

**Carlisle Planning Board
P.O. Box 827
Carlisle, MA 01741**

**MINUTES
November 25, 1996**

CONTINUED PUBLIC HEARINGS:

Special Permit for Accessory Apartment, 45 Pine Brook Rd., Gordon J. Hardy, applicant

Definitive Subdivision Plan for Hunters Run, Brian E. Hebb Builders, Inc.

ANR Plan: Westford St., Sorli

DISCUSSION:

Alternative development plans for Treibeck land on East St.

Ice Pond Subdivision: Request for extension of subdivision approval

Tall Pines Subdivision: Request for lot releases

Overlook Drive Common Driveway: LandTech and Building Inspector's assessment of safety concerns

Chair Colman called the meeting to order at 7:10 p.m. Colman, Duscha, Epstein, Hengeveld, LaLiberte, and Tice were present. Yanofsky joined the meeting in progress. Also present was Planning Administrator Mansfield

CONTINUED PUBLIC HEARING: Special Permit for Accessory Apartment, 45 Pine Brook Rd., Gordon J. Hardy, applicant

Gordon and Alice Hardy of 102 Pine Brook Rd., and Claude and Gunilla Lacoche of 766 North St. were present. In response to the Planning Board's request for a landscape screening plan during the 10/28 hearing, Mr. Hardy explained that Salt Box Nursery had suggested that 5 ft. high hemlocks be planted between the driveway and the northerly property line, close to the property line so that their roots do not go under the pavement. He presented a sketch plan showing the location of eight such hemlocks. He also distributed pictures of the property line at present, and the view of the neighbor's property. Mr. Hardy contended that 10 ft. pines already exist on the neighboring property.

The Lacoche's also submitted pictures of this area, taken from their property and from inside their house, illustrating their view of the Hardy property.

Colman reminded the parties that the screening can only be required as it relates to the accessory apartment and its associated parking. He said it is the role of the Planning Board to make sure that the apartment does not create an added burden for the neighbors beyond the impact of a single family house. If screening would be desirable for the house itself, that is not a requirement the Board can impose. Mr. LaCoche replied that screening would be desirable in any case, and encouraged Board members to visit the site. He submitted copies of a memorandum objecting to approval of the Special Permit, attached to which were three estimates of the cost of screen planting from nurseries in Westford, Acton and Southboro.

Duscha asked how many cars would be parked outside when the apartment was occupied. Hardy replied that there would be two. Alice Hardy added that they will be selling one of their current vehicles, leaving two which would be garaged. The tenants would have a maximum of two vehicles, parked outside. Duscha asked that such a provision be included in the lease and the Hardys agreed.

Duscha also noted that, in the past, the Board has preferred a mixed variety of trees planted in a staggered fashion. Hardy replied that there was not much space to work within, and Mrs. Hardy suggested that some of the trees could be dogwoods. Colman asked if anyone had looked at the site and found that, except for the P.A., no member had.

Tice asked how much of the year the Hardys intended to occupy the premises. Hengeveld asked, "Is this a place where you will never be?" Mr. Hardy replied that Carlisle is where they want to stay and, in response to Hengeveld's question, stated that this would be their primary residence.

Epstein asked how many cars could be parked in the paved area. Hardy replied that, while 6 or 7 cars would fit, only two can be parked there and still have the garage accessible. Epstein questioned further whether they intended to rent out the main residence while they were away on extended vacations, and was assured that they would not. Referring to the purposes stated in Sec. 5.6.1 of the Zoning Bylaw, Epstein asked to whom they intended to rent and what their projected rental rate might be. Mrs. Hardy replied that she was considering offering the unit to her 92-year-old mother, and Mr. Hardy explained that since it worried him to leave his property unattended for several months, he was looking for any occupant. Epstein noted that the purpose for creating an accessory apartment should be more than house-watching, since that could be done in a single-family unit. Hardy added that they expected to rent the unit for \$650-700 /mo., utilities included, but that was not a firm figure. He said he saw a similar unit advertised in Carlisle for \$895.

Epstein asked whether the two families had reached any agreement on the screening. Mr. Lacoche replied, "not at all," and suggested that the trees should be larger, at least 12-14 ft. high. He also added that the Hardys had said they were planning to rent to two nurses, which the Hardys denied. Lacoche argued that the Hardys were not "forced to leave their home," and that they have a current home on Pine Brook Rd. This, he said, is the third property they are building, and approval of this petition will open up the door for other contractors and developers to build new homes with accessory apartments on speculation.

Mansfield explained that William McNary had reviewed his plot plan calculations and had determined that the extension of the steps to the apartment was well within the required setback. In fact, McNary calculated, the sideline of the house could have been extended 18.5 ft. before encroaching into the setback.

Colman then closed the hearing and **LaLiberte moved that the Special Permit for an accessory apartment at 45 Pine Brook Rd., for Gordon J. Hardy, be approved with the following conditions:**

that eight 5 ft. high hemlocks be planted as shown in the sketch plan to screen the parking area and that they be maintained by the owner; and that exterior parking for the tenants shall not exceed two vehicles.

Duscha suggested that the motion be amended to add a third condition:

that the single garage light be shielded so that it does not shine beyond the property line.

LaLiberte accepted the amendment and Hengeveld seconded the motion, as amended.

Epstein suggested that it be a finding of the Board that the use is pursuant to the purposes of Sec. 5.6.1 of the Bylaw, and Tice added that the Board has found this to be the owner's permanent residence, in accordance with Sec 5.6.5.5. The P.A. was instructed to review and document in the decision any other findings consistent with Sec. 5.6.5.

The motion was approved. 5-1-1, Hengeveld opposed, Colman abstaining.

Mansfield then explained to the Hardys and the Lacoche the procedures of preparing a and filing a decision, the appeal period, and recording the Special Permit.

CONTINUED PUBLIC HEARING: Definitive Subdivision Plan for Hunters Run, Brian E. Hebb Builders, Inc.

Present for this hearing were Brian Hebb and his engineers' representatives, Lynne Remington and Charles Caron of David R. Ross Associates, and Susan and Thomas McAndrew, Ferris Taylor, Jon Longley, Stewart Roberts, and Tricia Smith.

Colman reopened the hearing by stating that he recognized that the location of Oak Knoll Rd. has always been a concern for the Town and that the regulation limiting the length of

dead end streets was adopted as a result of the building of this subdivision, where 38 homes are served by a single entrance. The Town wants to see the safety of this area improved, and if there is a reasonable way to connect Oak Knoll to Nickles La., the Planning Board will approve it.

Remington reviewed the information presented at the opening session of the hearing. She reported that staff from her office had met with the Planning and Conservation Administrators and LandTech's engineer, Mark Sleger, the previous week to review technical issues. She noted that the review of the drainage calculations had not been available for that meeting, as they had just been received tonight. She said that the tone of the meeting was how to address the concerns of minimizing the impacts of the subdivision on the environment and the abutters. She said they had concluded that a slightly steeper grade, increased from 8% to 10%, would greatly reduce the area of disturbance.

Caron presented a road profile as it would appear at a 10% grade, and a sketch of how the disturbed area would be reduced. He said that in their experience, 10% grades did not pose a safety problem, especially on minor roads. He also reported that, because the Fire Chief had been concerned about the adequacy of the fire pond/detention basin as designed, they had decided to incorporate a cistern and limit the function of the pond to detention of drainage only. He explained that this modification both solves the water supply concern and improves the aesthetics of the design. He displayed how the new design would provide a buffer from both the property line and the wetlands. Colman asked what the maximum grades were at Elizabeth Ridge, and Tice questioned whether the fill calculations include that required for the detention basin, but Caron could not answer either question. Colman expressed the hope that the redesigned basin would have a "natural" look. Caron responded that he would seek input on the design from Cons. Comm. Duscha asked where the cistern itself would be located, and Caron replied that had not yet been determined since it would depend upon the final grade of the roadway.

Duscha also asked if the results of the additional testing required by the Board of Health had been made available. Remington replied that the tests are scheduled for the first week in December.

Caron then displayed a profile of the roadway designed at a maximum 10% grade, color-coded to show areas of increased and reduced cutting, and reduced filling. He explained that the reduction in cut would be about 7-8 ft. at the Nickles La. end, and the fill would be reduced by 6 ft. in elevation on the hillsides. At the low point at the stream crossing, he said, about 4 ft. less fill is needed. The maximum increase in elevation would be about 14 ft. (it is 20 ft. in the submitted plans). Tice asked about the effect of this change upon the existing driveway at the end of Oak Knoll Rd. Caron replied that the driveway would have to be lowered about 1.5 ft. He added that this revision would also require a transition into the existing pavement on Nickles La., where the elevation would be about 1 ft. higher than the existing common driveway. Colman noted that this would require the

permission of the owners of the common drive. Caron concurred, but added that he expected they would agree to this plan since it resulted in less disturbed land.

Hengeveld asked what effect the revised profile would have on stormwater runoff. Caron replied that it will be handled by a culvert under the driveway. Colman and Duscha asked whether drainage calculations had been prepared for this proposal. Caron replied that they have reviewed the calculations of the developers of Nickles La. and have concluded that they make sense. But Duscha asked for a more specific response. Mansfield read item #6 from the letter from LandTech, dated 11/25/96, regarding the Nickles La. drainage system. LandTech recommends that the applicant "provide a copy of the complete design calculations for the detention basin and its discharge, and calculations showing (that) the current design and performance of the detention basin as constructed will perform as originally designed."

Caron explained that he approximated changes upon the topography from the 10% road profile. He concluded that the disturbed area would be reduced up to 15 ft. on each side of the roadway, that a buffer 10 ft. wide at its narrowest point could be created along the Johnson property line, and that the wetland crossing would be narrowed by 20 ft. In either case (8% or 10% slope), the construction area would be set back 8 ft. from the isolated wetlands.

Colman ascertained that the plans called for using the earth removed from the cuts as fill on site. He said that this may not be considered "good" fill because of its variable texture, nor is he sure it is allowed under the bylaws. Caron replied that such fill would not be used under the road, but could be used on side slopes. He also stated that blasted rock could be used at the bottom, covered with good gravel.

Tice asked whether the increased slope affected the plan for guardrails. Caron was not sure, but suggested they might be reduced up to 200 ft. or so at either end. Tice asked if there was any more aesthetically pleasing alternative to galvanized steel guard rails that would meet specifications. Caron said that there is not, except for steel rails designed to rust. Yanofsky asked how driveway cuts would be affected. Caron replied that, at the places where the cut and fill of the road are minimized, that would be reflected in reduced land disturbance required for a driveway. In particular, he said, the first lot off Nickles La. will require significantly less cutting. Hengeveld asked if lower speeds were proposed for the steeper slopes. Caron replied that the road is still designed for 30 mph., but it would not be a bad idea to post it at 20 mph.

Colman then opened the hearing for comment. Ferris Taylor of 180 Hemlock Hill Rd. described his lot located on the corner of Oak Knoll Rd. and provided the Board with some history. When Hemlock Hill Estates was approved for 34 homes with a single entry point, it was in accordance with the then-existing bylaw. An effort by the Town to avoid a repeat of this subdivision followed its approval, but the residents of the Estates see things differently the Planning Board and other Town officials. This is not the first time a proposal has been made to connect Oak Knoll Rd. to another outlet. But there has

never been a safety issue, he said, fire trucks can maneuver and access all properties in the subdivision. Counteracting safety concerns is a security concern, he added. Cars that don't belong on these streets are easily recognized. He said he would be glad to discuss the safety and security issues with the Fire and Police Chiefs. Moreover, he said, unlike the owners on Nickles La., there are no clauses in our deeds promising an extension of the road. A third issue, he stated, is one of increased traffic and traffic safety, noting that vehicles already have difficulty negotiating the steep portion of Oak Knoll Rd.

Taylor made a proposal: that the Planning Board grant a waiver to extend Nickles La. beyond 1200 ft., by 400-500 ft. A common driveway could also serve property off the side of the cul-de-sac on Oak Knoll Rd. Taylor noted that a similar solution was employed at the other end of Oak Knoll, where lots have frontage on Maple St. But Duscha reminded him that the only way such a proposal could be considered would be if it were brought forward by the developer. Colman argued that the waiver given to allow Nickles La. to exceed 1000 ft. by 200 ft. was to allow a eventual connection. The safety issue, he said, is one of potential blockage of access to and from the subdivision during a storm, particularly for fire and emergency services. But Taylor responded that the entry road is wide and on level ground, and emergency vehicles could go around any obstructions.

Tom McAndrew, 78 Nickles La. raised three questions. The first concerned traffic, noting that the turn coming south on East St. into Nickles La. is poorly aligned. If a through road is created, he said, this intersection has to be rebuilt. He also addressed drainage issues, stating that Nickles La. is not constructed properly and floods and freezes in winter. Finally, he asked how many of truckloads of fill would be brought in, reminding the Board that the impacts of such an operation would be felt throughout Carlisle.

Caron responded that the fill calculations need revision, and Colman asked for an analysis of tradeoffs between the 8% and 10% grades. But Caron stated that they needed to know where the Board would stand on such a waiver request before they can provide any more analysis or information. Hebb suggested that there would be a tremendous amount of savings in both cut and fill if a waiver of the 8% grade was granted. Caron added that he expected the absolute amount required would balance out. Hebb also stated that, in deep fill, blast material is the best base you can use for road construction. Taylor asked for a calculation of the net fill needed if the 10% grade were allowed, and whether the home construction requirements were also part of the fill calculation. He cited an instance where 84 truckloads of sand were required to build a septic system.

Caron calculated that in the original plan, 680 ft. of the roadway was a an 8% grade, while in the revised plan, 500 ft. is at 10%, noting that there are long transitions in the vertical curves. Tice asked if retaining walls could be used to reduce disturbance in the cuts. Caron said he would be concerned about both safety and aesthetics in such a proposal, noting that slopes revegetate and walls do not. Mansfield proposed that where cuts are in ledge, the side slopes could be steeper to reduce disturbance. Caron agreed,

suggesting a 1:1 slope, and Remington added that such areas could be defined in the field because they do not know now exactly where the ledge is.

Colman concluded that some waivers are needed to make the site buildable, but Caron disagreed, pointing out that the subdivision plan as submitted is designed to require no waivers. Nevertheless, Colman stated, a license will be required for the imported fill. But this time Remington disagreed, proposing to bring in 9,000 cu. yds. over two years. Once again, Colman suggested that a further approval, a road-opening permit from the Selectmen, would be required before this subdivision could be constructed. Remington assured him that they have applied for such permission, but the Selectmen are not sure what the process is.

Taylor, once again, asked how to get to the point of agreeing upon a plan that would require a waiver. Yanofsky stated that the Board encourages following the goals of the Master Plan and maintaining rurality, and Hebb is aware of this. But Hebb replied that the benefit to the Town of his proposal is the increased safety provided by connecting the two cul-de-sacs. Taylor replied that while this might be desirable for new development, one shouldn't try to make an existing development comply with the new regulations and standards.

Jon Longley, 21 Oak Knoll Rd., explained that he bought his house because it was at the end of a dead-end street. The increased security more than balances safety concerns. Rules should benefit people already in residence, he argued.

Epstein questioned whether, because of the need for a road connection permit, the Selectmen would have the final say on this development proposal. Colman responded that such was his understanding, and that their action, unlike the Planning Board's, was purely discretionary.

Tice asked Hebb to comment on Taylor's proposal to extend Nickles La. and provide a common drive from Oak Knoll Rd. Hebb replied that he had not analyzed the feasibility of such a proposal, but that it was harder to sell property on a common drive. Yanofsky said she has heard just the opposite from other developers. But Hebb explained that buyers' concerns are with the need for a homeowners' association and a maintenance agreement. Caron estimated that the Town would not be receptive to such a proposal, since Nickles La. would be quite long.

Epstein stated that he needed more specific information on the differential effects of the 10% grade, including the amount of fill needed. He also asked for information on proposed trails, if any. But Caron reiterated that he wanted to obtain a reading from the Board on the likelihood of a grade waiver before performing additional analysis. Epstein and Duscha both replied that they could not make that assessment until they had more exact information, including drainage impacts. Colman concluded that the Board would consider such a waiver, but he could not predict its approval without more information. Furthermore, he said, the Board of Health's position must be known before the Planning

Board can proceed any further. Duscha asked that the Selectmen be asked to clarify their position on a road connection permit as well.

To allow the time necessary to receive this input, **the public hearing was continued until January 13, 1997, at 7:30 p.m.**

ANR Plan: Westford St., Lawrence Sorli

The P.A. explained that this ANR Plan creates a new 7 acre lot at the west end of Lot B, now containing 34 acres, on the south side of Westford St. west of Curve St. The new lot has 410 ft. of frontage, and is comprised of wooded upland, open field and wetlands. It is to be conveyed to a family member. Hengeveld **moved that the Planning Board endorse this ANR Plan**, Yanofsky seconded the motion, and it was **approved 7-0.**

Discussion of alternative development plans for Treibeck land on East St. (Laurajon)

Attorney Jacob Diemert, who requested this discussion, was present along with Russell Wilson, Eric Durling and Ingeborg Hegemann, all representing the property owner. Also present was Fred Lewis, 141 Bedford Rd. Diemert explained that his client has an appeal of the Planning Board's disapproval of a 3-lot subdivision on this site pending in Land Court, and assured the Board that he did not intend to discuss the case directly. Rather, he said, his goal was to discuss some alternative development ideas for the site, including:

- alternatives available under the existing bylaw;
- alternatives that might be created under possible amendments to the bylaw; and
- changes that had been made to the existing subdivision plan prior to its disapproval and not previously presented to the Board.

On an assessors' map of the Treibeck land, he pointed out that it contained 16 acres and has two means of access from East St., each with 80 ft. of frontage, and one access from Bedford Rd. with 50 ft. of frontage.

Under the current bylaw, the land could be developed using common driveways and a conservation cluster special permit, he suggested, but the ANR plan standard would only permit 4 lots, which would not work for his client. He said he could see no other option under the current bylaw. Diemert admitted that he was not familiar with any of the possible proposed changes to the bylaw that might promote more favorable clustering. Duscha replied that, at this time, neither is the Planning Board. But, Diemert added, his client would like to work with the Town to devise a reasonable proposal.

Yanofsky asked how many lots he would like to have. (Colman warned that the discussion was getting very close to the subject of the appeal.) Diemert replied that he would like 7 lots on the sixteen acres, which would include 5 new lots. Epstein asked about the procedures of redress regarding the appeal. Diemert replied that his client is

not limited by a deadline, but may at any time correct the deficiencies that led to the disapproval and so gain an approval of the subdivision. The problem, he said has not been satisfying the Planning Board, but rather coordinating the needs of that Board with those of the Conservation Commission. He distributed a letter from Cons. Comm. Chair Tricia Smith that detailed their concerns, but the copies were unclear. Colman asked the P.A. to get a clear copy from the Conservation Administrator. (It will be distributed to the Board with these minutes and placed in the Laurajon file.)

Diemert then presented a revised plan of the site. Epstein asked if he was trying to address the subdivision's deficiencies with this plan. Diemert replied that he was not, but rather was introducing alternatives. For example, he said, the subdivision roadway could be built with waived standards since it serves only two lots, and two or three more lots could be accessed by way of a common driveway. He noted that this plan shows revised wetland flagging, but stressed that this was not a plan being submitted for action.

Hengeveld noted that while the Board members do not know now what a new bylaw will look like, we are attempting to bring a cluster proposal to Spring Town meeting. Colman added that the Board is in the process of hiring a consultant to assist in that attempt. Duscha assured Diemert that it will be the goal of the Board to foster the clustering of homes and the preservation of rurality. Colman suggested that an applicant would have to demonstrate resource preservation to take advantage of any cluster proposal. Epstein added that any proposal under a new bylaw would have to follow regular procedures, including a new public hearing. But Diemert said that he might prefer seeking waivers through the subdivision process, rather than submitting his client to the special permit process.

Yanofsky concluded that it was helpful to know that this land might be appropriate for a cluster development, and that Diemert's client might be willing to wait until the bylaw was in place. But Diemert responded that he did not want to mislead the Board on the issue of waiting. At that, Epstein expressed confusion, asking Diemert to be specific in what he wanted from the Board now.

Hegemann answered his question, explaining that since they have to revise the Notice of Intent, she would like an informal reading of whether the concept of a waiver of subdivision road construction standards is feasible, in general. Colman said they would have to get back to her on that, but Yanofsky added that past Boards have allowed similar waivers. Colman and Epstein both explained that while under the law the Planning Board cannot consider Conservation issues, the two bodies try to work together. Yanofsky further explained that when considering waivers, the Board tries to encourage development that is consistent with the Master Plan.

Diemert suggested that the next time this issue was on the agenda, Town Counsel should be present.

Ice Pond Subdivision: Request for extension of subdivision approval beyond 12/2/96

LaLiberte recused himself from this discussion. Brian Hebb was present to make his request, and Rudy and Andrea Bunde, Kevin Balboni, and Kurt Hoff of Aberdeen Drive were also present.

Duscha noted that LandTech's memo of 12/20/96 regarding final work to be completed on Ice Pond Rd. does not mention the drainage pipe under the road. Hebb replied that this pipe was added in the field to correct a drainage problem and so does not appear on approved subdivision plans. Nevertheless, Duscha said, LandTech should evaluate whether this pipe is working properly and whether it is likely to undermine the road in the future. Hebb explained that a lot of the water carried by this pipe is ground water. Yanofsky asked that records be checked from 1993 on whether this pipe was ever discussed, or that former Chair Ken Ernstoff be consulted. [No information was found.]

Epstein reminded the Board that the issue before them is the request for an extension of time to complete the subdivision from Dec. 2 "until the end of the paving season." Hebb explained that the Roads Corp. has been contracted to complete the paving before the end of the season. He added that he has staked out monument locations, and that Ross Associates will prepare an as-built plan after the top coat is put on the road. Yanofsky observed that the Roads Corp. estimate did not include the work specified by LandTech in their letter of 11/20. Hebb disputed this, arguing that "leveling" encompassed all the engineer's recommendations. He added that he has also contacted Nashoba paving, who will serve as a backup to Roads to complete the work before the paving season ends, sometime between Dec. 15-25. He also asked that LandTech conduct its inspection as soon as the paving is complete.

Epstein proposed that the extension be granted until December 20. Hebb said he could envision the paving as late as Christmas eve. Mansfield asked if homeowners on Ice Pond Rd. would have access to their properties during the paving, and Hebb replied that the surface can be driven upon right away. Mansfield cautioned Hebb to be sure the LandTech engineer was present for the paving, particularly as the weather gets colder. Hengeveld asked whether Roads Corp. had provided any written confirmation that they will complete the work by the deadline. Hebb replied that they will not give that assurance to him, that being the reason he also went to Nashoba.

Town Counsel had prepared language for the Board to grant the requested extension, and accordingly Tice moved that the Board allow the Ice Pond developer to proceed with the completion of the subdivision after the December 2, 1996 extended deadline, up to and through December 20, 1996, and further moved that the Board forestall exercising its right under G.L. ch. 41, sec. 81U to use the Ice Pond security funds to complete any undone work in the subdivision until after December 20, 1996.

Yanofsky seconded the motion. Epstein proposed an amendment, accepted by the maker and seconder, provided that the developer presents the Board with a letter agreeing to complete the work specified in the LandTech memorandum of November 20, 1996.

Kurt Hoff of Ice Pond Rd. asked if the work is not completed by the extended deadline, will that have an impact on the responsibility for plowing the road this winter. Colman replied that this was an issue for the Selectmen, not the Planning Board. Andrea Bunde asked if Aberdeen Drive, the common driveway, would also be paved. Mansfield replied that it would, although that is not required under the subdivision approval. Kevin Balboni asked what if Dec. 20 passes and the road is not paved. Colman replied that although the Town has no obligation to finish the paving if the developer doesn't, the Planning Board believes that it should be done, therefore, we intend to have the Town finish the job. Is Dec. 20 the last extension the Board will grant, Balboni asked? Colman replied that after that date, nothing can be done until the spring. Epstein added that the Board could not really answer that question now.

The above motion was **approved by a vote of 5-1-1**, Duscha opposed and LaLiberte excused.

Request for lot releases, Tall Pines subdivision

William Costello was present to make this request. Hengeveld recused herself from the discussion. Costello explained that, although he had asked for release of only Lot 22, he also has a buyer for Lot 27 and would like that released also. Yanofsky asked whether there has been an assessment of the remaining land value as security. Costello replied that the average sale price of a lot in Tall Pines is in the \$220,000 range, and after the first of the year he expects it to increase to \$232,000 to \$235,000. Holding the last ten lots as security, as he has proposed, he expects to be worth \$2.4 million. Yanofsky stated her desire for an independent appraisal of the land value by a broker, to be paid for by Costello. Said appraisal, she added, should take into account the "bulk discount" that would apply if the Town were to acquire the land. LaLiberte suggested that a tax appraisal could also be used. Costello proposed giving the Board a listing of the lots sold and their sale prices, and noted that 20% of the outstanding work in the last estimate has since been completed.

Yanofsky **moved to release Lots 22 and 27 in the Tall Pines subdivision**, and Tice seconded the motion. She also proposed that the next time Costello asked for a release, he come with the appraisal and that the discussion be scheduled earlier in the meeting. Costello agreed, and requested an appointment at 7:15 on January 13, 1997. Duscha asked if the trails on these properties have been secured. The P.A. replied that the easements have been recorded. The motion was then **approved by a vote of 6-0-1**, Hengeveld excused.

Overlook Drive Common Driveway: LandTech and Building Inspector's assessment of safety concerns

Yanofsky referenced LandTech's letter of 11/20/96, which reported that both the engineer and the Building Inspector agree that the driveway as it exists is safe as long as proper winter maintenance is provided. But Duscha noted the huge pile of earth in the cul-de-sac, preventing a vehicle from turning around there. Colman also reminded the Board that the road as constructed is shorter than it is supposed to be by the approved plan. What does this say for the future, Yanofsky asked? Colman suggested the situation pointed to the need for on-going inspection of special permit projects, but he warned that this is costly. He observed that the changes to this plan seemed to be an attempt to avoid difficulties with Conservation Commission issues. But Yanofsky said that it is clear that the developer has no regard for the Planning Board's authority, so why should we cooperate? Epstein said that, in his opinion, an amendment to the plan must be approved by the Board, or construction has to follow the existing plans. He thus **moved that until such time as construction is consistent with the originally-approved Special Permit plan, or an amended Special Permit is approved by the Planning Board, no occupancy permit shall be issued by the Building Inspector for Lot G.** Duscha seconded the motion. The motion was **approved 7-0.**

Colman stated that he would call the Building Inspector the next day to inform him of the Board's action, and suggest that he **wait until a letter agreeing to the conditions approved in the preceding motion is received from Les Bishop, and approved by the Chair, before releasing his stop-work order on Overlook Drive.** Yanofsky put the latter in the form of a **motion**, which Hengeveld seconded. That motion was also **approved 7-0.**

Scenic Roads Bylaw (defeated at Town Meeting)

The Board discussed what alternatives they might have to enforce the existing Scenic Roads bylaw (Article XII). Colman asked Duscha if she could present draft Rules and Regs. for consideration by the Board at its next meeting. Duscha agreed to do so, with assistance from the P.A. She noted that most of the drafting work is already done, the only substantive addition being the Selectmen's request that the applicant pay all costs of notice.

Special Counsel Services

Because of the hour, the Board did not discuss the proposals received. Members asked the P.A. to prepare a memorandum to the Board of Selectmen explaining the Planning Board's position and intentions, and that a copy of the *Concord Journal* article reporting on Town Meeting's action be attached to that memo. A brief discussion of appointing a subcommittee to review the legal services proposals concluded that the entire Board should participate.

The item regarding a wireless communication services bylaw was not discussed.

The meeting was adjourned at 11:10 p.m.

Respectfully submitted,

George E. Mansfield
Planning Administrator