

Present: Michael Fee (Chairman), Lisa Eggleston, Christopher Morely,
Eric Poch, Michael Hunter, Jody Kablack (Director of Planning and
Development)
Absent: Joe Sziabowski (Associate)

Chairman Fee called the meeting to order at 7:37 p.m.

Old Lancaster Road -Scenic Road Public Hearing - Stone Wall

Present: William Place, Department of Public Works (DPW) Director, Lyn MacLean,
Sudbury Historical Commission Member

At 7:37 p.m., the Chairman opened a Scenic Road Public Hearing concerning the removal and reconstruction of approximately 25 feet of stone wall at 201 Union Avenue, for construction of a walkway on Union Avenue from Old Lancaster Road to Pheasant Avenue, as submitted by the Department of Public Works Director. The stone wall is within the Old Lancaster Road right of way, which is designated a scenic road. He also read the legal notice for the record, which was published in the *Sudbury Town Crier* on January 18 and January 25, 2007.

DPW Director Bill Place presented the Board with an illustration of the site, and briefly described the status of the project. The walkway is being done in conjunction with the intersection project at Concord/Union/Old Lancaster. Due to present weather conditions, work has been temporarily suspended. However, curb cuts, further excavation and landscaping will be ready to proceed in the spring. He also distributed a site plan from 1936 of Concord Road, which showed the stone wall within the Concord Road right of way, and depicted an island at this intersection.

Mr. Place reported that the stone wall will need to be moved back approximately 15 feet. Plans are to improve the large stones and tumbled areas of the wall, and rebuild it as a farmer's wall. Mr. Place stated that a wooden guardrail or retaining wall of some kind will be constructed to separate the pedestrian sidewalk from the road. It will be low enough to allow proper sight distances in all directions, as well as access to the driveway of the Powers' residence at 201 Union Avenue.

Mr. Place has discussed the requested proposal with the owners of 201 Union Avenue, the Powers family, since the stone wall is situated directly in front of their home. The homeowners are supportive of the work to be done.

Board members expressed a desire for the eventual landscaping to maintain the historic ambience of the area, and asked that appropriate and attractive materials be used.

Tom Powers, 201 Union Avenue, said he has spoken with the project foreman and is comfortable with the plans. He supports repairing the tumbled areas of the wall.

Mr. Powers did express concern regarding the eventual traffic on Concord Road. He also would like to know where his mailbox will be located.

Rod Demille, 179 Concord Road, expressed strong sentiment for the sidewalk construction to be relocated to the opposite side of the street, thereby connecting to the already existing Concord Road sidewalk. Mr. Demille also iterated a preference for no sidewalks to be constructed until all walkways along the entire length of Union Avenue can be comprehensively planned and constructed. He also noted concern for the proposal's pushing out of the property in front of 201 Union Avenue. Mr. Demille has spoken with the Town's Police Chief and Safety Officer, who concurred that a potentially more hazardous safety situation might result from the proposal. Mr. DeMille sees the proposal as presenting an obstacle for traffic to avert versus flowing naturally in a straightforward direction.

Chairman Fee acknowledged the concerns expressed tonight, but reminded everyone that the jurisdiction of the Planning Board only extends to the removal and restoration of the stone wall on the scenic road portion of the proposal. He assured the residents that this Board is sensitive to the safety issues, which have been mentioned this evening.

Mr. Place reported that unfortunately, this intersection has experienced an average of eleven accidents a year. He believes the proposed redesign will help to reduce accident statistics and improve safety at the intersection. In response to a question from Chairman Fee, Mr. Place said that additional signage will be posted.

Sudbury Historical Commission (SHC) Member Lyn MacLean reported that the SHC has no objection to the proposal. However, she too emphasized the need for a barrier to protect and separate the pedestrian sidewalk from the roadway. Ms. Maclean also agrees that the stone wall will need to be low enough so as to not impede access to the Powers' driveway. Ms. MacLean stated that the Commission has established open communications with the Department of Public Works to resolve any present or future issues.

On motion duly made and seconded, it was unanimously:

VOTED: To close the Scenic Road Public Hearing concerning the removal and reconstruction of approximately 25 feet of stone wall at 201 Union Avenue, for construction of a walkway on Union Avenue from Old Lancaster Road to Pheasant Lane, as submitted by the Department of Public Works Director, in accordance with M.G.L. Chapter 40, Section 15C and the Sudbury Bylaws Article VIII (B), Scenic Roads.

On motion duly made and seconded, it was also unanimously:

VOTED: To authorize the removal of approximately 25 linear feet of stone wall, to then be reconstructed, at 201 Union Avenue, for construction of a walkway on Union Avenue from Old Lancaster Road to Pheasant Lane, as submitted by the Department of Public Works Director.

Frugal Flower - Site Plan Review

Ms. Kablack provided the Board with copies of DPW Director/Town Engineer William Place's comments regarding the site plan application for proposed parking lot expansion, dated February 6, 2007; the Statement Attachments for the Application for Site Plan Approval, prepared by Hancock Associates; the Board of Selectmen's Site Plan Decision, dated November 22, 2005; and the Zoning Board of Appeals Notice of Decision, dated November 1, 2005.

Chairman Fee disclosed, for the record, that he was approached to represent a prospective Chinese-restaurant tenant for licensing and approval matters, but has declined the invitation to represent them.

Ms. Kablack would like to submit the Planning Board's comments regarding this application to the Board of Selectmen for consideration during its public hearing on February 27, 2007. She briefly reviewed the use of the property by Frugal Flower through recent years. Ms. Kablack noting that as the nature of the company's business has changed, the owner has pursued alternative uses and variances for his property. The owner has expressed a desire to continue to maintain a business in Sudbury, but would like the Town to allow multiple business uses of the property.

Ms. Kablack clarified that the plan proposes that the first floor of the property would allow restaurant and retail space, and the second floor would accommodate private-office space (since there is no elevator, public offices are not allowed).

Ms. Kablack highlighted the following inconsistency for the Board: the Board of Health has approved requirements for a septic system to accommodate a fast-food, service restaurant, whereas, zoning has designated it as restaurant with seating. Chairman Fee questioned why the two sets of requirements were treated differently, and noted that this could create an enforcement nightmare in the future. Mr. Poch agreed with these concerns.

Parking requirements and calculation criteria for restaurants, with and without seating, were discussed. Mr. Morely expressed strong reservations to deviating from the Town precedent of not relinquishing green areas in front of businesses for parking purposes. Ms. Eggleston questioned whether the Town bylaws inadequately cover parking requirements, particularly those for restaurants.

Ms. Eggleston cautioned that deliberation of this matter should assume that the worst-case scenario of a fast-food, high-intensity use business could become a tenant, augmenting an already difficult traffic situation.

Mike Huling, 55 Washington Drive, addressed the Board to note his concern that if a restaurant is approved for the site, abutters will be disturbed by lights from cars entering and exiting the neighborhood at night.

Bill Rynne, 25 Washington Drive, stated that as an immediate abutter to Frugal Flower, he was notified of this meeting last Saturday, but other neighbors were not notified. He also presented the Board with a petition of 37 signatures of those opposed to a restaurant at this location. Mr. Rynne questioned why the Frugal Flower should be granted any further leniencies from the Town, when owner Craig Wambolt has not upheld and fulfilled previous agreements, such as providing an evergreen, privacy screen for the neighbors at the rear of his property. Mr. Rynne also stated that the neighborhood is already highly congested and difficult to traverse, without the additional traffic and safety hazards a restaurant would bring to the area. He said the residents already are awakened in the later evening hours by the dumping of trash and bottles by Bullfinch's Restaurant. If another restaurant were to be approved for this area, he would hope that some restrictions for days and hours of operation could be established.

Chairman Fee told the residents that the Board of Selectman's hearing will be on February 27, 2007, and abutters should be properly notified. He clarified that the Planning Board is only preparing comments tonight on the proposal to be sent to the Selectmen for consideration. Chairman Fee encouraged the citizens to attend the February 27, 2007 hearing, and to prepare and present their concerns.

Jane MacKeen, 47 Washington Drive, also commented on Mr. Wambolt's history of making promises he does not keep. She also questioned that if the site is zoned for a fast-food Chinese restaurant now, what would preclude any fast-food chain from occupying the property in the future. She too noted concerns regarding the high volumes of traffic generated by such businesses. Ms. Eggerston and the Board responded that yes, it would be an allowable use, and that they should prepare their argument for this worst-case scenario.

Ed Lewis, 28 Revolutionary Road, asked who is responsible for monitoring that plans are completed in compliance. Ms. Kablack responded that this is the responsibility of the Building Inspector, and that the Town has systems in place, such as performance bonds to monitor projects. Mr. Lewis also asked if Mr. Wambolt has applied for a liquor permit. He was told that the Planning Board is unsure about this, and that this is an issue for the Board of Selectmen. Mr. Lewis also asked if the parking plans address handicap needs. Ms. Kablack responded affirmatively that the handicap spaces are in compliance.

Mr. Lewis also brought to the Board's attention that there is a bus stop on Route 20 at the intersection of the neighborhood, which could be impacted adversely by this proposal.

Jim Krumsick, 20 Revolutionary Street, said he believes the number of traffic accidents will increase with the addition of a restaurant because there will not be sufficient parking for multiple uses.

In response to a question from Chairman Fee, the citizens emphasized that their neighborhood is comprised of 44 houses of about 120 people and many children. Further, they said the neighborhood can only be accessed by one street, which contributes to a very, dangerous ingress and egress situation, especially during peak travel hours. The group cannot fathom any additional high-volume traffic businesses being approved for this area.

Dan Jacob, 19 Washington Drive, stated that public safety is further hindered by the extreme sun glare experienced in the morning when attempting to turn left onto Route 20. Karen Jacob, 19 Washington Drive, said she senses there is more to the story than what has been presented as a prospective fast-food Chinese restaurant.

Chairman Fee stated that the Board shares in the abundance of skepticism expressed this evening regarding the plan, and has many of the same concerns.

Ms. Eggleston added that although the Board is mindful of businesses who work hard at being successful in Sudbury and thus, tries to accommodate their requests, the Board does not do so at the expense of the neighborhood.

Bob Palumbo, 11 Lafayette Drive, asked if a formal traffic study will be required. Chairman Fee responded that the Board of Selectmen, upon hearing the public safety concerns of the citizens, could very well order a traffic study as part of its deliberation process. The Board also clarified that the applicant pays for traffic studies, and not the Town.

Meg Kraul, 66 Washington Drive, agreed that the traffic pressures are already intense during rush hour. She also asked if the applicant could be compelled to plant the privacy screen trees, as previously promised.

Ms. Kablack will research further the conditions of the original permits and accompanying Conservation Commission approvals regarding planting compliance. Mr. Hunter also asked Ms. Kablack to further research whether in fact, a variance is not required, given that employees for the proposed restaurant will be bused in due to inadequate parking on site.

Chairman Fee thanked the citizens for their feedback and encouraged them to attend, en masse, the Board of Selectmen's hearing on February 27, 2007. He then closed the public discussion on this matter.

On motion duly made and seconded, it was unanimously:

VOTED: To authorize the Director of Planning and Development to draft a letter to the Board of Selectmen, incorporating the following concerns as delineated by Chairman Michael Fee, regarding the Frugal Flower Site Plan requested changes for use, and to circulate it to the Planning Board for review and approval:

1. The first paragraph is to detail the history of the use of the site, which includes highlighting the applicant's habitual non-compliance, especially when there have been no financial incentives for accountability. It should be clearly noted that this business has failed in many aspects to adhere to Town zoning bylaws.
2. The second paragraph should focus on depicting the problematic size of the site, thereby, emphasizing that it is not suitable for all uses, and especially not for a restaurant. The tightness of the area should be noted. In particular, this section should stress the inconsistency of the Board of Health approval for a septic system with the intent of the zoning for the area. Ms. Kablack is to consult with the Board of Health Director regarding the proposed sewage generation for the site and whether the accompanying approval satisfies those figures. It should be strongly stated to the Selectmen that a restaurant is an inappropriate use for this site, based upon expected sewer generation.
3. The third paragraph should present traffic-related information, including the topography, speed limits and sight distances for the area, adjacent uses, the 40B development across the street, the rapid development of the area and accompanying traffic increase over the last five years, public safety and accident data. This section should stress the need for completion of a traffic study.
4. The final paragraph should feature many of the concerns expressed by the citizens including, but not limited to, such matters as noise, odor, and nuisance issues. Chairman Fee's concluding recommendation is that the letter have the tone to send the message that the Planning Board believes a very high threshold of standards would have to be met before it could ever support a restaurant on this site. Furthermore, it should be clearly expressed that the Planning Board is not anti- business, but maintains significant reservations about the use of this site for a restaurant.

Articles for 2007 Annual Town Meeting Warrant

Ms. Kablack reviewed briefly the content of the article to amend Article IX, Section 3259A of the Zoning Bylaw regarding temporary signs. Mr. Hunter noted that the last draft of the article was excellent. If approved, sandwich-board signs will be allowed to be displayed on Route 20, but will be limited to no more than two per property, where multiple businesses are set back from street visibility. The signs will need to be brought inside each evening, and can be transported on wheels. The Building Inspector will be responsible for monitoring compliance.

On motion duly made and seconded, it was unanimously:

VOTED: For Chairman Michael Fee to present the article to amend the Zoning Bylaw regarding temporary signs at the Annual Town Meeting.

Minutes

On motion duly made and seconded, it was unanimously:

VOTED: To approve the minutes of February 8, 2006, March 1, 2006, March 22, 2006, April 10, 2006, April 26, 2006, May 10, 2006, May 24, 2006, June 14, 2006, July 12, 2006, and January 24, 2007.

Enforcement Issues

Mr. Poch suggested that the Board discuss establishing clear guidelines for implementing fines and/or punitive measures for developers/applicants who do not comply with previously agreed upon application and permit requirements. He believes it is important that the Town take corrective actions in order to hold developers accountable for adhering to the Town's terms and conditions. He also would like to establish a formalized process for receiving feedback from the Town's enforcement officer, Building Inspector Jim Kelly. Mr. Poch also recommends that the Board establish a strategic approach to mitigation, which would be substantially more significant than what presently exists.

Ms. Kablack suggested that the process could begin by researching the projects for which the Board has set bonds to see what issues exist. She cautioned against evaluating projects prior to those with the current bond-setting policies in place, so as to allow for a fair and accurate comparison.

Chairman Fee felt that enforcement and mitigation are two, separate topics. He identified the following four options the Board has for enforcement: to modify, reopen or rescind the subdivision approval process after the initial approval; to issue cease and desist orders, or to file for daily fines with the District Court; and to establish bonds.

Mr. Hunter noted that unfortunately, much of what the Board issues opinions on is not under its authority. Board members each expressed their frustration that enforcement and mitigation issues become problematic often because of the limited role the Planning Board has in Sudbury, Although the Board offers recommendations on many projects, it is very often not the final authorizing body.

Ms. Kablack recommended adding strict deadlines to the bonding process. She also will begin to contact other communities to determine what creative techniques are utilized to enforce compliance.

Ms. Kablack reported that she has begun to create a mitigation plan, which would assess the needs across multiple departments.

Mr. Hunter asked if the Board could create a traffic mitigation fund. He was informed that a traffic improvement mitigation fund already exists.

Ms. Eggleston suggested researching whether a regulation can be added to require subdivisions to have fire flow testing. Ms. Kablack will look into this as a requirement in the Board's subdivision regulations.

Chairman Fee opined that perhaps more can be accomplished early in the development approval stages by clearly informing the applicants of what the contribution expectations are, and then working those standards into the negotiation process.

The Board agreed to continue this beneficial dialogue in the future.

Miscellaneous

Rail Trail Conversion Advisory Committee (RTCAC)

Ms. Kablack distributed copies of a communication received from the Rail Trail Conversion Advisory Committee (RTCAC), dated January 2007, asking for feedback and input regarding the project.

Mr. Poch, also a member of the Rail Trail Conversion Advisory Committee (RTCAC), reported that a minority group of contrarians have submitted a petition for the Annual Town Meeting to vote to halt all further Rail Trail activity.

The Board believes it has previously shared its position and input with the RTCAC and thereby, deems it unnecessary to communicate further at this time.

New Police Station Construction

Ms. Kablack asked the Board if they would like to have a presentation by the Permanent Building Committee on the plans for the new Police Station. The Board agreed that this presentation would be helpful, and asked Ms. Kablack to coordinate a future meeting time.

Old Lancaster Road - Waiver Request

The Board was in receipt of a letter dated January 29, 2007 from Thomas P. DiPersio, Thomas Land Surveyors & Engineering Consultants, Inc., who has been engaged by Eligius Homes to review design issues regarding possible development of 293 and 301 Old Lancaster Road. In his letter, Mr. DiPersio provided a schematic and questioned the interpretation made by the Board regarding the calculation of the offset regulation of 360 feet from existing streets on the same side of the road. He requested that the Board revisit its decision on this matter. Mr. DiPersio also reported in his letter, that Department of Public Works Director William Place concurred with his assessment and calculations.

Ms. Kablack has discussed this matter with Mr. Place, and determined that Mr. Place's words were taken out of context. Mr. Place said he agreed with their calculations only if based on frontage, which they are not. Ms. Kablack has communicated to Mr. DiPersio that the Board has already spoken on this matter and has nothing further to add, unless presented with new and compelling information.

Abutting Town Proposed Development Projects

Ms. Kablack distributed to the Board, for informational purposes, copies of the letters she sent to the Zoning Board of Appeal, dated January 31, 2007, and the Board of Selectmen, dated January 26, 2007, noting the comments and recommendations suggested by the Planning Board at its January 24, 2007 meeting, regarding the Sudbury Village 40B proposal. She also distributed copies of the letter the Zoning Board of Appeals sent directly to the Board of Selectmen on this same matter. These comments will help provide the basis for a subsequent letter incorporating all comments from the Town to be sent to MassHousing for revisions to the Site Eligibility Letter.

Department of Housing & Community Development - Chapter 40B Inventory Update

Ms. Kablack distributed to the Board, for informational and reference purposes, copies of the Department of Housing & Community Development update of the Chapter 40B Subsidized Housing Inventory, dated January 18, 2007.

Upcoming Planning Board 2007 Meeting Schedule

The next Planning Board meeting will be February 28, 2007.

Chairman Fee adjourned the meeting at 10:00 p.m.