

MINUTES OF THE PUBLIC HEARING CONTINUATION
SUDBURY BOARD OF APPEALS
DECEMBER 8, 2005

The Board consisted of:

Jeffrey P. Klofft, Acting Chairman
Jonathan G. Gossels, Acting Clerk
Elizabeth A. Taylor
Richard L. Burpee, Associate
Constantine Athanas, Associate

Also: Nancy G. Rubenstein, Alternate

For the Applicant:

Louis W. Mountzoures, Esq., Pari Holdings LLC, applicant
Robert Devin, Esq.
Michael Sullivan, Engineer
Michael Couto, Sudbury Design Group

The hearing was reconvened by the Acting Chairman, Mr. Klofft. The Board was in receipt of the following:

- Letter dated November 1, 2005 from Louis Mountzoures enclosing Definitive Site Development Plans dated October 19, 2005, drainage calculations, updated Waiver Request List as of November 1, 2005, copy of deed dated October 24, 2005
- Letter dated October 4, 2005 from the Design Review Board
- Letter dated November 8, 2005 from Louis Mountzoures enclosing stamped Landscape Plans prepared by Sudbury Design Group
- Letter dated November 10, 2005 from the Design Review Board
- Letter dated November 15, 2005 from Mary Ann Reynolds, 531 North Road
- Letter dated November 21, 2005 from the Town Engineer
- Memo dated November 23, 2005 from the Town Planner
- Letter dated November 23, 2005 from the Conservation Commission
- Memo dated November 28, 2005 from the Fire Chief

- Letter to Town Planner (undated) from Robert Schless, 43 Mary Catherine Lane
- Letter dated November 30, 2005 from the Planning Board
- Letter dated December 2, 2005 from the Town Engineer
- Email dated December 5, 2005 from the Town Planner
- Email dated December 5, 2005 from the Building Inspector
- Email dated December 5, 2005 from the Sudbury Water District Superintendent
- Email dated December 8, 2005 from the Police Department

Mr. Mountzoures reported that since the last hearing the definitive plans and landscape architectural plans have been submitted. The architectural plan is the plan he envisions building, if approved. It contains the actual footprints of the buildings, actual trees, shrubs, setbacks – everything that will be seen as part of the definitive plan.

During the past few weeks, Mr. Mountzoures said he has received reports from various Boards and Committees. He, along with Mr. Sullivan, has attempted to meet with everyone possible and feels they have resolved every issue except for two or three which can be discussed this evening.

Mr. Mountzoures met with the Conservation Commission and has filed a Notice of Intent and a public hearing has been scheduled. He said he has gone through the issues with the Commission and expects he will not require any waivers from the ZBA with regard to Conservation.

In response to a question from Mr. Klofft as to the original wetland line, Mr. Mountzoures said the road is 8 feet shorter than it was at the last hearing. At the 210 line, there will be no impact whatsoever to the yards, the landscaping or construction past that yard.

He said the road is completely outside of the 100-foot buffer short of an overflow pipe, and the actual construction is outside of the back parts of the last two units. He said he pulled the units forward without changing any of the other setbacks.

Mr. Klofft said the Building Inspector raised issues in his memos where he said the plans must be signed by a registered architect, there needs to be requirement for a bond, and receipt by him of final construction plans.

Mr. Mountzoures said the plans have been signed, he has agreed to a bond, and final construction plans would be approved by the Building Inspector as part of the building application.

At Mr. Klofft's request, Mr. Sullivan presented the Sudbury Design Group plan which breaks up the parcel into nine separate parcels, 8 for the building units and one for open space. The open space parcel to the rear will be turned over to the town in some form so that the town will own the property which comprises 147,000 s.f. The house lots themselves range from 5,000 s.f. to about 8,800 s.f. He pointed out the front yard setbacks of the front two units which were at 37 and 30 feet. The pavement extends 10 feet beyond. He also pointed out the setbacks of the other units.

The road is 190 feet from the beginning to the end of the cul de sac. A 40-foot right of way is proposed and within that would be 22 feet of pavement. Under this scenario, everything is owned by the association – whatever needs to be done can be done within the right of way.

Mr. Klofft asked how the land actually would be structured; specifically, as to whether there will be separate deeds owned by the owners.

Mr. Mountzoures said the land will be sold with the units. The road will be maintained by the eight unit owners and the last piece, after conversations with the Conservation Coordinator, will be deeded to the town.

Mr. Klofft asked how maintenance would be controlled.

Mr. Mountzoures said there would be an association, essentially the same as a condominium association, with the same rights and protections where a lien could be placed on the property if someone is not paying their portion. The maintenance will cover the common septic system, drainage, road repairs if needed, trash and any electricity.

Ms. Taylor asked how the affordable units will be determined so that there is equity between the market rate units and the affordables given that there are separate parcels.

Mr. Mountzoures said at this point he has simply labeled the two front lots as affordable. He said they all are the same house; however, someone might say being on North Road, makes them less appealing, but they are the bigger lots as well.

Mr. Sullivan said the cul de sac at the end will have a 45 degree radius which is adequate for fire apparatus. Within that will be a landscaped island. In terms of the profile, the red line shown on the plan is the proposed grade, the yellow line is the existing grade. This shows that there is a constant decline from Route 117 to the back of the cul de sac at about 2%, which is very gradual. As far as cuts and fill, there will be about a one foot cut at about Station 50.

Everything else will be pretty much at grade. From a construction standpoint, the impacts would be essentially nothing. It's just taking out the subsoil, bringing in gravel and rolling the pavement.

With regard to drainage, there will be a catch basin at the end of the cul de sac which will collect the water. It will be equipped with a deep sump so that the silt and sediments will not go into the infiltration basin. It will be inspected annually. In addition there will be a trap within the catch basin so that on the first flush, if there are any oils that might be in the road, they will be contained within the catch basin. There is also an operation maintenance guide that will be given to the association and they will have to follow that guide in maintaining the septic system as well. This should provide essentially clean water going into the infiltration basin so that contamination will not be a problem.

The infiltration basin itself will consist of 88 cul-tec recharge units which are heavy duty plastic units. They're designed to go underneath roads and parking lots and are used all the time for subsurface drainage. These are designed to last as long as concrete, if not longer.

Mr. Klofft asked whether at some time the infiltration system would need to be replaced.

Mr. Sullivan said hopefully not. He said it will be in better condition than the town system because towns rarely send someone out to clean out the catch basins. The only thing that can cause failure is if the deep sump fills up with sand and sediment and starts to flow out into the infiltration basin. If there is an annual inspection, and it is maintained, it should last forever. There is no reason why it should fail. It's not like a septic system where there are solids which would clog it up.

Mr. Sullivan said he has evaluated the 2, 5, 10, 25, 50 and 100-year storm events. With the exception of the 100-year storm event there should be no overflow at all. Everything will be totally infiltrated, which from a DEP standpoint is preferred.

Mr. Sullivan added that the Town Engineer has reviewed the drainage calculations and has sent a letter saying it's fine.

Mr. Sullivan pointed out the sewer main system into which all the units will be tied. From that main it will be gravity fed to the tank with gravity flow to a pump station. There is a 3,000 gallon pump station designed with enough capacity to handle a power failure. If there is an extended outage, a pumper will be called which will gain them another 4-5 days without backing up into the houses.

Mr. Sullivan pointed out the primary and secondary areas which is based on 18 bedrooms, 6 units with 2 bedrooms and 2 units with 3 bedrooms.

Mr. Gossels asked whether the second area is a reserve area or would both be built out initially.

Mr. Sullivan replied “both”. He said Title 5 requires a reserve area for an expansion area – not constructed but reserved so that in 50 or 60 years when the system fails, there is another area which can be used. Since it is underneath the road, Mr. Mountzoures has agreed to install that expansion area now. It will be pumped to the primary system first. The reserve area will be connected into the pump station and capped there. In 50 or 60 years, if it fails, all that needs to be done is to go in there, uncap the reserve area, cap the primary area and put the pipes into the new pipe.

The septic system has been fully designed and submitted to the Board of Health Director for approval. Mr. Sullivan said he will check with him and ask him to send a letter to the Board.

The water line consists of an 8-inch water line, which is what the town requires. Mr. Sullivan pointed out the loop, which is also required, and the hydrants. There are two hydrants very close to the units. There is no unit greater than 500 feet from a hydrant.

Mr. Klofft asked whether there was any earth will be removed.

Mr. Sullivan said other than the actual foundations and the excavation for the import of the sands for the septic system there is no removal. He calculated 3,400 cy maximum from those 9 sources which comes to 80 trucks over the life of the project – 30 yard trucks – no more than 10 at any one day.

Mr. Klofft said he would look into whether a waiver from the Earth Removal Bylaw was needed.

Mr. Mountzoures said he included this in his waiver requests.

With regard to a question of the street opening permit, Mr. Mountzoures said it was his understanding from one of Ms. Kablack’s memos that this permit is to address issues such a sidewalks and other mitigation.

Mr. Klofft asked whether it was needed to tie into the water mains.

Mr. Mountzoures said it is separate and he will be complying with it under the Sudbury Water District requirements.

Mr. Klofft asked about the sidewalks.

Mr. Mountzoures said he has agreed to construct the sidewalk as requested to Mary Catherine Lane and the sidewalk as requested all the way down to Mossman Road from Longfellow Road.

A brief discussion followed on the requested waiver of the right of way from 50 feet to 40 feet and on the actual paved area from 24 to 22 feet. There was consensus among the Board to grant the waiver as it would result in more green area.

Mr. Klofft said the Town Engineer was concerned that there may be plantings over the manhole covers.

Mr. Sullivan said there probably will be 4 manhole covers that will be brought to grade. There will be no plantings over them. There may be bark mulch or something like that just to cover them up but certainly nothing that would prohibit opening them up.

Mr. Klofft said there also was a comment about making sure the association documents clearly state responsibility for the catch basins.

Mr. Mountzoures said the documents would encompass this. They will be fairly detailed and cover the catch basins and septic which are the two main components and then the actual maintenance.

Mr. Klofft asked whether revised homeowner association documents will be submitted.

Mr. Mountzoures said typically this would be a condition of approval and we wait until we know what we have.

Mr. Klofft asked what the lighting will be like at the rear of Units 4 and 5 as there was concern about lighting being directed back there.

Mr. Couto said lighting for the entire project consists of post lanterns at each driveway front walk intersection which is controlled by that unit. The construction of the houses is such that they can use recessed down lighting on the rear porch as well as the front porch so there should be no lights shining out from those units.

Mr. Klofft asked about the landscape design.

Mr. Couto said the objective was to keep the scale of the project and the landscaping consistent with the buildings and to make the development consistent with other properties that you would see up and down Route 117. In addition to the issues of screening and streetscape, the specifics of each individual lot were looked at as part of the landscape plan.

The most important issue was to address the screening of this property from the adjacent neighbors. Along the east side of the property there is a very substantial growth of arborvitae that have been there as part of the old evergreen nurseries that used to be on that parcel. They provide a very effective screening to the neighbors to the east. To the northeast, it changes and goes from arborvitae to white pine. Underplantings will be added to that area. The rear of the property will be left essentially untouched. Along the Mary Catherine Lane side is a fairly thick woodland until it gets back to the Stewart property. After meetings with the Stewarts, an evaluation was made of some of the material that exists on the site, and it was Mr. Couto's suggestion to take some of the existing, more mature material and to use that material to give the Stewarts a substantial buffer immediately as opposed to planting relatively small material. Although costly, moving large transplanted material will be very effective.

Along North Road, a substantial evergreen screen is proposed with a very small 2-board rail fence 30 inches high to identify and give the front houses just a little separation from the road without blocking it off with a large screen. The fence at 30 inches will not impede any of the sight lines as you exit out of the development.

As Mr. Mountzoures mentioned, Mr. Couto said there will be a sidewalk that connects from the development to Mary Catherine Lane, and some sugar maples and other plantings again that one would see up and down Route 117 have also been added. There was some discussion about pruning some existing vegetation on the east and west corners of the lot to improve some of the sight lines, and that is something that will be dealt with.

Mr. Couto reiterated that the proposed lighting is very simple sort of hand-made copper lanterns on turned wood posts, very compatible with what is seen in town. That is the only exterior lighting where the source of the light can be seen. All the other fixtures are recessed down lighting.

Mr. Couto then displayed a "bird's eye elevation and perspective of the development projected 7-9 years out.

Mr. Klofft said the DRB commented that some of the species that were selected weren't as animal resistant.

Mr. Couto said he is not opposed to changing some varieties. He noted, for example, that the DRB mentioned arborvitae. He said that hedge has been there for as long as he could remember. It's really site specific. He did not feel a blanket statement could be made by saying that every azalea and holly is subject to deer damage. However, he said he would be sensitive to this felt Mr. Mountzoures would have no problem if some adjustments had to be made to the planting plan.

Mr. Mountzoures added that the Conservation Commission also requested some plants be taken out and he has agreed to do that.

Mr. Klofft asked the Board for comments on the fence. He did not want to create a sense of a separated community but more of just another road in town.

Ms. Taylor did not feel the purpose of the fence was to define those lots.

Mr. Athanas felt it would just look like a single house because it's so small.

Mr. Burpee's only concern would be if those two homeowners decided after they moved in that they wanted to put in some big privacy fence.

Mr. Mountzoures would agree to put a restriction in the homeowners' association documents.

There was general agreement to leave the fence in.

Ms. Rubenstein said there are bluestone terraces behind some of the houses. She said there are back porches and it's such a small yard and terraces take away some of the grass.

Mr. Couto said originally there were wood decks projecting out, but with the grading for each lot, the decks will be actually sitting at grade. Wood decks at grade from a maintenance standpoint are not desirable. Except for two of the units, decks work better because of the slope, and they're just small, 10X12 feet. He pointed out those units. The other units will have terraces which vary a little bit and are rather innocuous because they're at grade level.

Mark Callendrella asked what would happen if a homeowner wanted to put in a 2-story garage after the project is completed.

Mr. Klofft said they would have to come to this Board, the same as any other homeowner.

Mr. Stewart if this would also apply to the decks.

Mr. Mountzoures said he has agreed, when this is complete, to take every lot and do site specific setbacks according to the approved plan so that nothing can change without the homeowner coming to the ZBA.

Mr. Klofft asked how this would apply to terraces which are not structures.

Mr. Mountzoures said the Conservation Commission will control that; the Order of Conditions is going to control the buffer. And Lot 3 will have an easement to preclude this.

Mr. Stewart asked how the town would access the land which is going to be deeded over.

Mr. Klofft said if this was a meadow that needed mowing, he'd be concerned. However, he felt this is a wetland area that the Conservation Commission would prefer not be touched.

Andrew Reynolds wanted to put on record that per his agreement with the developer, a cedar fence has been installed and a bill has been submitted to the developer. This was done to prevent headlights from the development to shine onto his property.

Mr. Klofft asked the applicant for his position on sprinklers.

Mr. Mountzoures said the expense can be significant and is not something that can be recouped in the sale price. He said he did discuss potentially offering it in the two affordables and offering it as an option otherwise; however, he didn't know if anybody would choose to install them.

Mr. Sullivan said with subdivisions, as long as there is a hydrant within 500 feet, under the bylaw it is satisfied.

Mr. Klofft offered his opinion that as a homeowner that has one, they are very expensive to maintain and it is virtually impossible to find someone who is qualified to come in and maintain it.

Mr. Mountzoures said he would rather go to a 24 foot road, if it came down to it, than do sprinklers.

While understanding the Fire Chief's point, it was the general feeling that sprinklers should be development dependent – for example on larger projects.

Mr. Klofft asked whether there was a final tabulation on buildings and sizes.

Mr. Mountzoures said there was and Ms. Kablack had requested it be moved to the front page of the plans.

With regard to curb cut approval, Mr. Mountzoures said according to his Traffic Engineer, a permit is not needed from the State.

With regard to a 21e report, Mr. Mountzoures said he had previously agreed to a Phase I and if there were any issues to take it from there. He will do one as part of due diligence when going for financing.

Mr. Klofft asked if the sight line issues on North Road have been resolved.

Mr. Mountzoures said the traffic report prepared by Green-Pederson indicates that sight lines are adequate in both directions except for an area in the town right-of-way which he pointed out. Mitigation wouldn't require any abutter help, just the town for approval. He said he agreed to have Town Engineer certify the work as having been done prior to an occupancy permit. He added that the traffic report was done at the increased speeds, not at the posted speeds.

Mr. Gossels felt the homeowners association document should require periodic checks of the sight lines and pruning of those additional trees because over time they will grow and encroach into the sight lines.

Mr. Mountzoures said he was agreeable to this.

Discussion followed on what would happen should one or more homeowners decide to violate the terms of the association documents with regard to fencing, cleanup of the drainage basin, etc.

Attorney Devin said it could be written into the association documents to allow enforcement by the town should it be necessary.

In response to a question regarding associated costs, Mr. Devin said typically, if a homeowner does not contribute, the homeowner's association has the right to put a lien on the house. If the town steps in, it then has the right to put a lien on the home.

Considerable discussion followed on how to proceed. There was agreement that final development plans would be submitted by Mr. Mountzoures, the question being whether the hearing should be closed this evening or held open for comments on those final plans.

The general feeling of the board was that this has been a "healthy" process between all parties, including the abutters, which they wanted to continue. A suggestion was made to close this hearing for purposes of accepting public testimony, to agree to a window of time for the developer to submit final plans, and allow a period of time for the public to comment, after which the hearing would be finally closed with discussion in a public meeting begun on the conditions of the decision.

The time frame was discussed. Mr. Mountzoures agreed to submit his plans to the Board and to every direct abutter by January 3, 2006. The Board agreed to give the abutters until January 24th to respond.

It was then unanimously voted to close the public hearing except for the limited purpose of receiving the developer's submission and the abutter's response in writing within the time frames discussed.

The next "limited" continuance was scheduled for January 24, 2006.

Jeffrey P. Klofft, Acting Chairman

Jonathan G. Gossels, Acting Clerk

Elizabeth A. Taylor

Richard L. Burpee, Associate

Constantine Athanas, Associate

Nancy G. Rubenstein, Alternate

