

Present: Michael Fee (Chairman), Joe Sziabowski, Christopher Morely,  
Michael Hunter, Eric Poch (arrives at 7:25 p.m.), and Jody Kablack  
(Director of Planning and Development)  
Absent: Lisa Eggleston (Associate)

At 7:05 p.m., Chairman Fee called the meeting to order.

**Possible Development - 189 Boston Post Road**

Present: Hawthorne Partners representatives Scott Cohen and John Kiely, Blackhorse Realty Realtor Laura Meier, Property Owner Vincent Mercury

Hawthorne Partners representative Scott Cohen presented the Board with a development proposal to construct a single-story, 38,000 square-foot, assisted-living facility on a five-acre lot, located at 189 Boston Post Road, near the intersection of Landham Road. Mr. Cohen explained that the facility would be dedicated to early and mid-stage Alzheimer patients. Hawthorne Partners has been working with a nursing home provider, Epic Senior Living, to develop designs for the project.

Mr. Cohen displayed exhibits of prototype site plans, and design plans for the parcel, describing the proposed location for the facility in relation to wetlands and a rare species habitat area also located on the property. He emphasized that the intention is for the exterior design of the facility to blend into the community. Mr. Cohen described the European concept of a three-greenhouse household design, housing 16 bedroom-units in each household, with a centralized activity area in the middle. He also noted that large garden areas will be created, and that the facility will be a secured community.

Mr. Cohen stated that due to the topography of the parcel, cut and fill is anticipated in certain areas. Many options are being considered as to what view will be best from Route 20, i.e., just the top portion of the building, or whether the building should be raised to give a better streetscape appearance.

Mr. Cohen stated that the position of the facility on the parcel is slightly problematic, due to the wetlands and rare species areas, and that meeting the required 150-foot front and 50-foot rear and side setback requirements may be challenging. Plans exhibited tonight reflect a 50-foot setback around most of the facility, with a 25-foot setback only available in a very small area in the rear.

Mr. Cohen, explained that increased trip/traffic generation is anticipated to be quite low, given that no residents will have vehicles, and that 20 employees will be staffed between 7:00 a.m. to 3:00 p.m., dropping to 15 employees, during evening and weekend hours. Currently, 42 parking spaces are planned. He also noted that the private facility is

estimated to add \$120,000 of commercial property taxes to Sudbury's revenue, while using very few Town resources, since the facility handles its own landscaping, maintenance and trash needs.

Chairman Fee asked the applicant's plans for the antique home, currently located on the property. Mr. Cohen responded that their preference is to demolish the house, since it is centrally sited on the lot and disrupts their design concepts. However, he also noted that the applicant is open to discussions with local historical authorities.

Sudbury Historical Commission Chair Lyn MacLean reported that the Commission voted to allow demolition of the house, based upon its extremely poor condition. Sudbury Historical Commission member Liz Radoski stated that the Commission would request that future plans include a plaque to memorialize the home's former location.

Chairman Fee stated that numerous uses have been proposed for this site, but that, to date, this concept is the best one presented. Mr. Morely concurred. Mr. Sziabowski agreed, stating that the use seems suitable for the site, and he encourages the developer to pursue additional contextual designs, which can compliment the neighborhood, even if they are contemporary design. Mr. Hunter and Ms. Kablack suggested that the Willow Hill School, on Haynes Road, be referenced as a successful barn design style to be considered.

Mr. Hunter advised that the Zoning Board of Appeals (ZBA) may require that the applicant present a plan which meets current setback regulations, and then request a variance for what the developer would like to construct.

Chairman Fee urged the applicant to discuss proposed plans with Sudbury's Fire Chief to ensure proper space for public safety vehicles to access, egress and turn around on the property. Mr. Cohen agreed to do so. He also noted that only two to three ambulance visits are anticipated a month. Mr. Cohen highlighted that the building will be fully sprinklered, and he anticipates the Fire Chief will respond favorably to construction plans.

Mr. Morely noted the severe grade difference in the rear of the property, which may require significant fill, and further noted that this could be viewed negatively by the Conservation Commission. He urged the applicant to consult with the Commission as soon as possible. Mr. Morely also stated his preference for a basement level to be added, so that the front of the building is raised up. Mr. Sziabowski concurred. Mr. Cohen stated that more information regarding fill requirements will be available after engineers complete their initial grading and survey work. Hawthorne Partners representative John Kiely stated that he anticipates working through the conservation issues successfully, which may allow for the building to be situated closer to the wetlands than depicted in tonight's presentation.

Ms. Kablack noted that Building Inspector James Kelly believes an assisted-living facility is a comparable use to the current definition of "Nursing or convalescent home" defined in the Zoning Bylaw. Chairman Fee stated that a Special Permit is not available to the applicant, since meeting the 150-foot setback requirement cannot be demonstrated. However, Chairman Fee believes this project would qualify for a dimensional variance, due to the topographical and conservation challenges presented by the site. He further believes the applicant's best approach is to pursue approval of a variance rather than to request approval for a Special Permit.

Ms. Kablack questioned whether the applicant should pursue the dimensional variance, while the Town concurrently pursues a Town Meeting article to revise the bylaw to include assisted living facilities, and to change the setback requirements. Chairman Fee cautioned pursuing any action which could be perceived as spot zoning, and thereby challengeable. Chairman Fee and Mr. Morely opined that there is insufficient need to revise the bylaw.

Chairman Fee expressed the Board's future willingness to work with the applicant to further explore this development opportunity. He also asked the applicant to consider participating with the Town in its efforts to improve the Route 20 and Landham Road intersection with a financial contribution. Mr. Cohen responded that they are amenable to assisting Sudbury, by adding value to the area.

Chairman Fee concluded the discussion at 7:40 p.m.

**Public Hearing Continuation: Stormwater Management Permit - Lot 56B Widow Rite's Lane**

Present: Thomas DiPersio, Sr., Thomas Land Surveyors

At 7:42 p.m., Chairman Fee opened the Public Hearing regarding an application to construct a new single-family dwelling on Lot 56B, Widow Rite's Lane, Assessor's Map #E06, Lot 0356, which was continued from October 28, 2009.

Mr. DiPersio submitted a draft "Operations and Maintenance Plan for the Stormwater Management System for Lot 56B, Widow Rite's Lane." Copies of revised plans were also distributed. Mr. DiPersio stated that the plans were revised to incorporate the Board's suggestions made at its last meeting. The revisions included, but were not limited to, the addition of check dams to the grass swales, addition of plantings, increasing the size of the biobasin, adding a forebay, and re-routing the connection into the manhole for a better design, as suggested by Ms. Eggleston. The Board reminded Mr. DiPersio to discuss the manhole connection with Department of Public Works (DPW) Director Bill Place.

Ms. Kablack reported that an extension for the Board's decision will not be necessary, and that many of the loose ends have been resolved. Ms. Eggleston found the revisions

satisfactory, and she suggested that consideration be given to restricting homeowners from any future re-grading. Mr. DiPersio emphasized that the guidelines developed for post- construction and long-term operations and maintenance ties the homeowner to this type of maintenance.

Ms. Kablack suggested that the Board might want to consider recording this stormwater decision. The consensus of the Board was that a decision can likely be made and signed at the next meeting.

On motion duly made and seconded, it was unanimously:

VOTED: To authorize Director of Planning and Community Development Jody Kablack to draft a stormwater permit decision approving the application to construct a new single-family dwelling on Lot 56B, Widow Rite's Lane, Assessor's Map #E06, Lot 0356, subject to the Board's review at its next meeting on December 9, 2009.

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

VOTED: To close the Public Hearing regarding the application to construct a new single-family dwelling on Lot 56B, Widow Rite's Lane, Assessor's Map #E06, Lot 0356.

Ms. Kablack requested that Mr. DiPersio relay to the property owner that the construction entrance area be lined with additional stones, and that the pile of dirt at the intersection of Widow Rite's Lane and Wyman Drive be removed, as it is obviously coming off this site.

### **Ledgewood II Subdivision - Accept Bank of America Bond**

The Board was previously in receipt of a Bank of America Letter of Credit issued to Ledgewood II at Sudbury Development, in the amount of \$23,625.00. Ms. Kablack reported that the replacement bond format is satisfactory, and she recommended its acceptance.

On motion duly made and seconded, it was unanimously:

VOTED: To accept the replacement bond from Bank of America for the Ledgewood II at Sudbury Subdivision.

### **2010 Annual Town Meeting - Discussion of Potential Articles**

Ms. Kablack stated she will provide the Board with an update at its next meeting of the relevant articles proposed for Community Preservation Act funding.

Illicit Discharge and Connection Bylaw - Ms. Kablack stated that an Illicit Discharge and Connection Bylaw has been proposed as an article for Town Meeting to be co-sponsored

by the Planning Board and the Conservation Commission. She explained that this is being brought forward as a protective measure, since a few towns were recently fined for non-compliance (Concord was fined \$50,000). Ms. Kablack further stated that DPW Director Bill Place has agreed to administer the proposed new policy. Chairman Fee suggested that the proposal also be communicated to the Ponds and Waterways Committee.

On motion duly made and seconded, it was unanimously:

VOTED: To co-sponsor a 2010 Town Meeting article regarding an Illicit Discharge and Connection Bylaw.

Chairman Fee also suggested that a Public Hearing be held on this article at the time other zoning articles are publicly presented in February.

Wireless Bylaw - Ms. Kablack reported that the Town is awaiting information from its consultant, prior to finalizing its proposal for revisions to the current bylaw to abolish the residential and school setback requirements and to include proposed site locations within the bylaw.

The Board questioned how this will be argued at Town Meeting. Ms. Kablack responded that the presentation will explain that the setback requirements are always granted a variance by the ZBA, and that, by law, health issues cannot be considered regarding zoning matters. Chairman Fee stated that he is unsure as to his position regarding support of this article. He further stated that he is inclined to not support placement of a cell tower near the Lincoln-Sudbury Regional High School (LSRHS) buildings. Varying opinions were expressed by Board members regarding the current reception quality at LSRHS. Ms. Kablack stated that the consultant will offer recommendations on new location possibilities for cell towers, based upon review of radio frequency maps.

Mr. Poch opined that, regardless of the restriction to ignore health concerns when determining zoning, he is inclined to not support a cell tower installation on the roof of a school building. He would prefer to see the setbacks remain as deterrents to unacceptable equipment placement.

Chairman Fee stated he will need to be further convinced of the need to alter the bylaw. He acknowledged that, although the revenue generated through cell tower installations is noteworthy, Chairman Fee does not believe that the income should drive the Town's policy and decision-making. Ms. Kablack noted that there is still moderate demand for cell towers in Sudbury, and that carefully proposing locations seems a better strategy than companies applying for use variances. Mr. Morely concurred. Ms. Kablack will bring additional materials to the Dec. 9 meeting so that the Board can make an informed decision on whether to proceed with an article for the 2010 Annual Town Meeting.

Eligibility as a Green Community - Ms. Kablack reported that she does not believe that any zoning articles will be brought to the Annual 2010 Town Meeting because the State has preliminarily opined that the Town's current zoning is in compliance with the requirements of the Act, since we already allow Research and Development uses by-right, and expedited permitting already exists in Sudbury.

Assisted Living - add to Use Table - Chairman Fee and Mr. Morely questioned if this article is necessary, and to bring it forward at this time could be perceived as spot zoning. Chairman Fee believes a more efficient approach may be for the assisted-living facility proposed development to pursue a dimensional variance and a Special Permit from the ZBA.

Mr. Sziabowski questioned what benefit is derived from reducing the front-yard setback requirements. Ms. Kablack briefly summarized other front-yard setbacks in Sudbury, highlighting that the largest front-yard setback requirement for the most intense use, other than this situation, is 125 feet. Even if the current front-yard setback requirement is too restrictive, Chairman Fee urged the Board to consider carefully any revisions to them to avoid the action being challenged as benefiting a specific development. Ms. Kablack added that any change to the setback for this use would be in effect throughout the entire residential zoning district, not a single parcel.

In addition, minor changes to Zoning Bylaws have been suggested for the Board's further discussion at its next meeting as follows:

Section 2210 - add the word "residential" to "Not more than one residential structure shall be placed on a lot...."

Section 2324 - add the words "or other structures" to "The temporary use of trailers or other structures for storage or office purposes is allowed ...."

Section 7000 - delete the word "fences" from the definition of "Structure."

Section 2230 - Appendix A, Table of Principal Uses Regulations - add the words "Reference section 2313" under "Non-exempt Agricultural Use" in the Use Table for raising animals.

Section 3259B (New). Temporary Signs: Add the sentence, "Temporary business signs while waiting for a permanent sign to be constructed shall be no greater than 24-square feet for a wall-mounted sign, or six-square feet for a freestanding sign."

**Minutes**

On motion duly made and seconded, it was unanimously

VOTED: To approve the regular meeting minutes of October 28, 2009, subject to incorporation of the revisions submitted by Chairman Fee this evening.

**Miscellaneous**

**Sudbury Water District - New Cell Tower**

Ms. Kablack reported that a new cell tower is being built on land owned by the Sudbury Water District at 199 Raymond Road. It has been suggested that the Board delegate its Stormwater Permit decision authority to the Board of Selectmen for this application.

On motion duly made and seconded, it was unanimously

VOTED: To delegate the Planning Board's Stormwater Permit decision authority regarding a new cell tower to be built in the Sudbury Water District to the Board of Selectmen.

**Upcoming Planning Board Meeting Schedule**

The Board's next meeting is scheduled for December 9, 2009 at 7:30 p.m., at Town Hall.

Ms. Kablack informed the Board that the agenda will include two Scenic Road hearings.

The meeting was adjourned by Chairman Fee at 8:35 p.m.