



Town of Carlisle

MASSACHUSETTS 01741

Office of

PLANNING BOARD

P.O. Box 729

Ph. 369-9702

Fax 369-4521

CARLISLE EDUCATION CENTER
872 WESTFORD ST.

MINUTES MEETING OF DEC. 6, 1993

Chair Ernstoff opened the meeting at 8:00. Board members present were Duscha, Chaput, Evans, Hughes and Yanofsky; also present was Daniel Savage of 557 Rutland St.

The minutes of Nov. 15 were accepted on a motion by Evans, seconded by Yanofsky. The minutes of Nov. 22 were accepted as amended on a motion by Duscha, seconded by Yanofsky, with Evans abstaining. Bills were approved as presented; the P.A. explained that the Planning Board had paid the fax bill for the first quarter of the billing year. She has asked the Board of Health and the ConsCom to each pay one quarter. The Board asked the P.A. to write a letter to David Flannery commenting on the high cost of the janitorial bill for Community Day, and explaining that the Board members had had to wash tables before they could be used, and that we did not have the use of the mike for our initial presentation as Heller could not make it function. Ernstoff will sign it.

Rober/Powell public hearing: special permit for accessory apartment At 8:15, the public hearing on the application of Dan Rober and Wendy Powell for a special permit for an accessory apartment at 549 Rutland St. was opened. The P.A. reviewed the public notice actions taken under Mass. State Law, Ch.40-A. Powell and Rober and their architect Albert Fine presented background information, plans and photos of the site. Ernstoff asked the only abutter present whether he had comments. Daniel Savage pointed out he had not been opposed to his former neighbor at that address having a helipad, and he certainly did not object to this plan. The Board considered the facts in light of the statutory requirements and discretionary findings which must be made under section 5.6 of the Carlisle zoning bylaw; on a motion by Hughes, seconded by Evans, they voted unanimously to allow the accessory apartment. The hearing was closed at 8:45.

Ice Pond Rd. Because it was not yet time for the public hearing on the Boiteau special permit amendment, the Board began a discussion with Brian Hebb, owner of Ice Pond Road, regarding several issues of concern. Abutter Cheryl Finn-Poole joined the group for the discussion. The P.A. had reported at a previous meeting that work was being done at the area around station 4+50 without the amended plan requested by the Board last June; this seemed particularly important to her because the abutter's land and a wetland nearly abut the shoulder at that area. In addition, Chisholm of ConsCom had expressed concern regarding the possibility of turbidity and pollution in the wetland caused by washover from piles of soil left nearby, and the lack of the swale shown in the plan. Chaput reminded the

Board that whatever is done before the bond is released must be shown on an as-built and reviewed by the Board for compliance. Ernstoff asked Hebb why the Board shouldn't ask him to present at least a red-line plan at this point. Hebb replied that, although he had thought in June that he could not do it, his grading has come very close to the profile in the originally approved plan; in order to achieve the profile, he had raised the height of the wall which forms the dividing line between his land and the Finn-Pooles'. The P.A. explained that Peter Parent of LandTech recently had inspected the area at the Board's request to determine if the road might be undermined by the new wall height and construction style; Parent felt it is not. Finn-Poole expressed her satisfaction with the aesthetics of the construction. Chris Chisholm of ConsCom has also stated she is now satisfied that, with the final grading, seeding and hay spreading, the shoulder will be stable enough to prevent turbidity in and pollution of the wetland. Ernstoff asked how close Hebb has come to meeting the approved grades. Hebb replied that he's closer to the originally approved profile than to the red-line of Nov. 18, 1992; he's no more than 8" higher at any point than the original plan. He is no more than 8" lower than the red-line plan. Horizontally, the road is as approved.

Finally, the P.A. reported that although the common driveway process calls for no inspections, she has observed that the common driveway had been located so that there is no room off driveway for the trail which is stipulated to run along and on the common driveway at certain points. George Foote, former Board member who was involved in the Ice Pond approval process, joined the group. The Board felt that practically speaking the trail users will just walk or ride on the paved drive. The P.A. asked whether the plan is inaccurate. Foote commented that if the plan is inaccurate then the validity of the special permit may be in doubt. Hebb said the plan is accurate as to the location of the wetlands and as to the location of the common drive. It was observed that the problem may lie with the Board's location of the trail easement.

Hebb then explained to the Board that he has not been able to install the fire cistern because of high water caused by the recent heavy rain. This is a problem because he cannot obtain occupancy permits until that fire protection is provided. Chaput asked him why he had not installed the cistern during this summer's dry spell. Hebb asked whether the temporary alternative of a water tank on site had been approved in the town in the past. The Board had no knowledge that such had been the case, but pointed out that the Fire Chief is the one who must be satisfied. Hebb mentioned that he had used this temporary water supply in Acton, and would ask Chief Koning whether he would approve it. The Board agreed that Hebb had satisfied their concerns regarding the variation of the road from the plans, and will wait to make further judgment on the as-built.

Hebb also apprised the Board that the parcel east of Ice Pond Road and north of East St., the area where the Board had required replacement of removed trees, does not belong to him; it belongs to Boiteau, who has threatened to cut down any trees planted there. Foote questioned whether Hebb had bought a defective subdivision; it was determined that the Board released the lots before Hebb bought the subdivision.

Boiteau/Hebb public hearing on amendment to conservation cluster special permit
The hearing, continued from Oct. 4, Oct. 18, and Nov. 1, with no testimony having been taken, was reopened at 9:40 at the conclusion of the discussion with Hebb. Boiteau, who

had asked the P.A. to request the board consider the plan change in his absence, was not present; Hebb, co-petitioner, was. Also present were Finn-Poole, abutter, Foote, and Mark Green of Hartwell Road. The P.A. reviewed the actions taken to comply with the statutory notice requirements of Mass. State Law, Ch. 40-A, and presented the plan titled "Plan of Land in Carlisle, Mass. Prepared for Charles Boiteau", drawn by David Ross Associates, dated Nov. 1993, and numbered L-2312. The plan shows, in A.N.R. plan format, the moving of a lot line between existing lots 3-A and 4-A, and the creation of parcel A. Parcel A is 7 x 38 feet, and is taken from lot 4-A and will be joined to lot 3-A in order to meet the requirements of the Board of Health for a septic system for a 6 bedroom house. Lot 4-A is relabeled lot 4-B; both lots continue to meet the requirements of the cluster special permit and there is no change to the open space. Boiteau has given the P.A. a letter waiving the statutory time requirements of the A.N.R. process under Ch. 41, Section 81-P, as this is a special permit hearing process under Ch. 40-A. The P.A. noted two changes which need to be made to the A.N.R.: In the second to last note, "lot 4-A" should be "4-B", and the Lot 1 abutter is not named. The Board asked the P.A. to write a letter to Boiteau asking for clarification as to the ownership of parcel A, and asking him to have Ross Associates correct the A.N.R. plan. At 10:00, the Board voted unanimously, on a motion by Hughes, seconded by Duscha, to continue the hearing to Jan. 10, 1994, at 9:30.

Green: Hartwell Road discussion With George Foote present to act as historian for the Board, the Board met with Mark Green of 61 Hartwell Road, who was representing the Hayes Farm Homeowner's Association, to discuss the issues around the status of Hartwell Road. Ernststoff asked Green to explain why he had come. He explained that the homeowners are considering asking the Selectmen to accept Hartwell Road as a public road, and they would like to know the Board's opinions on the subject before going to the Selectmen. Chaput stated that the owners have a maintenance clause in their agreement which they all should have known about when they bought property in Hayes Farm. Green pointed out that such agreements are always put into place to bridge the period between a subdivider's completion of a road and a possible Town Meeting acceptance of the road. Foote agreed that such is the case. In this case, though, the Board assumed that, once a portion of the road was relocated into Concord, and knowing that Carlisle could not accept the Concord portion and that Concord would not accept it, no one would ever expect Carlisle to accept the Carlisle portion. This assumption was not necessarily documented in the paperwork, probably because it seemed so obvious. Green asked the Board to enumerate the issues which had resulted in that tacit decision so that he might see whether they could be resolved. He felt that if the road were to be accepted the School Committee might review its decision to require children to come to Lowell St. for pick-up; he also felt the homeowners might contract with the Town to plow the Concord portion. Foote said that the decision had been reached as a result of deliberation with other town boards and town counsel; therefore it is not appropriate for the Planning Board to reopen the issue on its own. Unless the Town's policy changes, the Board has no reason to change its decision. Green asked for any records of that input, as in his review of the documents it has not surfaced. Chaput stated that a public road offering no access to Carlisle except through another town offers no benefit to Carlisle, therefore it is non-viable. Ernststoff

explained the potential liability concerns that some townspeople may have. Foote stated that the Carlisle Subdivision Rules and Regs had to be waived to allow the road to exist, and that the Concord portion does not meet Concord standards, so that Concord also waived subdivision rules and regs. The facts which caused the Board in the 1980's to make its tacit decision not to allow Hartwell to become a public road still exist. But the new Board could reverse the decision based on those same facts. Green asked the Board to state whether it was one or the other of two facts, or both, which concerned the Board: the crossing of land in another town, or the crossing of private land. Some Board members felt it is both. Foote asked Green if he had gathered and presented to the School Committee facts regarding the differences between private driveways and private roads. Green said he had presented everything there is to present. Foote then placed the discussion in another context. He mentioned that three roads which had been built to subdivision standards had not been accepted at Town Meeting. He felt that there is a question in town as to whether roads which have been created simply to provide frontage, and which are not through roads, should be accepted as public roads. Hartwell fits that description, except for the added difficulty of its passing through another town. Green asked the Board to reiterate their concerns, then or now. Chaput stated that the conflict of jurisdiction presents the possibility of litigation in case of accidents, therefore the possibility of great expense for the town. In addition, the town has no reason to assume the added maintenance expense when the homeowners have already agreed to do it. Ernstoff added that there is the feeling that "a deal is a deal". We committed a tremendous amount of time, energy, and expense to working out this agreement; why should we go back on it? Hughes added that this is a unique situation. Carlisle never expected Concord to allow the plan and was taken by surprise when it did.

M.P. Community Day Tabulation Chaput explained that because the comment cards, tabulated by Duscha, revealed a frustration with the consensus process on Community Day, and therefore called into question the validity of the green card process, and because our own review of the green cards revealed a certain amount of confusion, she recommends a special meeting be set up to discuss our next step. She further suggests that step may include a review of the small group sheets for direction and fleshing out of the homogenized green card comments. Hughes suggested that members take home the small group sheets and computerize them in preparation for that meeting, tentatively grouping the ideas as the Board had done for the green cards. The Board agreed to meet on Dec. 13 at 8:00. Hughes took groups 2, 4, and 5; Yanofsky took groups 1 and 3; Evans took group 6. The meeting was adjourned at 12:00.

Sandy Bayne, Planner Assistant