

IN BOARD OF SELECTMEN
MONDAY, MARCH 18, 1985

Present: Chairman Anne W. Donald, Myron J. Fox and Josiah F. Frost.

The statutory requirements as to notice having been fulfilled, the meeting was called to order at 6:30 p.m.

Joint Meeting/Planning and Sign Review Boards

Present: Planning Administrator Lee Newman; Chairman Thomas W. Phelps, Morton L. Brond, John C. Drobinski, Lael M. Meixsell and James G. Hannoosh, Planning Board; Chairman Robert E. Verville and Thomas R. Patton, III, Sign Review Board.

Chairman Donald convened a joint meeting with the Planning and Sign Review Boards to discuss amendments proposed by the Planning Board to 85ATM Article 22A, Sign Bylaw.

The Board acknowledged receipt of a communication dated March 5, 1985, from the Planning Board recommending approval of said Article subject to an amendment which would provide an appeal process from the decision of the Sign Review Board and several other amendments listed in said communication.

Following an overview of the recommended amendments and the reasons for suggesting the same by Planning Board Chairman Thomas W. Phelps, and with input from both the Sign Review Board and the Selectmen, the following decisions/agreements were reached:

- 1) Appeal process - unnecessary, provision exists in State law.

This article removes the Sign Bylaw from the Zoning Bylaws of the Town and places it under the Town's General Bylaws, which still allows for an appeal process [by any complainant, including Town board(s)] through the Superior Court, rather than through the Board of Appeals and District Court (under Zoning Bylaw). Town Counsel stated the appeal process in Superior Court may be longer - that there is no specified appeal period. Selectman Fox suggested that the Sign Review Board should consult Town Counsel regarding how that Board should notify complainants of the appeal process in each instance.

- 2) Establishment/makeup of Sign Review Board - should remain the same, five members appointed by the Board of Selectmen.

Mr. Phelps and Mr. Brond explained that the Planning Board's suggested amendment to have other boards involved with the appointing process was not to take away any power from the Selectmen but to have outside interest included in order to establish a well-balanced Sign Review Board. Mr. Brond questioned whether the numerous sign violations in Town are a reflection of prior boards or the laxity in Town regulations governing signs; this is the reason

for wanting to have input from a variety of persons, he said, to broaden the selection process. The Selectmen agreed that it would be helpful to have the added input, indicated that they would continue to consult the Talent Search list, advertise all vacancies in The Bentley Calendar, and notify the Planning Board of vacancies as they arise to allow additional input on appointees.

Selectman Fox stated that the State conflict of interest law prohibits a member of the business community, should he be on the Sign Review Board, from voting on his sign.

- 3) Reports from Town boards - incorporating a revision, as underlined, to the last sentence by Selectman Fox, the following amendment was approved: "The Sign Review Board shall transmit forthwith a copy of the application and plan(s) to the Planning Board and to other boards, departments or committees as it may deem necessary or appropriate for their written reports. Any such board or agency to which petitions are referred for review shall make such recommendation or submit such reports as they deem appropriate and shall send a copy thereof to the Sign Review Board. Failure of any such board or agency to make a recommendation or submit a report shall not be deemed to be approval of the sign proposal."

This amendment provides for optional written input on sign applications from the Planning Board and other appropriate boards, departments or committees. There appeared to be an agreement regarding Selectman Fox's suggestion that there be a joint meeting at some point with members of the Selectmen, the Planning Board and the Building Inspector to discuss the philosophy of Town signs - general ideas and then possibly specifics. Mr. Meixsell commented that the lack of input by other Town Boards (i.e., Planning Board) on sign applications may be a result of a deficiency in the process, particularly of boards working together.

Mr. Brond showed a photograph of an existing sign at Stanmar Company which is over-sized - questioned how it received approval in the first place, further questioning where the controls are for enforcing compliance to the Town Sign Bylaw. Mr. Thompson mentioned that a site plan application by Stanmar will be heard by the Selectmen at a public hearing on April 22 and that the sign violation, if it still exists, would be discussed at that time; Selectman Fox directed Mr. Thompson to notify the Building Inspector of this sign violation immediately.

- 4) Public Hearing and Decision. Following discussion, this amendment was approved as amended, as shown by the underscored words, to read as follows: "The Sign Review Board shall fix a reasonable time for the public hearing of any application referred to it and shall cause to be advertised in a newspaper with local circulation a notice of the time and place of the public hearing thereof and the subject matter, sufficient for identification, to be posted by the Town Clerk, to be mailed or delivered to the Board of Selectmen, the Planning Board, the Building Inspector and the applicant and

abutters. The Sign Review Board shall forward its decision to the Building Inspector and the applicant not more than forty-five (45) days from the receipt of the referral from the Building Inspector."

The first underscored phrase was Mr. Brond's suggestion based on his opinion that there should be more public input on construction of signs within the Town; 45-days was a reduction from 60 days, recommended by Selectman Fox on the basis that 45 days would be sufficient.

- 5) Removal Enforcement of Temporary Signs - unnecessary to include reference to a one hundred dollar fine for enforcement of removal of temporary signs since there is a provision at the end of the Town Bylaws which provides for punishment by fee for violation of all Bylaws. Selectman Fox expressed his opinion that the problem is not the language of the Bylaw, in this case, but in the actual enforcement.

As an alternate, there appeared to be agreement to Mr. Brond's recommendation that some simple language pertaining to the "punishable fine" could be included on the sign application.

During discussion on general concerns of language being simpler on applications, and boards/committees/commissions understanding their roles, Chairman Donald commented that she had just received an "appointed committee handbook" from the Town of Winchester. She stated she had requested it thinking it would be useful for Sudbury to develop a similar handout for these very reasons.

At the conclusion of discussion, Selectman Fox stated that the Selectmen would amend the proposed sign article on Town Meeting floor as discussed above.

Chairman Donald thanked the members of the Sign Review Board, the Planning Board, and the Planning Administrator for their attendance this evening.

Blue Cross/Blue Shield/1985 Renewal

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

VOTED: To forward a Blue Cross/Blue Shield plan dated March 11, 1985, which converts the existing Master Medical health benefit plan to a new Master Health Plus program for the 1985 renewal, to the Sudbury Employee Group Insurance Advisory Committee for a recommendation.

Transfer Request

Following a brief discussion and explanation by the Executive Secretary, it was on motion by Selectman Frost unanimously

VOTED: To approve Request for Transfer #37, dated March 11, 1985, from the Reserve Fund, to the Unclassified Account, Line Item 950-89, School Tuition,

in the amount of \$767.16, to cover student costs at Quinobin Vocational Technical School in Wellesley for a course not offered locally and, therefore, the Town is obliged to pay for under State law.

Transfer Requests

It was on motion by Selectman Frost unanimously

VOTED: To approve the following amended transfers from the Reserve Fund:

- a) Transfer Request #35, dated March 11, 1985, to Account 950-99, Telephone, in the amended amount of \$9,065.00 (\$8,645 approved by Selectmen 3/11/85); the amended amount reflects an accounting error in initial presentation and has been approved by the Finance Committee; and
- b) Transfer Request #25, dated February 11, 1985, to Account 950-31, Casualty Insurance, in the amended amount of \$32,089.65 (\$19,135.65 approved by Selectmen 2/11/85); the amended amount reflects the full amount required to cover FY85 commitments and was approved by the Finance Committee;

Note: Mr. Thompson stated that STM Article 3, Casualty Insurance will be indefinitely postponed on Town Meeting floor by the Town Accountant.

Public Hearing/Winter Street Acceptance

Present: Town Engineer James V. Merloni; Highway Surveyor Robert A. Noyes; and abutters Albert Marden, 26 Summer Street; Moira and Leon Lataille, 22 Summer Street; and John MacKinnon, 38 Spring Street.

Chairman Donald convened a public hearing on the question of receiving public input and to vote the layout of a portion of Winter Street from Summer Street to Spring Street, a distance of approximately 420 feet, in accordance with Article 8 of the 1985 Annual Town Meeting.

Executive Secretary Richard E. Thompson stated that the Finance Committee did not support this article; Selectman Fox read a letter from the Planning Board, dated March 5, 1985, enclosing a written position on this article, also opposing the same.

Mr. Thompson stressed that, if the abutters want to encourage passage of this article, they should have a spokesperson at Town Meeting and suggested that they contact the Selectmen's office if they had any questions on how to proceed.

All of the abutters present expressed support; Mr. McKinnon felt there should be a stop sign on Spring Street at the intersection of Winter Street.

Town Engineer James V. Merloni stated that the portion of Winter Street under consideration was laid out in 1926, that the other end from Barton Drive to (almost) Spring Street is newer. He said that the roads at that time were dirt roads, not paved, because they were built by the developers who did not

have to build the roads according to any particular standards. The Town now has accepted certain standards including paving.

The Town Engineer did not agree with the Planning Board's contention that properties on Winter Street are taxed at reduced assessments because of the nature of that road.

Mr. Leon Lataille stated that the road would probably be in better shape if it were only used by the people who live on the street, and that, not only are there many other cars using the road, but school busses and other heavy vehicles use it also.

Mr. Thompson commented that the office had received a telephone call from an abutter on Winter Street who was opposed to the acceptance and who expressed concern that some day it would become a through road.

Responding to Mrs. Lataille, Town Counsel stated that, if the article fails at ATM, it can be brought back again next year.

Mr. Thompson stated that the Selectmen could support this article subject to the availability of funds; Selectman Fox told the abutters that the Selectmen have not taken a position on this article yet, but would be doing so later this evening.

In conclusion, Mr. Thompson reiterated that he would be glad to advise the abutters on their presentation for Town Meeting.

Utility Petition 85-10/Stearns Lane

It was on motion by Selectman Fox unanimously

VOTED: To approve Utility Petition 85-10 of Boston Edison Company and New England Telephone and Telegraph Company for changing ownership of three existing poles in Stearns Lane from solely-owned by Boston Edison to joint ownership with New England Telephone, as shown on a plan entitled, "Plan of Stearns Lane, Sudbury, Showing proposed pole locations", dated January 3, 1985.

Sale of Alcoholic Beverages/Town Election

It was on motion by Selectman Fox unanimously

VOTED: To allow the sale of alcoholic beverages by common victualers and retail package stores during the polling hours of the Town Election of March 25, 1985, in accordance with M.G.L.c.138, s.33, as amended.

Minutes

It was on motion by Selectman Fox unanimously

VOTED: To approve the minutes of the Regular Session of March 11, 1985, as corrected, and the Executive Session of that date, as drafted.

And it was further

VOTED: To amend the Board's vote of March 11, 1985, Site Plan 84-268 of A & M Realty Trust, for property located at 57 Codjer Lane, as follows:

#1 - revised introductory paragraph to correct plan references, and add an expiration date, so that it will read:

"To approve Site Plan 83-268 of A & M Realty Trust for property located at 57 Codjer Lane, subject to the Building Inspector approving the minor revisions shown on Sheets L-1 "Site Plan and Details" and L-2 "Landscape Plan" (includes lighting), both dated March 11, 1985, and which replace site plan entitled, "Site Plan/Exterior Elevations, Hop Brook Village, Corner of Codjer Lane & Union Ave., Sudbury, MA.", dated August 1, 1983, revised October 14, 1983, (originally approved October 17, 1983); said approval to expire March 4, 1986, and further subject to compliance with all governmental laws and regulations including, but not limited to, zoning, building and health laws and regulations, and further subject to the following conditions:";

#2 - delete the words "if applicable" in condition #2;

#3 - delete the words "if applicable" in condition #12 and add the following words at the end of the condition:

"Said restrictive covenant to be prepared at the Town's expense.";
and

#4 - add new condition at the end of vote as follows:

"15) all of the conditions and terms of the vote of the Board of Selectmen at the initial public hearing held October 17, 1983 (previous owner - William Senecal), to the extent that they are not inconsistent with the Board's vote on March 11, 1985."

Site Plan 85-288, Richardson/684 Boston Post Road

Present: Applicant Thomas Richardson, Trustee, T.S.R. Realty Trust, and Atty. Robert Dionisi; Building Inspector Joseph E. Scammon; Town Engineer James V. Merloni; and approximately ten abutters.

In accordance with Art. IX, section V, paragraph A of the Sudbury Bylaws, the Board considered Site Plan 84-288 of Thomas Richardson, Trustee, T.S.R. Realty Trust, for property located at 684 Boston Post Road, Business District #6 and Residential A-1, to convert existing building into a restaurant.

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

- from the Planning Board, dated March 21, 1985, recommending disapproval for the following reasons:

- encroachment of commercial use into residential zone (parking and service drives);
- not all parking spaces conform to parking bylaw;
- downward grading in the rear of the property prevents effective screening from residential properties;
- drainage problems stated in Town Engineer's March 8 report;
- requires a detailed landscape plan by a Registered Landscape Architect;
- shade trees, required under Landscape Bylaw, sec. IX,V,B5, have not been shown on the plan; and a 20' streetline landscaped area, required by sec. IX,V,N, has not been shown on plan.

- from the Building Inspector, dated March 13, indicating he would approve the site plan if the following problems were resolved:

- grading and drainage;
- trees added in the right rear corner to screen site from Lot 2 and one in front of parking space 29; otherwise, supports request for waiver for the 20' wide landscape area at the streetline given the street setback of the existing building;
- Board of Appeals permits or variances for 1) 12 parking spaces in a 25' (approximately) piece of land parallel to the east property line in residential zone; and 2) for a driveway which loops through a large area in the rear of the property in residential zone.

note: the Building Inspector did not have a problem with the size of diagonal parking spaces which is a concern of the Town Engineer.

- from the Town Engineer, dated March 8, disapproving the site plan for the following reasons:

- all diagonal parking lack required 180 square feet;
- aisle width not acceptable;
- grading prevents proper screening and presents problems associated with storm runoff;
- storm drainage - disposal system should utilize the storm drainage system within and to the rear of Boston Post Road (Stone Road area) and should comply with Town design standards (noted in report), instead of using drain leach basins;
- supports landscape waiver of 20' front planting island; and
- planting islands with parking spaces and shade trees have not been shown on plan.

- from the Board of Health, dated March 13, recommending conditional approval based on resolution of the following items to the satisfaction of the Health Department:

- subsurface disposal system is not in compliance with Town regulations for reasons listed in report;

- detailed plans for kitchen must be submitted;
- Town water must be provided;
- building must be satisfactorily cleaned; and
- no utilities may be installed in the area of subsurface disposal system without approval of Health office.

- from the Fire Chief, dated February 25, commenting as follows: any underground storage tanks must be removed, building must be fully sprinklered in accordance with Fire specifications, any fry-a-lators must be protected by an automatic and manual fire suppression system, dumpster must be 10' from building, and areas of the driveway not designated as parking spaces shall be designated and marked as fire lanes.

- from Conservation Coordinator Deborah Montemerlo, dated March 14, 1985, indicating her opinion that a Wetlands Protection Act hearing will not be necessary.

Atty. Robert Dionisi for applicant Thomas Richardson explained the site plan proposal which is summarized as follows:

- this 684 Boston Post Road site is bordered on the west by the 99 Restaurant and on the east by the American Legion Club (located in residential area but operating under a variance);

- applicant will apply to the Zoning Board of Appeals, in accordance with Building Inspector's direction, for a variance for two areas of the property to the east and rear which are located in residential zones and to be used for this commercial use;

- engineers are reconsidering using a "loop" type driveway; the Fire Chief's preference is that fire and emergency vehicles have that option; also, engineers are making alterations on parking and drainage as a result of the concerns expressed at the Planning Board's hearing one week ago;

- there will be no change to the dimensions of the building - only a "face lift"; the interior will be renovated extensively;

- not a large scale operation but, hopefully, will utilize maximum site usage;

- septic system will be located to the rear and north of the site;

- applicant is prepared to use whatever size fence is necessary to screen residences;

- no curb cuts will be requested since whole frontage is designated as such. The Town Engineer indicated no problem with the scheme for entrances and exits.

Atty. Dionisi stated that the applicant would like to have conditional approval from the Selectmen subject to obtaining a (use) variance.

Selectman Frost stated he was opposed to granting conditional approval subject to Zoning Board of Appeals approval because he did not feel the Selectmen should be "second guessing" what the Board of Appeals might do. Selectman Frost added that he was 100% in favor of what Mr. Richardson planned to do, but went on to say that he, in particular, has been criticized for his "pro-business" attitude and would feel much more comfortable in having the Board of Appeals act on this site plan, and the applicant come back to the Selectmen with the acceptance of the Planning Board, the Town Engineer, etc.

Town Counsel Paul L. Kenny stated it was perfectly acceptable for Selectman Frost to want to maintain his neutrality, that there are differences between what the Selectmen and the Board of Appeals do under the Town Bylaws and that for the Selectmen to say something at this point may inhibit the Board of Appeals' action.

Mr. Clark J. Hills, 14 Nokomis Road, pointed out that Business District #6, as defined in the Town Bylaws, shows a right of way going across this property. Mr. Bruce Kankanpaa, 11 Stone Road, stated that, originally, it was to serve three homes until Stone Road was built, at which point it was to be extinguished. Atty. Dionisi added no further information; he said that no-one could find out who had the right to that right of way.

Mr. Hills agreed with Selectman Frost that the applicant should go to the Board of Appeals first; he expressed concern about commercial encroachment into residential property, where the overflow of parking from the 99 Restaurant would park if restricted from using this site, as is the case now, and whether that overflow would end up along Route 20. Additionally, he added his concern that, if a liquor license were eventually requested for this property, there would be three "bars" across from his house. He voiced his opposition on the basis that the proposed site plan was an over-utilization of the site and an improper utilization of the site. He added that, if one counts the American Legion Club, it would be four bars.

Mr. Ted Soroka, 9 Nokomis Road, stated he already has a problem with truck drivers, patronizing the 99 Restaurant, parking on his property which is across the street from this site, and complained about food odors as well.

Responding to Mr. Kankanpaa, Atty. Dionisi stated his concern regarding drainage onto his property was being addressed by the engineers.

Mr. Kankanpaa also mentioned that the 5' fence shown on the plan was inadequate, and responding to Atty. Dionisi, who asked if he had any suggestions, Mr. Kankanpaa stated that the grade should be raised in the rear so that the lights from vehicles on the site would be shielded from residences. Regarding the proposed loop driveway in the rear which is in the residential zone, Mr. Kankanpaa stated that 75% of the cars would pass his bedroom window!

Selectman Fox stated that the Selectmen are in a "Catch 22" situation; on the one hand, the Selectmen advocate parking in the rear on commercial developments, but in this case, traffic would then be under the Kankanpaas' bedroom windows. He mentioned that a petition article will be before the 85ATM which prevents exception to this rule and pointed out that this is one

case in which an exception would be more beneficial to the abutting residential area. He added that he has difficulties with this particular site because it appears necessary to utilize the residential area to make this commercial enterprise work; that he has heard from both opponents and proponents and still does not know what decision to make.

Chairman Donald stated that this proposal will, no doubt, be an improvement but felt she personally could not conditionally approve this site plan despite what improvements it would make on the site. She recommended that the applicant withdraw this site plan, and submit a new one to the Board of Appeals, and, if successful, bring it before the Selectmen.

Atty. Dionisi questioned the reasoning of the Selectmen in terms of going before the Board of Appeals first - it being his opinion that, had the Board of Appeals approved the twelve parking spaces encroaching on the residential zone that it would not in any way have changed the Board's opinion on this site plan. He felt the Selectmen had an opinion on the site regardless of the necessary variances. He stated the applicant has proposed a use for the site which requires a variance for these twelve spaces on the residential part of the property, that it would not over-intensify the area and will not change the use of the property because it is currently being used commercially.

Following further comments by Atty. Dionisi, Chairman Donald stated that, if the Board of Appeals does not give the variance, then it is a moot subject as far as the Selectmen are concerned.

Atty. Dionisi asked if the Board would accept a continuance of the hearing and give his client a chance to resubmit if he can comply with the requirements set forth by Town boards/officials or withdraw the plan, if necessary, at that time.

Selectman Frost stated he did not feel discouraged, he felt Mr. Richardson could successfully work with the Town Engineer, and other Town officials/boards and come up with a site plan that is satisfactory to him as well as the Town.

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

VOTED: To grant the petitioner's request to continue by mutual consent Site Plan 85-288 of Thomas Richardson, for property located at 684 Boston Post Road, to Monday, April 22, 1985, at 8:00 p.m.

Current Topics of Interest

Selectman Fox called the Board's attention to a recent Boston Globe article entitled "Bringing professionalism into suburban town halls" and asked that Mr. Thompson copy it for the other Board members.

Selectman Frost noted an article in the March 7 Concord Journal entitled, "Roads, common driveways are hazardous to drivers" and directed Mr. Thompson to forward a copy to the Planning Board for its information.

Selectman Donald referenced a Middlesex News article entitled, "Land foundation proposal wins plaudits in Southboro" and asked that Mr. Thompson copy the article for the other members of the Board and the Conservation Commission.

Selectman Donald called the Board's attention to a March 14 Town Crier article by Vic Mangini entitled, "Survey results show town wants Rte. 20 upgraded". With regard to preserving the rural character of the Town, Mr. Mangini felt that Route 20 required "a group effort of the property owners of Route 20, Town officials and interested citizens". Chairman Donald hoped that the Selectmen would keep his comments in mind when they talk about re-establishing the Growth Advisory Group (GAG) and consider appointing a sub-committee of the GAG for that purpose.

Conservation Commission Correspondence

The Board acknowledged receipt of communications both dated March 11, 1985, from the Conservation Commission with regard to the following 85ATM articles:

Article 23 - Sale of Land off Pratt's Mill Road - requesting the Selectmen's support of an article for the 86ATM to appropriate funds from the "Sale of Buildings and Land Account" for the Conservation Fund. The Commission feels this appropriation is justified to replace Town-owned open space lost to development; and

Article 37 - Sale of Tax Possession Parcel #189 (Crystal Lake Drive) - requesting that, due to this loss of open space, the Selectmen consider supporting a warrant article at the 86ATM to allow any proceeds from the sale of Town-owned open space to be used to purchase additional open space.

Right-to-Know Legislation

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

VOTED: To accept a proposal for the completion of Task 1 of the implementation of the Right-to-Know Legislation, in accordance with a communication to the Health Director/Hazardous Waste Coordinator, Michael Sullivan, dated March 12, 1985, from ENPRO Services, Inc., in the amount of \$1400, which is also the amount of money received from the State as a result of mandating implementation of said legislation.

S1360

The Board noted receipt of a copy of S1360 - an act further regulating local taxation, received March 14, 1985.

Site Plan 85-289 - Parker Academy/248 Concord Road

Present: Applicants Lucy T. and Robert A. Parker, Atty. Michael Hargreaves and Architect Arne Goldman; Building Inspector Joseph E. Scammon; Town

Engineer James V. Merloni; James C. Hannoosh, Planning Board; and approximately 35 abutters (list on file in Selectmen's office).

In accordance with Art. IX, section V, paragraph A of the Sudbury Bylaws, the Board considered Site Plan 85-289 of Robert A. and Lucy T. Parker, for property located at 248 Concord Road, owned by William L., Lorraine W., Charles W. and Christine Hall, Residential/Historic District #A-1, for a non-profit educational institution.

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

- from the Planning Board, dated March 18, recommending disapproval for the following reasons:

- inconvenient and unsafe vehicular and pedestrian movement, and location and width of driveway opening in relation to vehicular and pedestrian traffic circulation is not convenient and safe;
- use detrimental to neighborhood;
- inappropriate use, i.e., commercial school in residential area; and
- parking spaces insufficient for potential number of staff and students.

- from the Town Engineer, dated March 18, recommending approval if the following concerns are resolved:

- driveway entrances at Concord Road and the driveway itself is too narrow for the proposed traffic load; parking area should be paved and, at the same time, maintain a rustic appearance; and
- no storm drainage provisions shown - a method of collection and disposal should be provided to prevent runoff from flowing into Concord Road and the adjoining private land.

- from the Fire Chief, dated March 4, offering no concerns on the proposed site plan.

- from the Board of Health, dated March 11, conditioning approval on the following:

- subsurface disposal system must be evaluated to determine if it can accommodate the hydraulic loading from the proposed facility; and
- if the facility is going to be utilizing the kitchen, plans for the kitchen must be approved and a food service permit issued.

- from the Building Inspector, dated March 13, recommending approval and indicating that a revised plan showing parking in the rear has been submitted per request of Town officials at an informal meeting held on Wednesday, February 27.

- from the Conservation Coordinator Deborah Montemerlo, dated March 14, 1985, indicating her opinion that a Wetlands Protection Act hearing will not be required.

- from the Historic Districts Commission, dated March 15, 1985, recommending approval of the amended plans transmitted by letter dated March 4 from Arne E. Goldman and indicating that the Historic Districts Commission's authority is limited to the appearance of the structures and landscaping as they appear from Concord Road, no judgment is offered on the type of occupancy of the various buildings or other regulations of the Town.

- two communications from Arne Goldman of E. R. Racek Associates, architects, dated March 4 and February 14, explaining the proposal and modifications made to the plan as a result of a preliminary meeting on February 27 with local Town officials/boards.

- from the following abutters, all dated March 18, opposing the site plan:

- Jonathan W. Taylor, 253 Concord Road;
- Denise M. and Charles J. Bowser, Jr., 210 Concord Road;
- Dorothy A. McGowan, 253 Concord Road;
- Anne E. Wilson, 289 Goodman's Hill Road;
- Elaine M. and William E. Kneeland, Jr., 43 Pennymeadow Road; and
- a petition signed by approximately 190 residents.

Atty. Michael Hargreaves explained, on behalf of the applicants, what they intend the academy to be and provided background about the Parkers, summarized as follows:

- Drs. Lucy T. and Robert A. Parker have worked the field of educational and professional development for the majority of their professional careers;

- The Parker Academy is a Massachusetts educational, non-profit institution, incorporated February 1, 1985; its Directors are the Drs. Parkers;

- Its purpose is to teach the necessary intellectual, emotional, behavioral, social and professional skills to further a holistic human learning model and to help individuals better deal with business situations and focus on inter-actions with other people in making business decisions;

- Teaching will be on a one-on-one or small course seminar session level;

- The Academy will deal also with the stress of business problems of employees in terms of management - this type of education is being recognized by more and more businesses today; and

- There will be no children, no overnight accommodations; a full-time staff of three people, a total of 12-15 people using 12-14 small rooms for professional consultation; there are no plans to increase the density by increasing the number of people on site.

Architect Arne Goldman's comments are summarized as follows:

- The historic character of the site will be preserved with the establishment of the academy; all existing buildings, gardens and landscaping will remain unchanged;

- Parking will be in accordance with Town bylaws and the Commonwealth of Massachusetts;

- The natural topography is sufficient to effectively screen the parking area from noise and vision;

- The existing gravel driveway will be used as the prime means of egress; and

- Parking is set at the maximum so that nine student and three employee spaces will be provided.

Unsatisfactorily resolved concerns raised by the Selectmen were:

- unrealistic (insufficient) number of parking spaces for the proposed use, i.e., what about over-lapping of appointments?

- question of State certification requirement and tax exempt status;

- need verification that of the various references made, i.e., "clinic", "professional consultants", "school", "business", that it is, in fact, a non-profit, educational use;

- Traffic- and safety-related problems associated with this use in a residential area, i.e., driveway which crosses walkway would be used concurrently with many children on their way to school and to the interference of many walkers and bikers; anticipate increased number of cars using this "residential" dwelling.

Voiced concerns of abutters are summarized as follows:

- justification for the need in Sudbury for the services being offered - courses like these are offered at most larger companies;

- professional encroachment on residential area, i.e., "schools have students, not clients";

- no State record of any filing with the Department of Education for a permit to operate this type of educational facility (Atty. Hargreaves stated that one of the requirements for filing is to have a physical plan and that it was pre-mature to apply before the Selectmen's site plan hearing);

- precedent the decision to allow this "clinic" would set for the Town, i.e., "spot zoning";

- appears to be a (management) "training" facility for professionals rather than an educational facility.

Atty. Hargreaves responded that this educational facility is a business in the business of education; would deal with people in a training of their minds, it is educational to deal with business people who are stressed with personal situations; this will help them function as a better individual. This type of training is educational and more and more recognized as a valid education today. Employers are paying to have their employees go through this educational process to be better trained to deal with the job.

- commercial encroachment of training facility/intrusion on residential area, i.e., traffic congestion, safety of children, etc.;
- tax exempt status - loss of revenue to Town;
- unrealistic precedent for historic district;
- intermingling of professional consultation/psychologist with education (non-profit) - how can these limitations be enforced (rural residential area)?

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

VOTED: To deny approval of Site Plan 85-289 of Lucy T. and Robert A. Parker, for property located at 248 Concord Road, owned by William L. Hall et als, A-1 Residential in Historic District, for the following reasons:

1. It is clear that, not only is this parcel immediately adjacent to a residential area on all sides, but is, itself, in a residential zone;
2. The addition of the proposed use on the property would create a significant alteration to the neighborhood to the detriment of adjoining homes; the adjoining homes would suffer both aesthetically and in terms of property values by the proposed use on this site considering the noise, activity and lighting the proposed use would generate.
3. The proposed plan does not provide for convenient and safe vehicular and pedestrian movement of traffic to meet the needs of the type of facility proposed; many more cars accessing/exiting over walkway during hours of children coming from and going to school; and
4. In addition to points above, the Selectmen feel the use proposed is not an educational one, but rather a professional or management consultant use or a business. Even if this were a bona fide educational use reasons 2 and 3 above would be sufficient to deny this site plan.

Wayside Package License Hearing

Present: Thomas L. McManus, Wayside Package and Atty. Howard J. Wayne.

Chairman Donald convened a hearing regarding the renewal of the former license held by the Wayside Package Store, Inc., at 119 Boston Post Road, Sudbury, on the application of Wayside Package Store, Inc., pursuant to their purported renewal affidavit filed November 18, 1983.

Town Counsel Paul L. Kenny gave the following chronology.

1) November 1983, received renewal application from the holder of the liquor license for the property located at 119 Boston Post Road. Pursuant to statute, licenses can be renewed only for the same premises and the premises at 119 Boston Post Road had been transferred in July and were being used for an automotive parts retail store;

2) During the month of November, the holder of the license, Mr. Thomas L. McManus, came into the Selectmen's office on several occasions talking about potential for transferring the license and was informed on each occasion of the above requirements;

3) On December 12, 1983, an application for transfer was filed and certain items were missing and were requested - Town Counsel stated that, to be honest, he was not sure that they were ever supplied but not sure that makes any difference to the chronology;

4) A suit was filed in Superior Court and preliminary injunctions were sought which would prevent the Selectmen from issuing that liquor license to anyone else and stipulating that the Selectmen must hold a hearing for the transfer of the license; all of those motions were denied;

5) Subsequently the Selectmen denied the renewal based on the fact that there was no location for 1984;

6) That matter was appealed to the Alcoholic Beverages Control Commission (ABCC) alleging that they were entitled to a hearing under other sections of Chapter 138 which was the chapter of the G.L. pertaining to liquor licenses. Town Counsel appealed on behalf of the Selectmen; however, notwithstanding the fact that the Selectmen did not believe a hearing was necessary, the Board of Selectmen was willing to hold a hearing.

7) The matter came before the Board of Selectmen in May sometime (or July) and the Selectmen heard the evidence. The same facts applied as November 1983, and the Selectmen once again denied the renewal.

8) That matter was appealed by Wayside under the same allegation to the ABCC. The Commission heard the evidence and submitted the decision (October 31, 1984) remanding it to the Selectmen and suggesting that the Selectmen consider renewal of the license.

9) The decision of the ABCC was appealed to Superior Court; however, Wayside's motion to dismiss was allowed on the grounds that the decision of the ABCC was not final; there was no comment on the validity of the decision.

Atty. Wayne agreed with the chronology.

Responding to Selectman Fox, Atty. Wayne stated that there is a discretionary power given by G.L.c.138, s.16, regarding renewals which seems to say that, if the Board were to deny the renewal twice, then the decision of the ABCC, which could be to grant the license, shall be final.

Responding to Chairman Donald, who asked if he agreed, Town Counsel stated that the law is very clear on renewals but, in order to have that renewal, it must be the same premises. He stated that a "pocket" license has been granted in a number of communities and this really has not been tested in the courts. Whether it is something that is legal and permissible under statute, Mr. Kenny stated he believes it is not allowed and, if tested, would be disapproved.

Chairman Donald commented that Mr. McManus had been a license holder in Sudbury for thirty-nine years and, therefore, aware of the rules and regulations pertaining to annual license renewals; also, he had attended Selectmen's meetings (at the end of 1983) where he had been reminded of dates/deadlines by which he had to obtain a new location and properly file an application for renewal.

Selectman Frost commented that Mr. McManus had sold his property in June which was six months prior to his renewal application, he had been a license holder for thirty-nine years and was familiar with the rules and regulations which he ignored, and for that reason could see no reason to change his opinion at this time.

Atty. Wayne stated the only problem is that when these facts are explained to a third party it sounds draconian. He felt that is why he has been so successful in hearings on this case.

Selectman Fox pointed out that the October 31 decision of the ABCC does not say that the Selectmen have to grant the license and does not give the Selectmen good reasons for doing so. It does not mention a "pocket" license. It remands the decision to the Selectmen with a "recommendation" to renew; the Selectmen feel that the "pocket" license is illegal.

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

VOTED: To not renew the 1983 All Alcoholic Package Store License for the Wayside Package Store, Inc., 119 Boston Post Road, for the reason that said package store no longer exists as the licensed premises were sold in July of 1983.

Positions/85ATM Articles

Following discussion it was on motion by Selectman Frost unanimously

VOTED: To support Article 8, Street Acceptance - Winter Street, subject to there being ample funds available under the guidelines of Proposition 2½, and Article 28, Amend Bylaws, Art. IX, I - Certain Open Space and Educational Uses.

Selectman Frost supported Article 8 on the basis that it was one of the last of a group of streets in that area still requiring acceptance by the Town and the Selectmen agreed it was time to do so; Selectman Fox conditioned the Board's support on the availability of funds and stated that this is not as important to him as the article on street intersection improvements. Mr. Thompson stated he would so inform the Planning Board.

It was further on motion by Selectman Fox unanimously

VOTED: To hold taking positions on zoning articles 24-27 until the Selectmen receive the minutes of the Planning Board public hearing on these articles;

and it was further

VOTED: To make a motion at Town Meeting to refer Articles 29 and 30, Amend Bylaws, Art. IX,II,C - Raymond Road and Nobscot Road Access, to the Planning Board for further study.

And it was further on motion by Selectman Fox unanimously

VOTED: To support the Planning Board's position on Article 31, Peakham Road Walkway, and Article 32, Raymond Road Walkway, which recommends an appropriation for engineering work to be done, subject to the availability of funds within the guidelines of Proposition 2½.

Mr. Thompson will so notify the Planning Board and the Finance Committee.

The Selectmen directed Mr. Thompson to provide pros and cons to them on Articles 37 and 38; obtain Finance committee minutes relative to Article 37, TPP#189 (Crystal Lake Drive); and to refer the Water District letter regarding Article 23 - Sale of Land Off Pratt's Mill Road to Michael Guernsey for evaluation and response.

Town Counsel Hourly Rate

In accordance with the Board's vote of September 17, 1984, to set the annual retainer for FY85 for Town Counsel Paul L. Kenny and to review his hourly rate in January 1985, and because no action was taken by the Board to review said hourly rate until March 11, 1985, it was on motion by Selectman Fox unanimously

VOTED: To amend the Board's vote of March 11, 1985, to increase Town Counsel's hourly fee for court preparation for litigation from fifty dollars to sixty dollars per hour by making said increase retroactive to January 11, 1985.

There being no further business to come before the Board, the meeting was adjourned at 11:00 p.m.

Attest:

Richard E. Thompson
Executive Secretary-Clerk