

CARLISLE PLANNING BOARD

MINUTES

JUNE 26, 1989

Present:

George B. Foote
Vivian F. Chaput
Stephen F. Davis
Sylvia Sillers
Stephen Tobin
Phyllis W. Hughes
Norman S. Lindsay
Elaine H. Olden,
Administrative Planning Assistant

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On motion by Ms. Hughes seconded by Mr. Tobin, the Board voted unanimously to approve the minutes for March 27, 1989. On motion by Ms. Hughes seconded by Mr. Tobin, the Board voted unanimously to approve the minutes for April 10, April 24, May 8, May 22, and May 30, 1989, all with insignificant corrections.

ANR PLAN - NORTH ROAD

On motion by Ms. Chaput seconded by Ms. Hughes the Planning Board voted unanimously to endorse a plan entitled "Plan of Land in Carlisle, Mass. - Owners: Charles & Carolyn McCannon and William Rand" dated April 24, 1989 by Nelson Engineering "Approval Under the Subdivision Control Law Not Required."

HAYES FARM

At 8:32 p.m, Chairman Foote called to order the public hearing on the application of Hayes Farm Partnership to modify the previously approved subdivision plans to shift the first 1117 feet of Hayes Farm Road into the Town of Concord, in order to eliminate extensive wetland filling. Mr. Foote said that he does not perceive any conflict of interest on his part in connection with this project, since he is no longer affiliated with the Carlisle Land Trust or Carlisle Conservation Foundation.

The following information was presented on behalf of the applicant: the road is 37 feet longer than the road shown on the approved plan. The applicant's representative has met with the Town of Concord concerning the wetlands. Since there is a continuance for further matters in Concord, he requests a continuation of the present hearing. The applicant's representative listed the waivers as included with the request for modification submitted to the Board. Section 4.A.2.C. was corrected to Section 4.A.2.E.

Chairman Foote inquired if any member of the public wished to

speak to the application. Deborah Skauen-Hinchliffe asked about the apparent reserve strip. The representative replied that the road layout is offset to preserve trees and that the layout can be widened if necessary. Ms. Hinchliffe mentioned the extreme length of the road and said that the houses put back on the esker increase the risk of spills. She added that the esker is one of the nicest features of the property. Mrs. Perry of Concord said she agreed with Ms. Skauen-Hinchliffe's comments.

The applicant explained that there is a potential for one house lot in Concord and a potential for a total of 15 houses with legal frontage on the road. The run-off calculations take the amount of road paving into account.

Mark Snyder said he has concerns about the wetlands and asked if limits can be put on tree-cutting by homeowners. Ms. Skauen-Hinchliffe asked about Parcel X on the plan and said it should be restricted. The representative said the applicant would entertain the suggestion. Peter Martin supported the suggestion of a restriction. The representative pointed out that the Conservation Commission and not the Planning Board has jurisdiction over the development of individual lots. Rebecca Reynolds questioned the appropriateness of the number of houses. In response to a question, the representative listed the waivers being requested from the Concord Planning Board.

Charles Boiteau asked a number of questions about the previous submissions for this project. Chairman Foote said that the history of the project is not relevant to the public hearing on the current application. The representative said that the reason for a request for waiver of the bike/foot path requirement is that there is no interconnection at the boundary because of wetlands.

Chairman Foote summarized the contents of a letter received from Town Counsel about future ownership and maintenance of the road. The representative said he is not ready to respond to this information. At 9:15 p.m., Chairman Foote continued public hearing until July 24, 1989, at 8:30 p.m.

ICE POND ROAD

At 9:15 p.m., Chairman Foote called to order the public hearings continued from May 30, 1989, on the application of Charles Boiteau for a Special Permit for a Conservation Cluster pursuant to Section 5.5 of the Carlisle Zoning Bylaws for property known as "Ice Pond Road" on a Definitive Plan submitted concurrently with the Special Permit application and the application of Charles Boiteau for Special Permits for two Common Driveways ("A" and "B") pursuant to Section 5.4 of the Carlisle Zoning Bylaws

for property known as "Ice Pond Road" on a Definitive Plan submitted concurrently with the Special Permit applications.

Mr. Foote summarized his conversation with Town Counsel concerning the legal status of the subdivision road as follows: Attorney Lane advises that if the Town accepts the road, the Town should take the easement and not the fee simple, in case of future abandonment; the lot descriptions should indicate that the lot owners own to the center of the road; and the applicant should not end up owning the road.

Mr. Foote summarized a memo dated June 26, 1989, from the Trails Committee written after a meeting between the Committee and Mr. Boiteau, with the Committee's recommendations concerning preservation of the trail. Mr. Boiteau said that there is no practical way to enforce a requirement that horses be kept to a walk through the development. Judy Lane, a member of the Trails Committee, said that difficulties about horses on a trail through a development can be resolved through community contact, especially since the horse community is small and closely knit. She added that the use of horses on the trail through Cutter's Ridge is being managed by the Trails Committee. Deborah Skauen-Hinchliffe said that all trails should be open for all reasonable uses and that she is concerned that limiting use on one trail may set a precedent for limiting use on other trails. Ken Ernstoff said that "Carlisle is all about the ability to use trails." Ms. Lane said that she was distressed because she believed that in the meeting between the Trails Committee and Mr. Boiteau, Mr. Boiteau had threatened suit over the issues of the trail.

Attorney Nelson explained the legal issues to the Board and the possible consequences of a challenge to the Board's action by the applicant.

When Chairman Foote asked if anyone had anything new to say, Mr. Boiteau presented a new plan for development of his property. This new plan, he said, would mean 4500 square feet of wetland filling and would leave 7.7 acres of wetland at the back of the property as surplus. He said he would give the backland and a strip of land at the front. The plan involves a 2011' road with better access to the houses than a common driveway. In presenting this idea, Mr. Boiteau said he is not requesting permission to withdraw his applications for Special Permits.

Ms. Skauen-Hinchliffe said she recommends that the Board deny the application for a Conservation Cluster. Chairman Foote polled the board members on the question of whether horse access is necessary as the natural resource being preserved in granting the Special Permit for a Conservation Cluster. Ms. Hughes moved that the Board determine that in order to grant a Conservation Cluster

Special Permit the Board finds it necessary that horses be part of the trail easement. Mr. Tobin seconded the motion. Ms. Chaput said she is not convinced it is necessary. Mr. Davis said that any potential owner has a choice about purchasing property with the trail across it and that horses are inherent in the history and ambiance of the area, since trails in Carlisle have been used by horses for 200 years. Ms. Hughes commented that the trail gives access to the State Park, which is used extensively for horseback riding. Ms. Hughes, Mr. Tobin, Mr. Foote, and Mr. Davis voted in favor of the motion. Ms. Sillers, Ms. Chaput, and Mr. Lindsay voted in opposition. Chairman Foote declared that the motion passed.

The applicant presented two trail easements, one prohibiting the use of horses and one permitting the use of horses at a walk only but including a provision that "the grantor reserves the right to challenge the grant of this easement in any State or Federal Court, including without limitation the right to seek a determination that the granting of same in connection with and as a condition of the approval of the grantor's 'Conservation Cluster Special Permit Plan' is unconstitutional and void and further reserving all rights to seek compensatory damages relating thereto." Chairman Foote instructed Mrs. Olden to refer these documents to Town Counsel for advice.

The applicant said that the form in which the common land will be held is in accordance with Section 5.5.7.2 of the Zoning Bylaws: it will be conveyed to a non-profit organization which will be a realty trust. Chairman Foote requested that the applicant submit a draft of the relevant document for the Planning Board to refer to Town Counsel for review.

At 10:12 p.m., Chairman Foote continued all of the public hearings to July 10, 1989, at 8:30 p.m. The Board also scheduled a discussion of Mr. Boiteau's new plan for 9:30 p.m. on July 10, 1989.

Mr. Tobin left the meeting.

Mr. Boiteau presented a letter requesting a waiver from the requirements of Section 4.F.3 of the subdivision regulations for a fence around the fire hole which he proposes to use for the Ice Pond Road subdivision, subject to the following conditions: that he demonstrate to the satisfaction of the Board a capacity of 10,000 gallons throughout the year as required by Section 4.F.2.B. and that [the owner of the fire hole] Mr. Brooks deed an easement to the Town to provide access to the water and for maintenance, as required by Section 4.F.4.

After discussion, the Board instructed Mrs. Olden to research the

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reason for the provision requiring a fence.

MASTER PLAN/HOUSING

At Mr. Lindsay's suggestion, the Board scheduled a meeting on the Master Plan project for Monday, July 17, 1989.

Chairman Foote adjourned the meeting at 11:35 p.m.

Respectfully submitted,

Elaine H. Olden
Administrative Planning Assistant