

Present: William J. Keller, Jr. (Chairman), Lisa Eggleston, Christopher Morely,  
Michael Hunter, Michael Fee, Jody Kablack (Planner)

The meeting was called to order at 7:45 p.m.

***Willis Hill II – Continuation of Public Hearing***

The applicant requested an extension from the Planning Board.

On motion duly made and seconded, it was unanimously:

VOTED: To continue the Public Hearing for Willis Hill II Subdivision to  
October 9, 2002 at 7:30 p.m., and to accept the applicant's request to  
extend the decision deadline to November 21, 2002.

***Olde Woode Subdivision Modification (Antique Circle) – Public Hearing***

Bill Keller coordinated the Public Hearing. The hearing notice was read into record and the documents in the file were listed.

Attorney Gerry Cournoyer represented the applicants, Mr. & Mrs. Rodman. They are petitioning to modify a prior decision by the Planning Board in 1989 limiting access of Antique Circle to two lots, excluding lots numbered 1 and 4. Under Massachusetts statute, being bonded by a private way does not restrict use of the private way. When a lot is conveyed, whether abutting a private or public way, the Grantee acquires title to the middle of the way. The Board required parcel 4 (previously owned by the Quirks) to be deeded to the Emmons as a condition of approval for the decision. This lot was conveyed to the Rodmans by the Emmons Family. Lots 2 & 3 were conveyed by the Developer to the Melanson Brothers, prior to which the Developer had granted an easement to permit the installation of underground utility services within the way, Antique Circle. There is no restriction by the Planning Board on this easement. As part of conveyance to the Melanson Brothers was the right to use Antique Circle.

Jody Kablack: Mr. Cournoyer, is the intention only to allow a driveway for parcel 4 and not parcel 1?

Mr. Cournoyer: Correct.

Jody Kablack: For the record, the Public Hearing notice reads lots 1 & 4. Correction noted.

Lot one is a new house, lots 2 & 3 are back lots created through the subdivision and Lot 4 is a small lot determined not buildable by the Planning Board and was required to be deeded to the Emmons. This is part of the subject property tonight; it gave frontage on Antique Circle and on Concord Road as well.

Lisa Eggleston: Antique Circle is not built out to Town standards?

Gerry Cournoyer: No.

Jody Kablack: It has a Y turnaround.

Chris Morely: What about the Historic Districts Commission concerns, in particular the stone wall?

Gerry Cournoyer: They will address the issue with them.

Mr. Rodman: The secretary at the Historic Districts Commission was not aware the stone wall demolition was a construction issue.

Bill Keller: Have you done any curb cut on Concord Road?

Mr. Rodman: No.

Lisa Eggleston: What is the status of the rest of the Emmons property?

Jody Kablack: Believes it was granted to Sudbury Valley of Trustees; the total build out is one house.

Bill Keller: Why was there a restriction with the original decision?

Jody Kablack: Will have to review the file, but knows they needed to deed the parcel.

Bill Keller: For the record Town Counsel is reviewing a memo prepared by Attorney Cournoyer.

The Hearing was opened to the Public.

Larry Smith: Presented the Board with a letter opposing the proposed application. He and his wife researched why the subdivision limited the road to two lots and feels that nothing has changed.

- Mr. Quirk requested access for 3 lots originally and was told no more than 2 lots.
- The road was supposed to be 16' in diameter; it ended up being a 14' drive. Most other private ways in town are 18' in width; this creates traffic backup for people coming onto the street off of Concord Road.
- The Historic District, the Town Engineer and the Fire Chief all limited access to 2 lots.
- In the Engineer's office there is a driveway permit for access off Concord Road; the applicant does not have to access Antique Circle.
- The Fire Chief had no difference of opinion whether they had a driveway onto Antique Circle.
- There was a special restriction in 1987 imposed on Mr. Quirk in which he had to grant lots 2 and 3 in the Historic District.
- The applicant is asking for access to a road in a historic district without compliance with the Historic District Commission.

- The applicant used Antique Circle for construction access contrary to what he said he would do.
- The Town Engineer also stated the drainage system was only adequate for two lots. Having a driveway drain onto Concord Road would badly impact the area. In addition, the applicant had no engineering study done.
- Icing is a concern as in the winter the apron on Concord Road and the turn-around become inundated with ice.
- The applicant acquired the lot knowing the restriction in place.
- His opinion is that the owners of lots 2 & 3 pay costs for access; it appears Quirk built it but they incurred it in the cost of the lots.
- Maintenance is currently provided by lots 2 & 3. Approval of this modification may result in them being forced to utilize a contractor or deal with a landowner not party to the Planning Board's original decision.
- They feel this modification would diminish their property value as it is not consistent with the character of the Historic District.
- When they purchased their property, they were told by their attorney no access could be granted.
- Granting of access to Lot one would be a violation of Business Operation.

Board member Michael Fee asked Mr. Smith to provide a copy of his letter to the applicant's attorney and also stated the Board has not had the opportunity to review the Planning Board minutes which were referenced by Mr. Smith.

Mike Fee: Have you seen the Fire Chief's memo? It's unquantified how much additional traffic would be created.

Larry Smith: Has not seen the memo. When he spoke with the Fire Chief, he said he had no preference and thought the Planning Board should rely on what the residents say.

Mike Fee: With regard to your drainage concerns, would it help if the applicant entertained an Engineer?

Larry Smith: That would be of no advantage to us.

Mike Fee: Should the Planning Board approve the modification, what would your claims against us be?

Larry Smith: It is documented in the letter we presented.

Lisa Eggleston: To rectify the existing icing condition while resolving the drainage issue would require a registered, professional engineer. If the modification were going to be granted, what would you suggest to rectify the drainage system issues?

Faye Markowitz: The drainage system is insufficient – the catch basins are in the wrong place; Quirk dumps snow on top of the drainage. This is proven to be a wet area.

Lisa Eggleston: It drains into a public system?

Larry Smith: Yes.

Harvey Markowitz: Drainage is a small part of the entire issue. They looked at documents on private ways very carefully when they purchased the property. The road was constructed for only two homes; it was not constructed for more traffic than that.

The proposal depreciates the value of their homes; they would be losing every step of the way. The Rodmans have two accesses (natural) off of Concord Road. There is no need to use Antique Circle other than to appreciate the value of the Rodman's home.

Faye Markowitz: She is the working mother of 9 & 14 year old children. She is very concerned with their safety. The construction traffic is a big issue. The letter from the Historic District said this is not okay. The applicant broke through the stone wall and cut down trees in the Historic District without meeting with them. They were supposed to have a hearing with the Historic District Commission and they never did.

Gerry Cournoyer: This was never discussed with him.

Faye Markowitz: She has spoken with the Building Inspector, Jim Kelly, repeatedly. He has asked the contractors to keep off the Road and they have not.

John Nash: He is the builder and the construction vehicles were an issue so he put up signs for them not to use Antique Circle. There was already a cut in the stone wall for access – it made sense to remove the trees.

Bill Keller: If the modification were not approved, where would the driveway be?

Mr. Rodman: They would either go up the Antique Circle side of the stone wall in the Historic District or on the other side of the stonewall by the garage side. (Up the shoulder parallel to Antique Circle.) They were told the curb cut off Antique Circle would be less visible. Also due to the septic system and the wetlands, the garage needed to be on the north side.

Chris Morely: Was the house designed assuming the modification would be granted?

Mr. Rodman: No, they were going to use Concord Road as another option.

Chris Morely: Is the intention not to use the driveway already approved?

Mr. Rodman: They would like to use Antique Circle.

Lisa Eggleston: What is the separation requirement in terms of driveways?

Jody Kablack: 5' from a property line.

Lisa Eggleston: There is a right of way on Antique Circle?

Jody Kablack: Yes, full 50'.

Lisa Eggleston: Can they build a driveway in a right of way without Planning Board approval?

Jody Kablack: No, it must be on their property.

Lisa Eggleston: They would have to get more than 5' separation from curb on Antique Circle.

Mr. Smith: In the Engineering files it shows the driveway permit would have gone parallel to the stone wall and avoided Antique Circle but the applicant changed it. In addition, Mr. Nash is wrong, not a week goes by the contractors do not use that access.

Mrs. Markowitz: The sign that is up is a spite sign. She has had the contractors drive around her car. There is a path beaten down by the trucks – as recently as last week they excavated and had trucks everywhere. She had pictures of existing driveways showing Mr. Nash could be using them.

Harvey Markowitz: Thought there was a fine for removing stone walls?

Jody Kablack: There are three issues the Board should be concerned with:

1. Town Counsel has been asked whether the applicant has the right to use Antique Circle. Town Counsel is reviewing.
2. Does it make sense – what is the prevailing reason for the request?
3. She does believe the stone wall was a violation and cautioned the applicant and builder not to do any further work until the situation is resolved. It would only make the matter worse.

Lisa Eggleston: Requests drainage information from the Engineering Department.

Mike Fee: The applicant should have an additional letter submitted stating public safety improvements that may occur as a result of the modification, or what they are willing to do to improve safety.

On motion duly made and seconded, it was unanimously:

VOTED: To continue the Public Hearing on Antique Circle to 9/25/02 at 8:45 p.m.

***Omnipoint Water Resource Special Permit, Water District Property, North Road – Public Hearing***

Bill Keller read the hearing notice into record.

Present on behalf of the applicant were Attorney Simon Brighenti and Radio Frequency Expert, Raza Rizvi.

Attorney Simon Brighenti briefed the Board on the application. The intent is to fill in the gap in service for Omnipoint. As of August 30<sup>th</sup>, Omnipoint is known as Team Mobile USA (as opposed to Voicestream). The proposal involves the installation of a set of antenna on an existing 150' pole, the installation of a small 8' x 6' concrete pad in front of the existing tower on North Road and 3 radio cabinets. Antenna installation will be a triangular mount; similar to what is already existing. As requested by the Town Planner, a locus map has been submitted and they have corrected the application to show the proposed site in Zone II rather than Zone III. A revised plan will be submitted with plot plan corrections including a 400' radius from the town well. The equipment cabinet will be moved to the back of the tower to get it out of Zone I. The site is a fenced in area with a generator in front and a Bell Atlantic shed. They are willing to negotiate the location of the pad and cabinets to keep it out of Zone 1. A statement from a registered, professional engineer (MRC Engineering, Inc.) has been submitted which concludes the installation of the proposed ground equipment will not be detrimental to the existing groundwater nor will there be any runoff or hazardous discharge. The computer cabinets are run by batteries (four 12-volt DC closed-cell) which contain small quantities of sulfuric acid electrolyte. They meet the environmental requirement for a scenario of battery failure where any free electrolyte would be contained in the radio cabinet.

It is their obligation to close in gaps in service; also their service is relevant for 911 calls; 40% of which come in via cellular phones.

Radio Frequency Expert Raza Rizvi spoke briefly on the necessity for a full array of antenna rather than just one. Basically, there are two main reasons for this:

- 1) Space diversity – communication from tower to an individual caller. Will provide a better quality.
- 2) Capacity – There will be 3 sectors in each site, 3 base stations. Initially only one was installed with 2 radios per sector. A third cabinet will require 2 antennas as opposed to one in order to accommodate population growth.

Simon Brighenti: A notice of intent will be filed with the Conservation Commission and address issues of access to the property.

Raza Rizvi: If the Board does approve the flush mount option, they will request a mounting bracket in order to tilt the antenna down.

Mike Hunter: Will there be any type of payment to the Town?

Jody Kablack: No, the Water District owns the property.

Mike Hunter: As technology progresses there could be a potential for the batteries to be replaced by fuel cells. Will the proposed pad be large enough to accommodate changes?

Raza Rizvi: We have no intent to use fuel cells.

Simon Brighenti: Also in the event of a power outage there is immediate back-up which would sustain a significant blackout, however, in the event of a severe black-out a generator would be brought in on a truck and would remain until power is restored.

Jody Kablack: She is comfortable with this plan, the waivers requested are minor in nature – they have utilized as built plans and does not feel a survey is necessary. The Selectmen are concerned about the Water District's assent to the application. They have not signed as the owner.

Lisa Eggleston: Does the as built plan include the information referenced in Bill Place's 8/26/02 memo?

Jody Kablack: Yes, there is not a lot that we need. There are minor plan changes; the issue with the Water District will need to be resolved.

Lisa Eggleston: The Fire Chief referred to a "repeater" in his memo. Unclear about that.

Raza Rizvi: Basically, a repeater takes a signal and repeats it. This would involve putting a little antenna on top of the tower.

Simon Brighenti: We are leasing a different portion on the tower – 911 calls are more external communications.

Mike Fee: Feels the materials submitted are excellent. The Board will also require a brief description of the construction process.

Lisa Eggleston: Need to document erosion control measures.

On motion duly made and seconded, it was unanimously:

VOTED: To continue the Public Hearing on Omnipoint to 9/25/02 at 7:30 p.m.

***Lotus Blossom Restaurant Water Resource Special Permit – Public Hearing***

The hearing notice was read into record.

Present: Kevin O’Leary, Jillson Company and Yung Mon Chzen

Kevin O’Leary briefed the Board on the application which proposes an addition (430 square feet) on the backside (northeast corner) of the restaurant for the installation of restrooms. The applicant will also be enclosing the porch to create additional seating in the main dining room. The septic system is sufficient, it is 2 ½ - 3 years old. They will be replacing the 2 existing grease traps with one large (4,000 gallon) grease trap. On the north side adjacent to Station Road is a ditch which flows into Hop Brook; there is a wooded, wetland area in the back. Access through two primary curb openings as well as a third which was opened for prior use, will be closed up and replaced with grass. One exit currently 78’ will go to 34’ wide with landscaping; aesthetically more pleasing.

Lisa Eggleston: You are trading impervious area, not all of which is in riverfront area for Hop Brook. There must be follow-up on this.

Jody Kablack: It is unclear where the compensatory pervious surface will come from.

Kevin O’Leary: They are relying on replacing 2 curb cuts off Boston Post Road, which will be loamed and seeded to compensate for the additional impervious surface. They will also be installing leaching catch basins at the low point in the parking lot. Catch basins will be sized for 2 year frequency. Roof infiltration will go into the front of the parking lot, in a separate infiltration area.

Jody Kablack: State says we can go above 25% impervious surface with proper stormwater management; our regulations do not allow over 25% impervious surface. We need to revise zoning regulations at Town Meeting on this issue.

Pippa Bell Ader: Resident of Maple Ave.

There is a stop in the walkway just before Station Road – would there be any way money could be allocated to continue the pavement?

Jody Kablack: This issue was addressed with the Selectmen. There is a problem in the drainage system for Route 20 that is creating an erosion issue which the State needs to address. The Selectmen do not see value in fixing the walkway until that issue is resolved.

Pippa Bell Ader: She crosses Maple Ave. to Route 20 and there is a telephone pole at that point. With the proposed changes will it be safe for pedestrians to cross and not be obstructed by the pole?

Board members responded traffic will go in at the area she was referring to but it will be narrowed down, allowing more room for pedestrians. In actuality it will be safer for pedestrians.

The Board discussed options for the impervious surface area compensation with the applicant.

Kevin O'Leary: With regard to the offset distance from the groundwater area to the recharge area, it would be opening the soil for stormwater – potential for contaminated soil.

Lisa Eggleston: It could be intercepted before it hits Hop Brook. Hooded catch basin allows the opportunity to trap pollutants. The current system is improperly maintained.

Jody Kablack: Also the roof run-off will be caught separately, further enhancing the drainage system.

The Board reviewed the Decision prepared by the Planner.

On motion duly made and seconded, it was unanimously:

VOTED: To approve the Decision for Lotus Blossom Restaurant Water Resource Special Permit as amended.

#### ***ANRs***

Applicant: David Franco; Raymond Road  
To change lot lines.

On motion duly made and seconded, it was unanimously:

VOTED: To endorse the David Franco ANR dated August 8, 2002.

#### ***Planning Board Associate Member***

On motion duly made and seconded it was unanimously:

VOTED: To appoint Eric Poch as Associate Member to the Planning Board.

#### ***Twillingate Meadows Subdivision:***

The Town Planner will speak with the developer regarding the stonewall which was to be rebuilt as it existed, a loose stone wall. It has not been rebuilt as agreed.

The Board signed the Release of Covenant for the subdivision.

#### ***Run Brook III Subdivision***

The Board signed a confirmatory Release of Covenant for Run Brook III; the original release was never recorded by the developer.

*Fieldstone Farm Subdivision*

On motion duly made and seconded, it was unanimously:

VOTED: To release the Performance Bond in the amount of \$376,000.00 for Fieldstone Farm and accept a Cash Maintenance Bond in the amount of \$4,904.00.

There being no further business, the meeting was adjourned at 10:30 p.m.