

IN BOARD OF SELECTMEN
MONDAY, AUGUST 26, 1996

Present: Chairman Lawrence L. Blacker and Selectmen Maryann K. Clark and John C. Drobinski.

The statutory requirements of notice having been met, the meeting was convened at 7:32 p.m. in the Sudbury Town Hall.

Chairman's Opening Statement

Chairman Blacker stated that formation of the Strategic Planning Committee was in progress. He noted that some 30-40 townspeople had applied for appointment to the Committee and the appointment process would begin this evening. He also noted that the Town hoped to engage a facilitator to assist the Committee.

Citizen Petitions

A. Haynes Pantry Intersection

Ralph Tyler reiterated his concerns with the Haynes and Pantry Road intersection. He submitted photographs of an automobile accident that had occurred there this past May. The photos depicted extensive damage to two motor vehicles. Mr. Tyler said that fortunately no one was injured and asked that improvements to the intersection be given priority. He reported that the Yield Sign was merely creating confusion.

Chairman Blacker stated that the matter should be put on the Board's agenda when the Town Engineer could be present to inform the Board. He asked that the matter be put on the Board's September calendar, possibly at its September 9 meeting.

B. Commuter Rail

Kathleen Clarke, 30 Church Street, asked the Board how it could support stopping the railroad commuter line without speaking to the citizens. She said that there are 16,000 residents in Sudbury. She said that the 2000 people in Wayland and Sudbury who are against re-opening the rail and had signed the petition opposing the project were not the majority.

Chairman Blacker stated that he was opposed to the rail because he believed that it would cause even more traffic problems. He noted that the train would cross Route 20 at two different points. He also noted that the proposal would have re-opened a long abandoned line.

Ms. Clarke countered that adjacent property owners would have known of the rail way right-of-way prior to purchasing. She said that everyone who commutes to Boston can see the good of mass transit. She stated that it is expected that 700 people would use the line and that would be 700 less cars on the roads. She also said that many would undoubtedly walk to the stations.

Chairman Blacker noted that on occasion he would use the commuter lines in Lincoln or Acton, but that the commuter rail schedule did not meet his needs as a lawyer committed to long work days. He

did state that there was nothing to stop her from organizing those in favor of the line. He stated that he had based his decision on the traffic issues and but would be willing to change his position if those concerns could be alleviated.

Ms. Clarke noted that representatives of opposing views were not present when the Board considered its position on the rail and that did not sound democratic to her.

Selectman Drobinski stated that since Rep. Evans had dropped her support the issue was not going anywhere regardless of the Board's position.

Ms. Clarke stated that those opposed to the rail had hired a lobbyist that had pressured her into dropping the project.

Selectman Drobinski stated that he was well aware of Rep. Evans' position on the project as he had spoken with her about it. He said that eventually there would probably be a referendum on the issue. He stated that there is a 50-foot transportation corridor which the MBTA is not going to relinquish. He noted that the Framingham and Lincoln lines currently serve Sudbury. He said that he felt that he had enough information at the time that he voted on the issue.

Selectman Clark stated that the rail would have to be raised over or sunk under Route 20 to prevent traffic problems. She said that right now it was not cost effective, given the expected ridership, to undertake such a project, but there may be a future use.

Traffic Management Committee - Appointments

Present: Thomas Phelps, Traffic Management Committee, and Andrew Brooks, R. Reed Lowry and Stephen Mecca, applicants to the Committee.

The Board was in receipt of three applications, that of Andrew Brooks, R. Reed Lowry and Stephen Mecca, to the Traffic Management Committee, established by 1988 ATM Article 51.

Selectman Drobinski asked each applicant why he wished to serve on the Committee.

Stephen Mecca responded that he was concerned about all phases of the environment. He stated that he was interested in finding appropriate ways to flow traffic through our growing community.

Andrew Brooks stated that he lives on Hudson Road, has a technical background and that he wants to get involved in the community. He said that if Route 20 backs up, it impacts other roads as well.

R. Reed Lowry said that he had been involved in the "Dudley Road conflict" and that he saw this as an opportunity to give something back to the community. He said that he was interested in resolving traffic issues on a Town-wide perspective.

Mr. Phelps, the sole remaining member of the Traffic Management Committee, stated that the Committee had not met over the past year. He said that there are a number of traffic issues the community needs to address and he felt it important to re-constitute the Committee. He noted the problems raised earlier by Mr. Tyler and Ms. Clarke.

Chairman Blacker agreed that traffic matters are important issues. He stated that the Committee could provide helpful information to the Strategic Planning Committee as well as to the Board.

Selectman Drobinski noted that the Selectmen and the Planning Board each have two slots to fill; faced with a "Sophie's Choice" in that it could only appoint two of the proposed applicants, he suggested the Board might refer one of the applicants to the Planning Board.

Chairman Blacker noted that R. Reed Lowry had also applied for the Strategic Planning Committee. He suggested that Mr. Brooks and Mr. Mecca be appointed to the Traffic Management Committee, as it was his intention to support Mr. Lowry for appointment to the Strategic Planning Committee. He also proposed that, if Mr. Lowry were not appointed to the Strategic Planning Committee, the Board would suggest that the Planning Board consider appointing Mr. Lowry to the Committee.

The Selectmen being in agreement with Chairman Blacker on motion unanimously

VOTED: To make the following appointments to the Traffic Management Committee: Andrew S. Brooks, 370 Hudson Road, for a term to expire April 30, 1997, replacing James McKinley; and Stephen D. Mecca, 21 Pinewood Avenue, for a term to expire April 30, 1998, replacing Joy Goff.

Site Plan Special Permit Application SP96-328 - Auto Diagnostic Center, 100 Boston Road

Present: Bruce Ey, of Schofield Brothers of New England, Inc., professional engineers and land surveyors, representing the applicant, William King, the applicant, and others.

The Board reconvened a public hearing on Site Plan Special Permit Application SP96-238 to construct a 2,475 square foot addition for two new service bays, four fuel pump islands with canopy, new subsurface sewage disposal system, drainage and landscaping for operation of automotive repair, convenience store and gasoline sales business, on property at 100 Boston Post Road.

Notice of this continued public hearing was issued by Town Manager Ledoux on July 30, 1996, and published in the *Sudbury Town Crier* on August 8, 1996.

The Board was in receipt of the following:

1. Notice of Meeting, undated, from the Town Board of Appeals, indicating that deliberation and vote on Case 96-26 - William King (Auto Diagnostic Center)/George Gordon, 100 Boston Post Road, is scheduled for 7:30 p.m. on Thursday, August 29, 1996, in the Fairbank Senior Center.
2. Communication, dated August 1, 1996, from Bruce R. Thomas, Schofield Brothers, indicating the following additions/changes had been made to the site plan:
 - a. Leaching basins, oil and grease separators and storage for the first inch of rainfall;
 - b. Existing waste oil pipes and septic area;
 - c. Proposed leaching and gasoline storage;
 - d. Relocation of signs;
 - e. Five foot wide asphalt sidewalk;

- f. Canopy which has been lowered and narrowed;
 - g. Adjusted landscape materials;
 - h. Dumpster location;
 - i. Proposed drainage easement on Genna property;
 - j. Zoning district information;
 - k. Additional handicapped parking space.
3. Revised site plan dated July 30, 1996, entitled "Plan of Land in Sudbury, Mass. Prepared for Auto Diagnostic", drawn by Schofield Brothers of New England, Inc., and revised Architectural drawings: A-1 Floor Plan, dated July 2, 1996, and A-2 Elevations, dated June 20, 1996, drawn by D. R. Poulin Construction.
4. Communication dated August 23, 1996, from Debbie Dineen, Conservation Coordinator, noting that the Conservation Commission has issued a Wetlands Protection Act and Wetlands Bylaw Permit for this site. She further notes that although drainage design does not meet today's best management practices, all feasible alternatives were investigated. She notes that the proposed drainage system is superior to what exists on the site today. She also notes that subsequent to the issuance of the Order, the Commission has been made aware of the new technology that may be applicable to the site for the treatment of the storm water runoff and that Bruce Thomas is investigating its application to this site. She stated that it is the Commission's position that maximum feasible mitigation measures should be taken to protect the wetland resources, including vernal pools, on this site. She noted in conclusion that the Order requires the regular maintenance of the drainage structure permitted. Enclosure: Order of Conditions, DEP File #301-529, Auto Diagnostics, 100 Boston Post Road, states that the Commission generally requires the first one-inch of rainfall be filtered prior to entering the wetland. Due to site conditions such is not possible.
5. Draft decision, prepared by Town staff, with 17 enumerated conditions.

Bruce Ey stated that he had hoped to have a decision from the Board of Appeals but that there is one major issue to resolve. He said that due to the planned parking on the adjacent property, if the variance is granted and if Mr. King were to lose that parking area, he would lose the variance. He said that he is waiting for an opinion from Town Counsel.

Selectman Clark inquired if Mr. King had obtained an easement for the parking.

Mr. Ey responded that Mr. King had a five-year renewable lease for parking on the Genna property and that two other parking options existed in the neighborhood.

Selectman Clark suggested that Mr. King might consider a lease with an option to buy.

Mr. King responded that the owner of Town Line Hardware already had the first option. However, he did note that the owner of Town Line Hardware had verbally agreed that Mr. King could continue to lease the property for parking should he assume ownership of the Genna property.

Selectman Drobinski asked how many off site parking spaces were involved.

Mr. Ey responded that 23 off site spaces were needed.

Mr. Ey related that other than this issue all other matters had been resolved.

When asked by Town Manager Ledoux about the new technology mentioned by Ms. Dineen for treatment of storm water runoff, Mr. Ey stated that he had not seen the memo and did not know how expensive it might be. He stated that he was willing to investigate it and to put it in if it appears to be superior and if it fits within their budget. Mr. Ledoux provided a copy of the specifications on the new technology to Mr. Ey.

Selectman Clark moved to grant the site plan as set forth in the draft decision and conditioned upon the Board of Appeals granting the necessary variances.

Selectman Blacker seconded the motion noting that the plan was very thorough and the proposal would enhance and improve the existing site and conditions.

It was unanimously

VOTED: To grant a Site Plan Special Permit to William King, Foreign Performance Ltd., d/b/a Auto Diagnostic Center, in accordance with Application No. SP96-328, for construction of a 2,475 sq. ft. addition for two new service bays, four fuel pump islands with canopy, new subsurface sewage disposal system, drainage and landscaping, on property located at 100 Boston Post Road, to accommodate an automotive repair, convenience store and gasoline sales business, as shown on a plan entitled, **Plan of Land in Sudbury, Mass. prepared for: Auto Diagnostic**, dated July 30, 1996, by Schofield Brothers of New England, Inc., 1071 Worcester Road, Framingham, MA 01701, and revised architectural drawings: A-1 Floor Plan dated July 2, 1996, and A-2 Elevations, dated June 20, 1996, drawn by D. R. Poulin Construction, subject to compliance with all governmental laws and regulations including, but not limited to, Wetlands Protection Act, zoning, building and health laws and regulations, and subject to the granting of necessary variances by the Board of Appeals, and further subject to the following conditions:

1. Approval of the drainage system, including traps, catch basins, and periodic maintenance as required by the Town Engineer (measures shall be taken to reduce the rate of runoff onto Route 20 to pre-development conditions);
2. Placement of all utilities underground;
3. Extension of Sudbury Water District lines to the site by the owner; no wells for water supply to be installed on the site;
4. The grant of an earth removal permit by the Earth Removal Board, if applicable;
5. Approval of signs or advertising devices as required under applicable provisions of the Zoning Bylaw;
6. No storage or use of chemicals on site except in conformity with guidelines and requirements of the Board of Health and the Fire Chief; the owner or operator of the site shall comply with the

Massachusetts Oil and Hazardous Materials Release Prevention and Response Act, M.G.L. Chapter 21E, as amended, and all regulations issued thereunder;

7. Final approval by the Selectmen of an accurate architectural rendering of the proposed building or change, showing the front and side features as they will appear from the public way or private access;
8. Approval of the final landscaping plan by the Board of Selectmen;
9. Exterior lighting to be directed away from adjacent residences and have shields;
10. No use of salt or chemical de-icers on site;
11. If applicable, the grant by the owner to the Town of a restrictive covenant to run with the land, governing, restricting or prohibiting the following which shall conform to requirements of the Board of Health, Town Engineer and/or Conservation Commission as appropriate:
 - (a) the disposal or removal of effluent and wastes generated on the site;
 - (b) the use of salt or chemical de-icers on the site;
 - (c) the installation by the owner of one or more monitor wells on the site, including the Town's right of access for periodic testing and monitoring thereof, or another protective device as may be required by the Board of Selectmen;
12. Submission of an "as built" site plan. Any change in the physical condition of the site, including changes in the location or design of structures or systems, following approval of the site plan, will require approval of the Board of Selectmen;
13. In addition to the above and pursuant to the recommendations of various departments, the following items are to be implemented:
 - a. Receipt by the Town of an easement allowing discharge of stormwater onto Genna land, 88 Boston Post Road.
 - b. Receipt by the Town of a copy of lease between applicant and Genna re 23 additional parking spaces.
 - c. Receipt by the Town of recalculation of existing runoff volume to catch basin 1, watershed 3, using a weighted runoff coefficient of 84;
 - d. Submission and approval of revised Storage of Inflammables License, and notation of used oil storage tank location on the site plan;
 - e. Receipt by the Town of a copy of curb cut permit from Massachusetts Highway Department;

- f. Inclusion of building coverage and open space calculations on the Site Plan;
- 14. This Special Permit shall be subject to changes required by the Board of Appeals which shall be incorporated in the Site Plan;
- 15. No building permit shall be issued until certain items noted above (1, 7, 8) as specified by the Board, are complied with;
- 16. No occupancy permit shall be issued until certain items noted above (2, 3, 4, 5, 6, 9, 11, 12, 13a, b, c, d and e, and 14) as specified by the Board, are complied with;
- 17. This Special Permit shall lapse if construction and a substantial use therefor, have not commenced except for good cause within one (1) year from the effective date of said Permit.

Site Plan Special Permit Application SP96-329 - Biela Corporation, 119 Boston Post Road

Present: Marek Biela of Biela Corporation, applicant; Richard Shiff, real property owner; Robert Landry, Esq., representing abutter CMS Realty Corporation; Carol and Harold Stoner, of CMS Realty Corp., and others.

At 8:40 p.m., the Board convened a public hearing on Site Plan Special Permit application SP96-329 of Marek Biela, Biela Corporation, for a change in use to an automotive sales and repair business on property at 119 Boston Post Road, Town Property Map K11-018, in Industrial District #4, owned by Richard Shiff of Framingham. The permit application involves no change in the premises other than the addition of four bay doors and cosmetic changes. A Class 2 Second Hand Motor Vehicle License will be required for the sale of automobiles.

Notice of this public hearing was issued by Town Manager Ledoux on July 30, 1996, and published in the *Sudbury Town Crier* on August 8 and 15, 1996. Furthermore, parties of interest, being abutters within 300 feet according to the Board of Assessors, were provided with written notice by first class mail. Additionally, the Planning Boards of Concord, Lincoln, Maynard, Framingham, Marlboro, Stow, Wayland and Hudson were provided written notice by first class mail.

The Board was in receipt of the following:

- 1. Application, dated July 21, 1996 by Marek Biela, of Biela Corporation, requesting the ability to use the property at 119 Boston Post Road as a garage for the sale and repair of motor vehicles. Applicant stated that he will improve the exterior by painting or stucco. He states that he will improve and maintain landscaping. He states that the only lights will be some necessary security lights and such will not be directed at any neighboring buildings or properties. He states that he will add two bay doors to the north side of the building and two bay doors to the west side of the building. He states that he might possibly install two windows in the front part of the building. Enclosures: Existing site plan for 119 Boston Post Road, with new bay doors and windows sketched thereon entitled "Site Plan - 119 Boston Post Road Biela Corporation", dated July 23, 1996, and three photographs depicting: (1) front and west side of building; (2) front and east side of the building; and (3) rear and east side of the building.

2. Communication, dated August 5, 1996, from Michael C. Dunne, Fire Chief, noting that: (1) the building and heating systems must conform to Mass. Fire Prevention Code 527 CMR 5.00; (2) the application states that two bay doors are to be added to the north side and two bay doors to the west side, but the attached sketch shows doors on the south and west sides; and (3) if vehicles are going to be stored in a showroom for sale a permit or license depending upon the quantity of gasoline stored in the tanks will be required.
3. Communication, dated August 6, 1996, from I. William Place, Town Engineer, stating that the septic system for 119 Boston Post Road appears to be a shared septic system with 121 Boston Post Road without an easement. He suggests that the location of the septic system should be determined and/or a proper easement required. He also noted that the disposal area is not shown. Finally he noted that the sale and repair of motor vehicles within an Industrial District will require a permit from the Zoning Board of Appeals. He suggests that no more than two cars for resale be stored overnight and no more than seven cars being repaired or stored overnight be a condition of the special permit.
4. Communication, dated August 12, 1996, from John B. Hepting, Inspector of Buildings, noting that an approved pole sign and paving pictograph must be provided for the handicapped parking space. He stated that the dumpster location and fencing enclosure should be designated. He also noted that any exterior lighting must be directed away from adjoining properties. He recommends acceptance of the change in use request.
5. Communication, dated August 16, 1996, from Jody Kablack, Town Planner, noting that the Planning Board voted to recommend approval of the application with the following comments or conditions: (1) The site plan fails to comply with V.A.5 a of Zoning Bylaw, in that it is a Xerox copy of an old site plan and does not bear the stamp and seal of an Engineer or Surveyor. However, no changes are proposed to the building, the access or any of the paved areas. Nonetheless, the site plan should indicate zoning district lines (including flood plain district), lot area, building coverage, total lot coverage, open space area, the location of any proposed sign, the waste disposal area and septic system. (2) The site could use landscaping. The site appears to have 1/2 of the required 30% open space. Areas of pavement should be removed and landscaped to make the site more attractive and to conform to the minimum requirement. Foundation plantings are recommended along with new landscaping at the front of the building along Route 20. (3) There is little storm water detention or management at this site. The one leaching basin in the easterly driveway should be fitted with a grease and oil trap as a condition of approval due to the likelihood of runoff containing automotive fluids. The rear of the site slopes to the south and has no mechanism for controlling runoff. Due to proximity to the flood plain, it may be prudent to establish a low point in the pavement and install a catch basin with a grease and oil trap to catch any potentially hazardous runoff. (4) It is suggested that the applicant consider moving the location of the bay doors on the west side of the building to the east side since the west side is so visible from Route 20. (5) Parking appears more than adequate for the proposed use. The applicant should consider removing several parking spaces and vegetating those areas to increase the amount of open space.
6. Communication, dated August 21, 1996, from Frank W. Riepe, Chairman, Design Review Board, noting that it had considered the application, but did not have a quorum at its meeting and therefore could take no action. The Design Review Board suggests that the applicant obtain professional design help for the front of the building, and requested that review and approval of definitive landscape plans and formal submittal of a sign application be made a condition of approval.

7. Communication, dated August 22, 1996, from Robert C. Leupold, Health Director, noting that the existing septic system was installed in 1983 for an auto parts store. Under Title 5 regulations, effective March 31, 1995, a service station (no gasoline) is required to have a minimum allowable system of 450 gallons per day or 150 gpd per bay whichever is greater. The existing septic system would need to be upgraded to meet these requirements for the proposed change in use.

8. Communication, dated August 23, 1996, from Debbie Dineen, Conservation Coordinator, Conservation Commission, noting that there are wetlands to the south of this site; however, with all work confined to the interior and only cosmetic work on the exterior, no wetlands permits will be required. Any changes in building footprint, grades, drainage, etc., may require a permit. It is recommended that any interior drains be part of a closed system and regular maintenance requirements apply.

9. Communication, dated August 26, 1996, from Robert W. Landry, Esq., representing CMS Realty Corporation/abutter, requesting a postponement of the hearing on the site plan.

Marek Biela stated that he would like to move his business to this property since he is currently operating a business in a protected area. He said that the owner would comply with requirements for a new septic system.

Chairman Blacker stated that he did not wish to impose expense on the applicant, but there should be a more current site plan, indicating, for example, the location of the existing septic system.

Chairman Blacker, in response to the communication from the abutter, CMS Realty Corporation, stated that an applicant can go to the Board of Appeals first and then the Selectmen or simultaneously before both Boards or first the Selectmen and then the Board of Appeals. He stated that the Board of Selectmen can condition its approval upon approval from the Board of Appeals. In this case, the fact that Mr. Biela has not yet obtained approval from the Board of Appeals does not constitute a reason for postponing the matter.

Mr. Biela produced another former site plan and Selectman Clark noted that the two plans need to be read in conjunction with each other.

Selectman Drobinski stated that the plans do not show existing conditions and do not bear the stamp of an engineer. He did state that the property is currently an eyesore and it would be an improvement to clean it up. He asked Mr. Biela his position on the Town Engineer's suggestion that the number of cars for sale be limited to two.

Mr. Biela said that he would like to keep ten cars for re-sale, not just two. He said that he currently only has a license for repair. He said that he plans to retail high end automobiles, mostly European, including, for example, Audi, BMW, and Mercedes. He said that it will look appealing and not a junk car lot. He said that he does not do body work. He said that he would use the property in accord with the special permit and that that was up the Board of Appeals.

Chairman Blacker commented that Hatch Motors looks good. He did note however that nothing in the permit would preclude lower end used cars. He said typically permits are issued for one to two years and are nontransferable, but the permit does not limit the user to the type of car for sale.

Chairman Blacker inquired regarding moving the two bays on the west side of the building to the east side.

Mr. Biela responded that all the electrical and gas are on the opposite side and would have to be re-wired if bays were placed on that side.

Chairman Blacker and Selectman Clark pointed out that if he kept the bays on the west side he would have to acquire an easement for access.

Mr. Biela said that from the plan there is access on that side.

Chairman Blacker and Selectman Clark pointed out that the former site plans do not show existing conditions and it seems that he would have to cross someone else's property to access the west side of the building.

Chairman Blacker stated that the Board really needed an architectural rendering and a landscape plan and a plan that is reasonably accurate. He said that the old plan submitted was not understandable.

Mr. Biela said that if that driveway is only for the other property, he could access the west side from behind the building.

Chairman Blacker stated again that it would really help if the Board had a plan indicating how the building would look.

Atty. Landry stated that he represents CMS Realty Corporation, an abutting property holder, at 121 Boston Post Road. He said that the impact on the abutter is primarily environmental. He said that originally the property was a single lot. He said that the 50-foot right-of-way belongs to property at #121. He said there is no evidence of any easement for use by 119 Boston Post Road. He said to change the use of #119 from a retail store to a garage would significantly impact his client. He noted that the proposed bay doors would undoubtedly be open and there would be considerable noise generated by an auto repair shop. He said #119 is viewed from the front of his client's property. He said the view would be of the many cars - some for sale and others for repair. He said that there would be delivery trucks. He also noted the use of chemicals and solvents and the potential for runoff. He said that there are wetlands not far from the site that could also be impacted. He said the change in use would diminish his client's property. Regarding the runoff he said that his client has tried to address the flooding with a berm.

Carol Stoner of CMS Realty Corporation said that the back half of the parking lot on #119 drains onto her property and she has had to replace her brick sidewalk twice.

Harold Stoner said that at the Board of Appeals hearing on the application he understood that barrels of oil were going to be stored on the site and he feared that the site at #121 could not be protected.

Chairman Blacker noted that the Board of Selectmen cannot act as a zoning board. He said that if the use is allowed and the drainage and other matters are proper, the Board cannot turn down the site plan. He noted that Mr. Biela has to obtain his special permit from the Board of Appeals. Chairman Blacker did suggest that maybe something could be worked out between the two property owners, that

perhaps the drainage could be improved even though there is no legal obligation to do so and that maybe plantings could reduce the view from the #121 property.

Mr. Biela noted that #121 is a two-story building and therefore screening would be difficult. He said that as far as the noise factor is concerned, the compressors are inside the building and that Route 20 creates more noise than he would. He also noted that the flooding would occur whether there is a car parked there or not. Concerning any barrels of fluids, he said that he never stores any barrels outside. He also noted that he had tried to be accommodating with CMS Realty Corporation but that they have never returned his phone calls. He said that where he currently operates his repair shop his abutters have been happy with him.

Atty. Landry stated that under the Town Bylaws the Board of Selectmen must look at the impact on abutters.

Chairman Blacker explained that if the zoning board approves the application the Board of Selectmen cannot deny the site plan. He said that the Selectmen would be very reluctant to deny an allowed use; such may indeed be illegal. He agreed that consideration of an abutter is part of the bylaw, but that the Board of Selectmen cannot sit as a zoning board.

Atty. Landry said that the expansion of the facility and allowing a used car lot would be detrimental to his client. He said that his clients would be overlooking a garage versus a wholesale/retail space. He noted that whether the fluids are kept inside or out, there would still be trucks delivering fluids, including oil.

Atty. Landry also presented a written communication, dated August 26, 1996, summarizing his client's opposition to the site plan.

Selectman Drobinski asked Mr. Biela how much oil he uses at his current place of business.

Mr. Biela responded that he uses about 10 gallons a week, 40 gallons a month. He said that it is stored inside the shop. He said the fluids used for cleaning are removed by Safety Clean. He said that he usually just buys a box of antifreeze and that a retail store would have on hand hundreds of gallons.

Richard Shiff, owner of #119, stated that the property has been laying unused for some six months. He said that he was the owner of the auto parts store. He said that he planned to contact a contractor and an engineer and that everything would be done, including meeting the Title 5 requirements. He also said that he would see what could be done to improve the drainage. He said that he did not want to have any complaints.

On motion it was unanimously

VOTED: To continue the hearing until 8:00 p.m., October 15, 1996, to allow time for the applicant to submit a new, complete and accurate site plan, including architectural drawings and landscape plans, and to address the concerns raised this evening by the Town boards and abutters.

Review Compliance - MoonShadow Cafe & Catering, Boston Post Road

Present: Deborah Taylor and Dixie Esseltine, of MoonShadow, Joan Kennedy, and others.

Notice of the public hearing was issued by Town Manager Ledoux to the proprietors, abutters and Town Health Director, Building Inspector and Police Chief.

The Board was in receipt of the following:

1. Communication, dated August 22, 1996, from Robert C. Leupold, Health Director, noting that water usage at MoonShadow Cafe has been consistently below the septic system allocation of 710 gallons per day. He noted that average daily usage flows for the first three months of operation have ranged from 270 to 536 gallons per day. He also noted that the required 3,000 gallon septic tank was installed prior to opening. He finally noted that the dumpster situation has improved, but that continued attention must be given to removing trash from the parking area.
2. Communication, dated August 12, 1996 from John B. Hepting, Building Inspector, noting that he had spoken with Randy Goldberg of the Intrum Corp., who manages Mill Village where the MoonShadow Cafe is located. Mr. Hepting stated that the pole lights have been directed to shine away from the Maple Street neighborhood. He noted that the fixture are not designed to accept shields. He noted that the dumpsters have been changed to top loaders and fenced in and hours of collection have been changed. He said that the police have been asked to patrol more frequently. He also noted that Mr. Goldberg indicated that he has no authority over existing tenants, but does insist on 24 hour access to any new tenants regarding alarms. Mr. Hepting noted that neither he, nor Mr. Goldberg, have received any call regarding MoonShadow Cafe during the past three months.
3. Communication, dated August 6, 1996, from Peter B. Lembo, Chief of Police, noting that there have been no complaints regarding MoonShadow Cafe.

Joan Kennedy, a Maple Street resident, stated that the abutters on Maple Street have had no problems with the new restaurant in their neighborhood. She said that the business should be commended since they are good neighbors and excellent cooks. She expressed appreciation to the Board for supporting the abutters' requests in this matter.

Chairman Blacker responded that it was good to see that conflicting interests can be facilitated.

Deborah Taylor, the proprietor of MoonShadow, stated that she likes the community and plans to be here a long time.

Selectman Clark inquired of the water usage.

Town Manager Ledoux stated that the usage was less than the designed allowance. He also noted that the Chief of Police and Building Inspector have had no problems.

There being no further reports, the Board thanked those in attendance for coming this evening.

Minutes

It was on motion unanimously

VOTED: To approve the regular session minutes of August 19, 1996, as drafted.

Council on Aging - Donations

It was on motion unanimously

VOTED: To accept \$278.49 in miscellaneous donations for deposit into the Council on Aging Van Donation Account and to authorize the Council on Aging to expend the same for purposes of operating and maintaining the Council on Aging vans.

Edwin Barrett Hosmer Memorial Fund - Expenditure

It was on motion unanimously

VOTED: To authorize the expenditure of \$3,750 from the Edwin Barrett Hosmer Memorial Fund for the purchase of cotton throws to be sold for fund raising.

"Kids Day America" - Proclamation

The Board was in receipt of the following:

1. Communication, undated, from Dr. Heather Rice, Wellspring Chiropractic Centre, noting that in September, a special day for children, designated "Kids Day America", will be celebrated by chiropractors nationwide. Wellspring Chiropractic Centre will be celebrating the day on September 28. Free spinal exams and Scoliosis Screening will be provided to children along with information on disease prevention and health promotion. Furthermore, Wellspring Chiropractic Centre will be donating child ID cards. This local event will begin at 12 noon.

It was on motion unanimously

VOTED: To proclaim September 28, 1996 as "Kids Day America".

"United Nations Day" - Proclamation

The Board was in receipt of the following:

1. Communication, dated August 12, 1996, from Janice Hunt, President of the United Nations Association of Greater Boston, noting that 1996 marks the 51st Anniversary of the United Nations and requesting the Town to recognize October 24, 1996, as UN Day.

It was on motion unanimously

VOTED: To proclaim October 24, 1996, as "United Nations Day".

Renewal - Sunday Public Entertainment License - Chiswick Park Theatre

It was on motion unanimously

VOTED: To renew the Sunday Public Entertainment License for Chiswick Park Theatre, Inc., to operate a live, professional theatre on Sundays, 9/8/96 through 8/31/97, from 2 p.m. to 11 p.m.

Renewal - Sunday Public Entertainment License - Bullfinch's

It was on motion unanimously

VOTED: To renew the Sunday Public Entertainment License for Bullfinch's, Inc., for a jazz trio on Sundays, 9/22/96 through 9/14/97 from 12 p.m. to 10 p.m.

Land Use Restrictions and Conservation Restrictions - Run Brook II and III

The Board was in receipt of the following:

1. Communication, dated August 21, 1996, from Jody Kablack, Town Planner, requesting the Board to approve and execute the below delineated land use restrictions and conservation restrictions relevant to Run Brook II and III.
 - a. Land Use Restrictions to the Town of Sudbury, granted by John C. Cutting, Frank J. Cutting and Louise C. Dorian, on portions of lots 6, 7A, 8A, 9 and 10 shown on plan entitled "Definitive Subdivision of Run Brook II Sudbury, MA" dated July 20, 1995, revised 8/30/95, 1/25/96 and 3/20/96, by Colburn Engineering, Inc.
 - b. Land Use Restrictions to the Town of Sudbury, granted by John C. Cutting, Frank J. Cutting and Louise C. Dorian, on portions of lots 11, 12, 13, 14A, 15A and 17A shown on plan entitled "Definitive Subdivision of Run Brook III Sudbury, MA" dated July 20, 1995, revised 8/30/95, 1/25/96 and 3/20/96, by Colburn Engineering, Inc.
 - c. Conservation Restriction to the Town of Sudbury, granted by John C. Cutting, Frank J. Cutting and Louise C. Dorian, over Parcel A Open space, containing 4.2 acres, shown on plan entitled "Definitive Subdivision of Run Brook II Sudbury, MA" dated July 20, 1995, revised 8/30/95, 1/25/96 and 3/20/96, by Colburn Engineering, Inc.
 - d. Conservation Restriction to the Town of Sudbury, granted by John C. Cutting, Frank J. Cutting and Louise C. Dorian, over Parcel B Open space, containing 41,794 sq. ft., shown on plan entitled "Definitive Subdivision of Run Brook III Sudbury, MA" dated July 20, 1995, revised 8/30/95, 1/25/96 and 3/20/96, by Colburn Engineering, Inc.
 - e. Conservation Restriction to the Town of Sudbury, granted by John C. Cutting, Frank J. Cutting and Louise C. Dorian, over Parcel C Open space, containing 2.81 acres, shown on plan entitled "Definitive Subdivision of Run Brook II Sudbury, MA" dated July 20, 1995, revised 8/30/95, 1/25/96 and 3/20/96, by Colburn Engineering, Inc.

Selectman Clark inquired about the contents of the land use restrictions which continue over to second pages which were not included in the Town Planner's communication.

Chairman Blacker explained that it is the usual boilerplate language.

It was on motion unanimously

VOTED: To approve and execute the above set forth land use restrictions and conservation restrictions relevant to Run Brook II and III.

EXECUTION: The Board executed the above set forth land use restrictions and conservation restrictions relevant to Run Brook II and III.

Installation of a Stop Sign - Hemlock Road

The Board was in receipt of the following:

1. Petition, undated, from the Neighbors of the Sudbury Swim and Tennis Club, requesting the Board to install a stop sign on the southeast corner of Tanbark and Hemlock Roads to correspond to the existing stop sign on the northeast corner of said intersection. The petitioners noted that cars exiting from the Sudbury Swim and Tennis Club do not proceed with reasonable caution when entering such intersection and suggested that the installation of a stop sign will remind motorists that Tanbark and Hemlock Roads are thickly-settled residential areas. The petition is signed by six residents of Tanbark and Hemlock Roads. Furthermore, the petition included a map indicating the location for the requested stop sign.
2. Communication, dated August 1, 1996, from Town Manager Ledoux, requesting Ronald Conrado, Police Safety Officer and I. William Place, Town Engineer, to review and report on the petition which he had received on July 30, 1996.
3. Communication, dated August 7, 1996, from Town Engineer Place and Safety Officer Conrado, noting that the intersection at issue meets the criteria established in the Manual on Uniform Traffic Control Devices for the installation of a stop sign and therefore recommending the Board authorize the stop sign as requested.

It was on motion unanimously

VOTED: In accordance with Chapter 89, Section 9 of the General Laws, to designate Hemlock Road a stop street for northbound drivers on Hemlock Road at Tanbark Road, and to amend the Town Traffic Rules and Orders, adopted by the Board on September 12, 1941, and subsequent amendments thereto, by adding at the end of Section 8 in Article VII, "Obedience to Isolated Stop Signs", the following location: "Northbound drivers on Hemlock Road at Tanbark Road".

Commission on Disability - Appointments

The Board was in receipt of a communication, dated August 23, 1996, from Irina Petsch, Chairperson, Commission on Disability, recommending the appointments of Henry Chandonait and Ruth Griesel to the Commission on Disability. Enclosures: Applications of Chandonait and Griesel; Town Bylaw excerpt delineating the membership qualifications for the Disability Commission and method of appointment.

It was on motion unanimously

VOTED: To appoint Henry Chandonait, 15 Stonebrook Road, and Ruth Griesel, 149 Morse Road, to the Commission on Disability, for three-year terms, to expire on April 30, 1999.

Cable Television Committee - Appointments

The Board was in receipt of applications, dated August 19, 1996, August 8, 1996, and June 19, 1996, from Hans Lopater, Harriet Rosenberg and Jon Perlman for appointment to the Cable Television Committee.

It was on motion unanimously

VOTED: To appoint Hans J. Lopater, 43 Winsor Road, Harriet Rosenberg, 655 Boston Post Road #3304, and Jon Perlman, 57 Robbins Road, to the Cable Television Committee.

Utility Pole Installation - Fairbank and Camperdown Lane, Run Brook III

Present: John Cutting, of Greenspire, Inc., and others.

The Board was in receipt of the following:

1. Communication, dated August 20, 1996, from John C. Cutting, Greenspire, Inc., requesting a waiver from Bylaw Article XX in order to place a utility pole on the southerly side of Fairbank Road at the easterly side of Camperdown Lane for providing underground electrical service to Run Brook III. Mr. Cutting contends that the nearest utility pole is #191/17 and is 75 feet away. He notes that allowing placement of the requested pole will preclude having to repair the newly surfaced Fairbank Road and will involve less expense. Enclosure: Sketch of existing utility poles and placement of requested pole.
2. Communication, undated, from Jan Silva, indicating that the Building Inspector and Town Engineer are opposed to granting the waiver. They note that the use of Pole 191/17 would not entail any street opening, since it could run along the edge of the pavement or by easement across Lot 17 A and then cross Camperdown Lane which has not yet been paved. They also noted that Pole 191/17 is actually at the corner of Fairbank and Camperdown Lane.

John Cutting stated that he did not wish to have to tear up the street. He said that he had measured the distance to the existing pole and it is some 75 feet.

Chairman Blacker noted that the Building Inspector and Town Engineer reports that the pole is at the corner of Fairbank and Camperdown Lane. He noted that they had suggested using an easement and indicated that such should be in the Town's right-of-way. Chairman Blacker said that it was the first time he had seen the Building Inspector and Town Engineer oppose a waiver.

Selectman Drobinski said that the Town is trying to have less rather than more poles. He suggested that the Mr. Cutting meet with the Town Manager, Town Engineer and Building Inspector and see what can be worked out.

Mr. Cutting responded that if a right-of-way can be established that was fine with him.

Ralph Tyler noted that the telephone company was supposed to be working to reduce the number of wire bundles and generally cleaning up existing poles in the Town. He said due to their commitment the matter had been either tabled or withdrawn at the last Town Meeting. He suggested that it might be appropriate to remind the telephone company of its commitment.

Selectman Drobinski concurred and stated that Fire Chief Michael C. Dunne had the list of the poles to be cleaned up.

It was on motion unanimously

VOTED: To table the request to waive Bylaw XX.3.E for the installation of one utility pole on the southerly side of Fairbank Road at the easterly corner of Camperdown Lane for providing underground electrical service to Run Brook III.

Strategic Planning Committee

The Board acknowledged applications from 41 residents seeking appointment to the 15 citizen-at-large slots on the Strategic Planning Committee.

Selectman Clark expressed that the Board should make its appointments so that a good cross section of the community is represented.

Chairman Blacker agreed and suggested that the Board meet later in the week to consider the appointments. He suggested that each selectman bring a list of 15 appointments and that they start from that point.

Thus, the Board agreed to meet at 8:00 a.m., on August 29, 1996, to make the appointments to the Strategic Planning Committee.

Report from Town Manager

Utility Relocation - Maynard Road

Town Manager Ledoux reported that the Town Engineer, I. William Place, requests emergency approval for the relocation of two utility poles on Maynard Road, that is, Poles #9/71 and #75, by moving each four foot back from the roadway.

On motion, it was unanimously

VOTED: To approve the emergency relocation of poles #9/71 and #75 on Maynard Road by moving each four feet back from the roadway, to allow work on the walkway to go forward, subject to receipt of formal petition from Boston Edison Co. & New England Telephone and Telegraph.

Town Clerk

Town Manager Ledoux reported that he had appointed Kathleen Middleton as the Town Clerk and Patricia Daley as Assistant Town Clerk.

Strategic Planning Committee - Incentive Aid Grant

Town Manager Ledoux reported that he had submitted a Municipal Incentive Aid grant application to the Executive Office of Communities and Development (EOCD) for the maximum amount of \$30,000 to be used to hire a facilitator for the Strategic Planning Committee. He noted that Sen. Hicks and Rep. Evans had written letters of support and that EOCD will be making the awards in late September.

Petition to Change Town Boundaries

Town Manager Ledoux reported that he had received a petition from Mark and Audry Feinberg and Peter and Cathy Netburn of 3 and 5 Joan Avenue, and Whitney Cahn of 1 Dawson Drive. They request that their entire lots be within the Town. The Sudbury - Framingham town line runs through a portion of each lot, with the majority of the parcels and the homes situated in Framingham. They state that while almost all taxes are paid to Framingham, services are provided by Sudbury.

Upon receipt of the request, Town Manager Ledoux requested an opinion from the Town Counsel who outlined the procedures to be followed. In short, they need to petition both Framingham and Sudbury and the proposed change must be submitted at Town Meetings of both Towns.

Town Manager Ledoux stated that after relaying the legal procedures to the interested parties, they have now petitioned the Town of Framingham as well.

Chairman Blacker commented that he did not think that Framingham would want to give up the properties because of the tax revenues involved.

Board of Assessors Vacancy

Town Manager Ledoux reported that there is a vacancy on the Board of Assessors as a result of the resignation of David Tucker. Town Manager Ledoux noted that he had advertised to fill the vacancy. He also noted that under Massachusetts Law, the remaining Assessors and Selectmen must meet jointly to fill the unexpired term. Town Manager Ledoux stated that a joint meeting will be required when the application process is complete.

Household Hazardous Waste Day

Town Manager Ledoux noted that Town will conduct a Household Hazardous Waste Day on Saturday, September 7, 1996 from 9:00 a.m. to 1:00 p.m. in the parking lot behind Town Hall.

Advisory Committee - Central Mass. Rail Trail Feasibility Study - Appointment

Town Manager Ledoux related that he had received a communication from the Central Transportation Planning Staff noting that it had begun the "Central Mass. Rail Trail" Feasibility Study and requesting a representative from Sudbury to serve on the advisory committee for this project. The first advisory committee hearing is scheduled for September 11, 1996.

It was on motion unanimously

VOTED: To appoint Dr. Daniel F. Buttner, 54 Old Garrison Road, to serve on the Advisory Committee to the Central Mass. Rail Trail Feasibility Study project.

MassHighway - Special Appropriation

Town Manager Ledoux reported that the Town is entitled to a special appropriation in the amount of \$80,770.00 from the Massachusetts Highway Department in accord with the provisions of 1996 Mass. Acts 204 (6037-9698) for construction and reconstruction of local roads. The grant is subject to the following conditions: (1) it will be available for expenditure upon execution of the Memorandum of Agreement; (2) the community shall incur expenses after the MassHighway District Director has approved the project request; and (3) all projects must be completed and expenses paid by June 30, 1997.

Town Manager Ledoux presented the Board with the Memorandum of Agreement to execute to make these funds available to the community.

EXECUTION: The Board executed the Memorandum of Agreement in order to entitle the Town to receive these grant funds for payment of documented expenditures under the provisions of Mass. General Laws Chapter 90, section 34 on approved projects.

MassHighway - Appropriation

Town Manager Ledoux reported that the Town is entitled to an appropriation in the amount of \$969,205 under the provisions of Section 34(2) (a) of Chapter 90 of the Massachusetts General Laws. The funds are to be released in two apportionments, the first is in the amount of \$484,602. The release of these funds is subject to the execution of the Memorandum of Agreement and other requirements and procedures outlined in the communication, dated August 15, 1996, from Kevin J. Sullivan, Commissioner of the Massachusetts Highway Department, a copy of which was presented to the Board.

Town Manager Ledoux noted that it will be necessary to present a warrant article at the Town Meeting. He also noted that these funds do not have to be expended but must be committed for expenditure by the end of the next fiscal year.

EXECUTION: The Board executed the Memorandum of Agreement in order to entitle the Town to receive its first apportionment of these Chapter 113 funds.

There being no further business to come before the Board, the meeting was adjourned at 9:55 p.m.

Attest: _____
Steven Ledoux
Town Manager-Clerk