

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
TUESDAY, FEBRUARY 12, 2002

The Board consisted of:

Mark A. Kablack, Chairman
Patrick J. Delaney III, Clerk
Thomas W.H. Phelps
Lauren S. O'Brien
Jonathan G. Gossels, Alternate

Notice of the hearing was published in the Sudbury Town Crier on 24 and 31, 2002, posted, mailed and read at this hearing.

Mr. Kablack, Chairman, explained the requirements necessary to substantiate the granting of a special permit. He also explained that if anyone is not satisfied with the Board's decision, they have the right to appeal to Superior Court or District Court within twenty days after the decision has been filed with the Town Clerk, and that possible other appeals may exist under current law.

Christine Taylor and Mark Taylor were present to represent a petition for renewal of Special Permits 99-3 and 00-34 to conduct a summer day camp for children which is known as Camp Sewataro located at One Liberty Ledge.

Renewal was being requested under the same conditions. The Taylors would like the two permits combined into one. Permit 99-3 allows 450 campers in the 4-14 age group. Permit 00-34 allows for 150 nursery, kindergarten and first graders.

There have been no problems associated with this use. No abutters were present to oppose renewal. The hearing was closed.

Deliberation and vote was scheduled for February 28, 2002.

Mark A. Kablack, Chairman

Patrick J. Delaney III, Clerk

Thomas W.H. Phelps

Lauren S. O'Brien

Jonathan G. Gossels, Alternate

Case No. 02-6 – Verrill Et All Appeal. No testimony was heard. The appeal was continued to March 12, 2002.

FOREIGN MOTORS WEST
83 & 103 Boston Post Road
02-7, 8, 9, 10, 11

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
TUESDAY, FEBRUARY 12, 2002

The Board consisted of:

Mark A. Kablack, Chairman
Patrick J. Delaney III, Clerk
Thomas W.H. Phelps
Lauren S. O'Brien
Jonathan G. Gossels, Alternate

Notice was published in the Sudbury Town Crier on January 24 and 31, 2002, posted, mailed and read at this hearing.

Mr. Kablack, Chairman, explained the requirements necessary to substantiate the granting of a special permit. He also explained that if anyone is not satisfied with the Board's decision, they have the right to appeal to Superior Court or District Court within twenty days after the decision has been filed with the Town Clerk, and that possible other appeals may exist under current law.

Present: Attorneys Myron Fox and Joshua Fox, Bruce Ey, Schofield Brothers, Fred Tierney, President, Foreign Motors, West, Al Hopwood, Center Manager

Attorney Fox oriented the Board to the location of the property which is situated both in Sudbury and Wayland and is under two different ownerships, Arber Realty Trust and Evergreen Realty Trust owned by Arthur and Bernice Reiders which is 83 Boston Post Road, and M. Claire McManus Trust No. 2, which is 103 Boston Post Road. The property is surrounded by commercial uses and no residences can be seen from the property. It is zoned for industrial use.

The building is currently used by Havencraft which sells and repairs new and used boats. There are also several offices in the front part of the building. It is proposed to occupy the entire building with the Foreign Motors dealership which is currently located on Route 9 in Natick. There is a sign on that building which says "Land Rover Metro West" and it is planned to have that sign located on the new dealership. The dealership exclusively sells Land Rovers and new and used cars. There will also be service and repairs but no body work.

118 parking spaces are required under the Bylaw, which is what is being provided.

Attorney Fox said a demonstration course was shown on the plan along with storage for 50 new cars. He said customers will not drive on the demonstration course and the track is not used in inclement weather. Customers will not be allowed to drive the cars around the lot; employees will take the cars to the exit to be used for test driving.

FOREIGN MOTORS WEST
83 & 103 Boston Post Road
02-7, 8, 9, 10, 11 Page 2

As to the special permits which are being requested, Attorney Fox explained that Section 2420 of the Bylaw requires a special permit because the building is currently nonconforming in terms of front yard setback which is 44 feet. The Bylaw requires 50 feet. It is proposed to pull the building back approximately 4 feet; however, he said it is still an alteration to a nonconforming building. The building on the westerly side is set back 24 feet and will remain unchanged.

Under that same Section 2420, there is a request for extension of a nonconforming use, which is the parking. Attorney Fox said the parking was configured long before the parking bylaw was enacted in Sudbury. He said to the extent the Board believes there is a need for relief, he would ask for relief as a nonconforming use. He said the argument is that because virtually all of the parking is in Wayland, it would seem that the Sudbury ZBA would not have jurisdiction for parking in Wayland.

Subsequently, Attorney Fox said on January 10, 2002 he put the parking question to Town Counsel Paul Kenny and the answer he received was that Sudbury would not have jurisdiction over parking in Wayland with perhaps the sole exception of the total number of spaces. For that reason, the number of spaces as required by the Bylaw was provided.

At Mr. Kablack's request, Attorney Fox gave examples of the nonconformity with regard to parking; i.e., pre-existing parking in front of the building, width of the stalls, landscaping with regard to parking.

To a question on restriping, Bruce Ey replied that there is striping there now, but the parking lot will be replaced in generally the same area that needs to be rebuilt, and it will be restriped close to what is there now. Currently there are 78 striped spaces which are located in Wayland.

Mr. Kablack asked whether an application has been filed with Wayland for this project. Attorney Fox said he will be filing an application with them shortly. The Wayland property is zoned Limited Commercial and will require a Use Variance and Site Plan, both of which will be heard by the Wayland Zoning Board.

Attorney Fox explained that the reasons for justifying special permits apply to all five applications. He said the use is one that is allowed by the Bylaw with a special permit. This is an ideal site for this use because there are no residences around it. The use is not much of a change from what is going on there now. While Havencraft used a portion of the building, with the other areas used for office space, Foreign Motors West proposes to use the entire building.

Attorney Fox said there will be a great deal of money put into this project which, if approved, will result in more tax revenue to the town.

FOREIGN MOTORS WEST
83 & 103 Boston Post Road
02-7, 8, 9, 10, 11 Page 3

Attorney Fox said Foreign Motors West is a very reputable business which sells high-end cars. It also owns other centers in eastern Massachusetts and elsewhere. This property is surrounded completely by businesses and this use is consistent with those businesses.

The first special permit is for alteration to a nonconforming use and building. The next three applications are all under Section 2230. Under the Use Table, Use 12 is for the sale and rental of new and used cars, Use 13 is for repair of new and used cars, and Use 13 is for light service.

The fifth special permit application is for the sign. The proposed sign of 30.03 square feet is more than the 24 square feet allowed in the Bylaw. The sign on Land Rover dealership on Route 9 is very similar to the proposed sign. It was Attorney Fox's belief that the proposed sign met the special permit guidelines.

Attorney Fox submitted letters of support from the Sky Restaurant, Hatch & Sons, abutter, Softscape Incorporated located in the Longfellow Center complex, Papa Gino's, Siam Garden, abutter, Auto Diagnostic, Lewis Welding & Crane Service, David Calder, Wagonwheel Road, resident, Donna and Albert Silverman, residents, as well as a memo from the Economic Development Committee which recommended approval.

Preliminary architectural renderings have been presented to the Design Review Board. A follow-up meeting is scheduled for tomorrow evening.

Mr. Kablack asked how this site compares to the existing site on Route 9. Attorney Fox said the reason for the move is because this site is substantially larger. The Route 9 site is on 8/10s of an acre. This site is close to 3 acres. In response to a question as to whether the operation will be greater all around, it was stated that the service portion would not increase tremendously, however the sale of cars will be greater.

Architectural renderings were then displayed for purposes of describing the project and addressing concerns.

Attorney Fox referenced the Planning Board's letter dated February 7, 2002 which resulted from a January 30, 2002 meeting. He said he was not aware that Foreign Motors West would be discussed at that meeting and some of the issues in that memo were not able to be addressed.

There was a recommendation from the Planning Board that the demonstration course be moved to the western side of the building because it was feared that the current location might be a distraction to motorists on Route 20. Attorney Fox said Bruce Ey will attempt to accommodate the Planning Board's request and, if possible, will relocate the course. He will also try to accommodate the relocating of the access road as suggested by the Planning Board.

FOREIGN MOTORS WEST
83 & 103 Boston Post Road
02-7, 8, 9, 10, 11 Page 4

The loading area was addressed. Attorney Fox said the large semi-trucks come in once or twice a week and will circulate to the back. Otherwise, parts deliveries are by UPS. Mr. Kablack said the Board is concerned as to whether there is enough circulation and flexibility to avoid queuing on Route 20.

Attorney Fox said the Planning Board addressed this in their memo. He said that situation will not occur. Mr. Kablack said looking at the plan it seems tight. Mr. Ey agreed; however, he said it could be done. He is trying to work around the existing building making some modifications to that building. In addition, he when it is known when the trucks will be coming in, some of the cars in that area can be moved.

Mr. Kablack asked whether any type of shared access opportunities were looked at with the Hatch site. Attorney Fox said the area on the Hatch site is all heavily landscaped and shared access is not feasible.

Referring to the Planning Board's memo, Mr. Kablack asked whether joint access with Siam Garden to the east for the vehicle storage area was looked at.

Attorney Fox said it was but was not feasible as they need to get vehicles into the showroom.

With regard to the Planning Board's recommendation for screening, Attorney Fox said that will be done. It is planned to screen the facility from the adjacent Mass. Highway Department property with an 8-foot cedar fence.

Mr. Phelps said that area goes up a hill. Mr. Ey said the plan does level that hill, but he is looking at alternatives to modify and keep more of the hill.

With regard to parking, Attorney Fox said the Planning Board recommends some of the 118 spaces be used for reserve parking. He said the facility will need all of those spaces. Mr. Delaney pointed out that the area suggested for reserve was not in Sudbury.

Attorney Fox said the Planning Board's memo asks whether the excess parking will be used for vehicle storage. He said there is no excess parking.

Mr. Delaney said he was not sure what was meant in the memo regarding the Planning Board's statement that the ZBA should discuss the anticipated number of cars expected to be

stored on site and that a maximum number of vehicles allowed to be stored on site should be a condition of the Decision.

Attorney Fox said part of the problem was that he was not present at the Planning Board's meeting to address some of their questions.

FOREIGN MOTORS WEST
83 & 103 Boston Post Road
02-7, 8, 9, 10, 11 Page 5

Mr. Phelps felt the appropriate question at some point should be how the parking lot is going to be used.

From the plan, Attorney Fox pointed out that on the McManus property there will be 50 stalls to store new cars which will not be considered parking per se. On the east side there will be 118 spaces. Of those, at any given time, 10 will be customers' cars, 40 employees cars, 50 will be for cars being serviced and 18 will be for used cars that are being stored.

Mr. Kablack asked for a breakdown to be submitted to the Board.

Regarding a query in the Planning Board's memo as to whether a portion of the vehicle storage area can be over the leaching field so that some natural vegetation is preserved, Attorney Fox said that could not be done because that area is needed for maneuvering of cars.

With regard to filings, Attorney Fox said he will be applying to both Wayland and Sudbury Conservation Commissions within a week or so. Filings will be made shortly with the Wayland ZBA and Sudbury Selectmen.

Mr. Phelps pointed out that there are some major trees in that area. Mr. Ey said he is working with a landscape architect in this regard. He said there are some large specimen trees and he would want to keep as many as he can. He said there are also some large trees on the State property which will remain and will not block the showroom.

Mr. Ey said the property line is approximately 15 feet back from the pavement, and there is no need to alter the shoulder. At a meeting with the department heads, the Town Engineer indicated he did not want an additional curb cut and the applicant has decided to work with the site using the existing curb cut. It is also not necessary to break into the street for utilities because the utilities are already servicing the existing building. The project will stay pretty much within the existing footprint except for a small portion in the back where some metal buildings will be added on for service bays and the front of the building which will be brought back. There will also be a canopy added on the east side of the building.

In addition, Mr. Ey said there will be a lot of good things done from an environmental standpoint. Currently there is no storm water management on the property and everything runs off onto the Hatch property. It is proposed to bring the site into compliance with DEP storm water management practices and it will be done with a large water quality inlet. From the plan, he described the proposed water.

The property has a septic system which is in a state of failure and is also close to the wetland. Mr. Ey said he has been working closely with the Board of Health and is bringing the septic system up to the front. It will be a larger septic tank with pump chamber. Excess capacity will be built into the system.

FOREIGN MOTORS WEST
83 & 103 Boston Post Road
02-7, 8, 9, 10, 11 Page 6

Mr. Ey said there were grading and runoff issues with regard to the McManus lot. He described the proposal for runoff collection via storm water leaching.

A small access road is shown on the plan and will be used to service and access vehicles. Because this area is very tight, Mr. Ey said only employees would be allowed to move those vehicles which are being stored. The area over the septic system is needed for maneuvering.

Mr. Ey reiterated his agreement to relocate the demonstration course to the back as recommended by the Planning board.

Assuming the course will be able to be moved, Mr. Kablack asked whether substantial regrading would still be needed for the parking area since the slope does go up from Route 20.

Mr. Ey said it will have to be regraded to the extent that runoff can be collected since it cannot be allowed to run off into the street. He said currently it runs off into the street; however, it is wooded and there is very little runoff. In order to store the vehicles the trees will have to be removed. He is looking at options with a landscape architect. One is to create a berm, with landscaping, in front of where the vehicles will be stored.

In response to a question from Mr. Kablack as to whether there will be a landscape plan showing which trees are proposed to be saved, Mr. Ey replied that a detailed landscape plan will be submitted as part of the site plan application to the Selectmen. He then provided an overview of the proposed landscaping.

The parking lot will be regraded slightly and the pavement that encroaches over the property line will be removed. The abutting property is fairly well screened and will remain so.

The front of the building will be moved back with a canopy on the side as shown on the plans. Vehicles coming in for service will enter the service area from the rear.

The parcel is approximately ten acres with 1½ acres in Sudbury. Approximately 3 acres will be developed. No development work, in either Wayland or Sudbury, will be in the Flood Plain Zone.

In response to a request from Mr. Kablack, from the elevation drawings Mr. Ey oriented the Board to the floor plan and building, size, entranceways, service bays, etc., as well as the

traffic patterns for same. The Board had several questions including visibility of the facility from the street and maneuverability on the site for the various operations within the building.

Mr. Phelps asked about the tower on the west side of the existing building. Mr. Ey said that tower would remain because it is too expensive to remove it. From ground level to the top of the tower peak is 32 feet. The other tower shown on the plan will be eliminated.

FOREIGN MOTORS WEST
83 & 103 Boston Post Road
02-7, 8, 9, 10, 11 Page 7

Mr. Kablack wanted to see a landscape plan. Attorney Fox said that plan usually gets filed with the Design Review Board and then goes to the Selectmen for their review. He asked whether this Board wanted to see it as well.

Mr. Kablack said he did want to see the plan. Mr. Phelps added that the plan would also show the redesign of the demonstration track which is what he wanted to see.

Mr. Delaney was interested in the exterior lighting. Mr. Ey said he is also working with the landscape architect on lighting and there will be some standard that will comply with the bylaw. The lighting will be directed on the parking lot surface itself. There will also be lights on the building and the tower as well.

A question was asked as to hours of operation as pertains to lighting of the site. Mr. Ey said for security reasons the parking storage areas would remain lit overnight but would be scaled down.

Mr. Kablack asked whether fencing, from a security standpoint, was proposed. Mr. Hopwood said the facility will be secured so that it will be impossible to get a vehicle out of the area. It is not decided whether there will be 24-hour service. The Natick facility has a guard on duty when it is closed.

Mr. Delaney asked whether a guard would reduce the requirement for security lighting somewhat. Mr. Hopwood replied that it would. In response to a further question, Mr. Hopwood said the Natick facility has a chain on one end which is blocked by a vehicle. The Route 27 facility has huge evergreens across the front which blocks access. Given the trees on the site, the security for this facility would be somewhat along the same idea as that for the Route 27 operation.

Mr. Delaney said the lighting is listed as being internal. He asked why it could not be external.

Attorney Fox said he has asked the person in charge of signage to address this.

Mr. Delaney asked whether the lighting on the sign will be extinguished at the end of the business day. Mr. Hopwood said it is intended to stay on as does the Natick facility.

Hours of operation are 7AM-7PM Monday through Friday for the service operation, 8AM-8PM for sales, Monday through Thursday, with a closing on Friday of 7PM. Weekend sales are Saturday, 9AM-5PM and Sunday, noon to 5PM.

FOREIGN MOTORS WEST
83 & 103 Boston Post Road
02-7, 8, 9, 10, 11 Page 8

With regard to extension of a nonconforming use, Mr. Delaney felt there was no use to extend unless the lots were combined. Attorney Fox said he would try to merge the lots on the perimeter plan to address this issue.

With regard to conservation issues, Attorney Fox said he would be willing to donate as much land as he could without violating zoning issues. If this could not be done, he would ask for a conservation restriction.

With regard to perimeter issues, Mr. Kablack said given the fact that the 7.7 acres to be developed is not shown on the plan, he concurred with Mr. Delaney's issue with regard to the McManus piece, and would also like to get an idea of the entire property that is the subject of the special permit request shown on a perimeter plan.

Mr. Kablack noted the following correspondence has been received and is made part of the record:

- from the Planning Board dated February 7, 2002, with 8 issues as addressed by Attorney Fox in his presentation;

- from the Economic Development Committee dated January 30, 2002, in support of the project;

- from David A. Calder, 46 Wagonwheel Road, resident, dated February 5, 2002, in support of the application;

- from Donna and Albert Silverman, 1 Lee-Anne Circle, resident, dated February 7, 2002, in support of the application.

Diane MacArthur, 6 Old County Road, resident and business owner in Sudbury, voiced her support for this business coming to Sudbury.

Mr. Gossels noted only the front part of the building is architecturally decorated as opposed to the remainder of the site. He also voiced concern with regard to the tractor-trailer trucks coming into the back for deliveries and the necessity to insure there will be no backing up onto Route 20. He also voiced concern for the visibility of vehicles being displayed on the westerly side as seen from Route 20 and would like this addressed.

Mr. Ey felt any increase in grade from the front would result in a decrease in visibility of the Mass. Highway Dept. property.

Mr. Kablack asked whether a traffic analysis was done or planned. Attorney Fox believed the Selectmen will require one. Mr. Kablack said the Board would want a copy when is

FOREIGN MOTORS WEST
83 & 103 Boston Post Road
02-7, 8, 9, 10, 11 Page 9

submitted. At Mr. Kablack's request, Mr. Ey will put together something to address the maneuverability of an 18-wheeler. Mr. Delaney added that the State is very strict about parking on its roads. He did not see this as an issue but it should be established that trucks could be maneuvered within the site.

With regard to lighting, Mr. Delaney said he would like more information on what is planned for the security lighting.

Mr. Kablack asked whether there would be any type of fueling operation. Attorney Fox said there will be no gasoline tanks or pumps.

With regard to the "parking" on the McManus piece of the property, Attorney Fox said that area is not considered parking; it is storage and therefore does not meet parking standards. As was stated before, only employees will be moving these cars.

As to the proposed drive and parking over the leaching area, Mr. Ey said he has spoken with Board of Health Director Leupold who has yet to review the plan. However, based on past reviews by Mr. Leupold, Mr. Ey would doubt there would a problem as the system is designed to carry the load. Similar systems have been approved in the past.

A site walk was scheduled for Saturday, March 2, 2002 at 9AM.

Mr. Kablack would like to have elevation plans and landscape plans submitted for the record.

The hearing was continued to March 12, 2002.

Mark A. Kablack, Chairman

Patrick J. Delaney III, Clerk

Thomas W.H. Phelps

Lauren S. O'Brien

Jonathan G. Gossels, Alternate