbury, Showing Proposed Conduit Location", dated January 3, 1984.

Mill Village Site Plan 83-271

In response to a communication, dated December 19, 1983, from Theodore P. Theodores, Chairman of the Planning Board, relative to the legality of the Selectmen's vote approving Site Plan 83-271, Mill Village Realty Trust, 361 Boston Post Road, the Board reviewed Town Counsel's communication, dated January 17, 1984, to Mr. Theodores, and it was on motion by Selectman Murray unanimously

VOTED: To direct the Executive Secretary to forward Town Counsel's January 17, 1984, response to Mr. Theodores.

Petition Article/Rezoning

It was on motion by Selectman Donald unanimously

VOTED: To accept for submission in the Warrant for the 84ATM, a petition article received January 18, 1984, to rezone from Residential A-1 to Business District No. 17, a parcel of land belonging to East Sudbury Green House, Inc., at the corner of Landham Road and Route 20; to number said Article number 46; and to refer said article to the Planning Board for its hearing and report in accordance with G. L. c. 40A, s.5.

It was noted that, like all articles accepted for submission in the Warrant by the Selectmen, no position by the Board has been taken.

Finalize Wording/CATV License

The Board tabled taking any action on finalizing wording of a provisional cable television license to be issued to Adams-Russell CATV Division, pending written comment from Town Counsel.

Executive Secretary Richard E. Thompson noted that the Cable Advisory Group will be meeting for the first time, Tuesday, January 24.

Lease - Fairbank School/L-S

It was on motion by Chairman Murray unanimously

VOTED: To authorize the Chairman to execute a lease between the Town and the Lincoln-Sudbury Regional School District for a portion of the Fairbank School for the period September 1, 1983, through June 30, 1984, as amended to change the date for request of renewal to May 1 in Section C, and to direct the Executive Secretary to forward the same to the District Committee for approval of the amendment.

Special Voter Registration

At the request of the Town Clerk, conveyed through the Executive Secretary, the Board tabled taking any action to approve special voter registration sessions, which had been submitted by the Town Clerk under letter dated January 9, 1984.

Antique Show and Sale Permits/Wayside Inn

It was on motion by Selectman Donald unanimously

VOTED: To approve a request dated November 28, 1984, for two, one-day antique show and sale permits from Stephen R. Allman Promotions for Saturday, May 19, 1984, and Saturday, August 18, 1984, both from 8:00 a.m. to 6:00 p.m. at the East Field of the Wayside Inn, subject to approval by the Building Inspector, the Fire and Police Chiefs, and the Board of Health.

The Board noted receipt of a communication, dated January 10, 1984, authorizing use of the Wayside Inn grounds from Innkeeper Frank Koppeis.

Municipal Census Supervisor

It was on motion by Chairman Murray unanimously

VOTED: To appoint Jean A. Griffin, Chairman of the Board of Registrars, as Census Supervisor of the 1985 State Census in Sudbury, and to request the members of the Board of Registrars to assist the Census Supervisor in the conduct of said census.

Draft Regulations/Hazardous Material, Ground Water Protection Zones

The Board was in receipt of draft regulations regarding hazardous material in ground water protection zones from the Health Director requesting comment prior to February 1, 1984, from various Town boards.

The Board directed the Executive Secretary to refer the same to Town Counsel for comment. Selectman Fox pointed out that there may be a monetary penalty for violators of these rules and regulations and that aspect should be explored by Town Counsel.

Outdoor Dancing

After discussion, it was on motion by Selectman Donald unanimously

VOTED: To authorize permission, and suggest the street in front of Town Hall as a location, for outdoor dancing in Sudbury on June 22, 1984, by the East Suffolk Morris Men, in accordance with a request from Desmond Herring of the East Suffolk Morris Men, England, dated December 28, 1983, and from John C. Powers, Chairman, Sudbury Historical Commission.

Site Plan 83-273, Grace Desjardin, Sudbury's Coach House Inn,
758 Boston Post Road

Present: Applicant Grace Desjardin; Attorney John C. Powers, representing the applicant; Architect John T. Brennan; Engineers Bruce Ey and Richard Skarinka, Schofield Bros.; Building Inspector Joseph Scammon; and approximately fifty interested citizens.

In accordance with Article IX, Section V, Paragraph A of the Sudbury Bylaws, the Board considered Site Plan 83-173 of Grace Desjardin, for property located at 758 Boston Post Road, zoned Residential and Business District #1, for construction of a 49-unit inn with breakfast eating area to be known as Sudbury's Coach House Inn.

Executive Secretary Richard E. Thompson stated that all appropriate Town officials and abutters had been notified and noted receipt of the following communications:

- from the Building Inspector, dated January 20, recommending approval, subject to a permit from the Board of Appeals for the proposed use, with the addition of one handicapped space and clarification of the restaurant question, i.e., the need for additional parking spaces if the restaurant was considered a public restaurant rather than for use by in-house guests only;

- from the Town Engineer, dated January 12, recommending approval provided one handicapped parking space is added, the mixed use/restaurant parking requirement is resolved, changes are made in aisle width and drainage systems, safety problems concerning the westerly egress are addressed, and the Board of Health approves the sub-surface sewage system;
- from the Planning Board, dated January 12, 1984, recommending disapproval based on inadequate parking for a multiple use building and the exacerbation of Route 20 traffic problems; but stating its willingness to review a smaller scale version; the Board would propose to restrict the restaurant to breakfast service only, prohibit the serving of alcoholic beverages, require a catch basin design to prevent oil from entering the detention area and is concerned with the impact of the increased leaching field on the abutting conservation area;
- from the Board of Health, dated January 17, 1984, recommending approval provided the wetland borders are located by the Conservation Commission and the leaching facility is located a minimum of 75 feet from these wetlands, the restaurant use is for breakfast only and no alcoholic beverages are served, and that Town water be provided;
- from the Conservation Commission, dated January 12, 1984, noting that a Wetlands Protection Act filing is required;
- from the Fire Chief, dated January 3, 1984, offering no objection provided that a full sprinkler system is installed, two hydrants are provided in specific areas, and that there is adherence to fire alarm requirements;
- Safety Officer William Carroll's report of all accidents investigated by the Sudbury Police Department for the years 1979-1983 in the area between Stone Road and Peakham Road, addressed to Mr. Robert Cooper, dated January 12, 1984;
- ten letters from neighborhood residents recommending disapproval;
- one letter from an immediate abutter recommending approval (mentioned later in the hearing).

Architect John Brennan explained and responded to questions, with the aid of architectural renderings and plans, the siting and design details of the proposed 49-unit inn to be located at the present site of the Antique Exchange and motel unit. The inn will be comprised of forty-nine rooms with double beds, a gift shop, and a 35'X 47' 50-seat breakfast room with approximately twelve tables, for guests only, served by a 15'X 20' kitchen. There will be no alcoholic beverages served in the breakfast room. There is no function room and no swimming pool. Fifty-three parking spaces are provided. The inn's two-story gabled form is designed to retain the traditional character of the area and residential scale. The landscaping design is open in front with maximum screening in the rear.

Applicant Grace Desjardin presented aerial views of the property and ground photographs taken from various locations to demonstrate the visual impact upon some of the immediate abutters.

Atty. John C. Powers, Engineers Bruce Ey and Richard Skarinka, and Architect John Brennan responded to the recommendations/comments expressed by Town officials as follows:

- Board of Health: All conditions will be met, i.e., location of leaching facility is 105 feet from the wetlands (more than 75 feet minimum recommendation); the restaurant will be used for breakfast only and no alcoholic beverages will be served; and Town water will be provided;

- Town Engineer: 1) a minimum aisle width of 24 feet will be provided in areas of parking and a 20 foot aisle width will be provided in all service areas, 2) To allay safety concerns the westerly exit/entrance to the site opposite the traffic island at Lafayette Drive and the Boston Post Road will be blocked off for everyday traffic by means of a 4 inch Cape Cod berm or, alternatively, grass/gravel (which would be maintained) which would allow use by emergency vehicles. Mr. Powers stated that the island belongs to the State and is, therefore, not within the applicant's power to change; however, the applicant would be interested in cooperating with the Town to petition for changes by the State. There are presently two curb cuts for the property; the applicant will apply for a change of name and at that time will apply for the required permits on the basis of the Selectmen's decision. The sight distance from the easterly entrance in an easterly direction is 320 feet while the distance in a westerly direction is over 400 feet, all acceptable limits. 3) Regarding drainage, the applicant will accommodate all suggestions: provide additional drainage in the rear service drive by means of an additional catch basin; provide a double grate in the catch basin at the parking lot northeast corner; use a larger trash rack; and provide for an emergency overflow from the detention basin which will provide for more than a 100-year storm;

- Planning Board: The design of the catch basins will include an oil and grease trap;

- Fire Chief: The building will be fully sprinklered; an additional fire hydrant will be added and, if required, applicant could extend the gravel area along the front of the building to provide better access for firefighting/rescue work;

- Conservation Commission: A Notice of Intent under the Wetlands Protection Act will be filed.

Architect Brennan responded to Selectman Donald's query concerning placement of the three required handicapped parking areas that the lobby/registration area was easily accessible for a handicapped person and the three spaces in the rear were designed for easy level access to the inn's rooms. He noted the location of fire exits in accordance with Code requirements.

Architect Brennan described the lighting design for the site, especially with respect to the rear, noting that he had used diffused lighting for the garage area, low-watt coach lamps for the second floor and post lamps along the parking periphery for security and safety -- all selected to minimize intrusion into the abutting properties.

Mr. Powers also noted that the Conservation land acted as a buffer to the east and that, if necessary, the Want Ad had indicated willingness to allow it's property to be planted which, with the landscaping already planned for the inn, would provide double screening for the immediate neighbors.

Neighborhood and general comments cited are summarized for the record and were voiced by the following persons: Shepard Goldstein, William Rynne, Robert Walker (immediate abutter), Geraldine Nogelo, Edward Sokoloff, and Anita Pearson, all of Washington Drive; Mary and Joseph Gumlak, Peakham Road; Robert Cooper, Revolutionary Road; Lisa and Jonathan Taylor and William Duckett, Boston Post Rd. Judy Cope, Plympton Road.

- Height of Building: While no figures were available, the proposed unit was thought to be at least 10 feet higher than the existing building which caused some consternation, although it was noted that the rear grade has been depressed;

- Need: The contention that need exists for these units was refuted. Mr. Powers stated that the target clientele would be relatives of local residents and persons visiting for business purposes. Mr. Duckett noted that he perceives such a need and added that the proposed unit would provide income to the Town in the form of taxes, local business would benefit by money spent within the community and it would also create employment opportunities;

- Aesthetics: Many persons were complimentary of the design itself, although the size of the unit came under criticism;

- Traffic Impact: Neighborhood spokesman alleged that this area has not be examined properly especially with regard to: school bus stopping points; problems with 4 inch berm, i.e., the probable ability to exit over the berm into a dangerous intersection (it was pointed out that the alternative of a grass or gravel strip is also available and that the berm could be made larger); inability of vehicles travelling west on Route 20 to turn right into intersection when other vehicle(s) are present; difficulty of vehicles going east on Route 20 at 45 mph with approach on curve and poor visibility, to slow or turn left into intersection; increase in traffic volume; number of accidents for this locale cited from the January 12 police report as an accident per month in a four-year period, resulting in twenty-four injuries and one fatality. Mr. Powers refuted this interpretation of the accident report which was for a five-year period, not four, citing only the five incidents applicable to the Lafayette Drive intersection, none of which involved frontage of the property under consideration. He also reiterated that the sight distances are adequate from the inn's entrance/exit;

- Economic Justification: Mr. Power's contention that maximum use of the site is the most economically sound use was contested. Mr. Powers noted that the owner alone is entitled to make the determination as to the best use of the property and the economic justification for such a decision belonged solely to the owner;

- Intrusion into Residential Area:

Noise: Balcony at rear of building would allow outdoor partying by room occupants causing noise intrusion. Time limitations should be considered for

nighttime use of parking area. Mr. Powers stated that the plan could be revised to restrict access to the balcony. His contention that buffers such as the conservation area and the trees would help to eliminate some noise, and that the building itself might lessen Route 20 noises was refuted by residents stating that, in fact, the water on the Conservation area will magnify sound and that the buildings on Route 20 generally produce more noise for the neighborhood than they buffer from Route 20.

Lighting: Balcony and rear lighting should be as little and as unobtrusive as possible consistent with safety. A fence of 8'-10' in height should be required to shield the adjacent property from vehicle lights. Mr. Powers indicated the applicant's willingness to accommodate the neighbors in these regards.

General: Mr. Powers stated that the land zoned residential at the rear of the site is landlocked, providing a permanent guaranty that it cannot be built upon unless it is rezoned; therefore, it too acts as a buffer for the neighborhood.

- Septic System: Concerns were expressed with the capacity, distance from wetlands, possible impact on water supply and the legality of placing the leach field in a different zone than the structure, Mr. Ey stated that the system had met Board of Health and Code requirements. Building Inspector Joseph Scammon noted that he knew of no case law on the legality of placing the leach field in a different zone and had no problems with that plan.

- Pedestrian Health and Safety: Mrs. Nogelo located bus stops for the fifty (approximate) neighborhood children either on the Boston Post Road or on the Lafayette Drive intersection area, stating that there were no sidewalks available along the Boston Post Road or on Peakham Road, voicing the concern that an already dangerous situation would be made worse by approval of this site plan.

- Gift Shop: Mrs. Desjardin responded to questions from Selectman Donald that she envisioned the gift shop as being a portion of the lobby which would provide incidentals accessory to travel, such as film and newspapers.

- Assurances: There is no mention of restrictions within the application. Concern was expressed with the actual ability to control in-house only use of the restaurant or guaranty of ability to maintain any prohibition or restriction concerning serving alcohol and breakfast use only, now or in the future, or that there would never be a function room or swimming pool. Selectman Fox noted that neither were shown on the plan; therefore, there could be none. Mr. Powers reiterated that his client has no trouble with restrictions placed on the use.

- Parking Requirements: The number of parking spaces required vis a vis restaurant/mixed use and impact of landscaping requirements for parking lots must be resolved. Mr. Scammon explained that there are presently 53 spaces planned (including three handicapped spaces), four spaces above the number required for a 49-unit motel. If the restaurant was determined to be a public facility requiring seventeen spaces, an additional thirteen spaces would be required. Furthermore, if the gift shop was an entity itself, it would require

three more spaces. The landscape bylaw requires one tree for every ten spaces; however, with good reason these provisions may be waived by the Selectmen. Town Counsel Paul Kenny indicated to the Building Inspector that he believed a Common Victualler license would be required even if the restaurant was limited to guests by the use of coupons. Mr. Powers stated that the placement of the parking at the rear is to comply with the bylaw.

- Maintenance of Property: The probability of the property being maintained was questioned as the existing premises are reputed to have problems with outside storage of furniture, trash, and motor vehicle storage/repair; also, the peak of the building is in need of paint. Mr. Powers stated that the size of the investment is the best guaranty of maintenance performance, that financial institutions involved would not want to see a \$1.5 million investment fall into disrepair.

Selectman Fox stated that he has no problem with use of the property for a motel site, but objects to the size (denseness) adjacent to a large residential district both from an aesthetic point of view and with regard to its effect on property values.

Atty. Powers stated that the use of the site for a motel is permitted with safeguards, i.e., Board of Appeals permit, and that the land use is the optimum consistent with zoning, topography and lot size. To Selectman Fox's suggestion that the project as presented would adversely affect property values, Atty. Powers suggested it must be compared with the present pre-existing, non-conforming property. Atty. Powers added his hope that the Board would continue the hearing to allow the applicant to incorporate changes on the plan, accommodating neighborhood and official concerns.

Selectman Fox noted that this proposal has many similarities to another site plan for industrial property located next to a residential district which was considered by the Board in a prior year. It had been denied for four reasons (cited by Selectman Fox) which, in his opinion, apply similarly to this site. He stated his inclination to deny the present application for these reasons.

Chairman Murray expressed his personal feeling that he also had no problem with the use of the site as proposed, but would like to see a change in size, noting that the Planning Board had indicated it might also look favorably on a smaller-sized unit. He stated that he felt the Selectmen should pursue corrective measures to improve safety at the intersection.

Selectman Donald agreed.

The Board discussed the merits of an outright denial, which would allow the applicant the opportunity to refile, versus continuance of the hearing.

At the conclusion of discussion it was on amended motion by Selectman Fox unanimously

VOTED: To deny without prejudice approval of Site Plan 83-273, Grace Desjardin, for property located at 758 Boston Post Road, to be known as Sudbury's Coach House Inn, a 49-unit inn with breakfast eating area, for the following reasons:

1. The parcel is immediately adjacent to a built-up residential zone;
2. The size of the proposed structure presents a serious visual detriment to the adjoining district;
3. The proposed structure would significantly alter the present character of the district, to the detriment of the adjoining district; the adjoining district would suffer both aesthetically and in terms of property values by the addition of the proposed structure on the site; and
4. The manner of traffic access to the site is inadequate to meet the needs of the proposed type of facility.

Hearings: Applications for All Alcoholic Retail Package Store Licenses

After a brief recess, Chairman Murray reconvened the meeting with a request that the scheduled public hearings on the two applications for all alcoholic retail package goods store licenses be combined, allowing Mr. Rogers (Sudbury Variety) to make his presentation first, followed by Mr. Spadea (Sudbury Wine and Spirits) then followed by discussion on both applications.

Mr. Rogers voiced his objection and affirmed it after an explanation of applicant rights under the hearing/decision making process. Mr. Thompson explained that the Board must take action on an application within thirty days of its receipt.

The Board agreed that the hearings would proceed separately as scheduled on the agenda.

Sudbury Variety - Application for All Alcoholic Retail Package Store,
621C Boston Post Road

Present: Applicant Richard J. Rogers; Attorney Howard Wayne, representing Wayside Package Store, Inc., Joseph Lank, and other interested parties.

Chairman Murray convened a public hearing on the application of Richard J. Rogers, d/b/a Sudbury Variety, for a retail package goods store license to sell all alcoholic beverages under G. L. c.138, on premises located at 621C Boston Post Road, described as one floor, one room: one salesroom with partitioned storage area; one front entrance/exit (north side) and one service entrance (south side).

Executive Secretary Richard E. Thompson stated that the application is in order and all appropriate abutters and Town officials had been notified, noting receipt of the following communications:

- from the Building Inspector, dated January 20, 1984, setting forth his complaints relative to sign violations and his objection to the issuance of a license therefor;
- from the Board of Health, dated January 20, 1984, setting forth no objections and requesting, in the event the license is granted, approval authority on any changes in the premises to accommodate the new license;

- from the Fire Chief, dated January 9, 1984, recommending disapproval, citing numerous traffic accidents at the congested and dangerous location, and the electrical safety violations within the store regarding use of extension cords;

- from Police Administrative Assistant Peter Lembo, dated January 20, stating no objections;

- from abutter Jacqueline Sykes, dated January 11, 1984, voicing her objections.

Mr. Rogers addressed the concerns as follows:

- the extension cords mentioned in the Fire Chief's letter have been repaired;

- the traffic congestion already existed before the opening of his store and is a product of the heavy use of Route 20 and Horse Pond Road;

He stated further that he viewed as a positive indication of approval for his application the fact that there was only one objection although twelve notices to abutters were sent; also, many of the people present for the previous hearing who would have had an interest in this license hearing did not stay to voice objections.

Selectman Fox queried Mr. Rogers on the sign violation and the fact that, after his having been fined by the District Court, the violations continued, questioning what kind of compliance the Town would get based on past experience.

Mr. Rogers stated that when his store first opened he needed to call attention to it, but having been established for some time, he has since disposed of the neon signs in the window; since he has paid his fine, he does not feel that he should be further penalized. Regarding the placement of an A-frame sign in the parking lot, he stated that this was necessary to prevent vehicles from backing into the broken snow-covered post remaining from the main sign, and was a temporary safety measure.

Mr. Rogers assured Selectman Donald that the licensed electronic games on the premises would be removed if the license is granted. He stated further that they would not be in keeping with the specialty type store he has in mind.

Dr. William Adelson, owner of the Sudbury Medical Center, stated that as an abutter, he knew that Mr. Rogers was sincerely trying to make an effort to maintain the store; nevertheless, he felt that with the dangerous traffic/parking situation and given the size of the parking area and store, granting the license was not warranted. He stated that in the warm weather, parking overflows to the Medical Center lot and he is afraid that this will intensify with the granting of an all alcoholic package store license.

Chairman Murray questioned whether the Selectmen need to issue a license at this time, noting that an appeal is pending with the Alcoholic Beverages Control Commission on the renewal application of Wayside Package Store, Inc., and that the Town may well be adequately served with the two present licenses.

Selectman Donald agreed.

Citing personal knowledge, as a former resident of Horse Pond Road, of parking problems and traffic flow problems at that location, it was on motion by Selectman Fox unanimously

VOTED: To deny the application of Richard J. Rogers, d/b/a Sudbury Variety, for a retail package goods store license to sell all alcoholic beverages on premises located at 621C Boston Post Road, on the basis of traffic and parking problems involving public safety and on the basis of lack of public need.

Sudbury Wine and Spirits (Vito Spadea) - Application for All Alcoholic Retail Package Store, 513 Boston Post Road

Present: Applicant Vito Thomas Spadea; Attorney Harvey Alford, representing the Applicant; Attorney Lawrence L. Blacker, representing The Mugar Group; Mark T. Brennan, V.P., The Mugar Group; Attorney Howard Wayne, representing Wayside Package Store, Inc., Joseph Lank; and other interested parties.

Chairman Murray convened a public hearing on the application of Vito Thomas Spadea, d/b/a Sudbury Wine and Spirits, for a retail package good store license to sell all alcoholic beverages under G. L. c.138, on premises located at 513 Boston Post Road, described as one floor: one sales room, one storage room; front entrance/exit (north side), service entrance (south side).

Executive Secretary Richard E. Thompson stated that the application is in order and all appropriate abutters and Town officials had been notified, noting receipt of the following communications: from the Fire Chief, dated January 9, and from the Building Inspector, Board of Health and Police Department, all dated January 20, 1984, stating no objections.

Attorney Harvey Alford, on the applicants behalf, stated that Mr. Spadea had a lease agreement on the premises within the Star Market complex at Sudbury Plaza. This location has served the public as a liquor store for twenty years and is ideally situated adjacent to Star Market for public convenience in shopping. He noted that the Colonial Spirits' license has been approved for removal to the new location and that Colonial Spirits plans to move in April.

He stated that Mr. Spadea is uniquely qualified for the management of this store which will cater to the public's interest in fine wines, citing Mr. Spadea's employment for the past five years with Pastene Wines and Spirits in the marketing and sales area and his study and extensive knowledge of wines.

A representative of United Liquors, a liquor wholesaler, stated that Wayside Package Store, Inc. owed his firm approximately \$20,000, and requested that some consideration be given to an applicant willing to pick up outstanding debts with the sale of the license, e.g., Mr. Joseph Lank's purchase and sale agreement with Wayside Package Store, Inc., to assume its debts subject to transfer of its license.

Selectman Fox clarified for those present the following:

- licenses are not purchased;
- the current hearings do not involve a transfer of license from one licensee to another;

- the matter of Wayside Package Store, Inc. is distinct from these hearings;
and

- Mr. Lank does not have an application on file.

Attorney Howard Wayne noted, relative to the Wayside Package Store, Inc. appeal on the Selectmen's failure to renew its application which is pending with the Alcoholic Beverages Control Commission (ABCC), that the ABCC would, of course, not approve any license granted by the Selectmen until the appeal is resolved.

Selectman Fox suggested to the wholesaler that he should make the ABCC aware of claims pending against Wayside Package Store, Inc.

Mr. Lank stated that he had filed a license application.

It was noted by Selectman Murray that Mr. Lank filed an application for transfer only and did not have a location.

Mr. Lank replied that he had been negotiating for the same premises as the current applicant and that in that regard The Mugar Group had submitted a false affidavit at the hearing for preliminary injunction before the court.

Town Counsel Paul L. Kenny responded to Selectman Fox that the affidavit of Mark T. Brennan, V.P., The Mugar Group, had contained an error in that, unknown to Mr. Brennan, someone in the Mugar office had discussed leasing of the premises on the site with Mr. Lank (contrary to the affidavit statement that it had been "over the telephone"); therefore, he had submitted a new affidavit to clarify.

In either case, Mr. Brennan affirmed that The Mugar Group had no agreement with Mr. Lank at all.

Attorney Lawrence Blacker, speaking for The Mugar Group, reiterated that The Mugar Group has had a licensee at this location for twenty years and stated that Mr. Spadea's application was one of merit and should be considered on its merits. He stated further that postponing award of this license would neither be a positive approach nor be fair to Mr. Spadea since under the General Laws applications cannot remain on file, so that Mr. Spadea could not be guaranteed of timely filing should the Selectmen decide to consider an award of the license at any time. He also pointed out that subsequent applicants may not be as qualified as Mr. Spadea.

Selectman Fox stated that his concerns were with the needs of the community and the safety aspect, noting that the Town's needs are more than adequately served by two substantial liquor store businesses. He further stated that he personally has a problem with the legality of there already being a licensee at these premises.

Mr. Brennan noted that since three businesses have survived successfully for many years, history should plan an important place in the decision.

Selectman Fox countered that, in terms of volume with the present two stores, we now have more than the volume of the three mentioned.

Mr. Brennan stated that within the purview of safety, the one-stop shopping aspect - unique at this site - had distinct advantages. In addition, he noted that Mr. Spadea would provide a merchandising expertise not presently available in the Town.

In response to Attorney Blacker's query as to when the Selectmen would consider awarding the license if it is not awarded tonight, Selectman Fox replied in about a year from now, noting that any applications filed would, of course, have to be heard under the law.

Selectman Donald and Murray concurred.

At the conclusion of discussion, it was on motion by Selectman Fox unanimously

VOTED: To deny approval of the application of Vito Thomas Spadea, d/b/a Sudbury Wine and Spirits, for a retail package goods store license to sell all alcoholic beverages on premises located at 513 Boston Post Road on two grounds:

- 1) there is no sufficient public need; and
- 2) there is a license outstanding at this location.

Waive Site Plan Scale/Melgrove Realty Trust/Technology Concepts, Inc.

It was on motion by Selectman Fox unanimously

VOTED: To approve a request from Colburn Engineering, on behalf of Melgrove Realty Trust/Technology Concepts, Inc., to waive site plan scale requirements to allow use of a 1"=40' scale for property located off Codjer Lane, Industrial Park District #1.

Marker - Old Revolutionary Cemetery

The Board noted receipt of a communication dated January 9, 1984, from Mrs. Norman E. Glueck, relative to marking a grave in the Old Revolutionary Cemetery and directed the Executive Secretary to forward a copy of said communication to the Highway Surveyor, the Historic Districts Commission and the Historical Commission for comment.

Utility Petition #84-5 - Bowditch Road

It was on motion by Selectman Donald unanimously

VOTED: To grant permission to Boston Edison Company and New England Telephone to change ownership of Edison pole #261/10 on Bowditch Road, to joint ownership with New England Telephone Co., under Utility Petition 84-5.

Union Avenue Conduit/Bay Bank Teller Kiosk

It was on motion by Chairman Murray unanimously

VOTED: To confirm the Board's telephone vote of January 11, 1984, authorizing Boston Edison Company and New England Telephone and Telegraph Company to proceed immediately with the installation of approximately fifteen feet of conduit from Pole 6X at Union Avenue, in advance of the public hearing (UP84-4 approved earlier this evening), in order to provide service to the new Bay Bank automatic teller kiosk.

Appoint Sealer of Weights and Measures

In accordance with a recommendation from the Building Inspector, it was on motion unanimously

VOTED: To appoint Courtney W. Atkinson, 120 Sycamore Street, Belmont, Massachusetts, as Sealer of Weights and Measures, subject to an interview with the Executive Secretary, for a term to expire April 30, 1984.

Sign Bylaw Article Revision

The Board accepted for submission the wording, as amended, for the Selectmen's article to amend the Zoning Bylaw, IX, V, J., Signs.

Selectmen's Annual Report

It was on motion unanimously

VOTED: To approve the Selectmen's annual report, as amended.

Minutes

It was on motion unanimously

VOTED: To approve the minutes of the Regular Session of January 9, 1984, as amended.

Capital Outlay Budget

Chairman Murray informed the Board that the Governor had signed the capital outlay budget, which means that the sale of the Horse Pond School to the Massachusetts Firefighting Academy will go forward for \$170,000.

Route 20 Widening

Chairman Murray stated that he met with Frank Romano of Senator Atkins office, and that Mr. Romano would get back to him relative to the Route 20 widening; also, that Frank Vana and Arthur Morgello (Sudbury Chamber of Commerce) intend to approach Representative Hicks and Senator Atkins.

Goodnow Meadows

Selectman Donald questioned the safety of the approach on Route 27 to the Goodnow Meadow Subdivision entryway and asked that the Executive Secretary contact the Highway Surveyor relative to a signing of the area noting that caution should be observed.

Proposed Warrant Article for Moratorium on Building

Executive Secretary Richard E. Thompson stated that Town Counsel's office had reviewed the draft petition article pertaining to a moratorium on building and had some concerns. The Selectmen asked that Town Counsel redraft the article, following which the moratorium sponsors could obtain ten signatures for submitting the same as a petition article, if they so desired, for the annual town meeting, rather than pursue the petition for a special town meeting. Responding to Selectman Fox, Mr. Thompson stated that petition articles can be accepted for submission up to printing time of the Warrant.

Police Monthly Report

Upon review of the police monthly report, the Executive Secretary was directed to have the Police Clerk strike from the record the words "injury on duty" relative to Chief Nicholas Lombardi.

Fire/1982 Incident Analysis

Selectman Fox complimented Fire Chief Dunne and Call Firefighter Harold Cutler for the computerized preparation of Sudbury Fire Department's 1982 Incident Analysis Report, noting that it points out that the focus of the Fire Department is more heavily concentrated on emergency medical service than firefighting.

Selectman Fox suggested that it would be wonderful if the Police Department could produce a like report, but Mr. Thompson commented that you would have to have access to a computer and a person with time and a definite interest in preparing such a document.

Communication - Susan Boak

The Board approved a response from the Executive Secretary to Susan Boak dated January 23, 1984, in answer to Mrs. Boak's January 15th communication to the Board expressing concern regarding several local issues.

Fire Violations - Bullfinch's Restaurant

Selectman Fox directed that the Executive Secretary send a stern letter to Mr. Richardson, owner of Bullfinch's Restaurant, after consultation with Town Counsel, relative to the violation of the fire code cited in the Fire Chief's letter of January 17, 1984, and Chairman Murray noted that, since that letter, there has been an additional incident.

Keeper of Lockup

It was on motion by Selectman Fox unanimously

VOTED: To appoint Police Sergeant Peter Lembo as Keeper of the Lockup for a one-year term, retroactive to May 1, 1983, to expire April 30, 1984.

Ambulance Lease/Purchase Article

Mr. Thompson noted, and the Board concurred, that the Ambulance Lease/Purchase Article will be listed as a consent calendar item as was done last year.

Grand Opening/Cumberland Farms

The Selectmen have been invited to a grand opening at Cumberland Farms, Wednesday, January 25th, at 10:00 a.m.

Wage Complaint, Police Chief Nicholas Lombardi

It was noted that Town Counsel had replied to the Department of Labor and Industries relative to a wage complaint (holiday pay) filed by Police Chief Nicholas Lombardi, January 5, 1984.

Sudbury Package Store, Inc.

Mr. Thompson noted that notice has been received from the Alcoholic Beverages Control Commission, dated January 17, 1984, notifying the Town of a hearing to be held Tuesday, February 14th, on the appeal of Sudbury Package Store, Inc., from the action of the Licensing Board of Sudbury in their failure to accept the renewal affidavit of the above (Sudbury Package Store, Inc.) for 1984. Town Counsel has requested rescheduling; Atty. Wayne had concurred with the rescheduling.

There being no further business to come before the Board, the meeting was adjourned at 11:45 p.m.

Attest: _____
Richard E. Thompson
Executive Secretary-Clerk