

Present: Michael Fee (Chairman), Lisa Eggleston, Christopher Morely,
Michael Hunter, Eric Poch (7:45 p.m.), Joe Sziabowski (Associate),
Jody Kablack (Planner)

The meeting was called to order at 7:30 p.m.

Scenic Road Public Hearing – 342 Lincoln Road

Mike Fee read the notice into record. It was noted to record that Mr. Fee had represented a gentleman present for this application on a separate matter. He does not believe it to be a conflict but is willing to recuse himself if anyone requested. No request was made.

Adam Smith (SRS Development): He bought the lot and had no idea that it was a scenic road. He did look to see if it was in a historic area. He is still unsure as to how to know when it is a scenic road.

Jody Kablack: Quick review; this was a tear down at 342 Lincoln Road. The wall was battered and the applicant did take it down and rebuilt it. The Historical Commission notified her that the wall had been demolished and rebuilt.

(Pictures shown of current wall.)

Adam Smith: The wall is barely off his property line; 10' in from the edge of the road.

Lisa Eggleston: Where is the low wall?

Jody Kablack: Within the right-of-way. The plot plan doesn't show the wall (not unusual). It is about 10' in from the road as stated, on either side. The Building Inspector has many check-off items on his application; however, scenic road is not one of them. It will be suggested to him that this be added to the form.

Lisa Eggleston: So the applicant's position is valid? How does the matter of a scenic road come up?

Chris Morely: The pictures show a gap which the applicant referenced. Will there be anything going in that gap?

Adam Miller: No.

Lisa Eggleston: Did you get a driveway permit?

Adam Miller: Yes.

Lisa Eggleston: Nothing was flagged at that point either to make you aware it is a scenic road?

Adam Miller: No.

Jody Kablack: It should be referenced on the driveway permit as well with reference to the Scenic Road List, not signage.

Lyn MacLean (Historical Commission): She read an email from the other 7 members of the Commission who were not present. This was submitted to file. The email expresses the displeasure of the Commission with the applicant's excuse of not being aware. They caution this as a recurring excuse. Her personal opinion is that although the wall is beautiful and it is a low wall, it is not a farmer's stone wall anymore.

Mike Fee: Asked for clarification; does she mean it was beautiful or is currently? Does she find it to be incongruous?

Lyn MacLean: She likes the way it was built by the applicant; however, it is modern and not a farmer's wall. If people just take down walls without permission it sets a precedence. While she and the Commission understand this is a fairly new bylaw, it needs to be adhered to. She cited the stone wall on Willis Road which had been taken down without permission.

Mike Fee: Willis Road was a different situation. That builder had complete knowledge of the bylaw. He does not feel this applicant knew beforehand.

Lisa Eggleston: The Building Inspector's office is the first stop for applications of this nature and therefore, critical that it reference the bylaw.

Mike Fee: What are the Board's options?

Jody Kablack: We either grant the application or don't. It is a new bylaw and the applicant did contact her as soon as she called it to his attention. She wants to discuss the matter with the Historical Commission; the bylaw speaks to the character of the wall. Re-building would have to have serious discussion for formats. This was re-built, not just removed.

Chris Morely: It is not a question of taste, it is a matter of being historically accurate or not.

Joe Sziabowski: Can we get images of exemplary walls?

Lisa Eggleston: The Historical Commission should take pictures of historic walls.

Jody Kablack: We could put a story on the web to help get awareness out.

Mike Hunter: This wall is already done. It matches with the other wall they put up, goes together well.

Mike Fee: Concurs. He understands the dissatisfaction of the Historic Commission, but opines this situation was partly the Town's fault. While the wall is not historic, it is not offensive.

Lisa Eggleston: Is there additional work to be done?

Adam Smith: No, it will remain as is, no tree removal.

Chris Morely: Should we extend the wall?

Jody Kablack: Will the homeowner use to pull in?

Adam Smith: That is not the intent. When he did this, the intention was to keep it on his property. He strayed a little bit, but mostly it is a matter of inches off his property. 99% of it is on his property. He believes it would have helped if one of the check boxes on the building application referenced this.

On motion duly made and seconded, it was unanimously:

VOTED: To approve the application for the demolition and rebuilding of the stone wall at 342 Lincoln Road.

Miscellaneous

Minutes

On motion duly made and seconded, it was unanimously:

VOTED: To approve the minutes of 7/6/05, 7/20/05, 9/8/05, 9/14/05, 9/28/05 and 10/11/05 as amended.

Meeting Schedule

The Board will not meet on February 22, 2006. The Board scheduled its next meeting for March 1, 2006, then again March 22. Town Meeting commences April 3 and the Board will plan on meeting prior at 7:00 p.m. in the High School Library.

Cail Farm Definitive Subdivision & Scenic Road – Public Hearing

The Chairman read the notice into record.

Mike Fee: Questions whether the Board can combine the scenic road public hearing with the definitive subdivision public hearing.

Jody Kablack: Yes.

Mike Fee: Doesn't think the Board should; they can be taken up at the same meeting, but should not be combined. If there is a procedural defect with one application, it will affect the other. It is his recommendation to defer the tree hearing until later in the process.

Chris Morely: The tree hearing was for sight distance.

Jody Kablack: It is one tree which is critical for sight distance. This tree is diseased and had been petitioned to be taken down in the past. A resident made a plea to have it trimmed rather than cut down. Now, it is more diseased, more of a danger.

Lisa Eggleston: While she understands the Chairman's reasoning for separate hearings, it is also generally worth considering together as tree location has a great impact to design.

Mike Fee: Agrees with that, however, at this stage we are not taking tree action; no decision on the tree. That portion of the public hearing is withdrawn and will be renoticed as a separate Scenic Road tree hearing.

Mike Fee: For the record, he has represented an abutter who is present for this hearing, on an unrelated topic (not real estate or real estate development). He does not consider this to be a conflict, but wanted it disclosed to the applicant that he had been the legal representation for Mr. Kennedy. If anyone is of the opinion this is a conflict, he will recuse himself from this application.

It is noted to record the applicant waives any conflict with Mike Fee sitting as chair on the application. No other objections were made.

Mike Fee: One last technical issue to address before beginning with the presentation. Section 6400 of the Zoning Bylaw was read and Associate Member, Joe Sziabowski, was designated to sit on the Board in entirety with the ability to vote if it is needed.

George Dimakarakos, Stamski & McNary:

The proposal is for a 25 acre parcel on Concord Road owned by Allen Cail. The existing house and barn in the front of the property will be removed. There are woods and wetlands in the back of the property. The applicant is proposing three houses in the existing field area with 22.4 acres being deeded to the Town for Open Space. There will be an 18' wide road with a hammerhead turn-around. Three catch basins will be installed for infiltration in the back of the property with dry wells for run-off. They met with the Conservation Commission Monday night and they approved the 2 lots. There is a restrictive easement (25' wide) to preserve the field in a non-manicured state. This will be mowed 2-3 times a year as suggested by Conservation. Mrs. Geagan and Mr. Kennedy, abutters to the property, requested screening which they will do (white pine and rhododendrons).

The applicant showed topographical pictures to the Board.

George Dimakarakos: This parcel abuts Town land with access from Twin Pond and North Road. He referenced the Town Planner's memo dated 2/7/06 and the Town Engineer's letter of 1/31/06. The comments made on these correspondences can be done.

Jody Kablack: She is concerned with the design of the radius of the cul-de-sac which was not correctly referenced in her memo of February 7th. It should be 60'; the applicant is requesting 45' with only an 80' diameter. The requirement for diameter on a cul-de-sac is 120'. We don't typically waive this requirement. Without a waiver, it allows for difficult setbacks; the width of the 2 lots is very tight right now. The current design may not be permitted. The density plan worked for the lot count. The preliminary decision does not address this issue. There is no formal determination on the waiver of full up radius on the design plan. We need to re-establish the lot count.

Lisa Eggleston: Does it meet the 3 lots with this configuration?

Chris Morely: We need to establish they are three buildable lots.

Jody Kablack: It meets the requirement for the dimensional plan; need to meet it for a cluster plan. The requirements are 1) have to submit percs, 2) have to meet zoning and 3) must have sufficient upland area. With the exception of the small parcel, the three lots meet these requirements.

Is a 120' diameter cul-de-sac possible?

George Dimakarakos: It is not impossible; however, they will have to significantly change things. The three house lots may have to go into the buffer zone and may not have as much open space. It is a narrow area; if the cul-de-sac is reduced it will be tough. It shouldn't affect the road construction.

Jody Kablack: It doesn't meet the turning radius for fire trucks; it couldn't be built to specification.

Mike Fee: With this new information, the applicant has to do so more work. What should the Board do at this point?

Jody Kablack: She would like to hear the public input. We can continue discussion at the end to see if we can work it out. We cannot waive the setback; that is a zoning variance.

Chris Morely: With a conventional plan, it must prove the buildable number.

Jody Kablack: This is a cluster plan; judge waivers by if it can be built to full standard. The standard is a 60' radius they made to 40' (not 45). We need to see how high they can go.

George Dimakarakos: The tree line is basically the buffer zone which is why they requested 40'. They are trying to minimize the disturbance to the land.

Mike Fee: What is the habitat importance? Has there been analysis to quantify the values on what you are speaking not to disturb for the driving design force to stay out of the wetlands? At this point, he is inclined not to grant the waiver.

George Dimakarakos: There has not been any analysis done at this point.

Chris Morely: A 50' radius may satisfy the requirement.

George Dimakarakos: We will start with the Fire Chief.

Chris Morely: He needs a 45' radius.

Lisa Eggleston: The Fire Chief has also given alternative turn-arounds. The issue here is creating frontage.

Jody Kablack: That is not a concern because they are going smaller. The turning radius is the issue. On a private way we don't vote on lot specification.

George Dimakarakos: It is a private way that could conditionally be for approval at Town Meeting as a public way.

Jody Kablack: If we waive the radius, we take away the voters' approval ability.

Eric Poch: What if restricted to private way status with condition?

Lisa Eggleston: There is a potential for property owners to being built-out which is not necessarily bad.

Jody Kablack: It is based on a conventional build-out.

Eric Poch: What is the distance of the back house to the road?

George Dimakarakos: 145'.

Lisa Eggleston: Is the cul-de-sac as short as it can be?

George Dimakarakos: Due to frontage issues, yes. In his experience, turning into common drives in other towns has been done in rectangular configurations.

Mike Fee: There are many considerations for the waiver philosophically. The applicant's engineer and the Town Planner should work together on the matter. We need to move on.

Jody Kablack: Item 1 on her memo addresses the creation of the smaller lot (.04 acres) at the northeast corner. At the preliminary hearing, the Board said that we would consider this parcel. The Board has approved this before with minimum frontage on one street. Narrative is needed for this from the applicant.

Item 8 on referenced memo; the 100' perimeter buffer for cluster subdivisions, the applicant will need a waiver on this regulation which they have not requested yet (lots 1 & 3). This is routinely waived, however, not down to zero.

A major point for the Board to be judging waivers on is the overall benefit of the 22 acres of Open Space being deeded to the Town.

Mike Hunter: Would that mean the property could not be walked?

George Dimakarakos: The Conservation Commission wants it to be walked on; possible trails.

Unidentified Resident: The brook cannot be crossed in the back to access.

Jody Kablack: Public access is desired.

Lisa Eggleston: Drainage issues; there is a fair amount of fill. The applicant needs to address the volume of fill; being brought up to 6'.

Discussion was open to the public.

Doug Kennedy, 821 Concord Road:

He has drainage concerns. Are the basins piped out?

George Dimakarakos: There is a swale for surface run-off, dry wells for roof run-off, overflows into swale. There is a 1" swale depth.

Doug Kennedy: What about plantings?

George Dimakarakos: They are planning to have them 8' high.

Doug Kennedy: The house will be higher than mine under title V?

George Dimakarakos: Possibly 1'.

Chris Morely: Will there be screening with the swale?

George Dimakarakos: Yes.

Doug Kennedy: How much higher will the septic be than mine?

George Dimakarakos: It will be 5 ½ feet higher.

The Board reviewed the proposed swale on the plan.

Doug Kennedy: Is the distance from the house on lot 3 to the lot line sufficient?

Mike Fee: Yes, under a cluster plan, the requirement is 35'. There is more lead way with setbacks within perimeters.

Doug Kennedy: He would like a fence next to the swale. It could be on his property. He thinks the septic will be more like 7' not 1'. Will there be plantings on the other side of the lot? Is it possible to move the 3 houses back? That would lessen height concerns for abutters.

Dominic Zaia, 818 Concord Road:

Who owns that small lot? Will there be a septic system?

Jody Kablack: Yes, but it will be non-developable. It is only used for demonstration purposes for conforming and won't be created.

Dominic Zaia: The access road has moved about 40'. This puts the driveway where the fire hydrant is?

George Dimakarakos: We will move the hydrant about 10' towards the road.

Dominic Zaia: What is the distance from the end of the asphalt road to the land where it is being raised for the septic?

George Dimakarakos: It is 30' back from the pavement.

Doug Kennedy: Will the access road remain at street level?

George Dimakarakos: It will go up approximately 2%. There will be two catch basins at the end of the road for water collection.

Doug Kennedy: Can the homes slide back 20' to get the required radius? Could they still be this footprint?

Jody Kablack: That will be looked at along with other possibilities.

Doug Kennedy: He would prefer this plan for 3 houses rather than what could potentially be there.

Bill Geagan, 809 Concord Road:

The septic for lot 1; will the road be built 5'?

George Dimakarakos: On the other side, not on your side; towards lot 2.

Bill Geagan: There is a broken culvert at Concord Road. Will it be fixed; can the Planning Board require it to be by Mr. Vanaria before he submits any other plans? He keeps getting plans approved but has not fixed the culvert he broke.

Mike Fee: That has been flagged by the Town Engineer and will be addressed in context.

Bill Geagan: Will the driveway into lot 2 have a Cape Cod berm?

George Dimakarakos: Yes, it will be a 1' wide, 6" high curb at the edge of the driveway into catch basins.

Bill Geagan: South bound on Concord Road the speed limit is 40 m.p.h., from 35 up to around the bend to the brook, then to 25 at Twin Pond. The majority of houses on the south bound lane. The speed limit should be addressed and flagged to the appropriate Board.

Mike Fee: Agrees, the Planning Board should flag it for the Board of Selectmen.

Tom Geagan, 809 Concord Road:

Is the pool at the edge of the field on Concord Road a vernal pool?

Allen Cail: Before it was Town water, his father dug it (50-60 years ago) to put a pump in to water the field.

George Dimakarakos: That is wetland jurisdiction under Conservation.

Tom Geagan: Lot 1 septic system/leeching are right on the property line.

George Dimakarakos: It has to be at least 10' from the property line. It will be raked and pitched; it will be fairly flat and won't be visible from your side. The slope is on the far side; it will be a natural swale.

Dominic Zaia: Lot 1 house level – will it be street level or raised?

George Dimakarakos: It will be raised about 4'.

Dominic Zaia: In comparison to what is there?

Jody Kablack/Lisa Eggleston: It will gradually raise 4'.

Doug Kennedy: You referenced the maple trees at the start of the hearing. One of the trees is dead?

Jody Kablack: One tree is in very bad shape, the other tree does not need to come down (in front of proposed septic).

Tom Geagan: Comment on the radius which was stated it ideally should be 45'. To be taken into consideration are parked cars, snow, etc. These are public safety issues.

Doug Kennedy: There will be access to the donated land?

Mike Fee: It will be recommended.

Jody Kablack: To clarify, the access will be proposed in the right-of-way on the right side.

George Dimakarakos: Alternative access will also be proposed since it will be right behind the house easement over the drainage easement. They need to keep it out of the yards of the proposed homes.

Bill Geagan: Suggested access options. It could be accessed from the existing Davis field across the brook; access from North Road from Twin Pond Lane.

Doug Kennedy: What are the sizes of the houses?

Rick Curtin: 3,000 s.f.

Mike Fee: Thanked the public for their input. This is a nice plan to look at for the Town benefit. Preservation is an attractive alternative to other possibilities. Items flagged tonight for the next discussion include 1) density and 2) house/roadway design and the impact to abutters. Alternatives need to be suggested.

Jody Kablack: The applicant will also need to address all items listed on her memo.

Lisa Eggleston: Also soil testing and infiltration.

On motion duly made and seconded, it was unanimously:

VOTED: To continue the hearing for Cail Farm Definitive Subdivision to March 1 at 8:30 p.m. at Town Hall.

The Scenic Road Hearing for tree removal will be renoticed.

Fairbank Farm Discussion (Harvey Farm Lane)

Attorney Bob Dionisi representing Rick and Mike Hine of Oakwood Construction; buyers/developers of lots 1 & 2 on Harvey Farm Lane. It is their opinion an overburdening of the driveway is occurring by Mr. Fairbank (farmer). It is also their opinion it is not what the intent of the 1999 Decision for Fairbank Farm states.

Mike Fee: It states in the decision that use of the lane is for agriculture; i.e.: farming.

Bob Dionisi: In the minutes of 12/15/98, the last paragraph of page one states the Board discussed including language in the decision that the driveway be used for automobiles, not farm equipment. It also discusses the potential landlock of lot 3 then in the last paragraph of page 2 it mentions reviewing the plan as having 3 lots on the driveway. Further on it states lot 2 having the potential for 4 subdivision lots. The decision talks about overburdening and limited purposes of the driveway. This could arguably be farming equipment.

Mike Fee: What has happened there that your clients requested this discussion?

Bob Dionisi: There have been ten 18 wheeler trucks dumping debris, rocks, stumps and unclean fill onto lot 3. It is causing maintenance and structural damage to the Oakwood lots and is also jeopardizing the safety of Harvey's Farm Lane.

(No houses or building permits have been issued for lots 1 & 2.)

Jody Kablack: The lots have been released.

Bob Dionisi: He would like to remind the Board this is a private driveway for private vehicular traffic and farm equipment.

Mike Fee: What do you suggest be done?

Bob Dionisi: They would like the decision modified to clarify usage.

Mike Fee: The Board never unilaterally modifies a decision of a prior Board without an application. It is procedurally the only way the Board can entertain the request.

Jody Kablack: Are they mortgaged?

Mike Fee: Any application has to be procedurally appropriate. The decision says agricultural use is permitted. This is a broad, general range of activities. Asking the Board to curtail the owner's rights based on what you perceive as ambiguities is not the practice of the Board. There are no limitations stated in the decision.

Bob Dionisi: Not in the decision but look at the minutes.

Lisa Eggleston: She was a member of the Planning Board when that decision was written; she signed it. The concern of the Board at the time was that the driveway could be used for development; a potential whole road development situation. There was no restriction on agricultural use. The language Attorney Dionisi is suggesting would also limit the construction of houses.

Bill Fairbank: He would like to begin with a response to the comment that there have been lots of 18 wheelers utilizing the driveway. He has had one in the last year and a half. Oakwood Construction has had 8. He is operating an organic farm; he needs material for his operation. The use of the land is transparent; it was before they purchased the lots. They were privy to the documents before they made the purchase.

Laura Abrams: She is a member on the Agricultural Commission. It is clear Mr. Fairbank is composting; he is using it for agricultural purposes. In addition to what has been stated, the deed from 1999 states 15 years of use; which is not up yet. Common dumptrucks are not prohibited in agricultural business. These were all public documents when Oakwood purchased the lots.

Bill Fairbank: Under the Quit Claim deed that was granted along with his sister's, lot 3 benefits included the use of said right-of-way. They freely gave the rights to each other.

Bob Dionisi: In 1998 Mr. Fairbank said he just wanted to get his farm equipment up there. (Pictures of equipment used by Mr. Fairbank were shown by Mr. Dionisi.) Again, he asks the Board to keep in mind this is a 14' wide driveway and has maintenance of a private way. He believes the Planning Board should address this.

Mike Fee: In summary, the focus of your issue, as representation for Oakwood Construction, is the overburdening of the driveway. If you are of the opinion this rises to a decision modification, then procedurally bring it to the Board as an application to modify. The Board cannot address the issue unless it is done through the process.

Bob Dionisi: He understands – tonight was just to discuss with the Board and flag the issue.

Chris Morely: The language of the decision is very clear. On page 4, # 8 it specifically permits agricultural use (proceeded to read the paragraph). He sited many lines of the decision permitting agricultural use. The minutes do not apply.

Lisa Eggleston: The purpose/use was meant in the same text when the decision was signed. The intent was to see it used for agricultural purposes.

Summerfields Subdivision Update; Bond Status

Jody Kablack: Good progress has been made. Five easements have been accepted by the Selectmen and there are 2-3 more commitments.

Bob Dionisi: He met with 2 property owners last week (lots 20 and 13A). The discussion was very positive.

Jody Kablack: Either 8 or 9 out of 10 have granted easements.

Mike Fee: The developer has done everything the Board asked. He commends the efforts of the developer and his attorney.

The Board briefly discussed if a small portion of the bond should be held.

On motion duly made and seconded, it was unanimously:

VOTED: To release the bond and interest for Summerfields.

2006 Bonding Policy

Mike Hunter: A 40% increase has been proposed to Title V (based on oil).

Jody Kablack: That is compared to last year.

Eric Poch: Have the numbers ever been benchmarked against neighboring towns?

On motion duly made and seconded, it was unanimously:

VOTED: To accept the 2006 Bonding Policy as prepared by the Town Engineer/
Department of Public Works Director.

Willis Hill II

Jody Kablack: Went to the sight today. Bob Quirk still has not removed vehicles or stockpiles. Therefore, she suggests holding Lot 10 from release.

On motion duly made and seconded, it was unanimously:

VOTED: To set the bond for Willis Hill II at \$280,710; to accept a cash bond upon sale of lots and; to release lots with contingencies (with exception of lot 10).

Miscellaneous

2006 Town Meeting

Irrigation Article

Jody Kablack: The intent of the article was Board of Health waivers, not Title V requirements. No hydrologic impact with proposal; Conservation did not agree and now opines it might impact. The Board of Health cannot waive. Conservation wanted something else; to discourage irrigation, get away from wells. This will kill vegetative screening, which the Planning Board requires in subdivision developments.

Lisa Eggleston: Current regulations prohibit the connection of irrigation systems to the water supply. This article would eliminate that.

Jody Kablack: The Board of Health wants a blanket waiver so other references are eliminated.

Lisa Eggleston: The setback on wetlands cannot be argued.

Jody Kablack: Conservation wants to prohibit irrigation.

On motion duly made and seconded, it was unanimously:

Voted: To proceed with the Irrigation Article as amended by the Town Planner.

Old County Road Comprehensive Permit

Jody Kablack: The Zoning Board of Appeals has asked for further density reduction on this proposal which is already down to 36 units. The Planning Board wants more density. The applicant proposed 37 units with a buy down unit and the Zoning Board declined. The Board instructed the Planner to respond to the Zoning Board to encourage them to take advantage of every opportunity for affordable units. Each affordable unit reduces the Town's vulnerability to appeal to the State that it is unrealistic to focus on a 10% goal, while it is an inspiration. In addition the Board would like to stress to the Zoning Board this is an objective of the Master Plan.

ZBA Application; John Cutting

John Cutting has filed for a variance for an out structure which does not meet the front yard setback to the road. He was told to remove it or get a variance. The Zoning Board opines it is a self imposed hardship.

The Planning Board instructed the Planner to send a letter recommending approval of John Cutting's application. The Board opines it is located where it is due to Mr. Cutting moving the road out of the 100' buffer and pushing it out of the jurisdictional wetlands. In addition, the Board feels there is some historical significance potential due to the age and appearance of the structure. The structure also maintains the rural character of Sudbury which is a goal of the Master Plan.

Candy Hill Lane Subdivision (Zingale)

On motion duly made and seconded, it was unanimously:

VOTED: To endorse the Subdivision Plan for Candy Hill Lane.

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