

Present: Michael Fee (Chairman), Lisa Eggleston, Christopher Morely,
Michael Hunter, Eric Poch (Associate, arrived 7:50 p.m.),
Jody Kablack (Planner)

The meeting was called to order at 7:10 p.m.

Board Reorganization

On motion duly made and seconded, it was unanimously:

VOTED: To appoint Michael Fee as Chairman of the Planning Board,
Elizabeth Eggleston as Vice-Chair and Christopher Morely as Clerk.

Miscellaneous:

Jody Kablack briefly spoke to the Board about the Lettery Property. The Board of Selectmen will meet on May 4th to discuss. Town Counsel will confirm whether the offer is bona fide.

The Board of Selectmen will hold a joint appointment meeting for the vacant member post on May 18th.

There was a brief discussion about Willis Hill (Kendra Lane). The Board inquired as to any structural engineering regulations for retaining walls.

Water Resource Protection District Proposal

Jody Kablack: To date, only one proposal has been received with an asking price of \$15,000. The Board has \$6,500 in funds to spend on this project. She has spoken with the applicant and explained the status. It is her intent to contact the Water District to assist in funding for this project.

Lisa Eggleston suggested contacting Epsilon Associates in Maynard for an estimate. The Town Planner will follow-up and report back to the Board.

Scenic Road Public Hearing (Peakham and Old Garrison Roads)

Michael Fee called the hearing to order at 7:35 p.m. The notice was read into record. Jody Kablack: These trees are either dead or dying and have been posted. The one located at 247 Peakham Road had lost its notice but was posted and witnessed. Both trees at French Road and Old Garrison are located by a stone wall; however, no removal of the wall will be necessary.

Carole Wolfe: The pine tree located on Peakham Road has little pines (3-4) at the base of the large pine. Can efforts be made to save those?

Jody Kablack: Efforts will be made; they could potentially take them out first and replant them.

On motion duly made and seconded, it was unanimously:

VOTED: To approve the Tree Warden's application for tree removal as posted in the Public Hearing notice for April 28, 2004.

It is noted all efforts should be made to save the surrounding saplings at the base of the tree on Peakham Road and to be sensitive to the stone wall on Old Garrison Road.

On motion duly made and seconded, it was unanimously:

VOTED: To close the public hearing on the Scenic Road Bylaw.

The Board continued the opening discussion of the Lettery Property.

Jody Kablack: A response is anticipated from the applicant's attorney, Dave Wallace. No appraisal has been done on the land; the Purchase and Sale has to be a bona fide offer under State law.

Mike Fee expressed concern with the letter from the Conservation Commission dated April 22, 2004 in that it could potentially be argued as an approval. It was inconsistent with the process.

Jody Kablack: Department Heads were instructed not to debate the Purchase and Sale with the applicant.

Frost Farm Update

The Board discussed on-going issues with the developer, Bay Avary. A memo from the Town Planner dated April 28, 2004 indicated problems identified last fall still have not been rectified, and new issues have arisen which need to be fixed. The Planner felt that adequate time and notice had been given to the developer to fix the problems, and they have been non-responsive. She and the Director of Public Works met on-site with Phil Hresko on April 2, 2004, and again pointed out the problem areas that were identified last fall along with new items, but Bay Avary has not commenced any work on the problems. Mike Fee questioned why external drains were not installed during construction of the units that are now experiencing water in the basements.

Jody Kablack replied that the Building Inspector believes that groundwater was not encountered during construction, but that soil types should have been determined and a drain installed. Bay Avary has expressed that this is not due to their workmanship, and has abandoned the situation.

Lisa Eggleston asked if the Town DPW Dept. can fix some of the drainage issues with his crew, or will everything need to be put out to bid?

Jody Kablack stated that some of the grading problems can be resolved by the Department of Public Works, but others will need to be contracted out. It is difficult to understand the total scope of the work since there are various problems in different areas of the development.

On motion duly made and seconded, it was unanimously:

VOTED: To declare the performance bond for the Frost Farm development in default for failure to complete the development in accordance with the requirements of the Planning Board approvals, Planning Board rules and regulations and the laws of the Commonwealth of Massachusetts, and to direct Town Counsel to take whatever actions necessary to secure these funds to rectify the infrastructure improvements in the development.

Public Hearing - The Meadows Senior Residential Community (Maple Ave.)

Associate Member, Eric Poch, was formally noted to sit as a voting member, appointed by the Chairman.

Mike Fee called the hearing to order and read the notice into record.

Myron Fox, attorney for the applicant:

The application is for a 45 bedroom community clustered on a 28.76 acre site comprised of 22 two-bedroom units and 1 one-bedroom. The Planning Board, Conservation Commission and Board of Health have all provided input. The Planning Board approved the density and preliminary plans. Communication with the Maple Ave. residents has been productive. An article for Feeley Field access was submitted by the residents and approved at Town Meeting. Footprints for the two bedroom units have 2,500-3,000 square feet of living area; wood frames, 2 car garages and basements.

After construction 80% of the property will remain as open space with 7 ½ % being impervious surface. The applicant has met with the Planning Board on site as well as the Conservation Commission who has issued the Order of Conditions. Attorney Fox addressed the Town Planner's memo dated April 16, 2004.

Page one, item five; The Environmental Report prepared by Haley Aldrich was updated on March 3, 2004. A copy was given to the Town Planner. The Conservation Commission had reviewed the initial report as well as the update in depth.

Bottom page one, item 1; missing pages have been faxed.

Page 2, items 2 and 3 were submitted.

Page 2, item 5; the applicant is requesting a waiver for 1 unit located within 200' of Maple Ave.

Page 2, item 6; the portion of the perimeter trail which traverses private property will be relocated off the McCarthy property.

Page 2, item 8; the Conservation Restriction is over 19.6%, negotiated with Conservation. There will be 35% upland, the bylaw requires 25%.

Bottom page 2, item 3; whatever improvements the Board wants, the applicant will do, however, if Maple Ave. is the access road, they ask the minimal improvements be required.

Page 3, item 4; the trail located by the tennis courts across the emergency access out to Route 20 will be a public pedestrian use. The applicant and the residents prefer no walkway be built for less impact to Maple Ave.

Page 3, item 5; A temporary construction easement with hours of operation from 7 a.m. – 5 p.m. will be necessary. If access is from Maple Ave. landscape plans will be different than if it is Feeley Field access. Until the access is known, they cannot submit plans.

Page 3, item 8; the applicant has asked the adjacent owners on two occasions. They do not wish to be involved; therefore, they cannot propose a future phase.

Although the residents were successful at Town Meeting with the Feeley Field access article, they still have hurdles to overcome. At this time, the applicant does not have permission to go through Feeley Field, therefore, they are not asking for that approval and do not have that plan. They do not want to risk or negatively impact the project. In order to proceed, they are asking for approval of the Special Permit with access off Maple Ave. with the condition if Feeley Field access is approved by Legislature and the Town, the applicant must submit a new plan.

Jody Kablack: She has reviewed the plan which shows widening of Maple Ave. to 20' with comments by the Town Engineer. This plan shows the need to remove 5 trees; however, the applicant is saying no tree removal would be necessary. It is also the opinion of the Town Engineer that at 31 Maple Ave., 3 trees will need to be removed and the road should shift further to the west, rounding into the entrance. The entire pavement will need to come out at that location.

Lisa Eggleston: If it's feasible to do the 20' pavement without centering in the right-of-way, they wouldn't need to come down. How many trees were mapped?

Jody Kablack: 31 trees; during a site visit with Bill Place, they flagged trees and reviewed the meandering issue. It was also the intent of the applicant to get the 20' wide roadway with minimal tree disturbance.

Chris Morely: 20' is the width of the interior road?

Jody Kablack: Yes. Both the Town Engineer and the Fire Chief have concurred.

Michael Hunter: Can it be done without curbs? Jody Kablack: Yes.

Lisa Eggleston: Procedural comment; the Board cannot evaluate which access is preferable without engineering plans.

Michael Fee: For the Planning Board to exercise approval of the Maple Ave. access plan, given the realistic time lines the neighbors are facing, how would a conditional approval work?

Myron Fox: The Park & Recreation Dept. and the Board of Selectmen have met with the neighbors; they are looking for the Planning Board to say it is okay.

Michael Fee: Approximation for legislature approval?

Myron Fox: 6 months is appropriate and is a limited time for the applicant who needs to know where the entrance will be.

Michael Fee: What is the limitation on the Planning Board's ability to put a time frame on approval?

Myron Fox: The applicant could come up with 6 months of planning before having to stop.

Chris Morely: Would the layout change? Would it move building locations?

Myron Fox: Construction of the buildings would not change. They would hold off with location plans until the last possible minute.

Lisa Eggleston: The Board of Selectmen cannot initiate the Legislative process until the Planning Board recommends which entrance it will be. We cannot make that determination without reviewing plans from an engineer.

Myron Fox: We are talking about getting a sense from the Boards – the Selectmen won't get the final engineering plan at this point but they can say to continue, if the Planning Board and Park & Recreation support it. Once the applicant has that approval they can have the engineering plan done.

Mike Fee: Is the adjustment the applicant has to make limited only to building location?

Myron Fox: That depends; if $\frac{3}{4}$ of the buildings are okay, there will not be a big change regarding drainage calculations.

Lisa Eggleston: The Selectmen are not prepared to pursue with Legislature without the Planning Board's input. Is there a water line through either entrance? Myron Fox: Yes.

Jody Kablack: The Board is asking for a preliminary engineering plan which shows site distance and layout of the access through Feeley Field.

Lisa Eggleston: We need to see how you get the road through the drainage ditch, the site distance, location of the buildings, etc.

Myron Fox: They were not anticipating access through Feeley Field so they only have the Maple Ave. suggestion.

Lisa Eggleston: We cannot mandate southern Feeley if it is not evaluated.

Myron Fox: Michael Coutu had prepared a very preliminary sketch (showed to Board).

Jody Kablack suggested having the access staked and a site visit.

Michael Coutu: Staking would be subject to Conservation approval.

Myron Fox: Mike Coutu walked the area with Deb Dineen – she felt it could work.

Lisa Eggleston: Was that her opinion or the Commission's?

Mike Coutu: Deb Dineen felt it was a feasible alternative, the Commission was not opposed to the idea.

Mike Fee: Feels this is not the Planning Board's jurisdiction. The Selectmen determine if public land can be used for access.

Chris Morely: However, we can have an opinion on the aspects.

Myron Fox: Wasn't it decided at Town Meeting to recommend access?

Mike Fee: The vote at Town Meeting was to authorize the Selectmen if they so chose; the Selectmen need to determine.

Myron Fox: The Selectmen only have to say philosophically they are not opposed; the Planning Board could do a conditional approval.

Mike Fee: That would impede the process. We need to focus on what the application is. If the Selectmen say it is appropriate for the Planning Board to determine the access, we will.

Myron Fox: Doesn't feel it is relevant which Board provides input first. It is common for applicants to go simultaneously to several Boards.

Eric Poch: There is a clear representation of a time line to turn over the land to potentially analyze the access road. The only alternative we have is Maple Ave. The legislative issue is too big to be left as ambiguous. We need input on what is before us as it is presented.

Chris Morely: Yes, however, the Board should state its preference.

Cheryl Salatino: One issue the neighborhood faces is what we get for giving up the land. They are uncertain on how to proceed.

Kirsten Van Dyke: The citizens in Town want to be in-line for a Senior Residential Community when they are eligible. She would love to walk trails and not drive down Maple Ave. The Planning Board must plan for the future, which means preserving the character and history of the Town. Included in the history are some of the houses and the trees which have stood the test of time. Most senior citizens want to see trees, developers don't. The Planning Board has the power to say yes to an alternate route. She believes it is time to take control of development in a philosophical way. It does not require separating the past and the future; both can co-exist. The Planning Board can do this with the help of the residents. The State Historic Commission wants to come to Sudbury to review this proposal.

Helga Andrews; 11 Maple Ave.: When the developer starts to build what will be the process regarding trucks carrying gravel?

Lisa Eggleston: We had briefly discussed that; they could potentially go through upper Feeley Field but it has not been decided. A temporary construction access could be a condition of approval.

Jody Kablack commented to the applicant that they should submit a letter to the Selectmen requesting construction access through upper Feeley Field.

Carole Wolfe: How wide is Goodnow Road – is it 20'?

Jody Kablack: No, it is approximately 14' wide.

Carole Wolfe: Why does Maple Ave. have to be widened?

Eric Poch: Density is just one factor. We have control over making sure the roadways are safe in this application.

Jody Kablack: Goodnow Road was also an Approval Not Required Plan. The Planning Board was not able to place conditions on its development.

Lisa Eggleston: Goodnow Road does not have adequate access; it works for 8 houses, not the volume this application is proposing.

Liz Canella; 245 Raymond Road: The temporary construction access is scheduled Monday-Saturday, 7 a.m. – 5 p.m.? Is there any detail regarding safety?

Jody Kablack: That has been flagged for discussion. Opinions of the neighborhood and Park and Recreation will be taken into consideration when the Selectmen discuss this.

Bettina Westerberg; 239 Raymond Road: Potential residents would like an alternative if they buy in the winter and then find out in the summer they have to drive through a highly used field. Also wants to comment on the trucks' exhaust and the impact to the children.

Steve Bradford: Believes Chris Morely's earlier point was a good one. What is the better plan? Would an easement through lower Feeley Field be better? Most people prefer the field access if the wetlands can be mitigated. The Selectmen need a recommendation from the Planning Board. We need for the Planning Board to opine. Officer Rocky has looked at the situation and has said Maple Ave. would be safe but that is not the only option. Someone has to enter negotiations. The neighbors would like to see an arborist weigh-in. They are not talking about widening Route 20, we have no roadway plan (referred to article in paper). It is stated if they widen Maple Ave. there will most likely be 5 trees taken down.

Under a Maple Ave. conditional approval:

- Is the road going to be widened to 20'?
- How many trees will be taken down?
- What is the net-net for Maple Ave.?
- Who enters negotiations?
- What is the wildlife status?
- Construction hours are a concern.

Greg Lowenberg: The applicant may look at Maple Ave. and say 5 trees need to come down, but the road cuts affect 40% of the roots. There would be many more trees dying as a result. Many trees come closer to the road than indicated.

Jody Kablack: Any information you have gathered would be helpful to submit to the file. The Board needs to see all information; we do not want to see trees dying.

Steve Bradford: Should we hire an arborist?

Ralph Tyler: It seems the developer is asking the neighbors to do all the work. The Board should put it back on the applicants who should also provide information to the Selectmen and Park & Recreation with regard to giving land. It may take longer than 6 months. The Planning Board is putting the burden on the neighbors when it should be on the developer.

Gail Kessler-Walsh: Agrees that the burden should be on the developer. They should provide the engineering plan the Board needs; not a theoretical plan but a viable, physical plan. They also need to address truck routes. When the construction is done what happens to the temporary easement?

Lisa Eggleston: We can dictate the access but not the routes, it's a public road.

Cheryl Salatino: Access is the number one priority but they also have questions on the development. What is the best way for them to address those?

Michael Fee: This is the initial hearing where we are looking for a sense of the major issues. We want to maintain the neighborhood if it is possible. Typically, it is assumed all proposed land is owned by the applicant. In this proposal, part of the land is owned by the Town; there are constituents the Town has to consider. It is not appropriate for one Board or the Developer to take control. He does not believe the Board can okay Feeley Field by itself, it is a group decision. There is a joint meeting on May 18th with the Board of Selectmen at which point, this will be taken up.

Jody Kablack: The Boards can discuss it, but not without a plan. The developer must provide a plan for the Boards to look at. Until that point, the hearing should be held open.

Harry Ainsworth; 44 Maple Ave.: Early on it was mentioned the applicant was looking for a variance for the 650' distance from Route 20.

Lisa Eggleston: That was for the dead-end street regulation, and the regulation is 1200 feet.

Harry Ainsworth: It was frowned on, but the development intends to go beyond.

Chris Morely: We lost many lawsuits over the dead end street bylaw over the years.

Lisa Eggleston: In either case, we have the availability for emergency access which we can provide without legislative approval.

Gail Kessler-Walsh: If Maple Ave. is approved, negotiations should be made for the residents and the Town. If the applicant uses public land, they should give something back.

Michael Fee: That has not been considered at this point.

Lisa Eggleston: They have the right to cross Maple Ave., Feeley Field they do not. We can not impose a compensatory requirement.

Jody Kablack: We will negotiate access improvements; road and walkway.

Gail Kessler-Walsh: Are the Maple Road improvements on private property?

Lisa Eggleston: It is all within a public right-of-way.

Gail Kessler-Walsh: What about the fill that is brought in?

Jody Kablack: It is required to be clean.

Gail Kessler-Walsh: Initially there were not basements and now there are. What is the elevation plan?

Jody Kablack: Maximum height is 35'.

Robert Elliott (R. Wilson & Associates): The elevations were initially on slabs but it was determined 1-2' more of fill would provide better grading.

Jody Kablack: What is the maximum fill?

Robert Elliott: It differs; some areas it is 10' while in others it is 6-8' and at-grade in others.

Gail Kessler-Walsh: As they bring in the fill the development will be seen more and more. Will the Planning Board consider this?

Mike Fee: One of the criteria is visual impact.

Gail Kessler-Walsh: How will landfill and run-off change the dynamics of the area? Will drainage be adequately handled?

The Board members responded that all those issues are looked at as part of the application process. The best way for neighbors to remain informed is to continue to attend the hearings and review the file.

Lisa Eggleston: Rates of run-off are required by law not to be increased to adjacent properties. They are most likely reducing, not increasing run-off.

Gail Kessler-Walsh: Once the perc tests are done, is it looked at again?

Lisa Eggleston: Once they have performed the perc tests, they are not required to pass them again, it is done one time. However, if problems occur it is revisited.

Nancy Moore; 11 Maple Ave.: What about the utilities?

Robert Elliott: They will be underground off a utility pole brought across Maple at the entrance.

Ralph Tyler: Do they have to upgrade Maple Ave. for wiring? Robert Elliott: No.

Ralph Tyler: Will it be part of the condition?

Jody Kablack: That would require addressing the addition of a new pole.

Robert Elliott: The other option would be to go under the road.

Jody Kablack: That must be discussed with N-Star. A new pole is not permitted.

Kirsten Van Dyke: Requests that the Planning Board not approve the Maple Ave. access proposal and postpone the hearing until the 5/18 joint meeting.

Ralph Tyler: There is much more to be done. Residents are told that they can review the file and application during business hours. He would like to have files available on the web for people who cannot get into the Planning Office during business hours.

Jody Kablack: There is not enough staff time to digitize files nor do we have the technology necessary to do so.

Lisa Eggleston inquired about keeping a file at the library. Jody Kablack explained the volume of paperwork and the insufficient staff hours. The Board will review possibilities for files to be available elsewhere.

Danny Vellom; 28 Maple Ave.: inquired about the Order of Conditions. The Town Planner gave him a copy.

Amy Galblum; 19 Maple Ave.: There is an enormous stone wall holding fill at the bottom by the wetlands. She is concerned about drainage, hydrology and fill.

Robert Elliott: There is a 2-3' stone wall – the front of the foundations hold the fill where it will be 6-8' with a slight grading between buildings.

Lisa Eggleston: Is it a retaining wall? Robert Elliott: Yes.

Lisa Eggleston: Is there drainage through that wall?

Robert Elliott: All drainage is down a paved road through a slope.

Mike Hunter asked the residents if they were concerned it would raise water levels?

Amy Galblum: Yes, as well as drinking water concerns.

Eric Poch: The developers design process is fairly exhaustive under state mandate. Regulations must be complied with.

Jody Kablack: There is very minimal impervious surface with this proposal. It is very minor relative to the total area of the property.

Jim MacDonald; 31 Maple Ave.: The wall abuts the 100' wetland buffer, disturbance is likely. Will Conservation address violations? Drainage should be calculated carefully; turf is only 5% absorption.

Mike Fee: Conservation will regulate issues within their jurisdiction.

Gail Kessler-Walsh: Soil concerns – Lotus Blossom's failed septic fill had been dumped there.

Eric Poch: There will be conditions on future fill. We cannot comment on Lotus Blossom.

Mike Fee: We will continue the application review, access issue, Selectmen communication and most likely request a Feeley Field access plan.

The Board continued discussion on access. Lisa Eggleston stated she was opposed to south Feeley – going between parks with a private road does not seem right. Northern Feeley seems better, however, there are issues with that as well.

The majority of the Board believes Maple Ave. is the best of the options for access. The Board instructed the Planner have a forensic botanist provide additional information, at the developer's expense, for decision consideration. A site visit was scheduled for Tuesday, May 11 at 8:00 a.m. with May 12th as an alternate date. Park & Recreation as well as the Safety Officer will be asked to attend.

On motion duly made and seconded, it was unanimously:

VOTED: To continue the public hearing for The Meadows to May 12th at 8:00 p.m.

The meeting was adjourned at 10:45 p.m.