

MINUTES OF THE PUBLIC HEARING CONTINUATION
SUDBURY BOARD OF APPEALS
THURSDAY, JUNE 29, 2006

The Board consisted of:
Stephen M. Richmond, Chairman
Jeffrey P. Klofft, Clerk
Chairman
Jonathan G. Gossels
Constantine Athanas
Nancy G. Rubenstein, Alternate

For the Selectmen:
William J. Keller, Chairman
John C. Drobinski, Vice

Lawrence O'Brien

Also: Jody Kablack, Planning Director

For the Applicant:
Attorney Joshua M. Fox
Frederick Tierney, applicant
Bruce Ey, Schofield Brothers
Brian Biesel, Traffic Consultant

The public hearing was reconvened by the Chairman, Mr. Richmond. Selectmen Keller noted that this is also a continuation of the Selectmen's Site Plan Hearing and will be a joint session of both boards. For purposes of the Selectmen's meeting, a motion was made, seconded and unanimously voted to appoint Mary Corley, Secretary pro tem.¹

Mr. O'Brien reported on his attendance at the ZBA's June 13th hearing the result of which was that the location of the building appeared to be settled and it was agreed that public safety was the highest concern. There was also agreement between the ZBA and Mr. O'Brien to schedule this joint hearing as an attempt to expedite the process.

Mr. Fox said he had with him two renditions of the Old County Road/Route 20 intersection design.

Mr. Drobinski asked whether the abutters have seen the plan.

Ms. Kablack said they have not. She said everyone, with the exception of Town Engineer who saw the plan a few days ago, was seeing this plan for the first time this evening. She said it has not been formally submitted to the town. The intent is for the applicant to go through a presentation before it is submitted.

Ms. Kablack noted that some of the abutters are present this evening, but this hearing is just for informational gathering to see if the Boards can come to consensus on

¹ The ZBA was later informed that to ensure compliance with public notice requirements the Selectmen would not consider this meeting to be a continuation of their ongoing hearing and would instead conduct a separate meeting to discuss traffic issues.

some of the issues regarding public safety, and then have the applicant continue to further refine the plan. She said she told the owner of Sky Restaurant that the Boards are not going to make a decision on this plan and that he will have an opportunity to review the plan as well. Mr. Corcoran, owner of Sky, had asked that he have input particularly since the redesign of the intersection may impact his property.

Mr. Drobinski wanted it to be clear to everyone that the plan being presented tonight is pure concept – for information and discussion purposes only.

Attorney Dennis Brown, representing William Roberts, landlord of Sky Restaurant, wished to make a statement for the record. He said he sent a letter indicating his concern with regard to the project and that he wanted to be notified about the project. It was his understanding, from talking to the tenant of Sky Restaurant, that there had been a commitment that the abutters would be included and be involved in the process. He wanted both boards to be aware that there has been no involvement in the process prior to the presentation of this plan and that the first time anyone knew about this plan was this morning when someone sent something over to Mr. Corcoran who sent it to him as counsel to Mr. Roberts.

Mr. Brown said he has grave concerns with regard to this proposal and believes it will negatively impact his client, the owner of Sky Restaurant as well as the safety of the public. He added he didn't want to stop this process, but wanted his concerns to be noted.

In response to a question from Mr. Klofft, Mr. Brown said at this point his concerns are not with the dealership but with the reconfiguration of the intersection and design of Route 20.

Mr. Fox said he understands the concerns of the abutters and will be bringing plans to them eventually. He said this plan was just drafted and circulated this morning so today was the first time he was seeing them. He felt it was important to bring something to the town for discussion purposes before going to Mass. Highway, and it would seem somewhat backward to bring a plan to Mass. Highway that the town wouldn't be in favor of. He said this particular plan stems from ZBA comments made at the last hearing – that they would like to see something more than just a reconfiguration in the form of an island at the intersection of Old County Road and Boston Post Road but something along the lines of possibly a left turn.

Bruce Ey, engineer, explained that the process is just beginning. He said that they had always anticipated doing some improvements to the intersection of Old County Road and Route 20 when the original site plan was filed but wanted to get some input from town boards. Knowing the clients' needs, they have been accumulating data and felt that the meeting tonight would be an opportunity to show abutters what could be done at the intersection itself.

Mr. Ey provided an orientation of a plan which superimposes the proposed layout on the Mass. G.I.S. plan. The plan shows a 20-foot widening of the entrance to Old County Road, a 10-foot rumble strip island in the center and a 20-foot exit.

In response to a question from Mr. Drobinski, Mr. Ey said although the island will be able to be mounted by a car carrier, large truck or a piece of construction equipment which had to go down Old County Road, it will consist of sloped granite curbing with cobblestones designed to stop cars before entering the intersection.

Mr. Ey said this was the plan that was originally proposed when the ZBA asked them to take a look at what could be done for a third lane – a turning lane. He said the road layout is 50-feet at Goodmans Hill Road and in front of Sky Restaurant. It widens out a bit as the two intersections converge and it is felt that a third lane could be put in without a land taking. Mr. Ey explained that traveling eastbound you would get to the Bosse Sports entrance, and if you wanted to make a left turn you'd start into a 110-foot taper where you would start to be able to go over to the left to the center lane. Then, you would have a 100-foot distance in that center lane where you could come to a stop, and then you could actually – after judging the traffic coming toward you – make almost a 90 degree left hand turn. It's a 100-foot lane in that location. There would be three 10-foot lanes - a 10-foot lane for through traffic, a 10-foot lane in the center and a 10-foot lane for cars going westbound.

Mr. Gossels asked if 10-feet was a standard.

Mr. Ey said it's 10-11 feet; there is some leeway. Mr. Beisel said he didn't know the exact number but felt that 10 feet was the minimum.

Mr. Gossels asked if Mass. Highway was likely to approve three 10-foot lanes.

Mr. Ey said he hasn't yet spoken with them; however, if he had to go to 11 feet he felt he could squeeze it in. As to a question of cost for the additional width, he said the pavement is very close to the property line on the south side so the road cannot be widened on that side. To widen it on the north side involves removing a line of utility poles at a cost of \$20-25K each which would be very expensive and would slow the project down. Added to that is the recurbing which would have to be done. However, he said if Mass. Highway requires 11 feet he would say that it could be accommodated.

In addition, Mr. Ey said he needs to discuss with Mass. Highway the length of the storage lane and the radius of the intersection. The standard is 30 feet, however, only 20 feet fits.

Mr. Klofft asked if there was room along the northbound side for a taper for the right hand turn.

Mr. Ey said there is not enough room to do a lane there to get the cars over. If he gets the north side of Old County closer to Route 20, it shortens up the distance and makes the radius smaller.

Mr. Richmond asked if the proposed radius was too small for the speed.

Mr. Ey said it wasn't. He said the radius is for a large truck to get around and Mass. Highway's standard is 30 feet; however it's difficult to put in a 30-foot radius where there is only 40 feet. From the plan he described the proposal for widening the intersection which requires no land taking from any abutters noting that this will be discussed with the owners of Sky Restaurant. He said the proposed widening doesn't intersect with their parking lot.

As to whether it would impact Sky's second exit, Mr. Ey said it wouldn't improve it but felt it might be safer.

Mr. Gossels asked if the proposed 10-foot rumble strip island was standard for an island.

Mr. Ey said there is flexibility but not wider than 10 feet. He felt that 10-feet would be acceptable to Mass. Highway.

Mr. Klofft asked whether in a best case scenario a car carrier could make the turn without going over the island. Mr. Ey said it would not. He said he anticipated car carriers coming in from the west and once they go over the island on the turn they can go straight into the facility. Carriers can be controlled so that they don't come in from the east because coming from the east they could not make that turn.

As to a question of shipments of cars from one place to another, Mr. Tierney said those would be done on an individual basis – at most a one-car flatbed.

Mr. Richmond asked whether Mr. Tierney would have an issue with a condition restricting car carriers coming from the east. Mr. Tierney said he would not.

Mr. Drobinski said there are other issues besides car carriers; for example, other large trucks entering or exiting through the intersection. He asked whether that had been discussed.

Mr. Beisel said if they can't maneuver it now, anything that is done would only make it easier for them to do it. Mr. Ey said he would lay out a redesign.

Ms. Kablack said during their site visit Mass Highway actually mentioned that it has to be demonstrated that you can turn the larger trucks going in and out of that intersection. There is a standard.

Mr. Ey said the opening will be going from a 30 feet to 50 feet with an island that will be mountable by a large truck. He said that extra 20 feet makes a big difference.

Discussion followed on sight distance which is currently posted at 40 mph, the Goodmans Hill Road and Landham Road intersections, as well as other developments in the area and perhaps the need for reducing that speed. Mr. O'Brien commented that separate from this application, the town may eventually decide to investigate how to go about the process to do that. Mr. Drobinski suggested perhaps a corridor-wide study might be needed.

Mr. Beisel said with the new turning lane and the scenario which includes all the traffic that is expected to go to the BMW facility, one would not expect to have three or four cars backed up on Old County Road waiting to turn onto Route 20. He said this scenario includes the proposed residential development.

Mr. Ey added that the proposed third lane could actually be used to make a left turn into Wingate.

Mr. O'Brien asked whether the center lane can be used for both left or right hand turns. Mr. Ey replied that two cars entering that center lane would not be a good idea – which is why that lane ends before Bosse Sports. He explained how the taper will work.

In response from Mr. Brown's comment regarding impact, Mr. Ey said there will be no impact on Bosse Sports – he does not want to extend the taper down to the Bosse intersection and so it would not impact people making a left hand turn into that site. They're in a one-lane now making a left turn – they're going to be in one lane making a turn after the taper - which is why he wants to shorten the taper. He also needs to work with Mass. Highway on this.

With regard to Sky Restaurant, Mr. Ey said while the intersection is closer to the restaurant exit, there is no proposal to do anything to the curb cut there. He said the guardrail will stay where it is.

Mr. O'Brien asked whether a visual sense of what's out there could be provided. Mr. Ey said he could go out and paint it up a bit and put some stakes out there to show where it is.

Steve Corcoran identified himself as the owner of Sky Restaurant. He said at the May Selectmen's meeting a plan similar to this one was presented. That plan precipitated his letter, as well as that of his landlord, in opposition to the proposed plan. He said that plan called for moving the intersection 15 feet closer to his property line as well as creating that left turn only.

Mr. Corcoran said at the June 6th Selectmen's meeting, he was invited by the Selectmen to participate in the planning process. He said that never happened - there was never a meeting or phone call. He made phone calls to the Town Planner's office and was informed that the plan was in the works and that they weren't ready to meet yet, but that when it was ready, representatives of the applicant, the town, himself, the Planning Board, Mass. Highway would get together.

He said what is happening is the same plan or a very similar plan to what was submitted on May 2nd, is being represented and he has had no input to it.

Mr. said the reason for this meeting is to ask for input.

Mr. Corcoran said he did not know what to make of this plan. He said he runs restaurants – he doesn't design roadways. He said he sees this left turn lane and now his customers, when heading to his entrance, have to whether they come into this left turn lane and then wait for a break in the traffic and move up a little bit more – 10 more feet. Now they're at the entrance – what about all the cars coming down the road and, more importantly, the cars going past them in the through lane. He felt this situation will create a tremendous safety hazard for those who want to use that entrance. More importantly, he said when guests leave the restaurant and exit, the traffic that is turning left off of Old County Road is that much closer to them and their reaction time is going to be much less.

Mr. Corcoran also did not understand the taper which he said will be in front of his restaurant. He asked whether people were going to be allowed to cross that.

In summary, Mr. Corcoran said he sees a public safety hazard coming in and out of his restaurant and potentially if people don't use that entrance and exit or are uncomfortable using it, they are going to come to the restaurant less often which will affect his business. He said he had expected a lot more participation in the planning process for the intersection.

Mr. Ey said this plan hasn't even gone to Mass. Highway and the Selectmen and ZBA are seeing this for the first time, so this is a planning session. He said he is not asking the ZBA and the Selectmen to approve it tonight. He is looking for input and would be happy to meet with Mr. Corcoran to discuss it.

Mr. Corcoran thanked Mr. Ey, but speaking for himself, said he is as opposed to this proposal as he was at the May 2nd meeting.

Mr. Ey said he could sit down with Mr. Corcoran as early as tomorrow or next week. He said this drawing was not available until today. He said he plans to meet with Mr. Corcoran, Wingate and Bosse Sports

Mr. Richmond said having that discussion is going to be a very important part of the next step. He said the ZBA's mandate from the last meeting was that the Board

wanted to see a left turn lane. Obviously there are some objections and there are concerns that have to be addressed before getting to the stage to where it is brought to Mass. Highway to seek their approval. However, Mr. Richmond felt the applicants' have gone a long way in a direction leading to address the Board's concerns.

Mr. O'Brien said this joint meeting was scheduled with the applicant being asked to provide more information. He said what is needed is to establish that a turning lane can be created. Town staff will look at it to see if it's in the right location or if adjustments need to be made. It is still the intent to have the abutters in the area involved in the discussions. He emphasized that we are in the very early stages – this is just a point where discussion is started.

Ms. Kablack would suggest the ZBA and Selectmen's meetings be further continued separately. However, she said there are some action steps which need to be taken. She said this is a situation where there are lay people asking very specific engineering questions, which is not the way this should go; that if the Boards feel that this is proceeding in the direction they want, there should be an on-track consultant on board to look at the corridor. Mass. Highway has also recommended as part of their philosophy to do the planning; not just design. Ms. Kablack said Foreign Motors West should also be required to make a contribution towards that and noted that the Old Country Road development will be contributing to the mitigation as well.

As to a question of cost, Ms. Kablack would estimate a \$25-50K range.

Mr. Klofft had concerns with the order of events because to a certain extent the ZBA is going to be asked to approve or reject this project. He did not feel that he could do that until he understood specifically, at least at a conceptual level, what is going to happen here. To take the money for design and planning and then end up with a situation where had the Board known what the end result was going to be, it might have made a different decision.

Ms. Kablack said this is a fairly specific plan and more than just a concept design. She said Mass. Highway has recommended that in addition to this application, a contribution be made to a corridor study and a requirement that the applicant make physical improvements that will alleviate the traffic issues as identified by the hearings and by the corridor analysis, and that the ZBA require the applicant to provide those specific improvements on the plan to be approved by Mass. Highway.

Mr. Richmond said the ZBA cannot impose a condition that requires approval by another government entity because the applicant may not be able to obtain that approval. He said one of the problems that a consensus of the Board had expressed was that the project should not go forward without exactly knowing what the traffic approval would be. He said the Board needs to know there is a solution.

Ms. Kablack said she would speak with Town Counsel on that issue.

Following further discussion, there was consensus to hire a consultant. Mr. Fox indicated his client would be agreeable to this.

A motion was made, seconded and unanimously voted to hire a traffic consultant for an amount up to \$10K to provide an independent traffic evaluation of the Old County Road/Route 20 intersection and to submit same for planning and study purposes.

Mr. Richmond felt the next step was for the applicants to put together a plan, meet with the abutters and Sky and then propose something to the Board. By the time that is completed, there should be a consultant in place to review it.

The hearing was continued to August 23rd, 8PM.

Stephen M. Richmond, Chairman

Jeffrey P. Klofft, Clerk

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Elizabeth A. Taylor
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Also: Stephen A. Garanin, Alternate
Jody Kablack, Planning Director
Edward Marchant, Consultant

For the Applicant:

Attorney Joshua M. Fox
Ben Stevens, Trask, Inc., applicant

The hearing was reconvened by the Chairman, Mr. Richmond. The Board was in receipt of a draft Decision document prepared by Ms. Kablack which approves a

proposed development of 37 units with conditions set forth in the draft. Also received were comments on the draft from the applicant, and Mr. Marchant was present to present his comments.

All present reviewed the document page by page. Following discussion, those modifications agreed to will be incorporated into a second draft which will be submitted to the Board prior to the next continuance which was scheduled for July 18, 2006.

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