

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

**115 Willis Road - Scenic Road Public Hearing**

Present: Maurice Fitzgerald and Lyn MacLean, Sudbury Historical Commission

At 7:40 p.m., Chairman Fee called the meeting to order and opened the Scenic Road Public Hearing concerning an application for changes to a Scenic Road filed by William Peng and Hong Geng, 115 Willis Road, for relocation of a portion of a stone wall and removal of certain trees. Removal has been requested by the Department of Public Works, and each tree has been posted with a notice of public hearing by the Tree Warden. He read the legal notice for the record, which was published in the *Sudbury Town Crier* on April 19 and April 26, 2007.

Ms. Kablack reported that the trees were misidentified by the Tree Warden as ash trees, but are actually maple trees. She also distributed photos from a recent site visit for review. Ms. Kablack further explained that the applicant plans to relocate a driveway, which necessitates a portion of the stone wall to be repositioned.

Mr. Fitzgerald commented that the Historical Commission had not been aware that the trees had been tagged as removable. Ms. MacLean emphatically stated that the Commission disagrees with the assessment of the Tree Warden on the health of the trees. Abutter Jean Maloney agreed with Ms. MacLean, and noted that one tree not tagged should be removed.

Ms. Maloney believes that the other trees in question are in acceptable condition except the one in the middle. The opinion was expressed that the triple maple does not need to be removed.

The question was posed as to whether the correct location has been identified for the relocation of the driveway. Abutter William Maloney questioned why both trees would need to be removed if they are about 35 feet apart. He cannot understand how both trees can block the driveway. Mr. Maloney shared with the Board a description of the present driveway and landscape near the stone wall. Ms. Kablack noted that only trees outside of the stone wall are part of the public hearing.

Chairman Fee expressed concern with the discussion on procedural and substantive levels. He noted that without the presence of either the applicant or the Tree Warden to clarify questions, the Board's ability to render a decision is impossible. He questioned whether the matter should be denied or continued. Since the tree species were

misidentified on the public notice, the notice would need to be corrected and reissued for further discussion at a future meeting.

Ms. Eggleston said she is inclined to support a continuance of the request since the applicant has paid a \$100 fee. However, she has concerns about the health of the trees since it is possible that their condition was assessed based upon an incorrect classification. She believes the trees' conditions should be reassessed accurately as maple trees.

Ms. Kablack recommended continuance of the matter to afford time to reevaluate driveway locations, and to be sure the two trees are noted correctly on the plans.

Ms. MacLean asked for clarification on the type of driveway which was approved. She noted an inconsistency of a circular driveway mentioned in the documentation, which she believes would be a violation of the bylaw that prohibits two entryways.

Chairman Fee recommended that Ms. Kablack provide the Board with copies of the Special Permit which was approved by the Zoning Board of Appeals for review. Upon a brief review by Chairman Fee of a copy provided by Mr. Maloney, it appears that the ZBA did not approve two driveways.

On motion duly made and seconded, it was unanimously:

VOTED: To continue the Scenic Road Public Hearing concerning the relocation of a portion of a stone wall and removal of certain trees at 115 Willis Road, a designated scenic road in Sudbury, to May 23, 2007 at 7:30 p.m.

Ms. Kablack will contact the applicant and Tree Warden to confirm availability for the May 23 meeting, and will notify abutters accordingly. A new notice of Public Hearing will be published noting the correct species of trees.

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

Present: Myron Fox, Attorney, Robert Roth, Robert McGinty, Partners of Linbrook Properties, Inc, and Robert Elliot, Maple Meadows, SRC Development Engineer

Mr. Fox briefly reviewed the history of the project, noting that a Special Permit was voted in 2004 for 23 units on 28 acres. Litigation ensued as neighbors filed several appeals. Litigation related to this project has been completed. The developer would like to explore with the Board the opportunity for approval to modify the approved Special Permit regarding density calculations to accommodate the adjacent 4.07 acres known as the McCarthy parcel. Mr. Fox reminded the Board that in discussions two years ago, the Board suggested to the developer to attempt to acquire the McCarthy parcel. Negotiations were stalled due to the death of the owner and the subsequent inheritance

process until new owners could be approached. The 4.07 acres are now under a Purchase and Sale Agreement with Linbrook Properties.

Mr. Fox further stated that paragraph 11n of the Special Permit allows the flexibility for the developer to now consider the development of the 4.07 acre parcel in conjunction with the approved Senior Residential Community. The developer would like the Board to modify the Special Permit to add the additional land, subject to zoning and wetlands compliance, which is believed to present no impediments.

Mr. Roth exhibited a preliminary subdivision plan to the Board of the additional 4.07 acres. He emphasized that the additional units would be added to the currently approved infrastructure, without any changes to the overall approved design. The proposal calls for keeping nine lots and the road as it was approved, and to rely on frontage created in the original density plan to make the calculations work for the additional 4 lots.

Chairman Fee questioned whether the approval of a modification would reopen the possibility for a new appellate process by the abutters. The developer agreed it is a possibility, however, the position would be taken to build on the 23 units and that the appeal could only apply to the 10 units.

Ms. Eggleston stated she would favor adding to the SRC development versus having the 4.07 acre parcel built as single-family homes.

Chairman Fee said he would substantively support the integration of the McCarthy parcel into the development, but would prefer to avoid the need to revisit old concerns and issues during the modification process. He cautioned that any amendment to the previous plan must be carefully implemented to avoid further litigation.

Ms. Kablack is of the opinion that a modification could be accomplished through a public hearing process. She continued to state that if the planned layout design and architects have not changed, then there should be no need to revisit the entire original application. Review can concentrate on the new units.

Mr. Roth reported that the condominium documents have been assembled and drafted, but not recorded. If possible, his intent is to file for a master deed for one 33-acre parcel.

Ms. Kablack highlighted for the Board other topics for future consideration such as access, integration of units and open space with the approved development, infrastructure, construction traffic, and that impervious surface must be below 15% or a special permit will be required. She noted that construction access for this proposed phase of development will need to be from Maple Avenue as it is not convenient to access the site from Feeley Field. Mr. Roth responded that negative feedback regarding construction traffic is not anticipated.

Discussion ensued related to the location plans and preferences regarding septic and storm water.

Chairman Fee stated that further design discussions are premature at this point. On behalf of the Board, he said it would welcome the opportunity to review a modification application, subject to the development legal team directing a written request, to the Director for Community Planning and Development and the Building Inspector, for an opinion from Town Counsel, and that a subsequent written statement be provided to the Board from the lawyers stating that all potential legal issues related to density calculations have been addressed.

**Dunkin' Donuts - Request for Determination on Modification of WRSP**

Present: Joshua Fox, Attorney for Dunkin' Donuts

Joshua Fox addressed the Board to explain that the applicant would like to increase seating from 26 to 34 seats. Mr. Fox had previously provided the Board with a copy of the existing conditions and sketch floor plans for the proposed conditions. He reviewed the Water Resource Protection District Special Permit, dated February 22, 1994, limitations with the Board.

The Board was in receipt of an email communication from the Conservation Commission noting that outstanding Orders of Conditions must be satisfied prior to receiving Commission support. However, Mr. Fox stated that those concerns should have no impact on the decisions of the Planning Board.

Mr. Fox further reported that an application to the Board of Selectmen has been temporarily withdrawn to allow more time to satisfy the concerns of the Conservation Commission.

Ms. Kablack stated this could constitute a modification to the site plan permit. She recommended that the Board provide written consent to modify the permit.

Ms. Eggleston agreed with the Conservation Commission's request for monitoring reports on a consistent basis from the applicant. She believes the enforcement of compliance for maintenance of a site and collection of such reports in Town needs improvement. Mr. Poch concurred. Mr. Morely also agreed, and suggested that the Board recommend that the applicant provide monitoring reports for maintenance of its grease trap as a condition. Discussion ensued regarding parking excesses at the current site. Ms. Kablack reported that the applicant is in the process of posting "No Parking" signs. If the signs do not help to alleviate the problem, a fence may be required in the future.

Mr. Fox opined that the request does not require written consent, but rather only a finding by the Planning Board that a modification is not needed. Chairman Fee agreed with this interpretation that the request does not seem to qualify as an increase in intensity of use.

On motion duly made and seconded, it was unanimously:

VOTED: To authorize Ms. Kablack, on behalf of the Board, to draft a letter to the Board of Selectmen and Conservation Commission stating that the Planning Board does not believe that this application increases the intensity of use as limited in Section III (B) of the Water Resource Protection District Special Permit, dated February 22, 1994, beyond what is already permitted, nor that it warrants a modification to the Special Permit. However, the letter should further state that although the Planning Board is not impacted directly by this request, the Board recognizes that specific issues will be considered within the purview of other Town boards and commissions. Additionally, the Board is concerned that parking restrictions and monitoring reports are lacking, and would like to highlight the provision of the Special Permit which empowers the promotion of water quality. Thus, the Planning Board encourages the applicant to submit requested monitoring reports on a scheduled basis, and to maintain the site by removing all litter.

#### **Maillet Estates - Berm**

Present: Developer Al Maillet, Abutters Laura and Robert Abrams, Vice-Chairman of the Sudbury Agricultural Commission John Donovan

Ms. Kablack reported visually observing a large berm constructed at the eastern line of the property, which had not been designated on the site plan, nor discussed with the Board. She described the berm as approximately 10 feet high, with a 1-1 slope, and located directly on the property line.

Mr. Maillet explained that the berm is completely on his property. He said that he had always intended to have a berm from the time he purchased the property to help screen the first floors of the lots from the existing greenhouses.

Mr. Sziabowski asked if the screening could be accomplished in other ways, such as by using large bushes or trees.

Mr. Poch and Mr. Morely recall references to a berm during previous Board discussions and on a prior site visit. Ms. Kablack and Chairman Fee briefly reviewed prior meeting minutes relating to this development.

Ms. Eggleston asked how the berm is being stabilized and maintained. Mr. Maillet responded that the berm sits on a foundation which includes sand, and he plans to keep it covered with bark mulch.

Mr. Abrams distributed to the Board photographs of the berm depicting the consequences of the berm dust, which blows into his greenhouses. He expressed concern that the berm, or any major change in landscape, was never discussed at a public hearing. Mr. Abrams also is upset that no precautions have been required, or taken, to provide top soil and seeding to minimize the dust damage.

John Donovan, reported visiting the site today on a clear day with no significant wind. He expressed concern for workers developing respiratory problems from the large amounts of sand and dust which he observed blowing. He also has concerns regarding the stability of the berm and who will maintain the bark mulch cover.

Chairman Fee concluded that the berm does not appear on the approved site plan, nor is discussion of a planned berm recording in previous Planning Board minutes, and thereby, is in violation of the subdivision agreement. He also acknowledged that the abutters have voiced significant issues, which should be addressed.

Mr. Morely agreed that at a minimum, a modification application will need to be submitted. He also noted that on the initial proposed plan, there were irrigation wells, which are in contradiction to the berm.

Ms. Eggleston said she was not opposed to the need for a berm, but it must be stable with clearly defined maintenance provisions.

Mr. Hunter agreed that other options for the berm cover and stabilization need to be researched, or the berm will need to have a less severe slope. Mr. Sziabowski and Mr. Poch concurred with this opinion.

On behalf of the Board, Chairman Fee informed Mr. Maillet that he should work with Ms. Kablack to address the issues broached this evening as quickly as possible, by submitting a formal modification to the Board which demonstrates the need for the berm. Ms. Eggleston and Mr. Poch added that in the interim, Mr. Maillet must control the berm and pursue aggressive retention strategies to be properly engineered to prevent further distress to abutters. The Board will consider the modification application at its June 13, 2007 meeting.

Mr. Abrams asked if the Board could demand an immediate cover to the stockpile of dirt now. Chairman Fee responded that the Board will review pertinent documents prior to its May 23, 2007 meeting to determine the appropriate enforcement agent, and that Ms. Kablack will notify Mr. Abrams accordingly.

Mrs. Abrams emphasized that time is of the essence. She strongly expressed that each day without a remedy increases the chances for potential jeopardy to her workers and crops. Mr. Maillet agreed to immediately provide bark mulch and a tarp on the berm.

**The Villages at Old County Road - Comprehensive Permit Modification**

Present: Ben Stevens, Manager of Old County Road, LLC

The Board was in receipt of a Memorandum dated April 27, 2007, from the Zoning Board of Appeals (ZBA) Chairman, which stated that a request for a determination that proposed changes to the Comprehensive Permit for The Villages at Old County Road be considered insubstantial has been received. The ZBA has asked for the Planning Board's opinion and report prior to its discussion of this matter on May 15, 2007.

Mr. Stevens explained that the proposed changes call for slightly modifying the size and configurations of Units 1-18 to increase the availability of two-car garages to compete with the marketplace. The proposed changes will not alter any of the affordable units, landscape or parking areas. Mr. Stevens also noted that impervious surface is less with the modified design compared to the original plan. Additionally, the modified design increases the rear setbacks for some units.

Mr. Stevens reported that the Design Review Board (DRB) reviewed the modified design this evening. He said the DRB provided significant input for consideration, but had no objections to the proposal. He expects to receive a letter from the DRB, which should reflect favorably on the modification.

Mr. Morely strongly agreed with the need to provide two-car garages. Mr. Sziabowski commented that the elevations have been well thought through and nicely presented. Ms. Kablack added that the modification presents no impact to the public streetscape.

On motion duly made and seconded, it was unanimously:

VOTED: To authorize Ms. Kablack, on behalf of the Board, to draft a letter to be sent to the Zoning Board of Appeals noting that the Planning Board recognizes the market needs, and supports the development modification to aid the success of the 40B project by enabling the marketing of a more economically-feasible product. Support of the proposal is further based upon that the modification does not constitute a substantial change, reduces impervious surface area and does not negatively impact public safety or the public streetscape.

**ANRs**

Ms. Kablack recused herself from the Board's review of an "Application For Endorsement Plan Believed Not to Require Subdivision Approval" for 46 Poplar Street.

On motion duly made and seconded, it was:

VOTED: To endorse the "Application For Endorsement Plan Believed Not to Require Subdivision Approval" for Mark and Jody Kablack, 46 Poplar Street, Sudbury, MA.

On motion duly made and seconded, it was unanimously:

VOTED: To endorse the "Application For Endorsement Plan Believed Not to Require Subdivision Approval" for Stephen A. Lanzendork, 43 Hawes Road, Sudbury, MA.

### **Town FY08 Goals**

Ms. Kablack reported that the Board of Selectmen will be meeting soon to discuss and set goals for Fiscal Year 2008, and have asked for input and suggestions from Town boards and committees prior to May 11, 2007. The Selectmen would also like to know the Board's goals for next year.

The Board would like to see wastewater focused upon as the highest priority goal for the Selectmen and the Town along with land acquisitions, traffic and abutting town developments. The Board strongly stated that the Town needs to dedicate resources specifically for wastewater in order to adequately address the issue. It was also suggested that perhaps a personnel position be dedicated to work on wastewater-related matters.

The Board also reviewed the draft 2007 Planning Board Projects and Priorities dated May 9, 2007. For FY08, the Planning Board would like to work significantly on revisions to several zoning bylaws, the Subdivision Rules & Regulations, and the Wastewater Project Evaluation Report.

Mr. Poch stated that when reviewing subdivision regulations, more attention should be given to establishing punitive and mitigation, as well as monitoring and enforcement measures.

### **Board Reorganization**

As required annually by the State of Massachusetts, the Board reorganized as follows:

On motion duly made and seconded, it was unanimously:

VOTED: To reappoint Michael Fee as Chair, Lisa Eggleston as Vice-Chair, and Christopher Morely as Clerk of the Sudbury Planning Board.

The reappointments will be filed with the state Land Court and Registrar of Deeds as appropriate.

## **Miscellaneous**

### **Environmental Summit**

Ms. Kablack distributed to the Board, for reference and informational purposes, an email message dated April 11, 2007, which she received from Conservation Commission Coordinator Deborah Dineen. Ms. Dineen posed possible agenda topics for a future Environmental Summit agenda. She also asked for the Board's feedback regarding participants, scheduling dates and topics for discussion.

The Board briefly discussed the proposed agenda items, as well as additional topics. Ms. Eggleston suggested that perhaps a meeting in the Fall of 2007 would be more productive than one in June.

Ms. Kablack will contact the Commission Coordinator to coordinate the agenda, and schedule a date, preferably after Labor Day.

### **Sudbury Research Center, LLC**

Ms. Kablack distributed to the Board, for informational purposes, copies of the judgment rendered in Wagner v. Planning & Sudbury Research Center, LLC, dismissing the case in favor of the Town and Sudbury Research Center.

### **Board of Appeals**

Ms. Kablack distributed to the Board, for informational purposes, the May 15, 2007 Board of Appeals Notice of Public Hearing.

### **Toy Drive and Photo Contest**

Ms. Kablack distributed to the Board, for informational purposes, a flyer advertising the Toy Drive sponsored by HOPE Sudbury, from May 5 - May 19, 2007. She also distributed a flyer announcing the Town's Photography Contest from April 4 - May 18, 2007. The contest encourages residents to share photos of their favorite Town views and sites. She reported a few photographs already have been submitted.

### **Storm Water Annual Report to DEP and EPA**

Ms. Kablack distributed to the Board, for informational purposes, a letter sent to DEP and EPA by the Town Manager to report Sudbury's progress toward its storm water management goals.

**Mahoney and Melone Properties Feasibility Studies - Notice of RFP**

Ms. Kablack distributed to the Board, for informational purposes, a copy of the Notice of RFP for the Mahoney and Melone Properties Feasibility Studies, dated May 3, 2007.

Chairman Fee adjourned the meeting at 10:30 p.m.