

Present: Michael Fee (Chairman), Lisa Eggleston, Christopher Morely,
Michael Hunter, Eric Poch, Jody Kablack (Planner)

The meeting was called to order at 7:40 p.m.

Associate Member Interviews

The Town Planner had mailed letters to all applicants with specific items of interest the Board would like each applicant to provide in addition to general information.

Ralph Verni; 30 Tantamouse Trail

Mr. Verni had interviewed with the Board of Selectmen for the recent vacancy on the Planning Board which was filled by the previous Associate Member, Eric Poch.

Mr. Verni: Has a general financial and general management background. He likes the Master Plan and is in agreement with its purpose. His interests include Planning and land use in the Town of Sudbury; housing with both senior and multi-family objectives. He desires to have the objectives of the Master Plan met. Senior Housing is just one aspect of it; other age groups should be objectives as well. His skills include problem solving, brain storming, proficiency with numbers and his ability to get things done. Other sub-committees he is responsive to would be the Land Use Priorities, Community Housing and Sewerage in the Business District.

Mike Fee: The Planning Board recently approved a Senior Residential Community Permit on Maple Ave. which was problematic with the neighbors opposing the widening of the road. Are you familiar with this application?

Ralph Verni: Had become familiar with the issue at the interview with the Selectmen.

Michael Fee: The zoning bylaw prefers this (Senior Residential Community) to a cluster development. What are your thoughts on mandating that given the neighbors felt the SRC did not meet the criteria of the bylaw?

Ralph Verni: Feels among the neighbors concerns is the traffic during the construction phase and the on-going traffic with the additional residents. He believes the neighbors had a case with getting the town land for access. He believes the neighbors felt the change in their neighborhood was the main substance to opposition. He does not know where he would come out; it is a tough decision. It is his assumption alternatives were considered by the Board.

Chris Morely: The Planning Board name is a misnomer; we are a subdivision control board working under the bylaws.

Jody Kablack: We are also working under the Master Plan; in actuality we do plan.

Lisa Eggleston: Often times the public believes the Planning Board can just say no, we don't like an application.

Ralph Verni: The general public is usually driven by personal interest.

Mike Fee commented that the Board is very familiar with his resume and he personally had the pleasure to be present at Mr. Verni's interview with the Selectmen.

Chris Morely: Was impressed to read on Mr. Verni's resume that he was involved in the MIT Center for Real Estate as first Chairperson.

Ralph Verni: He was actually first head of an advisory board. He became involved via New England Life's long time relationship with Spaulding, who in turn, wanted to do something in the Real Estate field. He organized a program, with his Masters, at MIT and needed someone who was known in the community and asked Mr. Verni.

John Riordan; 12 Pendleton Road

Mr. Riordan: Is very interested in the Planning Board and is at a point in his life where he has the opportunity and time to devote. He wants to give back to the community and believes his expertise would be helpful. He was disappointed in reading the minutes from the interview he had with the Board of Selectmen. The minutes referenced his unfamiliarity with the Master Plan when in fact, he has read the Master Plan and spent much time in becoming familiar with it. He believes it is an important, living, breathing document but it is not carved in stone. It must reflect the changes in the times. Among his interests:

1. The Master Plan is inconsistent in spots regarding 40b and density of development. He feels controlled growth where you apply density incentives are okay if they are within zoning requirements for 40b.
2. Need to improve zoning bylaw clarifications. The Master Plan tries to smooth the process. His expertise, planning background and legal experience could be beneficial in doing this.
3. Land issues; senior housing and bylaws to promote it. He believes the seniors who live in town are very important and the pressures they feel (affordability) are also important for him to address.
4. The vagueness of the bylaws is an area he would like the opportunity to learn more on ways to fix.
5. Route 20 Improvements including wastewater treatment, pedestrian traffic and phone poles

Other town boards that interest him are the Economic Development Committee, Board of Appeals and the Community Preservation.

Mike Fee: You said the Master Plan should not be on a shelf gathering dust. How would you see that does not happen?

John Riordan: At the time the Master Plan was adopted, there was much interest and numerous public meetings. He liked the process of initiation but then the process slowed. The process needs to be continued, possibly by a committee, to tweak it. There should be input obtained to keep it vital and in front of people.

Ralph Verni asked to interject. He liked Mr. Fee's last question to Mr. Riordan and would like to comment. Every 5 years the Planning Board should produce a status or report. They should take the goals listed in the Master Plan and comment on the status. It is a good means of discipline even if everyone does not read it.

Lisa Eggleston: Every 5 years makes sense; too much beyond that, it's not fresh.

Ralph Verni: It would also be a good time demonstration of the constant dramatic changes in town.

Jonas McCray; 76 Washington Drive

Mike Fee noted for the record that he is an alumni of Mr. McCray's current law firm.

Mr. McCray: He is a newcomer to Town, from Connecticut. He has been in Massachusetts for 3 years and wanted to get involved in the community. He was raised to value community service. The Master Plan and the Planning Board's goals and objectives interest him. He believes his background would be helpful to the board. He has experience working with other town halls in Connecticut (permitting). Here in Massachusetts he worked for a .com company (pole top radios, wireless access) and then returned to work in law after gaining experience in local politics. He would like further local political experience here in Sudbury. He is interested in finance in particularly with regard to the Master Plan and raising money for the Town. He has met other newcomers in Town and has a sense of their future thoughts for the Master Plan.

Mike Fee posed the question of balancing the inconsistencies in the Master Plan and what tools he could bring to do so.

Mr. McCray: Believes it is a balancing act of cost versus benefit and how they play out. You have to balance developing economics while keeping it real. Must be done on a case by case basis.

Mike Fee: Hypothetically, you do your best to balance those interests but it falls short and you are questioned. How would you react?

Mr. McCray: That is where the Master Plan comes into play. It is what you are balancing, the analysis of the proposal with the Master Plan which is the back-up of thought.

Chris Morely: You mentioned knowing what the newcomers are thinking.

Jonas McCray: Developing pedestrian commercial areas; commuting on Route 20 concerns (congestion); development to open roadways (railways) and taxes are all issues they are focused on.

Mike Hunter: Maple Ave. became a difficult issue. When it began he was in favor of a 24' width road then went to 17'. It is being a deliberative body versus emphasizing while being open minded to the process. Any thoughts on how you would handle the process?

Jonas McCray: Compromising and negotiating are common for him in his practice. He looks at a position with flexibility whenever possible. The Master Plan must be flexible to the changing times, must be compromising.

John Riordan intervened. He looked at the Master Plan in respect to the Meadows. It was a need of balancing competing interests. Gaining public interest is part of the Planning Board's responsibility under the Master Plan; to look at all public interests.

Lisa Eggleston: While realizing you cannot convince every member present of that.

Chris Morely: There are still issues the Board acknowledged (commuter) that are not believed.

Mike Fee: If appealed and successful and a nine home subdivision goes in, the road will go to 24'.

Mike Fee thanked the applicants for their time, interest and desire to serve the Town. Lisa Eggleston implored them not to lose interest. The Planning Board can only select one person but there are many roles in Town.

The Board reviewed the applications for those not present.

Miscellaneous items were taken up at this time.

Cutting Property, Maynard Road – Recommendations to Selectmen

Jody Kablack: The intent is to release the subdivision parcel. It is a condition of the Purchase and Sale not to exercise the option for this parcel in question. They are asking to take out the 20 acre arboretum (10 lot cluster) with the large agricultural parcel to remain in 61A. The Board reviewed the plan.

On motion duly made and seconded, it was unanimously:

VOTED: To recommend to the Board of Selectmen that the Town not exercise the right of first refusal on the Cutting Property.

Associate Member Interview: Joseph Sziabowski; 799 Boston Post Road

Mr. Sziabowski: Registered architect with a large firm in Cambridge. He would like to be more involved in the community and have the opportunity to give back in areas relative to his background. He would also like the opportunity to learn the operation of the Board.

Mike Fee: What is your opinion of the Master Plan?

Joe Sziabowski: The Master Plan makes good sense while providing the opportunity to:

- control residential growth and consolidate commercial/retail
- maintain open space to maintain character

It is a meaty document which he has not devoured all of. His focus is in various areas for diverse housing. This is a challenge but believes it is possible to achieve. A possible consideration to attract developers to Sudbury would be to provide incentive. He likes all income level housing, opining it is a valiant goal. He is very interested in that.

Also interested in a task force to establish affordable housing; it is critical to sustainability.

Chris Morely: What is your expertise in architecture?

Joe Sziabowski: Larger scale projects, large scale residential work. He had been with a residential company in the past which designed a hotel in Boston, "Crosstown Center", a nine-story metal clad building. This hotel was part of a larger Master Plan. Mr. Sziabowski was the project manager.

Chris Morely: Does your firm have a Planning Department?

Joe Sziabowski: We don't have a Planning Department but we do have a Master Plan.

Mike Fee: Given the ambiguities in the Master Plan, what tools and skills do you have to solve the conflict?

Joe Sziabowski: Feels the Master Plan addresses that with mixed use development incentives.

Mike Fee: What are your recommendations for keeping the Master Plan fresh?

Joe Sziabowski: Actively make use of it. Possibly a committee to oversee the evolution of the Master Plan to learn and apply its thinking which would opportune it to evolve.

What is the role of the Associate member on the Board?

Lisa Eggleston: The Board typically meets every 2 weeks. The Associate member fully participates in deliberation but does not vote.

Jody Kablack: Unless there is an absent member or it is a special permit requiring 4/5 of the vote. In addition the Board conducts site walks (typically scheduled in the mornings) and review of materials mailed to your home prior to meetings.

Mike Fee thanked the applicant for his time.

Omnipoint WRSP at Sudbury Water District Property (North Road) – Request for Extension

Jody Kablack: This permit was approved one year ago in January. The applicant was in dispute with the Water District on the Site Plan and has since obtained the Water District's approval. They had reapplied but were told to ask for an extension.

On motion duly made and seconded, it was unanimously:

VOTED: To approve the request for an extension for the Water Resource Special Permit for Omnipoint for one year from today.

London Taxi Decision

Mike Fee: Was this a scrivener's error?

Jody Kablack: No, it was amended for the reason it was not in the spirit of the discussion the night the Board met with the Applicant. The paving and drainage in the back of the property should have been the only requirement, however, the decision was worded for all site plan work.

Mahoney Farms Senior Residential Community – Public Hearing

The hearing was called to order at 9:00 p.m.

On motion duly made and seconded, it was unanimously:

VOTED: To continue the public hearing for Mahoney Farms SRC to September 8, 2004 at 8:00 p.m. at Town Hall.

Jody Kablack: They are working on the wetland issues and working to improve the plan. The applicant has to do a wetland study.

Endicott Woods Definitive Subdivision – Continuation of Public Hearing

Jody Kablack: The applicant could widen to an 18' driveway. The MacNeill's said it could access their land.

Myron Fox: In follow-up to the last meeting in which opposing counsel argues use of the petitioner's land for benefit of the abutter.

1. Planning Board regulation VB; use to mandate the cul-de-sac continue up to the MacNeill property.
2. Continuation of uniform width of 18' but 24' if continued to MacNeill property.
3. Proper projection of the street to the adjoining land is detrimental to the petitioner; it should not go through the petitioner's land for the abutter's benefit.

The petitioner would lose a lot of land should this happen. It would be a compensatory taking which the Town would have to pay the petitioner (the Planning Board is not mandated to do this, but if they chose to it would be compensatory.)

The argument that the Board should have a requirement if the existing street within a subdivision has a land-locked parcel at the time of approval that Town bylaw provide for proper protection of the streets. That is not suitable here; it is not the case, landlocked or other access. The opposing attorney violates 1994 ruling saying the Planning Board is imposing a condition on the petition for public good. Attorney Fox cited similar cases in other areas regarding abutting properties similar to the Endicott Woods application. All of these cases did not require a road through the petitioner's property. The Board is not required to approve this request. It would be an unconstitutional taking of land. All of this land is part of one house lot. Attorney Fox provided a brief history of the area in which the MacNeill's have developed property as ANR lots. If they had been definitive subdivision it would have been requested under hardship. It would be detrimental to allow the abutter's land in this application to be more valuable.

Attorney O'Neill was asked for a rebuttal.

Presented a plan to the Board which showed the petitioner giving 2 lots with a land swap. It showed a continuation rather than a driveway.

Mike Fee: That would require an exchange of land with your client. What authority do we have to impose that?

Attorney O'Neill: We are giving additional lots.

Lisa Eggleston: It just makes it for width requirement for 2-3 lots. Conservation Commission crossing problem will not allow that amount of fill. It is part of a feasibility issue for the Board to consider.

Bruce Ey: 10% slope for a common driveway, not a public way. If reduced, the slope impacts the permit from the Conservation Commission.

Mike Fee: The feasibility issue is not foremost here. The Planning Board lacks the ability to mandate the transfer of land owned by the applicant.

Mike Fee: Opposition was asked to show how it could be done under existing plot lines. If this is how it can be done, we cannot mandate the transfer. But that is not what is before us. There must be a mutual agreement between the parties if this is to occur.

Attorney O'Neill: It would be a loss of lot for the applicant, they would end up with 3 lots. The constitutional test is not the precedent. This Board has to look at and determine if requiring this is beneficial to public interest. The intersection of Route 20 could be improved. He is not familiar with the history of the area. If an ANR was entitled in the past, what the petitioner should have required is not.

Myron Fox: Noted for record, Board member Christopher Morely was not present at opening of this hearing on June 23, 2003, therefore is not entitled to vote. He has no objection, however, with Mr. Morely's participation as long as opposing counsel has no objection.

Attorney O'Neill stated he did not have objection to Mr. Morely's participation.

Bruce Ey: Responded to calculation request for wetland and uplands. It does meet the bylaw requirements and they can add them to the plan. They worked closely with Conservation, a Notice of Intent was filed and they walked the property. It is a marginal wetland but it is jurisdictional. There is clearly drainage. Resource areas will be addressed. The proposal allows the wetland to function as it currently does while controlling run-off so it does not impact Route 20. There was a question on the wildlife value – they will be altering as little as possible. A good portion of the wetland is used as a paddock. They will present that to Conservation. There is the possibility of a driveway shift of 10' which will not impact anything, but is being done in order to preserve a large hickory tree. They will do what Conservation wants regarding the tree. There are no vernal pools. There is a small thread of an intermit stream. They are meeting with Conservation on Monday night. The plan provides drainage improvements and Route 20 access.

Mike Fee: What about mitigating drainage on eastern neighboring properties?

Bruce Ey: It collects currently to the west and catch basins discharge onto neighbor's septic systems. The wetlands function the same and the impervious surface is the same. The drainage system goes in leeching chamber and drains across the street into the ground (catch basins on top). It will not wash out the neighbor's driveway and is enhancing the groundwater. There is a roof drain into a dry well. The road comes into the drainage and goes back out. There are bordering vegetative wetland concerns if the road is moved too far, but 10' will not have an impact. The catch basin pipes out to the wetland. Water treatment meets DEP standards.

Lisa Eggleston: Is it within the State stormwater requirements?

Bruce Ey: Will be a new septic system. They will clear the area up to the wall of property boundary. There is a good amount of woods. A no disturbance agreement will be a condition. They will supplement evergreen plantings in the area and provide access to Town water (per abutter's request). Mr. Sziabowski (abutter) will have a 15' no disturbance buffer.

Mike Hunter: The proposed houses will be higher?

Bruce Ey: Yes, there will be good evergreen growth and a 100' buffer area.

Lisa Eggleston: Has there been turn-around discussion?

Jody Kablack: The Fire Chief would like 20'. With the wetland crossing, we can balance that issue.

Lisa Eggleston: Need the Fire Chief's input. Nobody wants more paving than necessary.

Bruce Ey: The Fire Chief is happy with the hydrant. They meet Town common drive requirements. It will not impact too much if it is widened to 20' for a larger turn-around.

Mike Hunter: Can do soft shoulders.

Lisa Eggleston: It will have to be maintained.

Bruce Ey: There will be over 2 ½ acres of woods still. They will restrict areas over the septic and limit lawn around houses. They would like privacy of houses as well.

Jody Kablack suggested Bruce Ey meet with the Fire Chief who would be flexible with the turn-around. Conservation jurisdiction is subject to conditions.

Mike Fee asked for public comment. There was none.

Mike Fee: Does not read the Board's requirements to extend a road for potential use or future development. There are questions to entertain, does not see overriding public interest to require this. Is aware of the added expense to the applicant. In the decision they could specifically state consideration of request from abutters.

Lisa Eggleston and Eric Poch concurred.

Lisa Eggleston: Also note if changes in the plan result from Bruce Ey's discussion with the Fire Chief (turn-around).

Jody Kablack: The decision due date is August 15; the Board is not meeting in August.

Myron Fox: Would be glad to accommodate the Board with an extension if necessary.

On motion duly made and seconded, it was unanimously:

VOTED: To close the public hearing on Endicott Woods Definitive Subdivision and to instruct the Planner to prepare a decision for July 28, 2004.

It is noted for the record, Board member Christopher Morely did not vote on the motion.

London Taxi Decision

The Board continued discussion on the London Taxi WRSP decision. Mike Fee opined there should be an application for modification submitted with no fee. Public notice is critical to change the decision.

On motion duly made and seconded, it was unanimously:

VOTED: To amend the London Taxi application.

The meeting was adjourned at 10:00 p.m.