

Present: Chairman Craig Lizotte, Christopher Morely, Peter Abair, Martin Long, Stephen Garvin (arrived 7:50 p.m.), Jody Kablack (Director of Planning and Development) and Jim Kupfer (Assistant Planner)

Absent: Dylan Remley (Associate Member)

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

**Public Hearing: The Chabad Center of Sudbury – 100 Horse Pond Road (Assessor’s Map J06-0506) - Stormwater Management Permit Application**

Present: Rabbi Yisroel Freeman, the Applicant’s Attorney Joshua Fox and the applicant’s engineer Robert Drake

At 7:35 p.m., Chairman Lizotte continued the Stormwater Management Permit Public Hearing regarding an application submitted by the Chabad Center of Sudbury, Inc., Owner and Applicant, regarding the request to construct a 7,800 sq. ft. paved parking area and associated improvements which will disturb greater than 5,000 sq. ft. of land and result in a net increase in impervious surface of more than 500 square feet on a 2.02 acre parcel located at 100 Horse Pond Road (Assessor’s Map J06-0506), which was continued from July 29, 2015. The Board was previously in receipt of copies of a draft “Decision Stormwater Management Permit 100 Horse Pond Road, Sudbury, MA dated September 9, 2015,” the Project Description, Stormwater Analysis, Erosion & Sediment Control Plan, Operation & Maintenance Plan and Site Plan as submitted by Drake Associates, Inc. and stamped August 7, 2015, a letter from Department of Public Works Director/Town Engineer I. William Place, dated July 29, 2015, an email from Mr. Place dated August 14, 2015, stating his comments have all been addressed, and an email from Conservation Coordinator Deborah Dineen dated August 18, 2015.

Chairman Lizotte stated he was not present at the last hearing on this topic, but he stated he has certified his review of a tape of the July 29, 2015 meeting as well as the minutes from that meeting.

Ms. Kablack summarized the materials received to the file since the last meeting. She stated she prepared a draft Decision for review, based on the comments from the Board’s last meeting.

The applicant’s attorney Joshua Fox stated he reviewed the draft Decision. He noted there are a few references in the draft stating there would be no certificate of occupancy issued until a final as-built plan is received. Mr. Fox reminded the Board the paving will be phased in and an as-built will be provided for Phase 1 and later a permanent, final as-built plan would be provided.

Mr. Morely asked Ms. Kablack if there is a procedure in place to reflect this.

Ms. Kablack stated the record reflects it is a phased plan, and the Town anticipates this approach. She stated the Town would work with the applicant regarding this aspect of the project. There will be two phases for the project, and two as-built plans submitted.

Chairman Lizotte cautioned the applicant that if the gravel remains for a long duration (between Phase 1 and Phase 2), maintaining the stormwater management systems will be important because the gravel could cause clogs over time. The applicant’s engineer Bob Drake described the 50-60-foot run for runoff to reach the forebay, and noting he does not anticipate any problems. Mr. Drake further stated this concern could be monitored throughout the construction process.

Mr. Fox referenced Page 5, Section III B. of the Draft Decision. He asked if the same language which was used for the Site Plan Decision could be used for this Decision so the applicant would not have to return to the Board for a small addition to the plan.

For this type of application, Mr. Morely stated that whether the applicant needs to return to the Board would depend on what was going to be disturbed on the site. Ms. Kablack concurred. Chairman Lizotte explained the Stormwater Management Permit process has accompanying minimum thresholds. Following a brief discussion, the consensus of the Board was for Ms. Kablack to add language to the draft Decision to reflect that development would be allowed, as permitted by the Stormwater Management Bylaw, as long as it does not exceed the Bylaw thresholds.

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

VOTED: To approve the Decision Stormwater Management Permit 100 Horse Pond Road, Sudbury, MA dated September 9, 2015, as reviewed and amended tonight.

**Public Hearing: Scenic Road Application – 239 Concord Road - (Assessor’s Map H09-0016)**

Present: Walker Development representative Joe Turner

At 7:50 p.m., Chairman Lizotte opened a Public Hearing regarding the application for changes to a Scenic Road filed by Walker Development for property located at 239 Concord Road, Town Assessor Map # H09-0016, and he read aloud the Public Hearing Notice. The Board was previously in receipt of copies of the Public Hearing Notice and the Scenic Roads Application for Approval under M.G.L. Chapter 40, Section 15C and Sudbury Bylaws Article VIII (B) and accompanying photograph, concerning the request to remove approximately 115 feet of stone wall, and to install fencing.

As an abutter to this property, Mr. Long recused himself from the discussion and vote.

Walker Development representative Joe Turner distributed copies of a Site Plan to the Board.

Ms. Kablack described the home’s location, noting only half of the stone wall in question is in the right-of-way. She stated the request is to remove the entire stone wall and replace it with fencing (sample photograph provided).

In response to a question from the Board, Mr. Turner stated the plan is to install a cedar fence.

Chairman Lizotte noted most of the homes on Concord Road have stone walls.

Mr. Morely noted the home is within an historic district.

Ms. Kablack stated the Sudbury Historic Districts Commission (HDC) approved the removal of the stone wall.

Mr. Garvin asked if a plan has been done by a professional surveyor. Mr. Turner stated there is such a plan, but he was not in possession of it tonight.

Mr. Abair asked if the stone wall is largely intact currently, and if the intent is to replace the entire 115 feet of stone wall with the fencing. Mr. Turner stated the entire wall is still intact and the homeowners want to remove the entire wall for safety concerns regarding their children.

Mr. Abair stated he was surprised the HDC approved the removal of the stone wall, and his initial inclination is to believe the fence would be out of character for the neighborhood.

Mr. Morely stated he is shocked the HDC approved the request. He further stated he recently drove by the property, and his initial reaction is not to support the request.

Chairman Lizotte stated he shares the same opinions as Mr. Abair and Mr. Morely. He emphasized the Scenic Road Bylaw exists primarily to protect the Town's stone walls. Chairman Lizotte further stated that, if the property owners are concerned about safety, there are several excellent landscape companies which could help them create a fencing system in addition to preserving the stone wall. He also stated the property owners could do whatever they wish with the area which is outside of the right-of-way.

Mr. Turner asked for confirmation that the property owners could remove the part of the stone wall which is on private property. The Board confirmed this to be accurate, and they suggested he meet with the owners to discuss the options available.

Ms. Kablack suggested continuing the Public Hearing to allow Mr. Turner time to discuss the Board's opinion, (to preserve and improve the stone wall) with the property owners.

Chairman Lizotte suggested that, if the property owners remove any of the stone wall on private property, the Board would suggest those stones be used to improve the portion of the stone wall in the right-of-way.

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

VOTED: To continue the Public Hearing for the Scenic Road application for changes to a Scenic Road filed by Walker Development for property located at 239 Concord Road, Town Assessor Map # H09-0016, to remove approximately 115 feet of stone wall to September 30, 2015 at 7:30 p.m.

### **Public Hearing: Planning Board to Adopt Site Plan Review Rules and Regulations**

At 8:05 p.m., Mr. Long returned to the Meeting, and Chairman Lizotte opened a Public Hearing regarding the Board adopting Site Plan Rules and Regulations, and he read aloud the Public Hearing Notice. The Board was previously in receipt of copies of the Public Hearing Notice and a draft "Planning Board Site Plan Review Rules and Regulations.

Ms. Kablack stated the Rules and Regulations have been updated and revised from the Selectmen's Rules and Regulations, and she noted no comments have been received from the public.

Chairman Lizotte explained the Planning Board has recently taken on the role of being the Site Plan review granting entity, noting it had been handled for decades by the Selectmen.

Mr. Long stated the draft rules and regulations were vetted well by this Board at its previous meeting.

On motion duly made and seconded, it was unanimously:

VOTED: To adopt the Planning Board Site Review Rules and Regulations dated September 9, 2015, as reviewed tonight.

**Endorse Site Plan – 9 Old County Road – Assessor’s Map K11-0014**

Present: Property Owners – Denis and Marie Lewis

Ms. Kablack stated that all the conditions for endorsement of the Site Plan have been complied with, which consisted of adding landscape details to the plan.

On motion duly made and seconded, it was unanimously:

VOTED: To endorse the Site Plan for Denis and Marie Lewis, Owner and Applicant, for 9 Old County Road – Assessor’s Map K11-0014.

**Minutes**

On motion duly made and seconded, it was

VOTED: To approve the meeting minutes of July 29, 2015.

Chairman Lizotte abstained from the vote.

**Public Hearing: Scenic Road Application – 9 & 23 Old County Road - (Assessor’s Map K11-0014 & 0023**

At 8:15 p.m., Chairman Lizotte opened a Public Hearing regarding the application for changes to a Scenic Road filed by William Place, Director of Public Works, for the removal of four trees at 9 and 23 Old County Road, Town Assessor’s Map K11, Parcels 14 and 25, and he read aloud the Public Hearing Notice. The Board was previously in receipt of copies of the Public Hearing Notice and the Scenic Road Application for Approval under M.G.L. Chapter 40, Section 15C and Sudbury Bylaws Article VIII (B) and accompanying maps.

Ms. Kablack referenced the maps, noting two of the trees are dead, and the others are crowded. She further stated replacement of the trees is not anticipated at this time. In response to a question from the Board, Ms. Kablack explained that, even though the trees are street trees, the property owners have offered to pay for the removal of the trees.

The trees were described as: 1-24” double trunk maple at 23 Old County Road, 1-18” pine at 9 Old County Road, 1-36” maple at 9 Old County Road, and 1-16” maple at 9 Old County Road.

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

VOTED: To approve the Scenic Road application for changes to a Scenic Road filed by William Place, Director of Public Works, for the removal of four trees at 9 and 23 Old County Road, Town Assessor Map K11, 0014 and 0020, Parcels 14 and 25.

**Potential Changes to Zoning in Commercial Districts – 2015 Cecil Group Report Recommendations**

At 8:22 p.m., Chairman Lizotte recused himself from this discussion regarding potential changes to zoning in commercial districts, which was continued from July 29, 2015. The Board was previously in receipt of copies of a memorandum from Ms. Kablack dated September 8, 2015 and accompanying draft “Section 2230 Appendix A Table of Principal Use Regulations” and a revised draft of “Potential Changes to the Sudbury Zoning Bylaw September 2015.”

Ms. Kablack distributed new draft documents and her September 8, 2015 memo again tonight. She explained changes to districts have been proposed other than just for the Industrial and Limited Industrial Districts. Ms. Kablack further explained the proposed changes are intended to standardize commercial uses across various districts along Route 20. The Route 20 commercial corridor is comprised of several different zoning districts, and if the Town desires to create a more uniform streetscape along the corridor, changes must be made to allow new uses and setbacks in some of the districts. She briefly summarized the changes to the Table of Principal Use Regulations, noting several “ZBA” notations have been changes to “SP” (Special Permit). Ms. Kablack stated she spoke with the ZBA regarding the current circumstances when some applicants must complete two very similar processes. The ZBA stated it has no concerns with the Planning Board being the SP-granting authority for uses which also need Site Plan approval.

Mr. Morely and Ms. Kablack noted the ZBA’s expertise is more residential than commercially-oriented.

Ms. Kablack noted a few other considerations she researched in relation to the Raytheon property. She suggested it would be helpful to view on maps where the impacts will be based for the proposed zoning changes, and she will bring maps with her to the next discussion on this topic. Mr. Morely concurred with this suggestion.

Ms. Kablack further suggested beginning to draft Warrant articles for the proposed changes to review at a future Board meeting.

Mr. Abair noted restaurants are not listed as a permitted use in the Limited Industrial District. Ms. Kablack stated they were listed in her July 29, 2015 memo to the Board, and she noted the draft Use Table in the packets for the meeting incorporates information from both memos.

**Maple Meadows – SRC – (Assessor’s Map K08-0020) - Request for Bond Release**

Present: Developer Robert Roth and Bob McGinty

At 8:38 p.m., Chairman Lizotte returned to the Meeting and he opened a discussion regarding the request for a bond release for Maple Meadows SRC, Assessor’s Map K08-0020. Copies of a letter from Town Engineer I. William Place dated August 14, 2015 were distributed tonight.

Ms. Kablack stated only the first two items referenced in Mr. Place’s letter are not yet completed. She discussed the status of the project with Mr. Place by telephone, and he would not recommend at this time a complete release of the bond until an as-built plan is submitted for review.

Mr. Garvin asked if there is a copy of an as-built plan, and he was provided one by Ms. Kablack which was dated June 10, 2015.

Developer Robert Roth stated a current bond of approximately \$30,000 is being held, which he believes is excessive. He explained the spillway was constructed today, but Mr. Place has not seen it yet. Mr. Roth

explained they had assumed there was a forebay, and it does exist, but it may not be as deep as Mr. Place would like.

Chairman Lizotte stated the Board would need Mr. Place to inspect and report on the status of these items before it could consider release of the bond. He also mentioned the Board would need to see an as-built plan noting these items.

Mr. Roth stated he has not owned the property for over a year, and the Condominium Association now oversees the property. He stated everything they had understood to be an outstanding issue has been attended to in good faith. However, he stated the spillway and forebay issues have only recently arisen. Mr. Roth asked the Board to release the bond, pending Mr. Place's approval of these two items.

Ms. Kablack stated the surety bond being held is approximately \$62,000.

Chairman Lizotte stated the design plan which was approved was supposed to be built, and that is what the bond secures. It is not the responsibility of the Town to create a punch list of items for delivery.

Ms. Kablack broached an issue of concern she has discovered, noting there is no Certificate of Compliance from the Conservation Commission issued on the property yet. It was noted this order transfers to the new owners, however some issues were the responsibility of the developer, and those issues should not be overlooked.

Mr. Roth explained the unsuccessful attempts he made to contact Conservation Coordinator Debbie Dineen last year to do a walk-through. He has since received an email from Ms. Dineen, who stated she would like the lawn which encroaches upon the wetlands delineated on an as-built plan. Ms. Kablack stated she would like to confirm this information with Ms. Dineen.

Mr. Roth admitted, sometimes things get missed, even with the best intentions.

Mr. Garvin stated he is interested to know why the bounds are not on the as-built.

On motion duly made and seconded, it was unanimously

VOTED: To approve a reduction of the bond for the Maple Meadows SRC, (Assessor's Map K08-0020), to \$10,000.

**82 Maynard Road Subdivision – (Assessor's Map G08-0026) - Request for Bond Release**

Present: Developer Robert Roth and Bob McGinty

At 9:00 p.m., Chairman Lizotte opened a discussion regarding the request for a bond release for the 82 Maynard Road Subdivision – Assessor's Map G08-0026. Copies of a letter from Town Engineer I. William Place dated August 11, 2015 were distributed tonight.

Ms. Kablack reviewed the outstanding items. She explained the placement of the new utility pole is in violation of the Town Bylaws and that it is as a result of work done by Eversource. She further explained Mr. Roth has petitioned the Board of Selectmen for a waiver to be discussed on September 17, 2015, and the Selectmen have asked for comments from the Planning Board.

Mr. Roth provided a brief summary of the existing pole, the intended proposal, and the decision Eversource reached that it could not run wires the distances as originally proposed. He further stated the new wire does not cross any roadway and only a small portion (18'-24") will span over the street right-of-way.

Ms. Kablack opined Eversource should not have caused this problem. She also stated the abutters have been duly noticed for the Selectmen's Public Hearing. 2 abutters have called to discuss the issue, and after a brief conversation with both of them there appeared to be no issue.

Mr. Roth stated he has not had great success reaching out to Eversource. If he continues to have difficulty reaching the company, Mr. Place stated he will try to reach Eversource.

A brief discussion ensued regarding an outstanding item to patch a gas trench on Maynard Road.

Mr. Roth stated his interpretation varies from Ms. Kablack's regarding bounds.

Ms. Kablack stated Town Counsel agrees with her interpretation regarding bounds and monuments which are required in the subdivision.

Chairman Lizotte stated this Board approved a subdivision with a road, and the monuments are required by the Bylaw. He explained the right-of-way needs to be delineated, as approved in the subdivision plan.

Mr. Roth stated installing the monuments requires a substantial financial outlay from him for something which does not serve a public benefit as the bounds are in the woods. Chairman Lizotte suggested there are various ways to install the required monuments. Mr. Roth asked that, if he hits ledge, would it be possible for him to install iron rods. Ms. Kablack noted that the Subdivision Rules and Regulations allows for installation of iron rods where ledge is present. .

Ms. Kablack stated there is currently a \$53,000 bond being held.

Chairman Lizotte suggested it may be cheaper for Mr. Roth to patch the gas trench himself. Mr. Garvin stated the only reason the gas trench exists is because of the work done for Mr. Roth's project, and he is responsible for fixing it.

A brief discussion ensued trying to estimate how much money is needed to complete the outstanding items for the bounds, as-built, and gas trench, but no amount was agreed upon. This item will be continued to a future meeting.

#### **Utility Petition – 84 Maynard Road – Discussion to Prepare Comments**

Chairman Lizotte opened a discussion regarding the proposed Utility Petition at 84 Maynard Road submitted by Robert Roth. The Board was previously in receipt of copies of a letter from Robert Roth dated August 14, 2015 and accompanying maps, the Public Hearing Notice for the Board of Selectman's September 17, 2015 Meeting, and a letter from Department of Public Works Director/Town Engineer I. William Place, dated August 20, 2015.

Ms. Kablack explained the placement of the new utility pole is in violation of the Town Bylaws and that it is as a result of work done by Eversource. She further explained Mr. Roth has petitioned the Board of

Selectmen for a waiver to be discussed on September 17, 2015, and the Selectmen have asked for comments from the Planning Board.

Mr. Roth had provided a brief summary of the existing pole, the intended proposal, and the decision Eversource reached that it could not run wires the distances as originally proposed during the previous agenda item.

Mr. Roth's request to the Selectmen is for a waiver under Sudbury Bylaw Art. XX to install a utility pole at 84 Maynard Road, and to allow the crossing of a utility line within the Maynard Road Right of Way.

On motion duly made and seconded, it was unanimously

VOTED: To request Ms. Kablack drafts a letter, on behalf of the Board, to be sent to the Board of Selectmen, noting the Planning Board has no objections to the Selectmen approving a waiver for the Utility Petition at 84 Maynard Road because it would be in a wooded area and it would not be seen, it is for a very small area, and it does not cross any sidewalks or the right-of-way.

### **2015 Walkway Forum – Planning**

At 9:35 p.m., Chairman Lizotte opened a discussion regarding planning a Fall 2015 Walkway Forum.

Ms. Kablack asked the Board if the Forum could be scheduled on October 14, 2015, and everyone answered affirmatively.

Assistant Planner Jim Kupfer stated representatives from the School systems will probably attend the Walkway Forum because they are interested in ideas for walkways to more bus stops. All walkway coordinators will be invited as well. The forum will be advertised on the Town's website.

### **Miscellaneous**

Ms. Kablack stated Raytheon development representatives will likely be scheduled to meet with the Board on October 14, 2015 following their meeting with the Selectmen on October 6, 2015.

Chairman Lizotte referenced a notification he had previously provided to the Board and his employer, stating he would be recusing himself from all Raytheon development-related discussions and votes, since his employer is representing the potential developer for the Raytheon redevelopment project.

Ms. Kablack stated the Raytheon planning and potential zoning changes may require more meetings than usual leading into the 2016 Town Meeting, and it will need support from many entities to reach a successful and timely conclusion.

### **Upcoming Meeting Schedule**

Ms. Kablack stated the next meetings will be held September 30, 2015, October 14, 2015, November 4, 2015 and December 9, 2015 at Town Hall beginning at 7:30 p.m. Additional meetings may be necessary.

The meeting was adjourned by Chairman Lizotte at 9:40 p.m.