

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

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

142 North Road Subdivision Modification – Public Hearing

Mike Fee read the notice into record and reviewed the file documents. A petition dated November 9, 2005 submitted by the Condominium Association at Northwood was read into record.

It was the belief of the Board, that if the residents want the walkway the Board would not waive it.

The hearing was opened to the public.

Ralph Tyler, 1 Deacon Lane:

What is the nature of the bond which is presently held?

Jody Kablack: It is a \$42, 000 cash bond.

Ralph Tyler: How does a cash bond work?

Jody Kablack: \$42,000 was deposited to the Treasurer's office to secure improvements for the development for approval.

Ralph Tyler: Can the minutes reflect there is a \$42,000 bond?

Mike Fee: Yes, it is also documented in the subdivision file folder. What are the bankruptcy issues related with Northwood Properties, versus the securement of the bond? Can Bill Place build before the spring?

Jody Kablack: Bill Place cannot push it up as a priority now. Town Counsel felt the bond would remain as viable security; it should not be part of the bankruptcy.

Mike Fee: Whereas it is not an asset of the State and there are provisions of bankruptcy that enable debtors to re-coup he would agree with Town Counsel. Can we take the bond and build it when we want?

Lisa Eggleston: The only reason to take the bond would be to ensure money is there in the spring.

Mike Fee: The applicant is way beyond the timeframe for completion.

Chris Morely: He sees complications if the Board takes the bond.

Lisa Eggleston: Now we should vote on the request to waive the walkway and close the hearing. Then we can vote on the extension; if we vote to extend, we don't have a basis to take the bond.

Ralph Tyler: There is something termed an "Automatic Stay" which the Board should be sure any action taken is not in violation of.

On motion duly made and seconded, it was unanimously:

VOTED: To close the Public Hearing for 142 North Road Subdivision
Modification.

On motion duly made and seconded, it was unanimously:

VOTED: To deny the request of the waiver to construct a walkway as outlined in the Decision for 142 North Road Subdivision.

It is noted for the record Board Member Eric Poch did not take part in the votes due to late arrival.

Jody Kablack: The Board can hold off on the vote for extension until further input is obtained from Town Counsel.

Lisa Eggleston: Would also like input from Bill Place about the timing on private property.

The Board instructed the Town Planner to check the following question with Town Counsel:

1. Are we in jeopardy of losing the bond due to bankruptcy?
2. If the Board grants the extension, do we risk anything?
3. If we take the bond are we in violation (Automatic Stay)?

Chris Morely: Cautions the legal expense if the Board takes the bond.

The Board deferred the Extension decision/vote to November 29, after Town Counsel input.

Grouse Hill Preliminary Incentive Senior Development – Public Hearing Continuation

Mike Fee reviewed the new documents submitted to file since the last public hearing. The Board conducted a site visit yesterday. Among the issues the Chairman wants to discuss are; pricing, configuration of units in the field, open space, 21E.

Mike Sullivan (Sullivan, Connors):

Reviewed the new configuration. The applicant re-evaluated the road network to maximize the distance from the road for abutters' views and field integrity. What they came up with was a straight cul-de-sac with 3 units per building as opposed to 4. The square footage of what the Town gets and what the Town gives is the same. The units are now 280' from the road (plus or minus). The Town is getting a widening of the strip they needed to 50'. The wetland buffer goes into Town land. The 100' buffer was the rear part of the "tooth" lots. The grades in that area don't work for a recreation field.

Mike Fee: Has the distance to the road increased? What about the Dunworth parcel? How does the reconfiguration help her?

Mike Sullivan: It moves everything back further from their property line as well as Mr. Bachand's (moves to 110' and 140').

Lisa Eggleston: Now it is more aligned with the horse corral than the house.

Bill Pezzoni: They want a berm and plantings with this configuration to shelter the houses.

Mike Sullivan: Units 17-20 are closer to the property line but further from the house.

Lisa Eggleston: Does this reconfiguration require grading in the 100' buffer zone? Is it more than previous?

Mike Sullivan: Yes, a little grading and walkway construction in the 100' buffer is needed. Therefore, they are requesting a waiver on the grade of the road from 2% to 6% throughout the whole road.

Lisa Eggleston: What are the building elevations now versus with the old plan?

Mike Sullivan: 187/190 are the highest. They did eliminate one building and preserved the buffer. It is a difference of 6"; drops with grade.

Lisa Eggleston: Larry O'Brien was at the site visit and had a concern with the swap. He was uncertain of the utility of the back corner. It could be potential parking for a potential field which would mean the Town is giving away "useful land" in order to obtain passive buffer land.

Mike Sullivan: Could a restriction be put on it?

Mike Fee: Not with this process.

Jody Kablack: That is within the jurisdiction of the Board of Selectmen.

Bill Pezzoni: The Selectmen have to agree to the purpose as they are the ones agreeing to swap. We could give a bit more land to the Town to come back off the street (Old Framingham Road) more.

Lisa Eggleston: That will be a hurdle for you to address with the Selectmen.

Bill Pezzoni: The Selectmen will be the next step before the Definitive Plan submission with the Planning Board.

Chris Morely: That piece of land now changes and is sufficient for parking if that is the Selectmen's choice.

Mike Sullivan: There would be grading and drainage issues (area below cul-de-sac).

Lisa Eggleston: What if you give the Town more of the corner?

Mike Sullivan: Once the grading plan is done, we can cut more of an envelope around it.

Jody Kablack: The Selectmen won't restrict the frontage area; need the input of the neighbors on this.

The hearing was opened to the public.

Ray Bachand, 63 Old Framingham Road:

He is impressed with the new configuration; thinks it is a great compromise. He knows it is closer to Leigh Dunworth now, but 30' is not so bad. With regard to the restriction issue, he would take the chance. Would rather have this with no restrictions. If there are 52 units, it most likely will not turn into a parking lot. At the site visit (he attended), the Selectman present saw no value in the designation of a scenic road. Mr. Bachand disagrees with him. Maintaining the road and the buffer is very valuable.

Leigh Dunworth, 78 Old Framingham Road:

She is not pleased, feels it needs a middle ground. Her barn and the view are very important to her. Her pasture is the area where there are no houses – it is beautiful. She feels there should be more of a compromise, there are 2 abutters being greatly impacted,

not just one. She liked the first plan better and is less concerned with people driving down the road and being further away from the development. She feels the open space needs to be valued more. She understands the dilemma for the Board and the applicant in trying to please everyone, but feels it could be more of a middle ground.

Mike Fee: This is still a preliminary plan. In order to proceed, we need a foot- print to go by. Changes can still be made.

Adam Miller, 1 Nobscot Road:

He feels it is an improvement moving the units back. However, in this new design, why decrease to 3 units? If there are 4 units, they could increase the 30' strip for the Town.

Bill Pezzoni: They changed it to 3 units to cut down on the massing and also brought it down to 5' to reduce the massing on Leigh's side with berms to cover. In addition, they are also getting away from the street. The 4 units may not fit as well.

Eric Poch: Does it have to be a cul-de-sac?

Bill Pezzoni/Mike Sullivan: Yes.

Mike Sullivan: It is a very severe slope which can't be built on; wetland proximity. It is a matter of the way the grades work. They tried to get further away from Leigh's house.

Eric Poch: What is the distance of the northern most unit to the buffer area (Town owned land)?

Mike Sullivan: 160'.

Eric Poch: What about shifting the configuration?

Lisa Eggleston: That was actually discussed on the site visit; talked about pushing it up.

Chris Morely: That still doesn't help Leigh.

Mike Sullivan: They tried to maintain the value of open space.

Lisa Eggleston: It is a utility of land perspective for the Selectmen; not likely to be used.

Chris Morely: The problem is that the Town doesn't know what is there and how to use it.

Jody Kablack: If the wetlands preclude use of anything; it could be parking.

Lisa Eggleston: That is a waiver issue. Also without the proper screening, the viewscape over the field won't be there either way.

Chris Morely: The Town could keep the field on the street.

Lisa Eggleston: Will see the buildings just as clear even if it's pushed back. The line of site is still wide open.

Joe Sziabowski: It would be less noticeable further back.

Chris Morely: He likes the new plan better but is in conflict with the Town owned land.

Adam Miller: If there are four units, it may break up the massing from the horse area.

The distance back from the road makes either the 3 or 4 units better.

Ray Bachand: What about doing 2 buildings with 4 units or 4 buildings with 2 units?

Mike Sullivan: The design work can address with multiple options.

Chris Morely: Larry O'Brien tried to save the triangle piece for parking. If the new plan goes through, parking will not be appropriate. There is a perfect natural separation.

Mike Fee: We need the consensus of the Board. Is it for the plan which requires the land swap with the Town to remediate the abutters' issues?

Lisa Eggleston: Intent to improve the buffer from the neighbors. She supports the land swap if it improves Leigh's concerns.

Mike Hunter was in favor of the land swap.

Eric Poch: Strong advocate for the land swap. This is a critical entry point to Town. Scenic Road appearance is key. He favors the land swap to continue as a buffer.

Joe Sziabowski: Agrees with Eric. It is imperative to maintain the character of the entire place. Can the Town explore the plan of Town owned land in conjunction with this? It would solve many problems.

Lisa Eggleston: That is more of a funding issue.

Jody Kablack: It is actually a CPC proposal; marketing the wetlands and what we can and cannot do.

Mike Fee: Agrees with Eric and Joe. He understands there will be hurdles with the Selectmen, but it is a flexible approach to the problem.

Bill Pezzoni: Wants it clear for the record the land swap involves 12 units.

Mike Fee: That is understood.

Bill Pezzoni: He is optimistic they can tweak the plan so everyone is happy. They have received some good ideas here and should be able to tweak the cul-de-sac.

Lisa Eggleston: Suggests that the applicant float the idea to Conservation early on.

Jody Kablack: It may be a better situation for the wetlands. The open space issue needs to be clear. The requirements in the bylaw tell the Town it is 1. Condo Association; 2. Deeded to the Town; or 3. Deeded to other organization. If the applicant deeds it and takes the open space out of developed parcel, is it non-conforming?

Bill Pezzoni: There is a bigger issue. It can't be deeded away, as then it is non conforming with zoning. Would it be better as a restriction or deed?

Jody Kablack: Deed to Town for the lower portion and the wildlife corridor.

Mike Fee: There can be language in the Decision for the title policy; it can be solved.

Bill Pezzoni: Can get the title company to write over it.

Leigh Dunworth: Didn't know they were leaving the open space. The Newells let them ride back there.

Mike Sullivan: It would be the Newell property from the stone wall to the back of the property.

Jody Kablack: Will check on the riding issue for use of open space.

Adam Miller: Won't it still go over Town property if the access property changes? It is not a legal access; can't go through the field, it won't matter.

Bill Pezzoni: What about an easement access for Leigh?

Jody Kablack: It is Town owned land, won't prohibit the public. Now the Newell property needs to be dealt with. She will speak with the Conservation Coordinator.

Bill Pezzoni: Would like to be part of that conversation.

Chris Morely: Are you riding on wetlands?

Leigh Dunworth: Not until July, it is too wet.

Eric Poch: Could you seek in the deed that something for open space be further from Conservation and for active use? Make it feasible for recreational use; not the wetland portion.

Jody Kablack: The bylaw requires it to be dedicated to Conservation purposes.

Lisa Eggleston: That includes passive recreation, not active.

Eric Poch: The Conservation corridor is on one side, the other side should be for pedestrian transit.

Lisa Eggleston: What is the intent of the trails?

Bill Pezzoni: They are walking trails. Trail access can be in restriction.

Mike Fee: Those are conversations for Conservation.

Price:

Mike Fee: Referenced the 9-28-05 memo from Bill Pezzoni addressing the price restriction under the Incentive Senior Development bylaw.

Jody Kablack: The Town's perspective regarding section 5450; it is a convoluted calculation. As with Frost Farm, it is based on when they sell, when it's first developed and the HUD area pricing at the time. To determine the base price, there are a number of factors including the Boston median income (80%) and the number of people in the household. The Board needs to determine the base price on how many persons (Frost Farm was based on 2). We can hold on the interest rate until the Definitive stage.

Bill Pezzoni: Due to the number of units and the quality, they would ask it be based on 4 persons. With 3 persons, it cuts the size and quality of the work. We need 4 persons to get 512k base price. Once the price is established, they do an appraisal to get the value of the unit and then the discount rate which gets carried forward with any resale. New owners shouldn't be held to the discount rate, so they put "non-restricted" adjustments to only 10% increase when they sell. They can use the discount rate to get the maximum to re-sell. It creates a market of incentive unit price restricted but does not lose value. The market rate price is a compromise for them to build quality, they need four persons; with three they can't do as high quality.

Chris Morely: 1/8 of a point is a \$12-15k difference.

Lisa Eggleston: If we establish the number of persons, then the developer provides an opportunity that the buyer recovers?

Bill Pezzoni: Yes, via the "non-restricted" adjustment.

Eric Poch: We need to produce everything in writing as a Town for the price calculations.

Jody Kablack: She strongly suggests there be a cap on the upgrades; maximum limit. What is the 10% inflation rate in real estate?

Chris Morely: It is lifetime 10%.

Jody Kablack: She has asked a number of planners about affordable housing issues. If central air is put in, most places won't allow upgrades for affordable housing. It would be a good idea to cap it.

Lisa Eggleston: A straight number or a percentage?

Jody Kablack: A percentage.

Eric Poch: Future upgrades should be capped. That is not in Bill Pezzoni's memo. It goes to the far end of the spectrum. It has to be a finite percentage; not fluctuating.

Chris Morely: What prevents the developer from loading a unit?

Bill Pezzoni: It is up to the individual what they request; everything is base.

Chris Morely: But the potential is there to build out the units.

Mike Fee: If everyone wants a total package, nothing restricts you from building that.

Attorney: A cap can be put on fixtures.

Mike Fee: The purpose of the Incentive Senior Development is to provide an affordable means of housing for the elderly population. The formula must speak to that. There is no guidance in the HUD or regulations. Without a cap, it will be a problem.

Mike Hunter: A price 10% over in upgrades is the high end, 5% would be better.

Jody Kablack: We can do more research, but the applicant needs an indication. Clearly, the Board will allow some upgrades.

Bill Pezzoni: We have no issue with capping. It will be \$500-550,000 which would go between \$8-900,000 if it was market rate.

The consensus of the Board was to entertain upgrades.

Jody Kablack: The Board needs to think of a price which is not to be exceeded; a general level for now to set the base price which will be incorporated into a preliminary decision. The majority of the Board opined the higher end of the price table, between \$512-525,000.

Mike Fee: Need to address the 21E issue. The preliminary site assessment was not conclusive; no environmental answer.

Bill Pezzoni: The wells will not be used.

Lisa Eggleston: From the preliminary site assessment on visual, historic; is there any reason to suspect inappropriate disposal? She would test the holes when the material is disturbed. It should be re-evaluated.

Bill Pezzoni: An area of concern is towards the wetlands where the landscapers dumped debris. They agreed with Conservation that the material will be removed off site. It can all be excavated and removed.

Mike Fee: Is that sufficient for our purposes?

Lisa Eggleston: Yes, there is no basis to require more if it is being removed. It must be appropriately disposed of. The well is not going to be used, doesn't need testing.

Eric Poch: What if it leeches elsewhere?

Lisa Eggleston: Nothing in the regulations require testing levels for irrigation wells. It needs to be consistent.

Chris Morely: Asked to see the plan for the single family houses and lots.

Mike Sullivan: (showed plan). The lots are further back from the road than need be. It is allowed under zoning but for massing reduction, they prepared it this way.

Ray Bachand: Diversity is better; it can be done tastefully.

Leigh Dunworth: Also likes diversity. What is the size of the houses?

Mike Sullivan: 120 x 45 square feet.

Lisa Eggleston: If they are developed as ANR lots it would be out of our jurisdiction.

Bill Fleming (landscape architect) reviewed the plan for the landscaping:

The screening (red maple) follows the roadway. They pulled it back and put a berm to maintain the open space feel. From the road there will be more open space view. There will be approximately 30' of back yard for the units. They will wrap earth berm around the stone wall (loam grass) with 30' strip to field. The entry way will have a turning circle with a stone wall that circles with benches and perennial gardens. They are trying to screen the new houses from the open field. The buildings are lower as you go down the slope. There is a berm at 4'; may increase the height. Proposing deciduous trees to make it look more natural and integrate with the existing landscape.

Scott Richardson (Gorman-Richardson Architects):

The building design has roof over hangs which extend over the garages now. It is a gable element that goes out 3' with more of a shadow line. They have changed the rear elevation for the 3 units to break up the front and down play garage doors.

Joe Sziabowski: What material are you using?

Scott Richardson: Vinyl siding.

Ray Bachand and Leigh Dunworth liked the revised building design much better than previous.

Mike Fee: Thanked the applicant for the time and money spent to revise the building design.

On motion duly made and seconded, it was unanimously:

VOTED: To close the public hearing for Grouse Hill Preliminary Incentive Senior Development.

The Board instructed the Town Planner to draft a preliminary decision to be reviewed and signed at the November 29 Planning Board meeting, 7:30 p.m.

2006 Annual Town Meeting Articles

Jody Kablack:

1. Housing Trust (CHC); the Board will be getting a memo
 2. Earth Removal Bylaw
 3. Agricultural Commission; "raising versus keeping"
 4. CPC Proposals; (Chris Morely)
 - Wayside Inn; looking for PB support to do a comprehensive site study. There has been a drop in activity, landscape changes. It is a private entity the CPC would like it to remain as such
- Jody Kablack: \$120,000 entails everything but a Master Plan

The CPC forum submittal deadline is November 30th.

Sprint/Omnipoint Extension

On motion duly made and seconded, it was unanimously:

VOTED: To grant the extension request for Omnipoint Holdings, Inc.
Water Resources Special Permit at 197 North Road to
July 14, 2006.

Maple Ave. Update

Jody Kablack: The residents on Maple Ave. have filed a second appeal even though the Land Court Decision was not in their favor.

The meeting was adjourned at 11:00 p.m.