

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

At 7:30 p.m., Chairman Fee called the meeting to order.

Stormwater Management Permit –28 Paddock Way

The Board was previously in receipt of copies of the Stormwater Management Permit application for the demolition and reconstruction of a house at 28 Paddock Way. Ms. Kablack explained the project also requires a Notice of Intent/Order of Conditions from the Conservation Commission. Since the request was time sensitive due to the Conservation Commission noticing requirements and the Board was not meeting prior to the Commission's February 7, 2011 hearing, Ms. Kablack suggested advertising the stormwater permit at the same time. Thus, in the interest of conserving municipal resources, it was suggested that the Board retroactively delegate its authority to the Conservation Commission for review of the Stormwater Management Permit. She stated the Commission opened its hearing on February 7, 2011, but she is unsure if the hearing was also closed that evening. Ms. Kablack summarized the project as a tear down and reconstruction on a large lot of approximately 7.5 acres.

Chairman Fee expressed concern regarding procedurally delegating authority *nunc pro tunc* to the Conservation Commission after the public hearing has been held. He questioned whether such a vote could effect an appeal process, and he asked if the application has any risk for contention. Ms. Kablack stated she does not believe there is that risk.

Mr. Sziabowski asked, if in the future a situation like this arises, could the Board have acted in a timely manner by voting to delegate its authority by telephone or email communication. Ms. Kablack stated all votes by the Board must be taken at a public meeting.

Chairman Fee suggested the delegation of authority be voted *nunc pro tunc*, but that the developer also be notified that the decision could be subject to challenge. Thus, if the developer would prefer to avoid any procedural consequences by also having a hearing before the Planning Board, they could do so at the Board's next meeting.

On motion duly made and seconded, it was unanimously

VOTED: To delegate the Planning Board's authority for Stormwater Management Permit review to the Conservation Commission, *nunc pro tunc*, for the demolition and reconstruction of a house at 28 Paddock Way, and to inform the applicant and developer the Planning Board is willing to also conduct a public hearing if so desired to ensure there are no adverse consequences at a later date as a result of procedures followed.

Public Hearing - Pine Grove Definitive Subdivision

Applicant Peter Karassik, President of The Eligius Homes Company, Applicant's Attorney Paul Alphen

At 7:40 p.m., Chairman Fee opened the Public Hearing regarding the application of The Eligius Homes Company, Inc. for approval of a Definitive Subdivision Plan entitled "Pine Grove, Definitive Subdivision in Sudbury, MA" dated September 17, 2010, prepared by Thomas Land Surveyors, proposing a subdivision of approximately 7.19 acres into five lots, which was continued from January 12, 2011. The Board was previously in receipt of copies of a "Draft Definitive Subdivision Decision Pine Grove Old Lancaster Road dated February 9, 2011." In addition, copies of a letter from Thomas Land Surveyors dated February 9, 2011, which accompanied revised plans and also addressed revisions made on outstanding issues, were distributed to the Board tonight.

Ms. Kablack highlighted revisions made to the plan since the Board's last meeting, noting a few zoning irregularities were corrected and supplemental stormwater management-related calculations were submitted, which support the roof drain drywell and rain garden designs, and indicate all proposed driveways are accounted for in the rain garden designs. She further noted the revised plan and information will be submitted to Department of Public Works (DPW) Director Bill Place for final review and approval. Ms. Kablack stated she is satisfied that all outstanding issues have been addressed by the applicant.

The Board then reviewed the Draft Decision. Attorney for the applicant Paul Alphen questioned Condition #28 on page 8 of the Draft Decision, and whether a new application would need to be filed for an extension beyond the two-year approval. It is his understanding that a request for an extension is all that would be needed. In the past, Ms. Kablack stated extensions have been granted from written requests. Chairman Fee stated that Mr. Alphen's comment and request is consistent with the Town's past practices, and thus he recommended Condition #28 be revised to reflect that a written request is only required for an extension.

Ms. Kablack noted several other minor revisions to the draft decision, to which the Board and the developer agreed to.

Chairman Fee requested stronger language be inserted when discussing granting the waiver regarding the 360-foot separation between streets on the same side of the road and the public benefit derived from the proposed plan.

Chairman Fee also requested several other minor changes, to which the Board and the developer agreed.

On motion duly made and seconded, it was unanimously:

VOTED: To close the Public Hearing regarding the application of The Eligius Homes Company, Inc. for approval of a Definitive Subdivision Plan entitled "Pine Grove, Definitive Subdivision in Sudbury, MA" dated September 17, 2010, prepared by Thomas Land Surveyors, proposing a subdivision of approximately 7.19 acres into five lots.

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

VOTED: To approve the Definitive Subdivision Decision Pine Grove Old Lancaster Road dated February 9, 2011, as amended by discussion at tonight's Public Hearing.

Chairman Morely asked what the timeframe is to begin construction. Mr. Karassik stated the project would likely commence by mid-April.

Board of Selectmen Site Plan and Stormwater Management Permit Public Hearings – Haskell Field Parking Lot Expansion – Discussion and Comments

At 8:00 p.m., Chairman Fee opened a discussion regarding the upcoming Site Plan and Stormwater Management Public Hearings to be conducted by the Board of Selectmen on February 15, 2011, regarding the Haskell Field Parking Lot Expansion. The Board was previously in receipt of copies of several emails between Town staff and Sudbury resident Peter Harvell regarding the Haskell Field paving project, including photographs taken of the site by Mr. Harvell and copies of the relevant Sudbury Zoning Bylaws sections, an email from assistant Fire Chief John Whalen dated January 27, 2011, stating he and Fire Chief Miles have no objections to the proposed plans, and the Application For Site Plan Approval dated January 14, 2011 and Option A exhibit of Parking Lot Stall Count. In addition, copies of an email from Building Inspector James Kelly dated February 8, 2011, an email from Sudbury Senior Center Director Debra Galloway dated February 8, 2011, a revised Option B exhibit of Parking Lot stall Count and a memorandum from Ms. Kablack dated February 9, 2011 were distributed to the Board this evening.

Ms. Kablack stated this is an opportunity for the Board to provide comments to the Selectmen regarding this application submitted by the Park and Recreation Commission. She noted the Planning Board previously delegated its authority for stormwater management review to the Selectmen in the interest of conserving Town resources.

Ms. Kablack briefly described the proposal to increase the total number of parking spaces from the existing 172 parking spaces to 299 spaces. She noted stormwater management controls would be incorporated to comply with Town and DEP standards. Ms. Kablack

noted that the area experiences significant weekend traffic congestion when sporting events occur. The plan proposes to alleviate this congestion and also provide a second egress onto Fairbank Road. Mr. Morely concurred that the area is very busy on weekends with children and adults crossing the area from the pool to the existing parking locations.

Ms. Kablack noted that no existing fields will be displaced by the plan and that the expansion area was never striped for fields. She further stated that the parking lot was part of an older master plan never completed. She referenced a narrative submitted with the application, which stated that an increase in traffic is not expected as a result of the expansion, no change in grading is expected and new drainage structures installed in the parking lot will collect the first one inch of runoff from impervious surface.

In addition, Ms. Kablack stated suggestions have been made by the Building Department, Commission on Disability and Senior Center that more handicapped-accessible parking spaces should be provided on the pool side of the lot. Mr. Kelly also requested that signage be installed according to code. In response to Mr. Kelly's question regarding lighting, Ms. Kablack stated no lighting is planned, since the area is utilized primarily in daytime.

Mr. Hunter noted the area to be paved is extremely flat and changes grade by only one foot over a 300-foot long area. Ms. Kablack clarified that the grading will create low spots in the parking lot, and catch basins and leaching basins will collect and infiltrate the runoff. Mr. Morely opined that projects like this are dependent on paving companies doing their jobs well. Ms. Kablack will share this information with the DPW Director, but she emphasized that Mr. Place is extremely cognizant and cautious about avoiding the troubles which accompany flat pavement.

Mr. Hunter also noted the crosswalks do not line up. Chairman Fee noted there does appear to be some intention for connectivity, which will likely be marked. Mr. Sziabowski stated his preference for some crosswalk striping. Given the high level of weekend activity and traffic, Mr. Poch suggested flashing signs such as those used at schools be considered.

Mr. Sziabowski stated the parking expansion is needed, but he is concerned about the amount of pavement the plan proposes. Although, he understands the plan proposed is the most cost effective, he would prefer if it were interspersed with some trees or landscaping. Mr. Poch suggested a pedestrian walkway be created across the center of the lot or that speed bumps be incorporated into the plan. Ms. Kablack noted that cost is a factor for the project.

Mr. Sziabowski questioned how the number of proposed parking spaces was determined. Ms. Kablack stated it was based on projected event-participant information.

Mr. Sziabowski suggested, since the projections are not scientifically determined, perhaps the layout of spaces could be rearranged to incorporate some greenery/trees or add/widen islands.

Mr. Morely believes a vegetative barrier and/or fence is needed along the road to help direct pedestrians towards the crosswalks and walkways. He noted that, if this project were sponsored by anyone other than a Town entity, a vegetative screen would be required. Mr. Sziabowski expressed concern that, if a screen of any kind were incorporated into the plan, that it not interfere with sight lines for safety purposes.

Mr. Poch suggested a lattice-concrete design could be considered and then backfilled with pea stone. Ms. Kablack reiterated there are cost concerns. Mr. Poch noted that materials ordinarily not used because of plowing concerns could be considered for this area, since it is primarily used only in fair weather conditions. He also suggested adequate and appropriate signage be considered.

On motion duly made and seconded, it was unanimously

VOTED: To authorize Ms. Kablack to draft a letter, on behalf of the Board, to be sent to the Board of Selectmen, noting the Planning Board believes the project is a great enhancement to the public safety of an area in significant need of additional parking, and encouraging the Selectmen to consider ways to reduce the impact of the increased amount of impervious pavement by adding green space, to consider further enhancing the public safety of the project by installing a central walkway, and further noting that at least one member suggested incorporating a vegetative barrier and /or fence along the edge of Fairbank Road to help channel pedestrians into crosswalk areas, and additionally noting that, since the fields are only used in fair weather conditions, that the use of speed bumps be also entertained.

TD Banknorth – Relocation Discussion & Comments for Zoning Board of Appeals

At 8:25 p.m., Chairman Fee opened a discussion regarding the relocation of TD Bank to 407 Boston Post Road. The Board was previously in receipt of copies of the Zoning Board of Appeals (ZBA) Application for Use Variance and Memorandum in Support of that Application and accompanying Preliminary Concept and Landscape Plans, a memorandum from Director of Planning and Community Development Jody Kablack to the Selectmen, Planning Board and Zoning Board of Appeals (ZBA) dated January 27, 2011, regarding the TD Bank proposal to relocate to 407 Boston Post Road and copies of the minutes from a pre-application Town staff meeting. Ms. Kablack reported the ZBA recently reviewed a Use Variance application by TD Bank to construct a new bank building on the corner of Route 20 and Raymond Road in a residential zone. It was noted that abutters and neighbors have expressed support for the application request. Ms.

Kablack noted the site has a history of commercial uses and use variances dating back to 1979.

Mr. Hunter opined the location seems ideal for a Police Station. Chairman Fee and Mr. Sziabowski concurred, however, Chairman Fee stated the asking price was in excess of \$1 million.

Chairman Fee asked if a drive-through for a bank is allowed, and Ms. Kablack stated it is.

Ms. Kablack stated the Board should deliberate whether it supports a use variance, which would essentially expand the commercial district within an existing residential zone. However, she reiterated that neighbors support the request.

Chairman Fee opined that it is conceptually inconsistent to insist this area be residential, when it is located in the middle of a commercial zone. He further stated the Town needs to be flexible on such matters.

Mr. Hunter noted the plan proposes the addition of a curb cut in close proximity to Raymond Road, which already experiences traffic congestion. To date, Ms. Kablack stated no traffic data has been submitted by the applicant.

Chairman Fee asked what other properties have use variances. Ms. Kablack stated not many are in effect, but she noted Duckett's and Sudbury Animal Hospital as examples. She further noted another application is being contemplated at the former Especially for Pets location for a retail use in an Industrial zone.

Mr. Poch stated that, although this is a residential zone which has allowed use variances in the past, he views this application as a change in zoning and not a change in use. He believes the location is already congested and a proposal for anything which could increase traffic in the area is not his preference.

Mr. Sziabowski stated the proposed location is within a commercial corridor, and thus it makes sense to allow a commercial use. Chairman Fee stated the area in question lost any semblance for residential use a long time ago. Ms. Kablack read aloud some of the uses allowed in the Town bylaws, and a bank is specified as its own use.

Mr. Hunter stated, if a review of the statutory criteria used to evaluate the original variance were conducted, all of the conditions still apply. Ms. Kablack stated the application request meets all statutory requirements.

Chairman Fee stated that the current use is a use variance for office space. He does not perceive it as inconsistent with the use patterns within this commercial corridor to allow another use such as banking, as long as the ZBA is satisfied that the proposed use does not materially impact the neighborhood negatively with traffic, noise, etc.

Mr. Poch stated he perceives the proposal as posing significant detriment to the public due to increased traffic and density issues. In addition, Mr. Poch believes approval of this request would lock this property in to a specific future use. He further believes a use variance is being pursued instead of changing the zoning. Mr. Poch also is opposed to entering/exiting the site onto Raymond Road, referencing the traffic congestion problems which already exist near "Rugged Bear."

Chairman Fee suggested this Board's comments to the ZBA include language noting that several Board members are concerned that the applicant demonstrate compliance with Section 6146, and that the Board encourages the ZBA to carefully note how the applicant plans to address this bylaw requirement. Comments should also express that several Board members are also concerned as to whether the applicant can satisfy Section 6220E requirements and encourages the ZBA to thoroughly explore these issues with the applicant.

Mr. Sziabowski opined that the proposed use would likely not generate a large increase in traffic trips to the area. Mr. Poch disagreed, stating he views the proposal as an escalation of traffic to retail conditions rather than those of a professional office. However, Mr. Sziabowski noted that a Town goal is to encourage commercial growth. Mr. Poch agreed with the goal, but not on this parcel, and not with approval of this use variance.

Chairman Fee stated that, although the practice of granting use variances is flawed, it is a zoning practice allowed in Sudbury.

Mr. Poch reiterated his belief that allowing the requested use on this parcel significantly changes all future uses for the parcel. Chairman Fee noted there is already a commercial use variance on the parcel. However, Mr. Poch noted it does not currently include three lanes for Automatic Teller Machines and 25 parking spaces.

Chairman Fee summarized the Planning Board could not reach a consensus regarding whether a change in use variance should be allowed and approved, since at least one member viewed it as a significant and permanent change.

Ms. Kablack suggested the applicant be requested to provide traffic data.

Mr. Morely stated his strong preference that no access to the site be allowed from Raymond Road. Mr. Hunter and Mr. Poch concurred. Chairman Fee suggested the comments also include this concern and the preference for no exit onto Raymond Road.

Mr. Morely stated the proposed plan is not desirable for several reasons, but his other comments are more suitable for Site Plan review consideration. Chairman Fee concurred, and he suggested it be included in the comment letter that the Board has numerous other

comments, including, but not limited to, the presence of a separate kiosk building, which it will communicate at the appropriate time.

On motion duly made and seconded, it was unanimously

VOTED: To authorize Ms. Kablack to draft a letter, on behalf of the Board, to be sent to the Zoning Board of Appeals and Board of Selectmen regarding the TD Bank proposal to relocate its business and to construct a new building at 407 Boston Post Road, and to incorporate the suggestions and recommendations noted this evening.

Potential Planning Board Warrant Articles for 2011 Annual Town Meeting

The Board was previously in receipt of copies of a memorandum and draft articles from Ms. Kablack dated January 31, 2011 noting three articles submitted by the Planning Board for inclusion in the 2011 Annual Town Meeting Warrant as: amending the Use Table to allow Retail Use in Industrial and Limited Industrial Zoning Districts, a new Outdoor Hydronic Heater Bylaw and to amend the Use Table to allow Residential Care Facilities in A- Residential Zoning Districts. Ms. Kablack reported B’Nai B’rith has received its eligibility approval from the Department of Housing and Community Development (DHCD). Thus, the organization is no longer pursuing the Town Meeting zoning amendment previously discussed for Residential Care Facilities.

On motion duly made and seconded, it was unanimously

VOTED: To withdraw the previously submitted bookmark for a warrant article regarding a better defined use of Residential Care Facilities for the Annual 2011 Town Meeting.

Ms. Kablack further reported she has not received an update from the Board of Health (BOH) regarding the Outdoor Hydronic Heater Bylaw, thus the article has been drafted as a bylaw, although it is under the jurisdiction of the BOH.

Warrant Articles for 2011 Annual Town Meeting – Community Preservation Committee Recommendations

Ms. Kablack provided the Board with copies of the articles recommended by the Community Preservation Committee, and she provided a brief update regarding the Fairbank Farm article.

Warrant Articles for 2011 Annual Town Meeting – Board of Selectmen Recommendations - Update **Route 20 Sewer System Design and Permitting**

Ms. Kablack reported the Board of Selectmen discussed this potential article at its last meeting and determined that it is not the right time to present it to the public at the \$1 million figure.

Mr. Poch strongly disagreed with this conclusion, stating the problem and need is not going to disappear and the cost will only become more expensive the longer the Town waits. He noted that the estimated cost of the project has gone from \$6 million to \$15 million from the time the Town started discussing this issue. Mr. Poch suggested a message be sent to the Selectmen, expressing that this Board believes it is a mistake to not introduce the issue to the public and let the residents vote. He further opined that, given the need for the project, he believes it is fiscally irresponsible of the Selectmen not to put the article forward. Mr. Poch asked that the Board's letter express its full support for proceeding with the \$1million article for sewer system design and permitting.

On motion duly made and seconded, it was unanimously

VOTED: To request that Ms. Kablack draft a letter, on behalf of the Planning Board, to be sent to the Board of Selectmen, expressing the Board's unanimous support for proceeding with the \$1million article for Route 20 system design and permitting for the Annual 2011 Town Meeting and introducing this critical issue to the voters to decide.

Exchange of Land Off Peter's Way With Abutter

Ms. Kablack stated the proposed land swap is the only way for the Town to obtain the cemetery land it wants to acquire. The Town will give one acre to Laura Abrams in return for two of her acres.

Mr. Morely asked if there is a restriction to one building. Ms. Kablack stated it has not been restricted. Ms. Kablack will keep the Board apprised of negotiations as appropriate.

Wireless Bylaw – Adding Properties to the Overlay District

Ms. Kablack reported the Selectmen have suggested presenting an amendment article which includes adding language to allow freestanding monopoles no higher than 80 feet on all Town property and buildings, exclusive of school buildings, and deleting section 4363, regarding setbacks in its entirety. Ms. Kablack stated the Planning Board will conduct the Public Hearing, and it may be asked to co-sponsor the article.

Petition – Reduction of Community Preservation Act (CPA) Surcharge from 3% to 1.5%

Ms. Kablack reported a Petition article has been submitted regarding reducing the CPA surcharge from 3% to 1.5%.

Sale of Land – Hudson Road and Pinewood Avenue

Ms. Kablack reported an article has been submitted to convey properties on Hudson Road and Pinewood Avenue to neighbors. A minimum bid of \$7,500 has been suggested for these very small lots. The Selectmen will be finalizing the article.

Dissolution of the Permanent Landscape Committee

Ms. Kablack reported an article has been submitted to dissolve the Permanent Landscape Committee.

Minutes

On motion duly made and seconded, it was unanimously

VOTED: To approve the regular meeting minutes of January 12, 2011, as amended this evening with the inclusion of the word “sustainable” on page 10 between the words “enough” and “wind.”

Upcoming Planning Board Meeting Schedule

Ms. Kablack will notify the Board at a later date of the next meeting date.

The meeting was adjourned by Chairman Fee at 9:30 p.m.