

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
THURSDAY, JUNE 23, 2005

The Board consisted of:

Stephen M. Richmond, Acting Chairman
Jonathan G. Gossels, Acting Clerk
Elizabeth A. Taylor
Jeffrey P. Klofft
Constantine Athanas, Associate

Also: Stephen A. Garanin, Alternate
Nancy G. Rubenstein, Alternate
Jody A. Kablack, Town Planner

For the Applicant:

Attorney Joshua M. Fox
Ben Stevens, Old County Road, Trask, Inc., applicant
Bruce Saluk, Project Engineer

Notice was published in the Sudbury Town Crier on June 9 and 16, 2005, posted, mailed and read at this hearing.

Mr. Richmond, Acting Chairman, noted that this Board is governed by M.G.L., Chapter 40B, Sections 20-23, the Sudbury Comprehensive Permit Rules, and State Regulations 760 CMR 31. The format will begin with a presentation by the applicant, followed by comments and questions from the Board, after which input will be taken from Town Boards/Officials and then from the public. Hearings will adjourn not later than 10:30PM and be continued to a date certain as necessary.

If a hearing is continued and any party wishes to submit additional information to the Board, 20 copies of the submittal are required at least 7 days prior to the continuance in order that they can be distributed to the appropriate Boards and members of this Board. Any information not received within that time frame may not be able to be considered at the continuance.

The Board was in receipt of the following:

- Application for Comprehensive Permit dated May 13, 2005 including supporting documentation and plans

Letter dated June 9, 2005 from the Design Review Board

- Letter dated June 13, 2005 from the Selectmen
- Letter dated June 15, 2005 from the Town Engineer
- Memo dated June 16, 2005 from the Town Planner
- Memo dated June 22, 2005 from the Conservation Commission

Mr. Fox said he would begin by providing an overview of the project and then address some of the concerns that have been brought up by some of the other Boards and departments in town.

This is a 40B project with a requirement for 25% affordable housing. The project is located on Old County Road which is off Route 20 and is sited behind Papa Gino's across the street on the north side of Old County Road. The site is comprised of approximately 6 acres and the proposal is for 40 town-house style condominium units. The density is 6 ¼ units per acre.

There will be a mix of different style units - 22 2-bedroom units, 6 of which would be affordable, 14 3-bedroom units, 3 of which will be affordable, and the remaining 5 units are proposed to be age restricted to 55 and over and would all be 2-bedrooms, with one affordable. The units will be clustered throughout the parcel ranging from 2, 3, 4, and 5-unit buildings spread throughout the property. The level of finish of the affordable units will be consistent with the level of finish of the market rate units.

Mr. Fox noted the development team met last evening with the Planning Board here and reviewed some of the items outlined in Jody Kablack's letter which she submitted to the ZBA, dated June 16, 2005. He said the Planning Board liked the site for a 40B project and felt the 40-unit density fit well on the site. They did reiterate some of the concerns raised by other Boards with respect to massing and architectural features and requested additional information, plans, updates, documents and data, all of which will be reviewed by the applicant and submitted to the ZBA in the future.

Concerns were also raised with regard to certain sidewalk improvements and drainage. Mr. Fox said Mr. Stevens will meet with Town Engineer Place to determine those needs and what could be done from a practical and economic standpoint with respect to drainage problems along Old County Road, not necessarily on this site.

Mr. Fox said an architect has been hired and the renderings were received yesterday. They are available if the Board wishes to review them this evening. The architect will be working with the Design Review Board (DRB) through the ZBA to address some of their concerns as well. He asked whether the designs should be submitted to the ZBA first or to the DRB. Mr. Richmond said the Board would discuss this later.

Mr. Fox said the Selectmen expressed concern with regard to the landscape and buffer between this project and the neighboring residences. The project is sited in Residential Zone C in the rear portion and Residential A in the front. The properties of the abutters to the north, east and west are also zoned residential. Mr. Stevens has met with the two residential abutters to the north and to the west and has talked about screening with positive discussion to date. This discussion will be continued.

The property across the street is zoned Industrial. The Wayland town line was pointed out which also includes industrial uses. There is also a preliminary landscape plan which will continue to be updated as the plans become more defined.

From the plan, Mr. Fox pointed out the wetlands which is comprised of approximately $\frac{1}{4}$ of an acre. He said that area will not be modified at all as a result of this project. He also pointed out the 100-foot buffer zone noting that portions of two units are within that buffer area. He added that the buffer zone is completely disturbed as of today. There has been farming and agricultural use on this area which is more meadow than anything else at this point. He said the Conservation Commission's letter to the Board seems to focus on flood plain with filling the flood plain and the detention basin as their main concerns. A Notice of Intent under the State Wetlands Act will be filed with the Conservation Commission, hopefully for their next meeting.

With regard to setbacks, Mr. Fox said for the most part with respect to the side and rear setbacks, they would encroach by approximately 4-6 feet. With respect to the front, several of the buildings are located 18 feet from the lot line. This does not include a land taking which, if the buildings were constructed today, they would be approximately 35 feet from where the road layout is today.

From the zoning map, Mr. Stevens provided an orientation of the site and surrounding area which includes the businesses along Route 20, the U.S. Fish & Wildlife property and the three private residences which abut the property. The proposed septic system is a 10,000 gallon design and there have been about a dozen perc tests witnessed by the Board of Health Director. The system has been calculated so it fits and functions under Title 5. Several waivers are being requested which deal more with pumps and expansion trenches which is a separate Board of Health regulation. He pointed out the area for the system.

The development will have two entrances and approximately 1,500 feet of total roadway. The road will be 22-foot wide with asphalt curbs. Sight distance is adequate. There won't be any major grade changes at the street but they will need to identify what needs to be removed and what can be maintained. The tree line follows the wetland line and there will be some clearing in that area. There won't be any major grade changes at the street, but they will need to identify what needs to be removed and what can be maintained.

Mr. Stevens pointed out the two structures which are 18 feet from the property line noting there is probably an additional 20 feet of road overlay. There are no driveways or grasses proposed in that area. It is anticipated that that the majority of that overlay will be landscape buffer; whatever can be put in short of sight distance issues.

The units will be constructed in groups of 4 for the most part – there are some 3s and one 5. However, they will try to modify this to eliminate a 5-unit building. Sprinkler systems will be installed in every unit.

Mr. Stevens described the siting of the units which are all basically at grade - driveways at grade, rear yards at grade with 2-3 steps out of the back of the house. There will be 4 walkout basement units in the area where the ground falls off into the wetland area.

Mr. Stevens said he has worked with his architect to address some of the concerns of the DRB. He said that Board has concerns with regard to the number of garages and garages that are front loaded. The architect is working on some side load options and is trying to have every building with one side load option. With regard to the DRBs preference for one garage door vs. one, he said quite a few 3-bedroom units are proposed in response to the Selectmen's desire to create units for families. He didn't think it wise to have a 3-bedroom unit without 2-car garages.

The Planning Board had concerns about parking spaces. Mr. Stevens said there is adequate area, but until they have a final function of how many garage doors there are going to be and the number of units, they can't locate them on the plan.

Mr. Stevens described the subsurface storm water management system which he said will meet all state requirements. It is a contained system, basically a cul-tec underground system. He pointed out a proposed 6-8 foot concrete retaining wall along the back edge that is required because of the elevation which is down to the flood plain.

Mr. Stevens said there was some concern regarding offsets to property lines. He pointed out the most critical property line on the whole parcel which is owned by Leslie Leon. He said he is about 4 feet away from the 30 foot requirement. There is a major height change between Ms. Leon's property and this property, so the landscape architect designed a cross sectional rendition. From this rendition, Mr. Stevens pointed out Ms. Leon's house and the first unit, which shows a proposed landscape buffer of 18-20 foot white pine with an understory of rhododendrons and evergreens. This was preliminarily presented this to the Conservation Commission as well because it went into some of the buffer zone. They wanted to have some direction before going in with a Notice of Intent. He said the plan was also shown to Ms. Leon and there will be ongoing discussion on the screening as the plans develop further.

Mr. Stevens pointed out the Murphy's house which is about 30-40 feet higher than their septic system. Their house was built up on a knoll and there is an abandoned field which has

grown back with bittersweet and scrub. He spoke with them about restoring that field as he felt the Conservation Commission would like to see it maintained as an upland meadow or as even an un-maintained, un-irrigated backyard type lawn. With the Murphy's permission, this area plus the area on the property could become one large consistent revegetated meadow with the association taking care of the biennial mowing on it.

Mr. Stevens he has explored the street screening with the landscape architect. He said the Conservation Commission implied that they would be heavily involved in all landscape design on the project. He will be presenting a construction Notice of Intent for storm water management on the back units, but a first pass at a landscape architect plan will be taken to the Commission independent of the construction plan.

A meeting has been scheduled with Town Engineer Place next week to discuss some of the off-site issues with the drainage and to talk about the sidewalk because the wetland carries right along Old County Road on the north side. A Botanist will be flagging the north side from this property back to the industrial building to get a handle on how close that wetland really is because there is a slope on that side which may affect the way the sidewalk is constructed. Without knowing the wetland line makes it difficult to know the extent of what will be needed. If a Notice of Intent is required, it will probably be filed separately.

Mr. Richmond then read of the list of documentation received as part of the record to date which is listed at the beginning of these minutes.

Prior to questions from the Board, Mr. Richmond wanted to discuss whether the Board preferred to have the applicant work through the Design Review Board to obtain one or several schematics which would then be reviewed with comments from the Design Review Board. He also commented on the fact that the applicants had met with the Planning Board separately and received comments about density of the project. He noted that the Planning Board doesn't have direct jurisdiction, therefore density comments would not be relevant because their comments would come through the ZBA.

Mr. Fox said he understood the jurisdictional issue; that those comments were made at a public hearing last evening.

With regard to design review, Mr. Gossels said he had a general discussion with Frank Riepe, DRB, which did not involve this project. The general feeling was that the DRB not work independently with the applicant because then potentially the town could be speaking with two voices. The DRB should act as a resource for the ZBA.

Mr. Riepe said he was in agreement.

Mr. Richmond said the ability to use the DRB as a resource would be extremely helpful. He asked Mr. Fox to direct their proposals and comments through the ZBA who will forward them to the DRB.

Mr. Gossels asked how the applicant arrived at the number of unit proposed. It seemed to him that there is too much on this site.

Mr. Stevens said he begins every project using the state guidelines which is 8 units per acre. He then looked at the clustering of the units. When they begin to lay them out there was a 10,000 gallon limitation on septic which he worked out to 2 and 3 bedroom units being proposed. With this number of units, the calculation for septic comes to 9,790 gallons.

Mr. Stevens added that they could construct more units by dropping the 3 bedrooms. They used the Carriage Lane development as a guide which had a significant buffer impact, but it was on a busy street and didn't have a wetland impact. There were also quite a few abutters to that project. He said his primary abutter is the wetland.

Economically, Mr. Stevens said he felt 40 larger units worked out well. He said anything less than 40, say 36, will not change, it's not like you can change the general feel of the project. It's not going to significantly alter the way the units lay out in the project. He felt 40 was comfortable and will work.

Mr. Richmond said he was surprised at the amount of construction disturbance in the wetlands buffer asking about conversations Mr. Stevens may have had with the Conservation Commission about that facet of this project.

Mr. Stevens said the Conservation Commission is very keen about what is done in the buffer zone. However, he said this is a state project so he feels that the rules are slightly different than those from the local Commission. He knows the Commission's interpretation of buffer zones. His interpretation is that this is not a highly productive buffer zone because of the disturbance which has already occurred - it wasn't as if one were looking at a functioning buffer zone in its current state. Mr. Stevens felt the Commission agreed that this open field wasn't necessarily a productive buffer as it stands.

Mr. Richmond was not sure that would be the Commission's only consideration since the density of the entire project hinges on the ability to build in that buffer zone. He said it will be interesting to hear what happens through the implementation of State Wetlands Act because that could dramatically change the way the project is developed.

Mr. Klofft asked for comments on the 55+ units. He said in general the experience is that either the entire development is 55+ because it will appeal to empty nesters or persons looking for an environment that is essentially child free.

Mr. Stevens said when he was doing the site eligibility letter, he read the Housing Committee's draft proposal on the need for apartments in the town. He also had conversations with the Selectmen and they had concerns about the need for elderly housing units. Personally, Mr. Stevens said that is not generally wise marketing; however, he said there are 55+ who do not want to be in a sterile, non-kids community.

Mr. Klofft asked how the septic calculations would be impacted if those units were deed restricted.

Mr. Stevens said he would have to trade some of the 3-bedroom units to 2-bedroom units because every deed restricted unit would increase by 60 gallons. He would end up with 11 3-bedrooms and 29 2-bedroom units, but five of them would be marketed at 55+.

Mr. Klofft said one of the design principles was to have more of a sense of an open community feel to the project and this development is clustered in a very tight zone with the open space off to one side. While realizing that the septic system located there, he felt if it was more centrally located it would create a design with a different feel to it.

Mr. Saluk said the only logical location for the septic system is in the proposed location because of the soils. In addition, because the land drains to that area, it is the most logical location for a detention facility.

Responding to Mr. Athanas' question regarding the drainage issues with regard to Old County Road, Mr. Stevens said there are two swamps going out the back way from Papa Ginos. He thought there were culverts under the road; however, he looked for outflows on the north side and couldn't find them. He felt the culverts were put in there with no mechanism to get the drainage out. He said Town Engineer said he had specific thoughts on how to solve the problem.

Mr. Athanas referred to possible other development in Wayland, specifically the former Raytheon site. He asked whether the applicants had looked at this when compiling the traffic report.

Mr. Stevens did not believe this was taken into account. He said he will ask the consultant to research it.

Ms. Rubenstein said in the application she saw something about a suggestion to develop the entrance from this street onto Route 20. However, there are driveways from Papa Ginos and the dance studio onto the street. Assuming they are maintained, she could see a lot of residents of this community wanting to cut through an already busy parking lot.

Mr. Stevens said Town Engineer also had some ideas on this similar to the proposed combined driveway for Bosse Sports and Buddy Dog.

Mr. Garanin noted that there were a lot of vehicles stored on the property. He asked whether a 21E study has been done for hazardous waste.

Mr. Stevens said this has not yet been done, it will be a requirement of the financing.

Mr. Richmond asked for a description of the waiver requests with regard to the Board of Health.

Mr. Saluk said Sudbury's bylaws prohibit pump systems unless granted a waiver by the Board of Health. He said the State requires a pump system for any system over 2,000 gallons.

Discussion followed on the type of pump chamber to be installed, alarm system in the event of a power failure, storage capacity, inspections, etc. In the event of a power failure, the condominium association is responsible for notifying the management company. There is also a contingency plan with a list of numbers to call.

Another waiver would be to allow the reserve trenches to be placed in between the primary trenches. Sudbury requires separate locations for the reserve area. The State does not.

Mr. Klofft asked whether putting the reserve trench defeated the purpose of the reserve trenches.

Mr. Saluk said 90% of repairs on systems are always done in the primary. If a system fails and there is a reserve somewhere else, you always dig out the primary, the reason being that the primary is always put in the best location. The reserve area is not going to be as good.

Mr. Richmond asked whether there were other waiver requests.

Mr. Saluk said he has a list of waivers but has not submitted the documents to the ZBA. What has been submitted is a list of the exceptions to the local bylaw. They have not yet applied to the Board of Health for waivers.

Further discussion followed on the frontage area. From the plan, Mr. Stevens pointed out the 2 buildings which are 18 feet from the property line. Old County Road is 27 feet wide. However, the distance from the edge of pavement to the property line ranges from 22 feet to 37 feet.

Mr. Richmond asked how the sight distance would affect the proposed vegetated buffer from the front of the property line.

From the plan, Mr. Saluk pointed out what the sight line would look like.

Mr. Gossels said one of his concerns with the site is safety: access to the property is immediately after a steep hill and sharp curve. He noted that cars generally travel fast on that stretch of road. He felt the second driveway was located in probably the worst spot; that it would be much safer if the project was designed with a single driveway.

Mr. Saluk said the sight distance is approximately 280 feet which is sufficient for road speed. With regard to a question from Mr. Klofft on snow banks, Mr. Saluk said the pitch of the road is at about a 3:1 slope, so there would not be much of a snow bank. He said he would provide the Board with a sight line plan to demonstrate how it would work.

Mr. Richmond asked for a response on the issue of walkways, particularly with children moving into the area and given the shape of the roadway coming through the curve and the hill. He said the Selectmen, in the letter to the Board, were seeking a commitment to build a sidewalk from the project to Route 20.

Mr. Stevens said this is also something he will be discussing with Town Engineer. He said it would be quite a distance – 2,000 feet or more and could not provide more specifics until he got a handle on the grade issue, including costs, among other things.

Mr. Richmond noted in the application the option is granted to Trask, Inc.; however the eligibility letter is addressed to Old County Road LLC.

Mr. Fox said he could provide an assignment from Trask to Old County Road, LLC and also draft a designated nominee to cover the Purchase & Sale document.

With the number of high density projects being proposed in town, Mr. Garanin asked whether anyone has checked with the Water District to determine whether there is enough capacity in town to support these projects.

Mr. Stevens said the development will use 10,000 gallons/day. He has not discussed capacity with the Water District . He said design standards would be based upon septic production, which is 10,000 gallons.

Mr. Saluk added that 10,000 is a conservative number. When designing a system for water usage, the State requires that number to be doubled. He said he will check with the Water District on capacity.

Frank Riepe, Chairman, Design Review Board (DRB) said his Board had submitted comments and he wanted to reiterate his concern regarding the number of garage doors and the great expanse of the driveway apron that is proposed for this development. He felt the plan

clearly illustrates that the front yards of all of these houses are largely to accommodate automobiles. It doesn't seem to have much planning for people. He felt that the ratio of garage doors at ground level to the total expanse of building frontage is a real issue. He said if we could actually walk through this development right now we would just see a lot of garage doors and the entrances to the houses, the porches and the windows of the first floor seem to be rather of minimal consequence compared to the garages. Mr. Riepe would strongly advocate limiting each unit to a one-car garage, space the pavement and be very mindful of what the experience is traveling down the roadway and approaching each residence. He stepped up to the plan to further illustrate his concerns with what he saw as a lack of community. He added that maybe there is nothing wrong with the absolute number of 40 units as long as a real community can be developed.

Mr. Gossels asked Mr. Riepe for his opinion on a single entrance. Mr. Riepe responded by saying that with 40 units it may be prudent to have two entrances. However, another way of looking at it is to have a common entrance which could turn into a big circle and then out again. But again, he said a big circle shouldn't just be all about houses. There needs to be common land somewhere.

Mr. Richmond said the sketches that provided in the application support Mr. Riepe's concerns. There is a long line of garage doors and pavement.

Mr. Stevens said he is attempting to contain the designs around Mr. Riepe's suggestions from the garage door aspect. He said it will take some creative work and he will also need to talk further with Mr. Saluk regarding the open space.

Mr. Gossels said 40 units may be okay but there is too much on the site and one of the more creative solutions might be reducing some of the units. The field is going to be a natural asset to the site – a natural feature. If the units there were not dense, or smaller, with the common area in back and the field off to the right, the whole project would have a very different feel to it.

Ms. Taylor said if this is to be marketed to families, thought needs to be given to the children using the land. They want to ride bikes, they want to play on a big grassy area. She also felt that no sidewalks within the development is another issue.

Mr. Richmond asked what the effect on market value would be going from a 2-car garage to a one-car garage.

Mr. Stevens did not know; however, he did not feel it would be prudent to build a 3-bedroom unit with a single car garage.

Mr. Saluk said the advantage to having 2-car garages over one-car is that it pretty much takes care of all the car needs since it essentially creates parking for 4 cars per unit.

Mr. Richmond said the problem is that it ends up being a project for cars, not for people. He said the applicant is hearing is that the Board would like to see more creative rethinking of the design.

Leslie M. Leon – 101 River Road pointed out her property which abuts this site on 3 sides. She said she is very concerned about the setbacks all the way around her property. She also had several other concerns. One is the sidewalks. She said all the children get on the school bus at Goodman's Hill Road, including her son.

As to people cutting through the driveway of Papa Ginos, Ms. Leon said they already do it from habit. The reason that it's already the prevalent traffic pattern is that Old County Road has a very sharp angle, and it's not only a sharp angle, but when you're making a left hand turn there, Route 20 is coming down a hill and the visibility is very low.

With regard to the detention basin, Ms. Leon wanted to be sure there is no runoff onto her property from oil off the pavement. She said her property is all wetland in that area. Additionally, National Wildlife has a pond in there as well.

Ms. Leon wanted to be sure it was on the record that she was not giving permission for anything to come across the boundaries of her land. This was in reference to the paved area at the road which she pointed out on the plan.

The Board clarified that this area was neither Ms. Leon's property, nor was it owned by the applicant. Rather, it was actually the road overlay.

Ms. Leon also wanted to mention was that she didn't know what is proposed for landscaping. Although she has had some discussion with the applicant, no agreement has yet been reached.

Ms. Leon was not sure of the side yard setback but it seemed to her that there is only 15 feet and 30 feet is required. Mr. Saluk said the requirement is 20 feet.

It seemed to Ms. Leon that it looked like more than a 4-6 foot encroachment. She felt the setbacks are important, not just from the road but from the property lines.

Ms. Leon said when the neighbors bought their properties, they thought that this parcel was their buffer against the industrial property. She would ask the Board to take that into consideration. Although she had a positive discussion with the developer about some of the things that might be done in terms of landscaping, she hadn't heard any of them this evening.

She described some of the items which had been discussed because she wanted some clarification

Mr. Stevens said this is only the beginning of the concept landscape plan. He pointed out the buffer area as it pertains to Ms. Leon's property and described some of the landscaping which could be provided. He said it's not addressed in the site plan, but when he is to the point of defining the landscaping, it will be part of the submittal.

Mr. Richmond asked if this would be submitted to the Board sometime soon.

Mr. Stevens felt it would although he wasn't sure whether he should submit it as part of the Notice of Intent or break it down to streetscape landscaping and buffer area landscaping. He would like some direction.

Mr. Richmond said the Board will be interested in both. He would encourage Mr. Stevens to file with the Conservation Commission early so this Board can have these discussions going on at the same time.

Since it was close to the time to adjourn for the evening, Mr. Richmond listed the following items which should be provided for the next hearing continuance:

- a plan showing the site distance for the access points; it would be helpful if that plan also showed in very rough sketch the proposed buffer areas so the Board can understand what would be buffer area and what would not.
- a revised design plan, or site plan, taking into account some of Mr. Riepe's comments and the Board and neighbor's comments as well.
- a site assessment – a sense of site conditions – whether there are any hazardous materials on the site
- information on Town Engineer's position on sidewalks off site. Since the road is used as an access for children to go to the school bus stop, presumably the children living in the development will also be using the same school bus - which raises additional safety issues.
- a landscaping plan. Understanding there will have to be some coordination with the Conservation Commission, doing both at the same time will facilitate the process.
- assignments to clearly indicate that Old County Road, LLC has site control.

Mr. Klofft said there is also the question as to whether the Conservation Commission was going to come down on the units that were backing up to the wetland area. He would like to have the Commissions opinion on this.

Mr. Richmond said he wanted to better understand where the Conservation Commission is going with this. He also wanted to understand better what the Board of Health thinks with respect to the number of waivers.

Mr. Gossels felt there should also be communication with the Selectmen with regard to the 55+ units.

The public hearing was continued to August 11, 2005.

Stephen M. Richmond, Acting Chairman

Jonathan G. Gossels, Acting Clerk

Elizabeth A. Taylor

Jeffrey P. Klofft

Constantine Athanas, Associate

Stephen A. Garanin, Alternate

Nancy G. Rubenstein, Alternate