

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

Absent: Joe Sziabowski (Associate)

At 7:35 p.m., Chairman Fee called the meeting to order.

**Willis Hill II Subdivision - Bond Reduction - Kendra Lane**

The Board was in receipt of a letter dated May 30, 2007 from the developer, Robert D. Quirk, requesting a bond reduction; a letter dated June 4, 2007 from the Town Engineer/DPW Director, Bill Place, estimating the need to retain a bond of \$39,764.25 to complete Kendra Lane; and a letter from Ms. Kablack to Mr. Quirk, dated June 6, 2007, stating that 429 linear feet of walkway between Kendra Lane and Briant Drive was not completed, as was a condition of the subdivision approval. As part of the Willis Road walkway project, the Town has undertaken completing this walkway. Thus, Ms. Kablack has requested that a contribution of \$15,015 be made by Mr. Quirk to the Town Walkway Account to fulfill this condition.

Ms. Kablack distributed a letter from Mr. Quirk dated June 11, 2007, wherein, he agreed to contribute \$15,015 to the Walkway Account, and have these funds deducted from the requested bond reduction.

Ms. Kablack also distributed a letter from John Wei and Sharon Chiang dated June 5, 2007, stating that rainwater is draining onto their property due to improper paving done on Kendra Lane. She reported that Town Engineer Bill Place has visited the site, and determined that a grate was installed too high. To eliminate the problem, the grate can be replaced with one that is two inches lower. Mr. Place will continue to monitor the situation until it is resolved.

On motion duly made and seconded, it was unanimously:

VOTED: To reduce the bond for Willis Hill II from \$107,000 to \$25,000, and to accept a contribution of \$15,015 into the Sudbury Walkway Account from the funds released.

**Pine Grove Definitive Subdivision (Old Lancaster Road) - Public Hearing**

Present: Thomas DiPersio, Sr., Thomas Land Surveyors and Peter Karasik, Eligius Homes, Attorney Paul Alphen representing Mr. Karasik and Eligius Homes

At 7:45 p.m., the Chairman opened a Public Hearing in connection with the application of Eligius Homes Company, for approval of a Definitive Subdivision Plan of Land, entitled "Pine Grove," property located at 293 and 301 Old Lancaster Road, drawn by Thomas Land Surveyors and Engineering Consultants, Inc., dated April 9, 2007, and showing six lots on approximately 7.19 acres, which had been continued from May 23, 2007.

Chairman Fee reviewed that the previous discussion had focused on whether the application submitted met Planning Board Subdivision Regulations. The consensus of the Board on May 23rd, was that it did not. At that time, the applicant requested a continuance to more extensively research and reevaluate the proposal. The Chairman summarized additional material received to the file since the last meeting including: a letter to the developer from the Conservation Coordinator dated May 24, 2007, noting that the current plan shows no mitigation, and warning that if the riverfront disturbance calculations are beyond the permitted limits, the subdivision plan will need to be amended to accommodate the necessary reduction; an email message from the Sudbury Water District dated May 24, 2007, noting that the Water District has final jurisdiction on connections to the District's system, and that it would prefer a looped water-systems plan to be provided by the developer; a letter dated June 5, 2007, from Thomas P. DiPersio, Sr., Thomas Land Surveyors & Engineering Consultants, Inc., noting that two other approved subdivisions have similar offset waivers to this proposal, and asking the Board to be consistent in its interpretation of the rules and regulations, and revised plans dated June 6, 2007; a memo to the Board from Ms. Kablack dated June 8, 2007, wherein, she provides commentary and proposal recommendations; and copies of two former Definitive Subdivision Plans for Hawes Farm (dated November 14, 2001) and Fairbank Estates (dated May 31, 2000) .

Mr. DiPersio presented the applicant's position with the use of exhibits, noting that the issue under discussion is the Subdivision Regulation that streets on the same side of the street must be offset by 360 feet from the right of ways. He continued to explain that his calculations are derived based upon how frontage is measured by the Town. He stated that the applicant believes this to be the accurate formula and thus, also believes that the Town's requirements have been met. Mr. DiPersio continued to explain that the Planning Board has interpreted differently the measurement regulation language. Mr. DiPersio noted that the applicant has not requested a waiver because they believe their interpretation is the correct intent of the Town's laws.

Mr. DiPersio continued to explain that he has analyzed traffic issues on Old Lancaster Road to determine if the 360-foot regulation was based upon safety considerations. He was not able to justify that conclusion with his research. He also noted that he studied the Fairbanks Estate and Hawes Farm examples to ascertain why waivers were sought in those instances, as previously highlighted by Ms. Kablack. He said that when a waiver is sought it is usually done so for a public interest. Mr. DiPersio was not able to determine

what the public interests were in either situation that would suggest the granting of a variances.

Mr. DiPersio reiterated that given how the bylaw is written, there is room for varying interpretations. He said that if the Board determines that another option must be pursued, the applicant is willing to consider requesting a waiver to resolve the matter, and that Mr. Karasik would consider building a sidewalk to connect Wildwood Lane and Peakham Road as a public benefit in consideration of the granting of the waiver.

Mr. Morely asked for clarification as to whether in both the Hawes and Fairbanks proposals, the plans could have been designed without waivers. Mr. DiPersio responded affirmatively that the plans could have been designed without waivers in both cases. Ms. Kablack noted that in both examples cited, compliant plans were submitted to the Board for review.

Craig Blake, 300 Old Lancaster Road, asked for clarification of what the actual disputed issue is, i.e., whether it is that a road cannot be put in off of Old Lancaster Road, or whether a road and six house lots can not be fit into the area. Mr. DiPersio responded that according to the Board's interpretation of the Town's regulations, a road can not be put in between Peakham Road and Wildwood Lane. Mr. Blake also asked for clarification of what is designated by the stakes currently on the site.

Robert Gough, 16 Wildwood Lane, asked how many lots can be built without a road. Mr. DiPersio responded that only two lots would be allowed.

Chairman Fee summarized the three development options available to the applicant as: approval of a road with a waiver, two ANR lots as of right, and a Chapter 40B option. Attorney Alphen added that the applicant also has the option of an appeal, if the application is denied.

Ms. Eggleston recalled that the Board had formalized a policy, whereby it would not consider waivers until full compliance was first demonstrated. Chairman Fee and Ms. Kablack referenced the March 22, 2006 Board minutes, wherein, discussions of that intent by the Board were documented. Although the intent of the Board has been historically documented and implemented in a consistent manner, it was noted that a policy has not been formally adopted. Chairman Fee said whether or not the Board has such a formal policy in place has no impact on deciding whether or not the submitted application complies with Planning Board regulations.

Ms. Eggleston opined that the prior waivers granted in the two situations cited provide additional evidence of the Board's consistency in its application of the measurement definition throughout the years or there would not have been a need for a waiver. She further said that it appears as if the applicant is asking for the Board to exercise a degree

of discretion, when in fact, the Board is unable to do so. Chairman Fee concurred, saying the Board would have to change its policy to accommodate the discretionary request. Mr. DiPersio agreed that the Board has seemed to historically apply a consistent interpretation of the bylaw. However, he again stated that because the language is unclear, it is his opinion, that there is room for flexibility by the Board.

Ms. Eggleston and Mr. Morely quickly, and adamantly, responded that the language of the regulation is quite clear and not at all ambiguous.

Attorney Alphen asked if there is a definitive written policy stating that the Board will not consider a request for waiver until a compliant plan has been submitted. Chairman Fee responded that although such a policy has not been memorialized in writing, that process has been the Board's practice. On this basis therefore, Chairman Fee stated that the Board is prepared to more than likely deny this request tonight.

Attorney Alphen asked the Board to refrain from a hasty a vote, since the offer was expressed this evening by the applicant to submit a waiver request within the context of a public interest discussion, related to pedestrian safety. Chairman Fee suggested that the application then be withdrawn to begin a new procedure. Attorney Alphen quickly responded that the application would not need to be withdrawn because a waiver can be submitted at any time during the hearing process.

Mr. Morely reiterated that the Board has consistently worked with developers to approve mutually beneficial plans, and is willing to do so again if presented with a compliant plan for review. Attorney Alphen asked again for flexibility from the Board, since there is no written policy to justify this position.

Chairman Fee repeated that the Board is unwilling to exercise the level of discretion requested by the applicant. He again offered the applicant the opportunity to withdraw their request prior to the Board entertaining a vote to deny the application. Attorney Alphen asked for a moment to confer with his client, and was granted a five-minute recess.

The discussion resumed at 8:16 p.m.

Anne Kirkpatrick, 124 Forest Avenue, Hudson, real estate broker representing the seller of the property, noted that she had been contacted in the past by Ms. Kablack, who expressed the Town's interest in purchasing the property. Ms. Kirkpatrick wanted to know, and she thought the abutters would also want to know, if the Town is still interested in the property, and if so, for what use and purpose. She posed the question of whether the Town would consider it for a sewage plant.

Ms. Kablack responded that although the Town was interested at one time, it withdrew its pursuits once it was aware of the subdivision proposal. Ms. Kablack further stated that the Town pursues many available properties for a variety of reasons including, a Town wastewater plant, to solve other Town issues, affordable housing, and for open space and recreation purposes.

Ms. Eggleston, who also serves as the Technical Advisory Committee (TAC) Chair, said that TAC has openly recommended that the Town pursue lots of a minimum size and within a reasonable proximity to Route 20 for viable wastewater plant site locations. However, she added that the potential of this property for such use would have no impact on her vote this evening. Chairman Fee and fellow Board members concurred that whether or not this location has potential use for the Town has no bearing on the deliberation this evening of whether this application complies with Town regulations.

A resident asked if Eligius Homes currently owns the property. He was informed that it is presently encumbered with a Purchase and Sale Agreement with Eligius Homes.

Attorney Alphen asked the Board to consider a continuance of the hearing so that the applicant could reevaluate his position, and so that he can consult with counsel for the seller to ensure that no one's interests are ignored or underserved in this process.

Craig Blake asked that if the hearing is continued, would a decision be made at the next meeting to approve the subdivision or merely on whether the submitted application is compliant. Chairman Fee reiterated the Board's inclination to not approve anything as submitted in its present form. Mr. Morely added that the Board will not be voting to approve a subdivision at the next meeting.

On motion duly made and seconded, it was unanimously:

VOTED: To continue the Pine Grove Definitive Subdivision Public Hearing on June 27, 2007 at 8:00 p.m.

Chairman Fee noted that no further notice will be published regarding the continuance date. He also informed abutters that file materials can be viewed in the Planning Office during regular office hours.

Upon the request of the Board, Ms. Kablack will research the Faucher Subdivision plan, and other plans submitted in the past by the applicant's engineering firm prior to the June 27th meeting.

### **Route 20 Wastewater Discussion**

The Board was in receipt of the Board of Selectmen FY08 Goals as adopted on June 5, 2007, and a letter drafted in 2005 by the Town Planner to the Sudbury Business Community from the Selectmen. In their letter, the Selectmen intended to inform business people of the many items being pursued to help Sudbury's economic development so that businesses can thrive. The letter also stated that one of the biggest challenges facing the Town is wastewater management, and the Selectmen asked for input from businesses regarding wastewater disposal. (Note: This letter was not sent.)

The Board was also previously in receipt of a variety of newspaper articles, letters and cost estimates to Town officials from engineers and Board of Selectmen Meeting Minutes dating as far back as 2001, all of which highlighted the wastewater issue as a high priority. A list of potential Town parcels for wastewater was also previously distributed.

Ms. Kablack noted that although the Route 20 wastewater issue is listed on the Selectmen's FY08 goals, it is not prioritized as highly as this Board would deem appropriate. She believes, along with Chairman Fee, that this Board will need to be the entity to direct and focus the Town's attention appropriately on this matter.

Ms. Eggleston highlighted that a proper location for the facility must be designated prior to anything substantive being accomplished by any leadership group. She reported that TAC is meeting at 5:00 p.m. on June 14, 2007, at the Department of Public Works, with consultants Weston and Sampson Engineers, Inc. to discuss an available property (copies of the Notice of Intent To Sell submitted by George W. Young, Jr., for the property at 804 Boston Post Road was distributed for informational purposes). TAC will be discussing many aspects of the opportunity including, whether the Town has the right of access to perform soil testing, funding for such tests and an appraisal, and presentation of any recommendations to the Selectmen. Ms. Eggleston will send an email communication to the Town Manager to report the outcome of tomorrow's TAC meeting.

Mr. Morely and Mr. Poch asked what more the Board can do to catapult this discussion to the top of all Town agendas. Ms. Kablack responded that Mr. Poch's suggestion should be implemented to have someone dedicate significant staff time to locating appropriate parcels as well as the options available for obtaining them.

Ms. Kablack and Board of Health Director Bob Leupold recently amassed a list of potential Town sites by evaluating parcels of four acres or larger.

Mr. Poch cautioned that the Town needs to be prepared to tackle complex discussions encompassing many related issues from a zoning, taxation and economic development perspective. He added that locating an appropriate site is important, but not the only issue to be decided.

Chairman Fee and Mr. Poch expressed the need to prioritize discussion items and recommended action steps to present to the Selectmen at a future meeting.

Chairman Fee requested a letter be sent to the Selectmen noting that the Planning Board discussed the Board of Selectmen FY08 Goals, and was disappointed that the Route 20 Wastewater issues were not more prominently prioritized, particularly since the July 13, 2005 Joint Meeting Minutes of the Selectmen and this Board reflect that the conclusion was reached that this was the Town's most critical issue. The Planning Board would like to raise the Selectmen's awareness regarding this matter, and agreed to wait until after the June 14th TAC meeting to decide on the best direction to pursue. Mr. Poch added that it has become obvious that locating an appropriate location will be difficult, and may require the use of the Town's rights by eminent domain.

Ms. Eggleston suggested that the Board review the properties amassed on Ms. Kablack's and Mr. Leupold's list to identify the best parcels available to highlight for the Selectmen. Ms. Kablack agreed and added that an implementation plan should also be presented to the Selectmen for consideration. The Board can then ask for the Selectmen's leadership in aggressively pursuing ownership of private properties or out-of-Town solutions. The Board instructed Ms. Kablack to request its inclusion on the Selectmen's Public Hearing agenda regarding the Young parcel on July 24, 2007.

Mr. Hunter asked about future discussions regarding an overlay district on Route 20 and other zoning revisions. Chairman Fee concluded the discussions by specifying that the Planning Board believes wastewater to be the threshold issue, which must be resolved by the Town before any other significant planning can be done regarding Route 20.

### **Miscellaneous** **Grange Hall**

Ms. Kablack distributed to the Board, for informational purposes, copies of the invitation from The Trustees of the Sudbury Foundation to attend the opening celebration of Grange Hall on Tuesday, June 19, 2007, from 5:00 p.m. to 7:00 p.m. Ms. Kablack and Mr. Morely plan to attend, and other Board members hope to as well.

### **Mahoney Farms Walkway**

Ms. Kablack briefly reviewed with the Board the plans to develop some walkways within the development. She mentioned that Mr. William DiPietri would like to ascertain the Board's opinion of acceptable options since landscaping is about to commence.

Mr. DiPietri has suggested receiving relief from some aspects of the plan and possibly installing a few stone dust walkways around the site instead of the more formal paved

walkway along the front of the properties. He also may be willing to consider a walkway contribution to the Town to be used for construction along Nobscot Road.

Mr. Poch stated that he is reluctant to offer any relief from the approved requirements because the original intent was for stand-alone and pedestrian-safe walkways. He believes that Mr. DiPietri's recent proposal could generate a public safety risk. He continued to say that the throughways on the approved plan were deliberately protected. Chairman Fee concurred. Ms. Eggleston suggested that a portion of the throughway could remain, while another portion could be resituated. Mr. Morely recommended leaving the approved plan as is, since any changes could result in a re-opening the hearing process. The final consensus of the Board was to not recommend or support any changes at this time.

### **Minutes**

On motion duly made and seconded, it was unanimously:

VOTED: To approve the minutes of May 9, 2007 and May 23, 2007.

### **Maple Meadows Senior Residential Community - Potential Modification**

Ms. Kablack distributed to the Board a letter from Rollins, Rollins & Fox dated June 12, 2007, for further review. As requested by the Board at its May 9, 2007 meeting, in this letter, Attorney Myron J. Fox formally requests the confirmation and opinion of Town Counsel regarding several matters.

On motion duly made and seconded, it was unanimously:

VOTED: To seek the opinion of Town Counsel regarding the matters as requested by Attorney Myron Fox, on behalf of the Maple Meadows Senior Residential Community, in his letter dated June 12, 2007, subject to review of that letter for factual accuracies by the Planning Director.

### **Announcements**

Ms. Kablack announced that Assistant Town Planner, Jenny Burney and her husband Stephen welcomed a new baby girl, Emma, to their family on June 11, 2007. Everyone is doing well at this time.

### **Maillet Estates Subdivision - Update**



Ms. Kablack distributed to the Board, for informational purposes, copies of two letters from Robert D. Abrams to Maillet & Sons, Inc., dated May 23, 2007 and June 4, 2007 respectively. The property owners are continuing their efforts to resolve outstanding issues.

**Upcoming Planning Board Summer 2007 Meeting Schedule**

The Board reviewed upcoming vacation schedules as follows:

- Mr. Poch will be unavailable June 27th, and August 13-August 24th.
- Chairman Fee will be unavailable July 25th, and the last two weeks of July.
- Ms. Eggleston will be unavailable August 8th, and the first two weeks of August.
- Mr. Sziabowski will be unavailable the last two weeks of August.
- Mr. Hunter will be unavailable the last week of July and the first week of August.
- Mr. Morely will be unavailable the last two weeks of August.

The Board agreed to the following summer meeting schedule, subject to revision:  
June 27, July 11 and August 8 (if needed), September 12, and September 26, 2007.

Chairman Fee adjourned the meeting at 9:40 p.m.