

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

At 7:40 p.m., Chairman Fee called the meeting to order.

**Preliminary Far Hills Subdivision - Brimstone Lane - Discussion**

Present: Property Owners Malcolm and Eva MacNeill, Beals and Thomas, Inc. engineer  
Wayne Chouinard, and applicant's lawyer David Wallace

At 7:40 p.m., Chairman Fee reopened a discussion regarding a revised Preliminary Plan  
Filing for Far Hills Subdivision, prepared by Beals and Thomas, Inc., which was last  
discussed by the Board on March 12, 2008. He noted that the topic will be discussed  
informally, and that it is not scheduled as a Public Hearing.

The Board was previously in receipt of a memorandum noting comments and  
recommendations from Ms. Kablack dated September 9, 2008, and another from  
Conservation Coordinator Debbie Dineen, also dated September 9, 2008, noting the  
consensus of the Conservation Commission following an informal meeting, and stating  
that, although the applicant has made progress towards compliance with the Wetlands  
Protection Act and the Sudbury Wetlands Bylaw, problems remain.

Ms. Kablack reported that revised plans have been submitted which are improved, but not  
all issues of concern have been resolved.

Attorney for the applicant David Wallace distributed to the Board a memorandum of his  
comments in response to those posed by Ms. Kablack in her September 9th  
memorandum. He reported that the applicant's team has had conversations with  
Conservation Coordinator Debbie Dineen in the past few months, and met with the  
Conservation Commission on September 8th. Based upon those discussions,  
Mr. Wallace stated that he believes a proposal can be developed which will be acceptable  
to the Commission.

Mr. Wallace noted that a problematic issue for discussion with the Commission was  
where the subdivision road should be located in order to meet frontage requirements.  
Ms. Dineen reminded Mr. Wallace that precedence exists with a 1980s case which  
included frontage and crossing wetlands issues and provided access to the parcel from  
another road. Mr. Wallace opined that Ms. Dineen gave him the impression that,  
although there are wetland considerations, she believes the applicant's land could be  
viable for development in a small way. He further reported that the applicant also  
discussed with Ms. Dineen the possibility of pledging a portion of land as a Conservation  
Restriction in locations which would enhance and abut existing Town Conservation

Restriction land. Mr. Wallace noted that PERC tests on the lower parcel would establish what portions of land could be of value to offer the Town.

Beals and Thomas, Inc. engineer Wayne Chouinard distributed revised plans to the Board. He briefly reviewed conversations with Ms. Dineen regarding mitigation in the form of perpetual protection options and recommendations offered by a local botanist to provide more wetland-related plantings in the area. A buffer along the perimeter of the adjacent Nobscot Boy Scout land was also discussed as an option, if suitability of the soils allow. In response to a question from Ms. Eggleston, Mr. Chouinard confirmed that runoff from driveways would intentionally be directed south to enhance the habitat.

Mr. Chouinard was reminded that a front-yard setback of 40 feet is required. He responded that although this was overlooked, it can be corrected on the plans.

Mr. Morely questioned whether all wetlands on the property have been designated on the plans, especially on Lot 4. Ms. Kablack clarified that the wetlands area observed by Mr. Morely on a previous site visit may actually be located on the Nobscot Boy Scout property.

Additionally, Mr. Morely questioned if the house proposed on Lot 1 could be moved, since it is virtually on the property line. Mr. Chouinard explained the constraints to repositioning the house, however, he stated that he was able to move it approximately 15-20 feet from the property line and also position it lower on the parcel.

Ms. Eggleston questioned whether there was adequate setback for the leeching field on Lot 1. Mr. Chouinard responded that his plan is appropriate because the area is not being considered as a water body or as a bordering vegetative wetland.

As he had previously mentioned in the March 12th meeting, Mr. Sziabowski noted that the boundaries on the north side of the parcel still do not seem accurate. He asked if the boundary lines have been checked and surveyed. Mr. Chouinard confirmed that no property survey has been completed, however, it can be checked again.

Mr. Hunter noted that it appears on Plan CD-2 that frontage cannot be satisfied without a wetlands crossing, and he wondered if the applicant is denied the crossing, whether they would pursue the matter through the courts. Mr. Wallace responded by again referencing the Corcoran case, wherein the wetlands provided enough frontage, but prohibited access from a legal roadway, and thus access was provided from another road. He continued to explain that the applicant's proposal for access from a common driveway would also benefit the neighbors, who have not wanted a road or to be disturbed. In essence, Mr. Wallace stated that the applicant would be presenting only a paper road for approval, that will most likely never be built.

Chairman Fee reviewed that the applicant seemed to be proposing a shared driveway and a paper street to be approved in the lower parcel to allow Lots 1 and 2 to be immediately developed. However, Chairman Fee noted that prior to approval, the Board has to have evidence that the paper street actually could be built. Ms. Kablack concurred, stating that the small Road A would need to be approved as a subdivision road to allow Lots 1 and 2 to satisfy frontage requirements. Chairman Fee reiterated that the Board would need evidence of approval of the road from the Conservation Commission prior to formulating its own determination.

Discussion followed regarding the status of Brimstone Lane as a dead-end street as it relates to proposal approval. Mr. Wallace purports that although Brimstone Lane is a dead-end street in Sudbury, it is not considered so in Framingham. Thus, he believes, that practical access does exist from Framingham.

Mr. Chouinard asked the Board for its interpretation of a dead-end street, since at its core, the proposal is predicated upon that determination. He asked for the Board's opinion regarding the ability to waiver Brimstone Lane for access. Chairman Fee responded that, as evidenced by tonight's discussion, the Board has not formulated its opinion or reached consensus, and it would want to solicit the opinion of Town Counsel. Mr. Wallace concurred, stating that if the dead-end street is a "deal breaker," it would be best to know that as soon as possible.

Chairman Fee reiterated that the Board cannot approve a plan which presupposes approval from the Conservation Commission. Thus, the Board needs evidence that Road A can be built without waivers or zoning variances. He asked if the road could be moved, to which Mr. Chouinard responded no.

Ms. Eggleston opined that the only process by which the Board could approve Lots 1 and 2 would be through a Definitive Subdivision Plan and the Notice of Intent process with the Conservation Commission

Ms. Kablack opined that the CD-2 Plan is simpler to permit, however, the garage location presents a significant problem. She stated that not only is the garage not indicated on the plans, it is most likely located within the right-of-way, and therefore not compliant with zoning. The garage must be designated on the plans.

Ms. Kablack also highlighted a potential problem with the Sudbury Water District not approving a dead-end water main for public safety reasons. Mr. Chouinard responded that a loop could be designed to satisfy the District. Ms. Eggleston urged the applicant to discuss this matter directly with the Sudbury Water District.

Mr. Poch referenced item #6 of Ms. Kablack's September 9th memo. He asked if the 6% grade requirement for Road A can be met. He also asked if there is a requirement for a

utility easement in the common driveway. Ms. Kablack responded that the utility easement could most likely be obtained.

Mr. Hunter noted that there is a lot of ledge in the area, and he asked if blasting has been discussed. Mr. Chouinard responded that limited soil testing has been performed, but that no discussions regarding blasting have occurred.

Abutter Susan Roth, 88 Brimstone Lane, stated that she would like to see the boundary lines for the entire property accurately surveyed. Ms. Roth emphatically stated that she lives on a dead-end street, i.e., Brimstone Lane. She noted that the gate at the Framingham end of the street is always locked and access to a key has been impossible. Ms. Roth also noted that this area has never been plowed, and therefore, should not be viewed as a practical access. In addition, Ms. Roth expressed apprehension with the notion of landowners and the Town swapping land as part of the negotiation process.

Eva MacNeill, 54 Brimstone Lane, noted that three homes on the Framingham side of the street are serviced by the Sudbury Fire Department. Ms. Kablack opined that the area is a planned, rather than a practical, emergency access.

Ms. Kablack stated that the Board will need to know the length between Road A and Route 20, along with the length between Road A and the gated emergency access point.

Chairman Fee stated that the Board will formulate its opinion on the dead-end street issue prior to its next meeting on September 24, 2008. The discussion with the applicant was continued to September 24, 2008 at 8:00 p.m., and it was suggested that the applicant discuss its proposal with the Sudbury Water District prior to that time.

Bob Fushi, 109 Brimstone Lane, asked if there are any circumstances by which a town can erect a barrier to separate the access point between Sudbury and Framingham. A few Board members opined briefly on this topic, however, Ms. Kablack stated the process to do so would be difficult.

At 9:00 p.m., Chairman Fee closed this discussion.

At 9:15 p.m., the Board resumed its deliberation of the status of Brimstone Lane as a dead-end street. Following a thoughtful discourse, the consensus was that the Board will need evidence that an approved Notice of Intent process has been completed with the Conservation Commission and demonstration that Road A can be built without waivers denoted on fully certified engineering plans.

On motion duly made and seconded, it was unanimously:

VOTED: To instruct Director of Planning and Community Development Jody Kablack to draft a letter to be sent to the applicant stating that, after due consideration of the issues

broached this evening, the Board has determined that it considers Brimstone Lane to be a dead-end street, and that, a waiver will not be granted unless the applicant can demonstrate that adequate and legal emergency access can be provided, and that no lots will be approved until fully engineered and compliant Definitive Subdivision plans (including the location of the garage) are provided, accompanied by an approved Notice of Intent from the Conservation Commission. The letter should encourage the applicant to continue to communicate their intentions to Ms. Kablack, and it should further state that the Board understands more time may be needed by the applicant to address these concerns, and thus, the Board would appreciate notice as soon as possible if the applicant wishes to have further discussion of this proposal removed from the September 24, 2008 meeting agenda.

Upon completion, Ms. Kablack will circulate the draft letter to the Board for approval.

### **Stormwater Bylaw - Draft**

The Board was previously in receipt of copies of a Draft Stormwater Management Bylaw for the Town of Sudbury dated September 2, 2008. Ms. Kablack reported that she and Ms. Eggleston have been part of a working group responsible for the draft document, which will be finalized for presentation at the Annual 2009 Town Meeting.

Ms. Eggleston emphasized that this task is a required by federal law. Ms. Kablack stated that the final document will codify standards and requirements for all developments and will include a fee structure.

### **Minutes**

On motion duly made and seconded, it was unanimously:

VOTED: To approve the regular minutes of June 11, 2008 and August 28, 2008.

### **Planning Board Associate - Appointment**

The Board signed the appointment paperwork for Joseph Sziabowski as the Planning Board Associate for a two-year term ending July 28, 2010.

### **Maillet Estates Subdivision - Release Lots from Covenant**

Ms. Kablack briefly explained that the Board needs to re-execute releasing the lots from covenant.

On motion duly made and seconded, it was unanimously:

VOTED: To release lots from covenant for the Maillet Estates on Horse Pond Road.

Ms. Kablack announced that the request from Maillet Estates to waive construction of walkways will be discussed at the Board's September 24, 2008 meeting.

**Upcoming Planning Board Meeting Schedule**

The Board's next meeting is scheduled for September 24, 2008.

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