



Town of Carlisle

MASSACHUSETTS 01741

Office of

PLANNING BOARD

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MINUTES OF MEETING NOV. 13, 1995

PUBLIC HEARING: special permit for common drive on Baldwin for Evans
PUBLIC HEARING, cont.: special permit for common drive/conservation cluster on
Cross St. for Fielding
PUBLIC HEARING, cont.: Laurajon Rd. definitive subdivision

Chair Colman opened the meeting at 7:25; present were Tice, Epstein, Hengeveld, Yanofsky, Duscha and LaLiberte. The minutes of 10/30/95 were approved as amended on a motion by Tice, seconded by Hengeveld, with Tice, Hengeveld, Colman, Yanofsky and Epstein voting in favor. Duscha and LaLiberte abstained. The minutes of 11/2/95 were approved as written on a motion by Hengeveld, seconded by Tice, with Tice, Hengeveld, Colman, Yanofsky, Duscha and LaLiberte in favor. Epstein abstained. Bills were approved for payment as submitted.

Tall Pines lot release discussion item Developer Bill Costello told the board he expects to ask at the Nov. 27 meeting for the release from the restrictive covenant of up to 12 lots which he wishes to sell, so that he may begin home construction before winter. He wished to know what criteria the board uses to make a decision as to lot release, and to determine if the board could agree in principle that if he brings the roads to binder by then he will have fulfilled the requirements of the restrictive covenant. He explained he expects to have the road frontage for those lots to binder coat at that time. Specifically, all of Hutchins, and Kimball to just beyond the intersection with Hutchins, to approximately Station will have been completed to binder, with the exception of the bridge on Kimball, where additional preparatory work needs to be done. Utilities and granite curb will not be installed. The board asked him to specify which lots were to be released. He replied that he is not completely sure at this time because purchasers may change their minds as to which lot they wish, but that he expects to ask to release lots 7, 8, 11, 32A, 36A, 23, 24 and 31A, and perhaps a few more. Of those listed, lots 7 and 8 have planning board restrictive covenants in the form of setbacks in which cutting of trees and construction may not occur. He explained that the present average value of the lots is \$213,000, and that the total value of all 40 lots is 9 million. This means, he said, that after the release of 12 lots, there will be 28 lots valued at 6.25 million still under the restrictive covenant, and about \$700,000 worth of work left to be done on roads and services. LaLiberte, noting that lot 11 takes its frontage from Barnes Place, asked if Barnes will be paved to binder as well. Costello explained that although it will not, the lot also has access on Hutchins,

which will be paved, so that construction could be staged from Hutchins. LaLiberte expressed his reluctance to release a lot which will not have its actual frontage to binder. Epstein and Colman questioned whether the utilities should be installed before release of lots. The P.A. reminded board members that under the state building code, the building inspector will not give an occupancy permit until the utilities have been completed and until fire protection has been provided and tested.

Duscha expressed her concern that if the bridge on Kimball is not accessible to vehicles, then the constructed portion is really a single access road providing access to more than 15 house lots in violation of the planning board's subdivision regs. Costello responded that he expects to have the additional work on the bridge done in three weeks, well before he could ask for an occupancy permit, that the total number of lots to be released before spring will be less than 15, that road grading and bridge work on the far end of Kimball Rd. and electrical installation throughout will probably continue through the winter.

Yanofsky asked what release schedule Costello could anticipate, and whether he would be willing to update the board as to the approximate cost of work left to be done whenever he asks for lot releases. He stated he will ask for the first 7 lots soon, and then a few more during the next few months, and that he would be willing to provide that estimate of cost of remaining work. He anticipates having all roads to binder during the spring of 1996, with the final coat and curbing being left to the end or near the end of home construction so that roads and appurtenant structures will be turned over to the lot owners and possibly the town in the best shape possible. The board appeared to agree that having frontage of lots to binder would be a satisfactory criterion for release of lots, given all other requirements of the restrictive covenant have been met. Epstein asked if Costello believes he has fulfilled the requirements of the restrictive covenant; Costello replied in the affirmative.

Yanofsky then asked what the status of the conservation restrictions would be when he returns to ask for lot releases. He explained that they are all recorded, and that he has provided the board duplicate originals of those documents with amendments to correct the name of the grantor, and to provide signature pages for the selectmen and the state. He believes the trail easement is by nature in perpetuity, and that building restrictions are too, but that the conservation restriction on the trail, whereby the town incurs responsibility for maintenance, should be accepted by the town, and may not be in perpetuity. The board went on to discuss the question of whether the recorded subdivision conservation restrictions and easements should be submitted to Joel Lerner of EOECA for possible approval as Ch. 184 conservation restrictions. The P.A. was asked to request an opinion from town counsel Lane as to whether each of the documents in question (Conservation Restriction, Building Restriction, Trail Easement and Conservation Restriction, and Pedestrian Easement) is in perpetuity, and how enforceable each one is. If she believes any one is less than perpetual and is substantially unenforceable, she is to be requested to review the draft document from Judy Lane of the C.R. committee, to determine if that document might 1.) be submittable to Lerner for state C.R. status, and 2.) contradict and override the corresponding recorded planning board document. The P.A. was also instructed to get an estimate of the cost to do this work from counsel Lane, and LaLiberte, as treasurer, will review the estimate and authorize the work as he feels appropriate. Betsy Fell, representing the Trails and C.R. Committees (Trails Committee

members Lakness, Holland, Tobin, Johnstone and Hara being present) urged the board to move forward to submit Judy Lane's revision of these planning board documents to Lerner, as they feel the perpetuity of the restrictions would be enhanced by his acceptance of them.

Public hearing on a special permit for common drive at Baldwin St. for Evans

Colman opened the hearing at 8:15, and asked the P.A. to read the public notice. Bayne read the notice as it was published in the *Carlisle Mosquito* on Oct. 27 and Nov. 3, 1995, and as posted at town hall and mailed to the certified list of parties in interest on Oct. 27, 1995. Present for the hearing were applicants Jane, Ken and Scott Evans, their attorney Valerie Swett, and their agent Joe March of Stamski and McNary, Mary Deacon and Jane and Ralph Anderson, parties in interest, and Vivian Chaput, Jay Luby and Ken Ernstoff, all of Carlisle. March presented the plan, stating the following: The entire area of the land in the proposal, parcels 10 and 10A, is 53 acres, which would be redivided into three lots and three parcels. All lots would be ANR lots taking their frontage from Baldwin Rd. One lot would include the current Evans house and outbuildings, with dimensional requirements in conformance with the zoning bylaw, and there would be two additional lots, both having reduced frontage and more than 4 acres. A common driveway to serve the two additional lots is proposed because it appears to be preferable to two separate drives in terms of safety and in terms of environmental preservation. The common drive would follow as much as possible the configuration of the existing cart path. March has evaluated the site to determine if two separate private drives could be built, given they would need to cross wetland; it is his opinion they could be permitted under the requirements of the Wetland Bylaw. Each would be 1000' long, and would be built by right without the controls of a common drive maintenance agreement. The common drive, March asserted, meets all the requirements of the common drive special permit regs. Board members asked the frontages of parcels B and C, and asked March to identify a seemingly unidentified parcel. He replied that parcel B, west of Baldwin and having less than 4 acres and less than 250' of frontage, is not a building lot and is not privy to the common drive. The unidentified portion is actually connected to and part of parcel C, the neck not being visible at the 200' scale of the plan. It has 85' of frontage.

Duscha asked why an ANR was not included in the application. March explained that in some former applications for common drives, lot lines or easement lines were changed during the process, so he will submit the ANR if and when the plan is approved and lot and easement lines are fixed.

Hengeveld asked the grade of the driveway, commenting that it appears to be steep. March replied that the steepest grade is 5.25%, a modest grade for a common drive and permissible for a road. Hengeveld asked the total rise of the drive; March replied that it is 13' over a run of 650'. Hengeveld asked if there is any wetland crossing needed or buffer zone impact; March replied that the wetlands as shown were flagged by a wetland botanist, and that there would be no filling of wetlands needed for the driveway.

Yanofsky asked how March felt the board could approve the application given the prohibition in the subdivision regs against dead-end streets which exceed 1000' providing frontage for more than 15 lots. March replied that he felt the regs apply to subdivision, meaning creation of a new or extended road, not to ANR lots.

Colman asked the public if they had comments. Mary Deacon of Baldwin Rd., an abutter and owner of a second parcel within 300' of the Evans property, asked whether the common drive would cut off her access, a ROW shown in the Evans' deed, which she had submitted to the board. March replied that the ROW crosses Evans land currently, running west from Baldwin Rd., and that although the lot lines within the Evans parcel would change, so that the ROW would cross proposed lots 2, 3 and parcel C, the ROW will still be shown on the plan, and the same rights would exist.

Tice asked the planned use of the three parcels. March replied that parcel A might be preserved under a conservation restriction of some kind. Parcel B is not a building lot but has some upland and the Evans will retain ownership of it, he said. Parcel C will be retained by the Evans also as a separate parcel from their house lot for mortgage purposes. LaLiberte asked March to point out the disputed ROW. March did so, and commented that the current lot plan is a Land Court plan, and it shows the ROW.

LaLiberte asked if it is March's contention that two ANR lots could be created with individual drives; March replied in the affirmative.

Jay Luby asked how far the easternmost lot would be from Two Rod Road. March replied it would be 1200'. Luby asked if the property is subject to any restrictions. Scott Evans replied that it is currently under Ch. 61, and that the applicants intend to withdraw it from that status. The P.A. pointed out that although Jane Evans had sent a letter to the town stating that intent, it had not been framed in the required format, and that the town had told the Evans it could not be accepted as an official withdrawal. Therefore, no "clock is ticking."

Chaput asked if the only things under consideration were ANR lots and a common driveway. March replied in the affirmative. Colman commented that currently only a common drive is being considered, because no ANR had been submitted.

Ralph Anderson, an abutter, commented that he is not opposed to the granting of the special permit.

Duscha noted for the record that two letters of opposition had been received from abutters Flannery and Deacon.

The board asked the P.A. to request an opinion from town counsel as to whether Section 4.5 of the subdivision regs applies to ANR lots.

LaLiberte commented that the abutters concerns regarding the ROW are not remediable by the planning board; they must be resolved elsewhere.

The board agreed to walk the site on Nov. 19th at 9 AM.; Scott Evans will accompany them. Colman, noting there were no more comment from the audience, continued the hearing to Nov. 27 at 8 PM.

Continued Public Hearing for a common drive and conservation cluster at Cross St. for Fielding

Chair Colman reopened the public hearing at 8:45; reminding the public that the joint hearing on the two special permits had been opened at 7:30 on Oct. 31, 1995, no testimony taken, and continued until this evening, he asked the P.A. to reread the public notice and accompanying announcements. It was noted board members had walked the site on Nov. 5. The board noted too that it had received that evening a letter from Ganek of the Historical Commission stating that the preservation of Berry Corner is of value in

the opinion of the Commission and a letter of denial from the BOH based on the fact no information regarding soils and perks had been received. Previously received in addition to the application packet had been a memo from P.A. Bayne dated Oct. 20, three letters from Graves of LandTech (one initial review dated Oct. 12, and two dated Nov. 7, 1995 one reviewing changes to the plan and one reporting on a site visit), a letter from March dated 11/2/95, and a letter from the Miskolczys opposing the special permit for cluster. Present for the hearing in addition to all board members were: Applicants John and Chris Fielding, Ruth Fielding, agent Joe March of Stamski and McNary, and Cross St. and Berry Corner Lane neighbors Ken Ernstoff, Roberta Lyman, Bonnie and Gabor Miskolczy, Susan Stamps, Judy and Dick Wells, Janet and Michael Kelly, Mary Beth Stevenson, Thierry Copie, and Ruth Furhovden, Trails Committee member Stuart Johnstone, and Ken Evans. March presented the plan to the board, first giving its general location and layout, and then reviewing the goals of the conservation cluster bylaw as he felt they apply to the site. He said the property lies 500 feet south of Bingham Dr. intersection and its frontage is composed of a spruce tree nursery field; the remainder of the property is wooded. There are two wetlands to be crossed in order to develop this land. The property has historic value in that it encompasses the site of the original boundaries of Acton, Concord, and Billerica. The corner, called Berry Corner, is marked by a cairn, and a historic site marker at the frontage notes its existence. Further, March asserted that the plan maintains rural character and vista by maintaining the open space at the frontage. Using the demonstration ANR plan, March showed that the 14.5 acre parcel could be divided into three lots, two of reduced frontage, and one standard lot. Using the cluster bylaw, which allows an extra lot, all four lots would have 20' of frontage each, be at least two acres, meet all dimensional requirements of the zoning bylaw and would have their building area to the rear of the property. The open space, which would include the spruce tree farm, would be 4.36 acres, the minimum required by the bylaw, and would also encompass a portion of the woods behind the field. That buffer of trees, lying between the houses and the street, acts also to preserve the perception of rurality to the passersby on Cross St. The entire parcel is surrounded by a 5' wide open space, thus adding to the setback normally required on side and rear lot lines. Further, said March, the proposal uses a common drive, which is strongly recommended in the cluster bylaw. This provides the added safety factor of three fewer driveway cuts on a narrow curved road. The driveway is 1300' long and has four wetland crossings. March contends it meets all the requirements of the common drive regs; the cul-de-sac length exceeds the desirable length suggested in Section XV, but does show a 42' radius cul-de-sac.

Tice asked March to identify the grey areas in the grading and drainage plan; March responded that these are areas of wetland replication.

Duscha asked March to show the trail location. March responded that it runs across the property. Chris Fielding added that the vast majority of it is within the open space, and could also run across the common drive if that is desirable. Under an ANR plan, he commented, the first person to buy a lot would determine the trail's fate.

Colman opened the hearing to public comment. Susan Stamps asked where the houses would be in the ANR plan. March demonstrated the general location.

Judy Wells commented that the abutter to the south of the property has not granted a trail easement. Michael Kelly asked how Berry Corner would be affected if ANR lots were

developed. March replied that anything could be done to it. Kelly asked if it is close to wetland; March replied that it is. Dick Wells commented that he is concerned about groundwater, especially after this year's drought. The town doesn't know, he said, what density it can tolerate, so he'd rather see two houses within 600' of his well than four. In his opinion, the benefits to be gained by this cluster are not worth the potential damage to groundwater. Bonnie Miskolczy said that she supports Wells' comments. She asked how the open space was to be preserved. Fielding replied that the zoning bylaw provides three options for ownership. She commented that if homeowners own the open space, there might be no access. Thierry Copie commented that he too is concerned about water quality in his well. Bobby Lyman felt this application constitutes a misuse of the cluster bylaw. She submitted a letter and data regarding the establishment of the bylaw for the record. She then pointed out that the most significant quality of this land is the woods and the habitat they provide, which could be destroyed by the homeowners. She referred to the criteria of the Carlisle open space plan, and then to the criteria of the cluster bylaw. She felt "significant" is a key word which the plan would not meet, nor does the preservation of the tree nursery preserve a vista in her opinion.

Ken Ernstoff commented that Lyman had summarized the intent of the cluster bylaw well. He also felt the 5' buffer of open space surrounding the parcel has no significance. He compared the 1300' common drive to the 1000' foot limit the subdivision regs place on a cul-de-sac. He commented too that the woods are the most beautiful part of the parcel; they are what should be preserved. He warned the board that in approving this cluster they could set a precedent whereby they would have constant applications from developers with small and insignificant pieces of open space to offer. March replied that the 5' buffer does have a purpose; it is to prevent the cluster parcel from being redeveloped through a possible access on abutting land. He said that the driveway could be reduced to 1000', thereby bringing the houses closer to the field and to Cross St., and requiring longer private driveways. In that case, many more trees would be lost. Janet Kelly commented that she too is worried about the water table, and that the town's "rural character" will be more adversely affected by four lots than by three.

Gabor Miskolczy commented that Berry Corner and the Christmas tree farm do not a "granite duck" make. Judy Wells commented that the plan showed too many houses, especially in light of the fact that abutter Ward will also probably wish to develop his land. Colman placed a question to the abutters present: The board has been told, he said, that Carlisle is growing so fast that any open space is worth preserving. He asked if he was correct in assessing that the neighbors present do not agree.

Janet Kelly replied that it is the neighbors' quality of life which is affected more than any one's; they are the ones who use the land regularly.

Ruth Fuhovden commented that when she and her neighbors the Miskolczys were threatened by development on a lot abutting theirs, they bought it.

Mary Beth Stevenson, a direct abutter to the north, commented that she feels open space is of great value in general, but on a personal level, she would be most affected by a house on a frontage lot, so she would prefer any house to be in the rear of the property.

March commented that in his assessment the land could support a subdivision of 3 or 4 lots in which there would be no protected open space, and which would require the greater destructiveness and expense of a subdivision road.

Stuart Johnstone of the Trails Committee stated that the committee feels this trail is worth preserving. Hengeveld asked him if any part of it is protected currently. He responded that no part is protected, but that protection must begin somewhere.

Susan Stamps commented that she agrees with her neighbor Stevenson, and would rather see the woods preserved than the field.

John Fielding observed that the open space discussion had centered on the field; however, in his opinion, the nicer part of the woods is also protected in the open space parcel.

Epstein asked Fielding to comment on the fact that the draft conservation restriction proposes to allow harvesting on the open space parcel. Fielding replied that his intent is to grow Christmas trees and hay for harvest, but he is willing to delete that right.

Chaput commented that she is not familiar with the plan, but that a subdivision may well be feasible, and that if a subdivision plan meets the subdivision rules and regs, the board has no discretion in granting approval.

Epstein asked if any well research had been done. When March responded no, Colman asked if water testing could be done. March replied that it could be done by geotechnical specialists, but he also observed that all the lots are two acres, the standard Carlisle lot. There being no further comment, at 9:45 the hearing was continued to 9:15 on Nov. 27.

Continued Public Hearing on Laurajon Rd. definitive subdivision for Treibick

There were no abutters present; Ken Evans of Baldwin Rd. was present. It was noted for the record that board members had walked the site with agent Wilson on Nov. 5. Wilson explained to the board that he had submitted amended plans on Nov. 2, which had been forwarded to LandTech, whose re-evaluation had been received by Wilson on Nov. 10. He had not been able to respond to that report yet, and knowing the board must make a decision by Nov. 15, he submitted a letter asked the board for an extension of the time the board is allowed under MGL Ch. 41 for the consideration of a definitive plan. Colman and Epstein left the meeting at this time; vice-chair Hengeveld chaired the balance of the meeting. The board felt it would prefer to discuss the two requested waivers when the plan is complete, and all calculations had been reviewed by LandTech. Yanofsky moved that the board grant the request for extension; Tice seconded the motion. Yanofsky, Hengeveld, Duscha, Tice and LaLiberte voted in favor. After consulting with Wilson as to the length of time needed to resolve remaining engineering issues and to submit the resolutions to LandTech and the board in a timely way, Duscha moved the hearing be continued to Dec. 4 at 7:30. Yanofsky seconded the motion, and Duscha, Hengeveld, LaLiberte, Yanofsky and Tice voted in favor. The hearing was closed at 10:00.

Malcolm Meadows preliminary review Joe March, Eunice Knight and Jay Luby of the Carlisle Conservation Foundation, Bill Reeder, Alex Parra, Tom Kilfoyle and Ken Evans were present. It was noted that board members had walked the site with Ken Harte on Nov. 5, 1995. The board continued to review a draft response to the preliminary plan. Duscha expressed her interest in seeing more information on the next plan as to location of homes and driveways across from the project's frontage on Stearns St. She also commented that she felt the open space management plan is on the light side at this point, but she expects it will be fleshed out later. She reiterated her conviction that a garage in the middle of a building is not reflective of a single-family residence, and she commented

thst she had hoped the units would be more densely massed. March replied that the units must sell, and potential owners are thought to prefer the sound insulation provided by garages between units. Some members commented they'd like to see the boardwalk on the Carlisle Conservation Foundation land be handicap accessible.

Yanofsky commented that she would like to see trip end predictions studied further. March replied that a minor traffic study must be done to prove exemption from the traffic study requirement. He intends to show in the definitive submission that the trip ends would be fewer than 100, and to compare that to the trips generated by an eight lot subdivision.

Epstein returned to the meeting. Yanofsky suggested that if the driveway needed to be moved to accommodate abutters across the street, significant trees will have to be taken down. March responded that the driveway can be moved 10' to the east to protect neighbors, but a large oak will need to be removed. In addition, brush and grading work would need to be done along the frontage of the property west of the drive.

Hengeveld asked if any landscaping is planned for screening of Stearns St. from the development. March explained that with the setbacks from wetland required for buildings and septic systems, and the setbacks required by the SROSC bylaw, there is very little room for discretionary design, although perhaps the buildings could be massed slightly differently. Eunice Knight of the Carlisle Conservation Foundation commented that she had walked the site with Ron Peabody, who had told her he won't market the project until the plans are complete, and that he will consider doing some planting for screening purposes. Tom Kilfoyle, who moved to 419 Stearns last year, asked whether there is an established need for senior housing, and whether that need is being met by the elderly housing on Church St. The board responded that the Master Plan expresses that need, and that the board wrote and proposed the SROSC bylaw in response to senior citizens.

Duscha raised the issue of drainage design, commenting that a detention basin in the open space could be an attractive habitat. March replied that it depends on whether the design is earthen or includes structures, and that the increased run-off from the site will be 6% based on an unchannelized sheet run-off system. This will be shown to be considerably less than that occurring in an eight lot subdivision. He felt comfortable with providing the information recommended in the LandTech review letter regarding water useage. In fact, he said, he feels all the LandTech recommendations are reasonable.

Duscha raised the issue of a sidewalk. March commented that the developer feels he has provided a street width driveway, and that a sidewalk is not therefore necessary. If the board wishes a 5' wide sidewalk, he would propose reducing the driveway to 14' wide. The P.A. mentioned that the trail parking had not been accessed by the driveway in the Feb. 1995 plan. How can that use be assessed, she asked. Yanofsky said she would be satisfied with anecdotal information regarding the trail use.

Regarding the waiver from a subdivision style road profile, March explained that if there are no drainage structures along the drive, then a typical section ought to be adequate, but that one could easily be provided if the board wished.

Luby commented that the C.C.F. would like to help the abutters who may be inconvenienced, but that a neighbor who moved to town just as the project was coming to town meeting last year ought to have been reading the *Carlisle Mosquito*.

The board agreed to have a final report to March, which includes direction on his waiver requests, immediately after the next meeting.

Pine Meadows definitive subdivision plan The board agreed to schedule a public hearing on Dec. 18 at 7:30 pm., and to walk the site after Nov. 27 with the new planner assistant.

Alberico accessory apartment decision The board amended and approved the draft decision.

Submitted by Sandy Bayne, planner assistant