

Present: Michael Fee (Chairman), Christopher Morely, Michael Hunter, Joseph Sziabowski, Pat Brown, Craig Lizotte (Associate), and Jody Kablack (Director of Planning and Development)

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

Public Hearing – Old Framingham Road Walkway/Mossman Road – Scenic Road Applications

Present: Tree Warden Scott Taylor

At 7:34 p.m., Chairman Fee opened the Scenic Road Public Hearing regarding the removal of five (5) trees and a section of stone wall on the west side of Old Framingham Road between utility poles 13 and 14: three 9” oaks; one 4” maple; one 8” maple; and removal and replacement of approximately fifteen (15) feet of stone wall; for the purpose of construction of a walkway, and removal of two (2) trees at 27 Mossman Road: one 19” oak; and one 25” oak; for the purpose of utility line clearance, and he read aloud the Public Hearing Notice. The Board was previously in receipt of copies of a plan prepared by Sullivan, Connors and Associates relating to Old Framingham Road. In addition, copies of the Scenic Roads Application, an email from Art Krusinski and six accompanying photographs dated November 28, 2012 regarding Mossman Road and an email from Bill Place dated November 28, 2012 regarding the Mossman Road request were distributed tonight.

The Board decided to discuss the two locations separately.

Ms. Kablack explained the Old Framingham Road request is to facilitate the walkway construction, which has been under consideration for some time, from the Mahoney Farms/Grouse Hill entrances south to the Framingham town line. She noted this application is only for the trees to be removed in the right of way.

Chairman Fee noted the southern slope appears drastic on the plan. Ms. Kablack noted the contour of the slope is not as drastic as it appears.

Sudbury resident Tom Travers, 32 Old Framingham Road, Unit 45, thanked the Board for its support for construction of a walkway in the area. However, he stated the stakes which have been installed on the northern slope give the impression that the walkway is steeper than the road from the intersection to access the walkway, which he believes will be problematic for senior citizens.

Ms. Kablack stated the walkway is planned to follow the existing grade of the shoulder.

Mr. Lizotte noted the hillside area where the slope is steeper. He asked if there are plans to cut and fill the area to flatten it. Ms. Kablack will clarify this with the Department of Public Works (DPW) Director Bill Place.

Ms. Brown asked Mr. Travers to clarify on the plan his area of concern.

Mr. Morely stated the road is similarly sloped as Mr. Travers described, but the walkway will provide a safer option than what currently exists.

Chairman Fee stated Mr. Travers' concern has been noted, and it will be shared with Mr. Place.

On motion duly made and seconded, it was unanimously:

VOTED: To approve the Scenic Road application regarding the removal of five (5) trees and a section of stone wall on the west side of Old Framingham Road between utility poles 13 and 14: three 9" oaks; one 4" maple; one 8" maple; and removal and replacement of approximately fifteen (15) feet of stone wall; for the purpose of construction of a walkway.

The Board next deliberated the Mossman Road request.

Tree Warden Scott Taylor presented the Board with four photographs of trees with interior damage which were removed from Old Lancaster Road and Dutton Road.

Ms. Kablack also circulated five photographs provided by DPW Director Bill Place, indicating the location of the trees relevant to tonight's hearing on Mossman Road.

In response to a question from Chairman Fee, Mr. Taylor stated trees can appear healthy from the outside, but be diseased internally, as reflected in his photos. Mr. Taylor stated he performed a density test by hand on the Mossman Road trees, and he believes they should be removed. It was noted the abutting homeowner had an arborist also suggest removal of the trees, and that the 19" oak has dead wood at the top and is in contact with the utility line. He also stated NStar has agreed to remove the trees at its expense, saving the Town thousands of dollars.

Mr. Morely asked if NStar wanted them down, which is why they are paying for it.

Mr. Taylor stated he contacted NStar after the trees were brought to his attention by the homeowner, and once he noted they are within the area of primary wires.

Ms. Brown asked for clarification regarding the size of the trees in question.

Sudbury resident Art Krusinski, 39 Mossman Road, provided the Board with additional photos of other trees with far more rot which have not been marked/designated for removal. Mr. Krusinski believes there has been a rush to judgment regarding these two trees. He stated he has lived here for 34 years, and he believes these two trees are strong, as evidenced by their withstanding the 2011 and 2012 storms in the area. Mr. Krusinski asked if there is a more technical density test which could be performed first before removing the trees. He believes it has not been proven by a scientific method that the trees are unhealthy. Mr. Krusinski stated the only thing he noticed is a widow maker (a large broken branch) on one tree which should be removed.

Mr. Taylor stated the Town could purchase a specialized meter for approximately \$3,500, or the Save-A-Tree organization in Lincoln could be contacted to perform a test for approximately \$500. In response to a question from the Board, Mr. Taylor stated he believes there is at least a 60% likelihood that the trees are internally compromised.

Mr. Krusinski reiterated the trees have proven themselves to be strong, and he believes they contribute to the beauty of Mossman Road. He also stated he had contacted NStar thinking it had initiated the request, and one of its arborist did not seem overly concerned about the condition of the trees. Mr. Krusinski believes there are numerous trees in Town in far worse condition which are better candidates for removal than these trees. He also does not believe the tree is unsafely in contact with electrical wires.

Chairman Fee referenced one of Mr. Krusinski's photos, noting the tree appears to be intricately interwoven with the wires. He summarized the points presented, and he asked if Mr. Krusinski has had any training as an arborist to aid him in reaching his conclusions. Mr. Krusinski stated he does not have such credentials.

Mr. Krusinski stated only eight homes are serviced by the wires in this area.

Sudbury resident Bill Aliferi, 27 Mossman Road, stated he is new to the Town, and he had an arborist visit his property to assess several trees. Mr. Aliferi stated he was told these trees presented a danger. He also noted the trees present sight line problems on this stretch of Mossman Road.

Chairman Fee asked if Mr. Aliferi's arborist provided any rationale for his conclusion that the trees presented a danger. Mr. Aliferi stated he thought it was based on the size of the trees and their intermingling with the wires.

Sudbury resident Richard Tinsley, 6 Meachen Road, stated he used to live at 20 Mossman Road, and he concurred with the sight line issues presented by Mr. Aliferi.

Mr. Tinsley also stated he recommended the arborist, Mike Cohen, used by Mr. Aliferi. He also noted one of the trees appears to be leaning and could be damaged. Mr. Tinsley stated he walks on Mossman Road every day, and he does not believe the removal of these two trees will negatively impact the aesthetics of the street.

Mr. Krusinski asked if the Board would consider delaying its decision on this matter, until more information could be amassed. He also stated he does not believe it is appropriate to knowingly buy a home on a Scenic Road and then later on request that mature trees be removed because they present a perceived inconvenience.

Mr. Sziabowski asked why these two trees have been singled out for removal from all the other trees on Scenic Roads, which may also go through wires.

Mr. Taylor stated homeowners in the area brought the trees to his attention, and once he determined removal was an appropriate action, he coordinated the work with NStar, which will pay for this and other work in Sudbury beginning tomorrow.

Mr. Hunter noted the next street over from Mossman Road was without power for one week following Hurricane Sandy, and thus it is possible NStar has highlighted this area for improvements.

Mr. Morely stated it is difficult to take a position on this request because he trusts the opinion of the Tree Warden, but yet he is sympathetic to the points made by Mr. Krusinski. He asked Mr. Aliferi if he contacted the DPW to avoid the cost of removing the trees himself.

Mr. Tinsley stated the arborist identified actions for other trees on the property as well. However, once it was determined these two trees were on Town-owned property, the DPW was contacted to determine whose responsibility they were.

Mr. Morely asked Mr. Aliferi and Mr. Tinsley if they had desired the trees being removed. Mr. Tinsley stated by contacting the DPW they were trying to learn more about the process.

Mr. Hunter stated he too is torn regarding his position on the matter. However, he trusts the opinion of Mr. Taylor that the trees need to be removed.

Ms. Brown stated she has no experience as an arborist, and thus she is inclined to trust the judgment of the Tree Warden. She stated it would be helpful to have a better sense of how diseased the trees are.

Mr. Lizotte stated it is one thing to remove the trees because of sight line safety concerns. However, he believes it is a separate issue to suggest the trees need to be removed for safety reasons because of the wires. Mr. Lizotte believes removing just two trees, when it is not known that they are positively diseased, will make no difference to the structural integrity of the wires servicing this area.

Chairman Fee stated it would be ideal to determine if the trees are indeed diseased, and that all the other arguments presented are secondary. He also stated it is good NStar would pay for the removal rather than the Town, but this would not sway his opinion. He asked if Ms. Brown's suggestion to do a more in-depth study could be implemented without negating NStar's removal offer.

Mr. Taylor stated he could contact Save-A-Tree to do a density reading for approximately \$500. However, he stated there is no doubt in his mind the trees should be removed.

Mr. Sziabowski stated there are some residents who believe there is merit to keeping the trees, and he asked if NStar is capable of doing a density reading. Mr. Taylor stated he does not think the company has this capability.

Chairman Fee asked if anyone on the Board believes the Town should spend \$500 to confirm the condition of the trees. No one responded affirmatively. Chairman Fee offered Mr. Krusinski the opportunity to pay for additional testing. Mr. Krusinski stated he would consider coordinating a second opinion by an arborist of his choosing. Chairman Fee stated he is hesitant to agree to this arrangement.

Mr. Morely stated he has concerns regarding both positions presented tonight. He further stated he does not like how the issue was initiated, and believes the Board is being somewhat manipulated. Mr. Sziabowski concurred.

Chairman Fee summarized the options available to the Board for its decision tonight. He asked for the Board's consensus, which was that the trees should be removed.

Ms. Brown asked whether there will be replacement of other trees. Mr. Hunter noted the application does not request replacement. Ms. Kablack briefly described the typical replacement process, where any replacement trees would be planted on private property.

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

VOTED: To approve the Scenic Road application regarding the removal of two (2) trees at 27 Mossman Road: one 19" oak; and one 25" oak; for the purpose of utility line clearance.

Ms. Kablack and Mr. Taylor noted there is no money allocated in the Town's budget this year for tree removal.

Mr. Sziabowski suggested the Town earmark for removal by NStar trees in Sudbury which have the greatest potential to cause damage. Chairman Fee concurred, noting the Town should inform NStar of its interest in utilizing its assistance and funding to accomplish this work.

Mr. Lizotte and Ms. Brown emphasized it is important to designate only trees which have been determined to be diseased by the Tree Warden.

Olde Bostonian Estates Subdivision – Extension Request

Present: Property owners Frank and Karen Gazarian

At 8:29 p.m., Chairman Fee opened the discussion regarding the previously received letter from property owners Frank and Karen Gazarian dated November 2, 2012, requesting an extension for work to be completed on Lots 1, 2, and 3 of the Olde Bostonian Estates, due to the economy.

Ms. Kablack stated the subdivision was initially approved in 2007, and a two-year extension was previously granted by the Board.

Sudbury resident Karen Gazarian summarized what has been accomplished to date, stone wall construction, utilities, clearing, road base), noting no more can be done until they have buyers.

Chairman Fee asked if there is a bond on the project. Ms. Kablack stated there is not.

Ms. Brown asked for clarification regarding what the Board is being asked to extend. Chairman Fee, Mr. Morely and Ms. Kablack explained there is typically a deadline for completion of infrastructure or the subdivision approval lapses.

On motion duly made and seconded, it was unanimously:

VOTED: To approve the request for an extension for two years to complete work on Lots 1, 2, and 3 of the Olde Bostonian Estates, as requested by Frank and Karen Gazarian in a letter dated November 2, 2012.

Sudbury resident Frank Gazarian thanked the Board for its support through the years.

Public Hearing – Revisions to the Stormwater Management Bylaw Regulations

At 8:35 p.m., Chairman Fee opened the joint Public Hearing with the Conservation Commission regarding revisions to the Stormwater Management Bylaw Regulations, originally adopted on September 9, 2009 as follows: 1) Section 6.J.2 to remove the word "repaving; and to change the number "2,000" to "5,000"; 2) Section 6.J.3 to add the word "sewer" after the word "water"; and 3) Section 7.D.2 a by adding the following sentence at the end of that section: "The initial amount of this technical review fee shall be two thousand dollars (\$2,000.00)."; and any other changes identified in this Hearing. The Board

was previously in receipt of copies of the version of the Public Hearing Notice posted on the Town website.

On motion duly made and seconded, it was unanimously:

VOTED: To waive the reading of the Public Hearing notice.

Ms. Kablack explained the regulations need to be revised to complement the Stormwater Bylaw revisions approved at the 2012 Annual Town Meeting. She stated the Town Meeting article amended the Stormwater Management Bylaw adopted in 2009 in response to federal and State mandates for enhanced environmental protection of surface and groundwater supplies. In addition, Ms. Kablack stated a revision has been proposed to add a sentence to the peer review section regarding the technical review fee.

Chairman Fee questioned if the addition of the technical review fee-related sentence eliminates an element of the Board's discretion. Mr. Morely, Mr. Hunter and Ms. Kablack responded stating they do not believe the Board's discretion is compromised.

A brief discussion ensued as to whether the Conservation Commission uses its own set of stormwater management regulations, which differ from those used by the Planning Board. Chairman Fee emphasized it is important only one set of regulations (those used by the Planning Board) be referenced during the permit review process, particularly when this Board delegates review authority to the Conservation Commission. Chairman Fee requested clarity be further researched by Ms. Kablack, and if needed, to inform the Commission to reference Planning Board regulations whenever a review is delegated to it. It was stated the Board does not delegate review authority to the Commission unless the Conservation Commission has wetland jurisdiction over the same project.

Chairman Fee questioned why the Conservation Commission has requested a hearing jointly tonight regarding the regulation revisions, as was advertised in the Public Hearing Notice, but yet no members are present.

Mr. Lizotte summarized the Commission's jurisdictional authority to implement State wetland requirements under the Wetlands Protection Act.

Chairman Fee reiterated a joint hearing was advertised, but a joint hearing is not being held tonight. He stated this contradiction concerns him because he believes processes are important. He recommended, and the Board concurred, to re-advertise the Public Hearing without the Conservation Commission.

Mr. Lizotte read aloud a relevant section of the Commission's stormwater management bylaw regulations which references the Planning Board's regulations, while noting the Commission can impose regulations more stringent when authorized to do so.

Ms. Kablack will share tonight's discussion with Conservation Coordinator Debbie Dineen and re-advertise the Public hearing for January 2013.

At 8:49 p.m., Chairman Fee closed the discussion.

Cail Farm - Request for Bond Release

The Board was previously in receipt of copies of a letter from Stamski and McNary, Inc. dated September 4, 2012 regarding all bounds being set with the exception of one, which is not possible. Ms. Kablack stated DPW Director Bill Place has also communicated in email messages that he is satisfied with the project status. Chairman Fee requested the emails be added to the file record.

Chairman Fee asked how much is the bond, and Ms. Kablack stated it is for \$6,500.

Mr. Hunter asked if this is on the street acceptance list. Ms. Kablack stated it is a private road.

Mr. Sziabowski asked if the Board needs to approve plantings, and Ms. Kablack explained it did not.

On motion duly made and seconded, it was unanimously:

VOTED: To approve the request of Stamski and McNary, Inc. on behalf of Peter Karassik, President of The Eligius Homes Company, in a letter dated September 4, 2012, for a release of bond for the Cail Farm Subdivision Road.

Route 20 Zoning Discussion

The Board was previously in receipt of copies of a draft letter to be sent to Sudbury Business Owners with an accompanying survey, and copies of the Section 2230 Appendix A – Table of Principal Use Regulations.

Mr. Morely provided Ms. Kablack with a suggestion to include revisions regarding assembling properties.

Mr. Hunter suggested requiring in the bylaw that first-floor buildings be commercial to override the multi-family housing concerns expressed at a previous meeting by Sudbury resident John Danielson, 37 Landham Road. Chairman Fee stated it would address what is already allowed by law. Ms. Kablack agreed that Sudbury already has this zoning in place. However, she noted there is still a much greater fear of housing within the community which needs to be addressed.

Chairman Fee suggested, and the Board concurred, that the two goals presented in the first paragraph of the letter be reversed for presentation. He also suggested the last sentence of the second paragraph be revised to better reflect that the Board does not envision modifying the zoning, but that it is interested in the insight and participation in the process from those who may want to redevelop and/or expand. In addition, Chairman Fee suggested, and the Board concurred, that a section be added to the survey giving responders the opportunity to provide feedback.

Ms. Kablack explained her approach to the draft survey. She stated she and Mr. Morely attended a seminar today which highlighted that, in business, perception is reality.

Mr. Morely suggested the option be given for responders to remain anonymous. He stated today's seminar emphasized business people often do not want to disclose their opinion/positions publicly for fear of business repercussions, but are open to sharing their perspectives privately.

Mr. Lizotte suggested, and the Board concurred, reversing the questions on pages one and two of the survey to accentuate the positive input first.

Mr. Morely and Chairman Fee believe it is important to give responders the opportunity to state what limits their opportunities and why. The consensus of the Board was responders should be asked to identify what they believe to be the five most prevalent obstacles to expansion.

It was noted the Route 20 Sewer Advisory Committee meets on the second Wednesday of the month.

Ms. Brown shared feedback she has heard from business people that they are terrified of change and how it may impact financing. Mr. Morely stated it is important to emphasize the underlying zoning remains as is. Ms. Brown and Chairman Fee agreed this is a key point.

Ms. Kablack will incorporate the revisions suggested tonight and recirculate the new draft to the Board for review.

2013 Annual Town Meeting – Potential Articles

Ms. Kablack distributed copies of a listing of potential articles for the 2013 Annual Town Meeting. In addition, the Board was previously in receipt of copies of a memorandum from David Levington and the Council on Aging dated October 26, 2012 suggesting an amendment to the bylaws on senior housing and sharing its interest in pursuing a Frost Farm approach to additional housing for seniors, an email from Building Inspector Mark Herweck dated November 20, 2012, proposing a zoning article to increase the setback size for a shed to 200 sq. ft. total, and articles to change review of minor site plans to the Planning Board and for Site Plan votes to be by majority, copies of the Southington, CT medical marijuana bylaw, and an email from Pat Delaney dated September 28, 2011, suggesting a revision of the zoning bylaw for kennels.

The Board discussed each of these suggestions. Ms. Kablack stated the Council on Aging would like to increase the allowable number of one-bedroom from 10% of the units to 25% in SRCs and ISDs. The consensus of the Board was that developers build the units they want and which they believe to have the best price points for them, which more than likely does not coincide with the price point preferred by senior citizens.

Chairman Fee asked why the number of one-bedroom units is limited at all. Ms. Kablack explained the reasoning related to the overall number of units permitted in these developments.

Mr. Morely asked if there is a database of how many one-bedroom units have been built to date. Ms. Kablack provided the limited information and noted that there are very few. Mr. Morely concluded there does not seem to be an urgent need to change the bylaw because a problem does not currently exist, since developers do not want to build this type of unit and are not close to the present 10% limit.

It was noted there seems to be a perceived demand by some senior citizens in Town for more options for which a market is not evident.

Mr. Sziabowski referenced Mr. Levington's memo, noting 59% of the Frost Farm residents were originally from Sudbury. He believes the development's price point is the reason for this statistic.

Mr. Hunter noted Frost Farm has no one-bedroom units.

Chairman Fee suggested, and the Board concurred, that the Council on Aging be invited to a future Board meeting.

Ms. Kablack explained Acting Building Inspector Mark Herweck has proposed a revision to the shed size to mirror the State code.

The Board next discussed Mr. Herweck's suggestion to propose an article changing minor site plan review authority from board approval to administrative. Mr. Morely stated Site Plan review in general should be with this Board, as it is in most communities. The Board concurred.

Ms. Brown noted this change would also streamline the process for applicants.

Chairman Fee recommended, and the Board concurred, that a letter be drafted and sent to the Board of Selectmen, noting the Planning Board's intention to submit a Warrant article for Town Meeting shifting the authority for Site Plan review back to the Planning Board, who previously relinquished it to the Selectmen at a time when the workload was excessive, and noting that this revision is likely a better use of expertise by all parties, given the pressing challenges facing the Town.

It was the consensus of the Board that a revision also be made regarding Site Plan votes to not be unanimous any longer, but rather to be by simple majority. Chairman Fee suggested adding a sentence to the letter, stating that in the unlikely event the Selectmen choose to maintain Site Plan review authority, the Planning Board recommends a Warrant article be submitted to change the voting requirements to be by a majority. The Board concurred.

The Board briefly discussed whether a Warrant article should be proposed regarding zoning for medical marijuana. Chairman Fee believes this is an issue which will need to be addressed in the future and should be broached. It was noted the article would pose requirements and setbacks which would ultimately limit the location without naming specific areas. The consensus of the Board was that Ms. Kablack should begin to draft a Warrant article designating industrial districts as preferred locations.

The consensus of the Board was not to pursue a similar Warrant article regarding adult entertainment sites.

Ms. Kablack briefly discussed the Wastewater Facilities Bylaw, and she recommended the bylaw be deleted. She stated there is no longer a need for the bylaw, since its original intentions are now covered and are within the jurisdiction of the State's Department of Environmental Protection (DEP).

The Board briefly discussed a proposed change to kennel requirements allowing them on residential properties by Special Permit. Chairman Fee shared his experiences representing kennel owners in Town. He believes there is no need for such an article because the Zoning Board of Appeals (ZBA) does a good job with this permitting process requiring inspections and monitoring, and it is interested in the impact on neighbors. Ms. Kablack concurred.

Ms. Kablack provided a brief update regarding the Tall Pine Drive Street Acceptance. She stated the applicant has issues regarding clear title, and thereby has offered to bond the improvements, but will not begin the upgrades until the Town accepts the street.

Chairman Fee is reluctant to grant the applicant this permission and permit before the street is accepted by Town Meeting, and to do so in a manner which is not supported by the criteria the Board is intended to impose. He suggested the applicant give the Town cash instead of a bond. Ms. Kablack opined the applicant may be amenable to this. The consensus of the Board was to proceed with asking for a cash payment tied to the improvements.

Miscellaneous

The Board was previously in receipt of copies of a letter from the State's Executive Office of Housing and Economic Development regarding Sudbury not receiving a funding grant from the MassWorks Infrastructure Program for the Sudbury Historic Town Center Intersection Improvement Project dated October 24, 2012. It will be up to the Board of Selectmen to decide whether to proceed with a Warrant article.

Community Preservation Committee Public Hearing – Support for Project Goals

The Board was previously in receipt of copies of a listing of the FY14 proposals submitted to the Community Preservation Committee (CPC) for funding, and a memorandum from Ms. Kablack dated November 8, 2012, announcing the Community Preservation Committee will hold a Public Hearing on December 5, 2012 regarding the changes in the Community Preservation Act (CPA) legislation and its implications, and to study the needs of the Town regarding eligible CPA uses.

Mr. Morely stated the CPC wishes to solicit input from all interested parties regarding the four eligible CPA project uses.

Affordable Housing Covenants – Support Letter Request

The Board was previously in receipt of copies of a memorandum from Housing Specialist Beth Rust dated November 8, 2012, requesting the Board's support for pending legislation bill S.2399, which will enable Statutory Covenants for affordable housing, a draft letter of support, and a summary of the draft legislation.

Chairman Fee stated he has not had the opportunity to read the bill. The consensus of the Board was to postpone this agenda item to the December 12, 2012 meeting

Appointment to the Design Review Board – Jennifer Koffel

Ms. Kablack stated the DRB has unanimously recommended Ms. Koffel, whom the Board interviewed last spring, for appointment.

On motion duly made and seconded, it was unanimously:

VOTED: To appoint Jennifer Koffel as a member of the Design Review Board for a term to expire May 31, 2015.

40 Tall Pine Drive - Scheduling of Site Visit

Ms. Kablack asked the Board to suggest times to schedule a date to visit the 40 Tall Pine Drive site. Board members stated 8:00 a.m. is a preferred time of day.

Ms. Kablack will coordinate a date and notify members of the information prior to the Board's next meeting.

Minutes

On motion duly made and seconded, it was unanimously:

VOTED: To approve the meeting minutes of October 24, 2012.

The meeting was adjourned by Chairman Fee at 10:06 p.m.