

# Town of Carlisle

MASSACHUSETTS 01741

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Office of

## PLANNING BOARD

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### Minutes

**December 11, 2006**

**Minutes 11/13/2006**

**Bills**

**Budget**

**FY08 Budget hearings, new initiatives**

**All-Boards meeting – 12/12/2006**

**Winter meeting schedule**

**Continuity of Operations Plan (COOP)**

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**Town Hall technology/web site**

**Preparation of rules and regulations for Personal Wireless Communications Facilities bylaw (Broadcast Signal Lab – Planning Board/joint subcommittee.)**

**Review of application to Zoning Board of Appeals for Comprehensive Permit under MGL Chap. 40B for 41 condominium units/12 affordable of attached housing to be known as “Coventry Woods,” on Concord Street, northeasterly of 515 Concord Street (Map 8, Parcel 10 – 22.8 acres), (Application of Coventry Woods LLC and MCO & Associates, Inc., referred by Board of Appeals)**

**Discussion of potential amendments to Special Permit Rules and Regulations for Accessory Apartments to incorporate zoning bylaw amendments (Sec. 5.6) approved by 2006 Town Meeting**

**Discussion of strategy with regard to pending litigation, Valchuis et al. v. Planning Board, Berry Corner Lane, Map 7, Parcel 29 (motion to go into executive session may be entertained)**

**Public Hearing: Definitive Subdivision Plan, Conservation Cluster and Common Driveway Special Permits for Chestnut Estates, at 400 Rutland Street, Map 36, Parcels 23 & 26, Richard P. Howe, Sr., Trustee of John Raymond Brown Revocable Trust, applicant**

**Request for release of covenant for Great Brook Estates Definitive Subdivision Plan, 195 Rutland Street (Map 26, Lot 18-2), in favor of deposit of surety [Request of Betsy Goldenberg]**

**Chair David Freedman** called the meeting to order at 7:33 pm in the Clark Room at Town Hall. Board members **Tom Lane, Brian Larson, Greg Peterson, Peter Stuart** and Planning Administrator **George Mansfield** were present. Michael Epstein and Kent Gonzales were absent.

Gretchen Caywood, assistant to the Planning Administrator, Ken Fries (Great Brook Path), Jon Longley (Nickles Lane), Bob Tinker (Rutland Street), Betsy Goldenberg (Pine Brook Road), and Bob Zielinski (Carlisle Mosquito) were also in attendance.

#### Minutes

The PB discussed the draft minutes of November 13, 2006. Stuart moved to approve the minutes as drafted. Larson seconded and the motion carried 5-0.

#### Winter Meeting Schedule

The PB agreed upon the following meeting schedule for the next three months (all start times are 7:30 pm except as noted):

January 8, 2007 at 8:00 pm  
January 22, 2007

February 12, 2007  
February 26, 2007

March 12, 2007  
March 26, 2007

### **All-Boards meeting – 12/12/2006**

Freedman reminded the PB about this meeting the next night, at which the various Town Authorities, Boards, Commissions, and Committees will discuss their goals and objectives for the next year, and provide a brief update on current issues before each Board. Larson and Lane indicated that they planned to attend.

### **Preparation of rules and regulations for Personal Wireless Communications Facilities bylaw (Broadcast Signal Lab – Planning Board/joint subcommittee.)**

Larson reported that the Wireless Working Group will put forward a guideline of RFP content to the BOS near term. The group's intent is to be on the BOS agenda for one of their January meetings to discuss their goals for wireless in Carlisle, followed by public hearings. Freedman suggested that the group's activity be publicized in the Mosquito prior to any hearing to assure that the public is well aware of the discussions of goals and proposed sites for wireless. Larson indicated that the hearings would focus on particular Town-owned land plots they propose for wireless equipment locations.

Mansfield said that Omnipoint will have three applications before the PB for additional wireless equipment locations during the course of 2007, with the first possibly starting right after the new year. Since it is crucial to complete the revised Wireless Rules & Regulations (R & R) to coordinate with the amended Wireless Bylaw, a public hearing on the proposed revised R & R was scheduled for 8:15 pm at the January 8, 2007 PB meeting. The presentation for the hearing will be led by Kent Gonzales.

Freedman requested that each member of the PB review the draft revised wireless R & R, indicate any changes, and respond to him, Gonzales, and Mansfield within the week indicating that they have reviewed the draft, whether or not they have proposed changes.

### **FY08 Budget hearings, new initiatives**

Mansfield reported that he and Larson are preparing for the PB's budget hearing with FinCom, which is currently scheduled for 7:15 pm on January 8<sup>th</sup>. Therefore, the start of the PB meeting for that same date will be delayed until 8:00 pm.

### **Public Hearing: Definitive Subdivision Plan, Conservation Cluster and Common Driveway Special Permits for Chestnut Estates, at 400 Rutland Street, Map 36, Parcels 23 & 26, Richard P. Howe, Sr., Trustee of John Raymond Brown Revocable Trust, applicant**

Freedman opened the public hearing by reading the Notice in entirety. He explained that since some changes to these plans are in process and some expected information is still forthcoming, after consultation with the applicant, the PB has decided to postpone discussion and continue this hearing without taking testimony. Also, with only 5 members of the PB present, to take testimony tonight would present increased risk to the applicant in subsequent hearings on this issue, as all of these PB members would need to be able to attend every hearing and vote unanimously to approve the special permits.

Lane moved and Stuart seconded the continuation of this hearing to 8:30 pm on January 8, 2007. The motion carried with a vote of 5-0.

### **Continuity of Operations Plan (COOP)**

The PB discussed that key departments for the assembly of such a plan are perhaps the BOH, Fire, Police and possibly DPW. Peterson suggested that the BOS should set up a task force on this issue. Freedman agreed to propose this idea to the BOS at the All-Boards meeting the following night.

### **GIS Development Task Force**

Mansfield reported that both the PB and the BOH have received the updated version 9.2 of ArcView software, which requires installation. He added that it is still not possible to access the GIS database due to an unresolved

server problem. Freedman asked Mansfield to forward a memo to Margaret deMare, now designated as point of contact for Town Hall technology issues, and indicate this situation. The memo should make it clear that this situation is blocking progress on GIS. When the software installation is complete and the GIS access problem is resolved, Tim Donohue can be contacted to start up the GIS Development Task Force (as discerned at a prior PB meeting). Freedman said that Selectman Tice had prepared a 6-page technology plan, a copy of which should be obtained.

**Review of application to Zoning Board of Appeals for Comprehensive Permit under MGL Chap. 40B for 41 condominium units/12 affordable of attached housing to be known as “Coventry Woods,” on Concord Street, northeasterly of 515 Concord Street (Map 8, Parcel 10 – 22.8 acres), (Application of Coventry Woods LLC and MCO & Associates, Inc., referred by Board of Appeals)**

The PB reviewed draft conditions prepared by ZBA counsel Dan Hill. They discussed the need for Scenic Road hearings regarding any proposed tree removals on Concord Street related to this development. Freedman said that, according to Hill, the ZBA cannot waive the need for the hearing, but can act in place of the PB for authorization of tree cutting on Concord Street. Freedman also reminded the PB that while the applicant has done a traffic impact study, they have used an inadequate traffic study for support data, in that it is outdated and based on another location on Concord Street. Freedman said that the ZBA should require a new traffic study be submitted by the applicant.

Peterson asked if the ZBA’s Counsel has determined whether the comprehensive permit in any way deprives the BOH of its ability to act in a public emergency concerning protecting the water supply. Freedman said that the BOH retains the right to shut down irrigation wells to the development if warranted. Peterson suggested including a general provision that if there are stresses on the water supply, the BOH has the authority to take appropriate measures with respect to irrigation, such as limiting pumping hours and/or shutting down wells.

Freedman asked Mansfield to inquire of the PB’s consulting engineers about the impact of the proposed thickness of the road surfaces (i.e. 1.5” instead of 2” each for binder and coat). As reported in the ZBA minutes of their November 20, 2006 meeting, Freedman reiterated a number of issues that he would like the applicant to address, including:

- 1 - scenic road waiver
- 2 – request for a new traffic study
- 3 – discussion on when to do the well testing
- 4 – home owner/condo documents reviewed prior to closing the hearing
- 5 – site walk
- 6 – recommend that stone walls not used be offered to DPW, and not sold or buried as fill
- 7 – explore the use of the Presby System for Septic System C

He suggested adding Peterson’s suggested water provision to this list.

Concerning any profit sharing arrangement with the Town and the applicant, Freedman said that the Affordable Housing Trust has been set up to accommodate the recapture funds from this project, and members have been appointed. According to Peterson, Mass Housing will audit the project on completion. The ZBA will review the audit.

**Request for release of covenant for Great Brook Estates Definitive Subdivision Plan, 195 Rutland Street (Map 26, Lot 18-2), in favor of deposit of surety [Request of Betsy Goldenberg]**

Mansfield reported that Betsy Goldenberg, who has taken over the responsibility of completion this subdivision, is seeking a release of the final lot (Lot 2A). The potential buyer of Lot 2A does not want her to complete final paving up to his lot, as his construction work may damage the pavement. She was therefore advised to complete everything else but this area of final pavement (and associated items), and to seek a release in favor of a deposit of cash as a surety for completion of these items. Mansfield reported that he now has a written cost estimate from the applicant’s engineer for all items involved in completion of the subdivision, and that John Boardman (LandTech)

has reviewed and agreed with the cost estimate. He added that there have been situations in the past for which the PB has released all lots without the development being complete, in favor of a bond to assure completion. The money is held in a separate escrow account by the Town Treasurer.

Goldenberg presented the PB with a Request for Release of Lot 2A, the remaining lot in the covenant. The document was deemed unsuitable by the PB, as it did not contain all necessary information, and was not signed by the PB. Mansfield agreed to speak with Goldenberg's attorney to draft a more complete document.

Ken Fries (Great Brook Path) attended representing the Homeowner's Association (HA) and indicated that they understood their responsibility for maintenance of the development, but asked if the HA should assume responsibility on release of the last lot or on completion of the subdivision.

The PB discussed this issue at length. Freedman expressed concern that if the HA does some damage on maintaining the roadway during the winter, there may be differences of opinion as to who is financially responsible for repairs. Peterson said that on reviewing the documents, it seems that the subdivision should be complete before the HA assumes maintenance responsibility, but he felt that there is some inconsistency in the documents. He added that such a situation could put the applicant's bond at risk, causing a dispute between her and the HA as to who is financially responsible for repairs. Peterson suggested that the HA members and their Counsel consult with Goldenberg and her Counsel to resolve this issue. Freedman said that any escrowed amount should cover all expected completion costs plus a contingency amount for any problems that may arise.

Freedman moved to release lot 2A from the covenant, inasmuch as it is the last lot held in the covenant and will effectively release the covenant dated July 18, 2005, and that to ensure completion of the development in accordance with the original subdivision approval the PB hold a cash escrow of \$70,000 to complete work including but not limited to work specified in a December 11, 2006 letter from David E. Ross Associates. This escrow would be released to the party depositing the funds upon completion of work such that the PB determines a Certificate of Completion can be issued. If the work is not complete by expiration of subdivision approval, the Town can use the funds to complete the work to standard. This approval is subject to review and approval by the Planning Board Chairman of a Certificate of Performance and Release of Covenant acceptable in form and substance. Peterson seconded and the motion carried 3-2 (Larson and Stuart opposed).

The new release document provided by the applicant will be reviewed by Freedman, Peterson, Epstein and Mansfield. Peterson clarified to the applicant that if she sells the lot, according to the documents as written, she may be giving up any rights to work on the roadway. While this issue does not affect the release, he suggested that the Homeowner's Trust should be amended to eliminate this ambiguity.

At 10:45 pm, Stuart moved and Larson seconded the adjournment of the PB meeting. The motion carried 5-0.

Respectfully Submitted,

Gretchen Caywood  
Administrative Assistant  
Carlisle Planning Board