

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

At 7:36 p.m., Chairman Fee called the meeting to order.

Landham Crossing – 192 Boston Post Road – Right of First Refusal Discussion

Ms. Kablack provided a brief description of the property. She reported that the Board of Selectmen discussed the site regarding its potential for a Chapter 40B development and will decide if the Town is interested in exercising its Chapter 61B Right of First Refusal, for a price of \$600,000, at an upcoming meeting. She stated that the Town has considered this parcel in the past, but there was not much interest in using it for a specific purpose. Although the parcel is developable and being offered at a reasonable price, the consensus has been that the best use for it would be housing.

Ms. Eggleston asked if the parcel has been considered for municipal needs, such as a new Police Station, or as an early childhood center. Ms. Kablack responded that, to date, there has not been interest for those options, noting that funding would need to be accessed quickly. In addition, she stated that the Sudbury Valley Trustees, Park and Recreation and the Conservation Commission have also expressed no interest in the parcel.

Chairman Fee noted that the Sudbury Housing Trust could designate funds for a purchase, if the Selectmen deem the parcel as useful.

Mr. Hunter noted that the Purchase and Sale Agreement was dated February 1, 2010, however, the Town was not notified by certified letter until February 24, 2010. He further noted that the Purchase and Sale Agreement called for notice being given within ten days. Thus, Mr. Hunter questioned if the offer qualifies as a requisite *bona fide* offer. Chairman Fee stated that, if it is possible that the Seller could possibly walk away from the transaction, this point could possibly be used for leverage by the Town.

Regarding Landham Crossing, 192 Boston Post Road, the consensus was to instruct Ms. Kablack, on behalf of the Board, to draft a letter to be sent to the Board of Selectmen, stating that, although the proposed price seems reasonable, and the likelihood for development is high, the Board could not determine a viable municipal use for the parcel. However, the Board further notes that the site appears to be well suited for multi-family-unit housing, and believes that perhaps the Sudbury Housing Trust should be consulted. In addition, the Board noted that paragraph #33 of the Addendum to Purchase and Sale Agreement requires the Seller to give notice within ten days of execution of the Purchase and Sale Agreement, signed on February 1, 2010. It appears as if the Seller gave notice on

February 24, 10, and thus the Board questions as to whether the Purchase and Sale Agreement is enforceable, and whether it constitutes a *bona fide* offer under Chapter 61B.

Public Hearing: Stormwater Permit – Grouse Hill Retaining Wall – Old Framingham Road

Present: Applicant's engineer Richard Mainville, Sullivan, Connors & Associates and developer William Dipietri

At 7:48 p.m., Chairman Fee opened the Stormwater Permit Public Hearing regarding the Grouse Hill retaining wall on Old Framingham Road, and he read the public notice.

Ms. Kablack explained that the retaining walls were part of the plan approved in 2006, but now, since they require a separate building permit, the retaining walls are within the jurisdiction of the Stormwater Bylaw.

The applicant's engineer Richard Mainville, Sullivan, Connors & Associates, presented project exhibits, including a landscape plan to the Board. Mr. Mainville highlighted the area of the retaining walls and reviewed the original design, which was originally approved. He stated that, in response to a letter he received from Department of Public Works (DPW) Director Bill Place asking for drainage calculations, he has reviewed and modified the drainage area for a net decrease due to the new retaining walls. Ms. Kablack noted that Mr. Place has confirmed this information in an email dated May 11, 2010. Mr. Mainville stated that he believes the proposal is very similar to what was already approved. Copies of a "Hydrologic Analysis, dated May 5, 2010," was distributed to the Board for review.

Ms. Eggleston stated that the Board should focus on the slope and the area of disturbance on the slope, which is why the plan is impacted by the Stormwater Bylaw. She further stated that attention would need to be given to erosion and sediment controls implemented on the slope during construction, which she has not seen addressed in documentation provided to date. Ms. Kablack circulated photographs she took today at the site.

Mr. DiPietri noted that when the project originated, the Stormwater Bylaw had not yet been adopted. He further noted that the detention basin and septic system work is completed. Mr. DiPietri emphasized that there have been no problems in the past 18 months at the site, and that rain stays along the roadway and enters catch basins. In addition, he stated that filters have been installed to catch silt in the catch basins. Ms. Kablack and Mr. Morely concurred that materials are well contained and that the site is well maintained.

Mr. Morely reminded the applicant that wooden guardrails should be used on scenic roads, noting that Mr. Place can provide the necessary specifications. He also reminded the applicant that a trail is supposed to connect to the nearby wildlife corridor.

Ms. Eggleston noted that the site is currently disturbed, and thus the emphasis should be on stabilization and maintenance. She also noted that the Homeowner's Association would be responsible for maintaining the vegetation.

Ms. Kablack noted that Building Inspector Jim Kelly has expressed concern regarding the structural aspects of the retaining walls. She suggested that the Board request, as a condition of approval, that the applicant provide a construction control affidavit from a structural engineer once the wall is completed. Ms. Kablack also recommended that no further vegetation at the top be removed. In addition, Ms. Kablack suggested that the applicant repair the stone walls along Old Framingham Road which have been disturbed by the drainage work. Mr. DiPietri responded that he would do so by the fall.

The Board reviewed the landscape plan to assess Mr. Morely's concern regarding the berm height on the back side of the units, noting it will take a long time for some of the plantings to reach maturity. Mr. DiPietri agreed to review the landscape plan to ensure adequate screening is provided.

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

VOTED: To close the Stormwater Permit Public Hearing regarding the Grouse Hill retaining wall on Old Framingham Road

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

VOTED: To instruct Ms. Kablack to prepare a draft Stormwater Permit approval decision, to be signed at the next Board meeting, regarding the application submitted by William DiPietri, Capital Group Properties, regarding the Grouse Hill retaining wall on Old Framingham Road, subject to continued maintenance of erosion and sediment controls through the development and construction process, a control affidavit being submitted by a structural engineer, attesting to the stability of the retaining walls, the installation of all-wood guardrails, and that no further tree clearing and/or disruption of rooted vegetation occur along Old Framingham Road.

Chairman Fee commended the developer, stating that the development is considered by many to be done in a top-notch manner. He further noted that he is unaware of any complaints from the community regarding the project.

**Public Hearing Continuation - Stormwater Permit - Northwoods at Sudbury,
Northwood Drive**

Present: Brian Milisci, Whitman & Bingham

At 8:12 p.m., Chairman Fee opened the Stormwater Permit Public Hearing regarding an application submitted by Castagna Construction Corp., to construct 19 new condominium units in seven (7) buildings at Northwood at Sudbury, Northwood Drive, Assessor's Map

#C11, Lot 0302 and to amend its Water Resource Special Permit, which was continued from April 28, 2010.

Chairman Fee announced that Ms. Kablack and Mr. Hunter have recused themselves from the discussion.

Materials received to the file, to date, since the last meetings were reviewed, including a revised Stormwater Permit Report and Plan and an email message noting comments from Conservation Coordinator Deborah Dineen, dated May 11, 2010.

Representing the applicant, engineer Brian Milisci reviewed the revisions made to the plan, including removal of references to, and details of, pervious pavement, the elimination of the recharge systems utilized for recharge of roof runoff and the use of “bioretention and/or rain garden areas” instead, the slight alteration of site grading to direct roof runoff and that from new driveways to the rain gardens, and inclusion of detail of the bioretention areas to the detail sheets. In addition, Mr. Milisci had prepared a response letter to the Board dated May 12, 2010, addressing previous concerns and comments, which he briefly highlighted. He also provided the Board with copies of information from the Department of Environmental Protection (DEP) website regarding “Bioretention Areas & Rain Gardens.”

Ms. Eggleston asked if there are sizing and calculations available for the bioretention areas. Mr. Milisci responded that they would be oversized, but did not have the calculations at this time.

Ms. Eggleston questioned the applicant’s request for a waiver regarding the percentage of removal of Total Suspended Solids (TSS). She believes the guidelines exist to protect water resources when structures fail. Ms. Eggleston further believes that the applicant could achieve 44% TSS removal by installing a small chamber and/or other low impact technologies. She also later suggested that the plan formulate swales to be put in the forebay in the bioretention areas.

Chairman Fee asked Mr. Milisci to explain the rationale for the waiver request. Mr. Milisci responded that it is not deemed necessary, since the plan is primarily a retrofit. Chairman Fee opined that the argument presented is not compelling.

Ms. Eggleston asked a few questions regarding the landscape plan, emphasizing that plantings should not be varieties requiring fertilization.

Chairman Fee referenced Ms. Dineen’s email comment regarding whether the catch basins contain grease and gas traps, asking if regulations require them. It was noted that the new systems do not have them, but that the previously installed catch basins do. Ms. Eggleston stated that local and DEP regulations require the traps, noting that the traps and hoods appear to be compliant.

Ms. Eggleston suggested that the hearing be continued, to allow time to incorporate the 44% pretreatment needs, and to review calculations noting properly-sized detentions and that driveways break towards the swales.

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

VOTED: To continue the Stormwater Permit Public Hearing regarding an application submitted by Castagna Construction Corp., to construct 19 new condominium units in seven (7) buildings at Northwood at Sudbury, Northwood Drive, Assessor's Map #C11, Lot 0302 to June 9, 2010 at 7:30 p.m., and to instruct Ms. Kablack to prepare a draft approval decision for review and signing at the June 9th meeting.

Candy Hill Lane (Zingale) Subdivision – Extension Request

Present: Applicant Douglas Zingale and his attorney Robert Granich

At 8:37 p.m., Ms. Kablack explained the request of Douglas Zingale for a five-year extension to complete subdivision work on Candy Hill Lane. She noted that the site has not been disturbed, and that the original approval expired in January 2010.

Mr. Zingale stated that he has determined that building on the site at this time is not practical, and that the lot is for sale. Mr. Granich emphasized that the five-year extension would allow a new buyer adequate time to decide what they would like to do with the parcel.

Ms. Kablack noted that the existing cash bond would be assigned to a new buyer, and that fees and mitigation payments have been paid by Mr. Zingale.

Chairman Fee and Mr. Morely opined that they see no reason not to approve the request. Chairman Fee asked if there is a precedent for a five-year approval. Ms. Eggleston noted that, depending on when the parcel is sold, such a long-term approval could become bothersome for abutters.

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

VOTED: To approve the Candy Hill Lane (Zingale) Subdivision request for a five-year extension to complete subdivision improvements, unless a Building Permit is issued, at which time, the extension would be reduced to two years from the issuance date of the Permit.

Willis Hill Realty Trust – Update

Ms. Kablack provided the Board with an update regarding Willis Hill. She stated that she has worked with Town Counsel Paul Kenny to develop a process for fining, which includes tickets to be issued for violations. Any violation must be noticed within 15 days, with notice to the violator and the Framingham District Court. Ms. Kablack reported that a representative of the Willis Hill Realty Trust has indicated that actions are being taken to become current

with property tax payments. She also reported that Tom DiPersio has been hired to develop a stabilization plan for Maynard Road Lots E and F.

Ms. Kablack visited the site along Widow Rites Lane and observed properly placed wood chips and growing vegetation. She also stated that silt fences and swales have been installed, and that the area is now fairly stable. Ms. Kablack took photographs of the site, which she circulated to the Board for review.

In regard to Maynard Road, Ms. Kablack reported that the situation is now more controlled, and that there has only been one minor breach by the developer. Grass mats have also been installed along the street.

Coffee Hut – Site Plan Modification

Present: Applicant Ron DeMille and his attorney Joshua Fox

Chairman Fee opened the discussion regarding a proposed Site Plan Modification requested by the Rod and Sandra DeMille, owners of the Coffee Hut. Ms. Kablack noted that the Board should provide input to the Selectmen prior to May 18, 2010, since that Board will be considering this proposal at its May 18th meeting.

Attorney Joshua Fox circulated copies to the Board of the original 1993 Site Plan approved by the Board of Selectmen, and he noted the location of the Coffee Hut. He explained the request to modify Site Plan SP93-217, by removing the restriction which prohibits transfer of ownership and operation of the Coffee Hut by anyone other than the present owners. Mr. Fox noted that the business uses, on average, approximately two to six parking spaces. The property is located at 435-437 Boston Post Road, Town Assessor's Map K08, Parcel 0004, zoned Limited Business District and A-Residential.

Ms. Kablack briefly stated that the Fire Chief, Building Inspector and Conservation Commission Coordinator have notified her that they have no objections to the application request. She further reported that she reviewed the original 1993 Site Plan and Zoning Bylaws, noting that, although 30% of parking could have been waived at the time T.J. Maxx was applying for its 7,500 square-foot expansion, only 5% was waived. At that time, the entire Coffee Hut kiosk was initially to be removed, but Mr. DeMille approached the Selectmen, who made an informal approval for the business to remain in its location, as long as it was owned by him.

Mr. Fox highlighted that there have been no complaints regarding the business location as problematic for parking or traffic circulation in the past 16 years. Now, as the owners are approaching retirement age, he believes they should be able to sell their business in an unencumbered manner, just as every other business owner in Sudbury has the opportunity to do.

Chairman Fee stated that the comments from the Board should focus on any parking and/or planning issues which approval of this proposal could impact. He believes that the Coffee

Hut's location has not been detrimental to the operation of the plaza, nor has it unreasonably hindered public parking opportunities.

Mr. Sziabowski opined that the business site is located in a portion of the parking lot rarely frequented by the public. However, he also questioned whether the business could be repositioned to further improve traffic flow. Mr. Poch noted that, in winter, snow is also piled close to the area in question.

In response to a question from Ms. Eggleston, Ms. Kablack stated that, if the business were to be sold for a change in use, a new Site Plan application and process would be required.

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

VOTED: To instruct Ms. Kablack, on behalf of the Board, to prepare a letter to be sent to the Board of Selectmen regarding the request of Sudbury Crossing Associates Realty Trust to modify Site Plan SP93-217, to remove the restriction, which prohibits transfer of ownership and operation of the Coffee Hut by anyone other than the present owners, noting that the Planning Board's consensus is that, this is a viable business, and in its current operation, there appears to be no detriment to traffic flow or parking, however, if the business is sold for any change of use, a new Site Plan application would be required.

**Scenic Road Public Hearing Continuation: – 68 Old County Road –
Herb Chambers Boston Post Road, Inc.**

Present: Herb Chambers BMW Attorney Joshua Fox

At 9:01 p.m., Chairman Fee opened the Scenic Road Public Hearing, which had been continued from April 28, 2010, regarding the removal of trees at the intersection of Old County Road and Boston Post Road at the request of the applicant, Herb Chambers Boston Post Road, Inc.

Chairman Fee summarized the discussion from the last meeting regarding an appropriate fine for the infractions.

On behalf of his client, Attorney Fox reported that the new proposal is to make a \$3,500 contribution to the Town's tree replacement fund and to continue to maintain the area, as long as the Planning Board agrees to not support any future suggested modifications to the area in question.

Chairman Fee stated that this Board would not have the authority to decide anything, which would be enforceable for future Planning Boards. Ms. Kablack concurred that the request is not within the Board's jurisdiction, but rather the Department of Public Works' jurisdiction, since the area is within the Town's right of way.

Mr. Hunter asked what the per-day fine would be, if it were assessed from the time of the violation. Chairman Fee responded that the fine could have been well in excess of \$10,000,

but that he and Ms. Kablack have determined that it was not worth investing the enormous amount of time it would take to enforce a fine of that magnitude. In addition, Chairman Fee opined that, in spite of the violation, the area is more attractive now than before. However, he emphasized that a message must be sent from the Board that it views such unilateral actions as unlawful.

Mr. Sziabowski opined that the fine needs to be significant enough to send a message to others who might consider similar actions, or even consider removal of a stone wall.

The consensus of the Board was that the \$3,500 fine was acceptable, along with continued maintenance of the area. However, Chairman Fee stated that the Board still needed to consider the last condition made by the applicant.

Ms. Kablack reiterated her reluctance to agree to no future modifications to the site. In addition, she stated that she and DPW Director Bill Place believe that, since it is a designated Scenic Public Road, one tree should be planted every forty feet.

Ms. Eggleston concurred that street trees would look appropriate in this location. She also does not believe the Board has the authority to agree to the proposed condition. Ms. Eggleston further stated that the applicant seems to be mistakenly treating the area in question as its own property.

Mr. Fox highlighted that, if the applicant were not maintaining the area, it would look as overrun as before. He also stated that he would need to discuss the possible planting of trees again with his client.

The consensus was that the Hearing should be continued to June 9, 2010 at 7:45 p.m. Chairman Fee suggested that an expression of the Board's intent would be considered for inclusion in the June 9th Meeting Minutes similar to, "...notwithstanding that the removal of trees was unlawful, the area's appearance is now currently acceptable to the Board, and the Board prefers that the area be maintained in its current state."

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

VOTED: To continue the Public Hearing regarding the premature removal of trees at the intersection of Old County Road (a designated Scenic Road) and Boston Post Road by Herb Chambers Boston Post Road, Inc. to June 9, 2010 at 7:45 p.m.

Mr. Morely noted that there has been positive feedback from the community regarding the applicant's building design.

FY11 Planning Board Projects and Priorities

Ms. Kablack distributed copies to the Board of a draft "FY11 Planning Board Projects and Priorities" listing dated May 12, 2010, for review and discussion purposes. She asked the

Board for feedback, especially revenue-generating projects/ideas, stating she will continue to finalize the list in the coming weeks.

Ms. Kablack reported that the Town is awaiting a narrative report from its consultant regarding the Curtis School location viability for wastewater-related projects, which will also be forwarded to the School Committee. Mr. Poch emphasized that educating parents and addressing their concerns will be key to any use of School land. Mr. Morely agreed, noting that discussion should focus on preserving clean water.

Ms. Kablack also reported the Town has been very busy processing Chapter 40B applications and requests for information.

Minutes

On motion duly made and seconded, it was unanimously

VOTED: To approve the regular meeting minutes of April 28, 2010.

Upcoming Planning Board Meeting Schedule

The Board's next meetings are scheduled for June 9, 2010 and July 14, 2010 (tentative).

The meeting was adjourned by Chairman Fee at 9:39 p.m.