



Town of Carlisle

MASSACHUSETTS 01741

Office of

PLANNING BOARD

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MINUTES January 13, 1997

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

DISCUSSION:

Proposal to Selectmen for Special Town Counsel services

Pine Meadow Subdivision: Applicant's failure to record approved Definitive Plans

Malcolm Meadows SROSC: Carlisle Conservation Foundation proposal for trail layout within the Open Space parcels

Chair Colman called the meeting to order at 7:25 p.m. Colman, Epstein, LaLiberte, and Yanofsky were present. Tice joined the meeting in progress and Duscha and Hengeveld were absent. Also present was Planning Administrator Mansfield

The **minutes** of the meeting of November 25, 1996, were approved as drafted on a motion by Epstein, seconded by LaLiberte, by a vote of 4-0. The draft minutes of the meeting of December 9 were held for the next meeting, since LaLiberte was the only member currently present who also attended that meeting.

LaLiberte suggested that the **bills** presented by Kopelman & Paige for October and November, and the LandTech invoice #3624 for Ice Pond Road not be signed by the Board until outstanding issues are resolved. In preparation for the **budget** hearings, he also asked for information regarding the activity in the 53G project review accounts.

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LaLiberte recused himself from consideration of this petition. Present for the hearing were Lynne Remington and Charles Caron of David Ross Associates, Mark Sleger of LandTech, Karla Johnson, Stewart Roberts and Susan and Thomas McAndrew of Nickles La., and Ferris Taylor of Hemlock Hill Rd.

Remington displayed plans and overlays of the proposed project with maximum roadway grades of 10%, rather than 8%, that were in greater detail than the sketches shown at the last hearing, as had been requested by the Board. She noted that in some areas the effect of this change on the amount of cut and fill required is substantial. The deepest cut, she said, would be reduced from 14 ft. to 8 ft., while the highest fill required would decrease from 20 ft. to 14 ft. The changes, she said, would be very significant near the top of the roadway's curve and near the detention basin. The cumulative effects of these changes and those which reduced the size of the basin itself when the fire pond was eliminated will greatly reduce the amount of land disturbance. In summary, the grading change has allowed the engineers to pull the detention basin closer to the road and away from the Roberts/Johnson property. There is also now a 10-15 ft. buffer between the road and the isolated wetlands.

Tice joined the meeting during Remington's presentation. He asked about the type of guard rail that was proposed. She replied that wood had been eliminated from consideration for safety concerns, but alternatives were still being considered. Tice noted that he had seen brown-colored guardrail that blended somewhat with natural surroundings. Caron explained that this was likely steel designed to rust.

Remington explained that they needed some input from the Board, and sought a reaction to the proposed reduction in disturbed area from 185,000 s.f. to 105,000 s.f. Yanofsky asked whether this reduction included any savings at the connection to Oak Knoll Rd. Caron replied that there was not much change at the connection itself, where existing grades must be met. Tice asked about the effect upon the Kelch driveway. Caron said that it appears it will continue at the slope same slope to a new connection. Tice asked about how the change would affect the driveways on the new lots. Caron and Remington agreed that it would require less drastic driveway slopes overall.

Yanofsky asked to review the revised fill calculations. Caron explained that, with a 10% grade, the cut and fill almost balances out. Most of the imported material, he said, will be for the gravel subbase of the road. He added that there will always be some discrepancies in the calculations due to compacting, but he has now estimated that only slightly more than 2200 cu. yds. will need to be brought onto the site.

Colman asked if the roadway could be swung around the detention basin. Caron replied that it could not because the wetlands must be avoided as much as possible. Colman said that, at least, the detention basin should be a different, more natural shape. Remington said that could be accomplished. Colman continued that his other objective is to avoid creating a 600 ft. straight run down the hill that will function as a luge when it ices up. Caron argued that building a curve into this hill will create more of a problem. Sleger agreed, concluding that a driver would be better off on a straightaway than a curve on an icy road. He added that one benefit of the 10% grades as proposed is that the steepest portions occur on straighter sections of the roadway that did the 8% grades, and so are safer. Referring to the comparative profiles displayed by Remington, Sleger explained

that at an 8% design, the steepest portions of the road are 100 ft. longer than at 10%. Many towns use 10% as their standard maximum, he added.

Sleger also noted that he would like to have one deep test hole dug in the detention basin in the wet season to determine its adequacy to handle runoff. Yanofsky recalled that, at an earlier meeting, Hengeveld had asked that the 10% plans include calculation of increased stormwater runoff volumes and velocity, especially at the Nickles La. end. Caron admitted that he had not yet recalculated the drainage, but in the 8% design, more of the road surface is pitched towards Nickles La. Remington added that a field crew is scheduled to go out at the end of January or early February to measure for these calculations. Colman asked that the Board be notified of this field work so that a member can go out with them.

Epstein asked if all LandTech's questions have been answered. Sleger replied that there are still some outstanding questions. Some flow calculations appear to be in error; the Nickles La. detention basin calculations likewise appear to be faulty, and test holes should be dug for all lots and soil tests are required. Mansfield asked if the cut and fill calculations seemed accurate, and Sleger replied that they appeared to be okay.

Epstein asked if the Board had addressed whether the new road is to be classified as a "minor street" or a "through road" as defined in the Rules and Regs. He explained that the grading requirements differ. The P.A. read the definitions for the Board's determination. Yanofsky suggested that the standard should be whether the road will be used primarily by its residents, or if other townspeople will likely use the road. She said that, in her opinion, the road will not be used as a short cut to any destination outside the subdivision. Others observed that residents of Oak Knoll and Hemlock Hill roads may use this connection for more direct access to East St., but in the end a consensus was reached that this will be a minor street.

Yanofsky asked if Chief Koning should be consulted on the acceptability of a 10% grade. Colman agreed that this should be done. Sleger suggested that there could be a problem with some older fire equipment.

Colman then opened the hearing for public comment. Stewart Roberts of Nickles La. said that he appreciated the Board's efforts to mitigate the effects of this subdivision, and that he believes the increase in grade is desirable. However, he would like to see even less fill used. He also commended the efforts to eliminate the fire pond, but would like to see a detention basin with a more natural design. He expressed concern about the amount of blasting required for the cuts, and suggested that blasting could be minimized by leaving exposed ledge. Remington noted that in order to do so, the Board would have to grant a waiver to allow 1.5:1 or a 1:1 slopes. Sleger added that the drawback to such a design would be reduced safety for children climbing on the banks or playing near the road. Tom McAndrew of Nickles La. also addressed this question.

Karla Johnson of Nickles La. asked Caron whether he had considered a change of alignment of the road at the Nickles La. end to further reduce the cut required. Caron replied that the maximum shift possible would amount to only 5 ft., not reduce the cut that much, and require substantially greater cuts for new driveways. Johnson asked if the sidewalk could be shifted to the northwest side of the road to achieve some of the same cut savings. Caron said that he could do that.

Susan McAndrew of Nickles La. admitted she was still confused about the amount of fill required for this project. Why, she asked, was there such a big discrepancy between the original estimates of the fill necessary and the estimates being stated now? Caron replied that the original estimates were uninformed, and that LandTech has confirmed the accuracy of the most recent calculations. Tom McAndrew said that the most important question is how many trucks will be required to bring in the fill. Caron replied that, for 2,225 cu. yds., using normal 10-wheel trucks, he would expect about 100-130 truckloads brought in over at least 10 to 12 weeks. McAndrew said he assumed that this estimate did not include the fill required for septic systems or other private lot construction. Colman confirmed this assumption.

Colman stated that the Planning Board is under a mandate to connect long, dead-end streets where we can, unless Town Meeting changes that mandate. Ferris Taylor of Hemlock Hill Rd. noted that a through connection could be made to Rutland St. without fighting the grade, and furthermore, the Planning Board can grant a waiver to the bylaw. Colman replied that he was not sure the Board could do that. He went on to say that the real decision is how to make this proposal work, if that is possible.

Taylor agreed with others that the impact of the construction on the site is reduced in the revised plan, but observed that no consideration has been given to providing holding areas for the dirt while it is being moved around. The need for such areas will disrupt even more land, he said.

Johnson reported that earlier that day she had damaged her car on a rock at the intersection of East St. and Nickles La. She complained that the poor design of that intersection creates a safety issue that will be exacerbated by the additional traffic introduced by this development. But Colman said the Board cannot address this problem; residents should take problems with existing Town roads to the Selectmen. Tom McAndrew replied that Selectman Chaput had told them to take this concern to the Planning Board. Yanofsky speculated that Chaput may be suggesting that the Board extract some improvements from the subdivision developer. She asked the P.A. to search the files for clarification on this issue and made reference to a change of direction of Spencer Brook Rd. in Concord. Mansfield explained that, particularly in traffic issues, the courts have upheld requirements for developers' contributions to off-site improvements that clearly mitigate impacts from their projects. But, he added, it is important to negotiate an agreement with the applicant, if possible. Colman asked the Ross engineers to investigate with their client his willingness to undertake improvements to the alignment of this intersection.

Tom McAndrew observed that this subdivision is very different from Elizabeth Ridge, to which it has been compared. There are no guardrails nor retaining walls in Elizabeth Ridge, he said. He also noted that this road cannot be connected to Rutland St. because of too much intervening wetland, so any further subdivision of the property to be retained by the owner, Kydd, will require a cul-de-sac. It should all be proposed now as one package, he said.

Several concerns were raised about the blasting needed to make the cuts. Roberts reported that his well was near the property line, and asked how it would be protected. Epstein asked how much blasting was anticipated, and how the concerns of the abutters would be addressed. Caron replied that he could not be sure of the extent of blasting required, but made a rough estimate of a maximum of 500 ft. to a depth of 10 ft. the width of the roadway. Colman asked that they be more specific and get back to the Board. Epstein noted that if the subdivision is approved, a significant amount of security will be required of Hebb because of the extensive site work involved. He should make a proposal to the Board, he suggested. Colman explained that the Board's engineer sets the value of the security guarantee, and the developer specifies the form. Epstein said he wants to make sure that the security includes all potential damages to abutters.

Tom McAndrew asked for an explanation of the Planning Board's role in assuring that the road is built according to specifications. Colman explained the process, and assured him that the Board and its engineer will maintain close oversight. McAndrew asked if this oversight included the staging of trucks and the storage of equipment on and off site. Colman replied that these factors can be written as conditions in the certificate of approval. Taylor noted that the condition of Oak Knoll Rd. is deteriorating, and heavy truck traffic will hasten its need for repair. Caron replied that the construction will proceed from the Nickles La. end and will have little impact on Oak Knoll Rd. But Colman added that the Board will ask the DPW to evaluate the condition of the access roads before construction and, if they are damaged, their repair will be the responsibility of the developer.

Remington asked if the Board is moving in the direction of support for a waiver to allow 10% grades. Epstein said he was not yet prepared to answer that question. Tice and Yanofsky both stated that while the revisions to the plans seem to be a clear improvement, they would like to have more information. Colman said he believed the engineers are moving in the right direction. Remington suggested that, if the Board was not yet ready to take a position, they should postpone their January 14 meeting with the Selectmen. But Taylor objected, stating that the Selectmen need to hear from the residents now.

Yanofsky suggested that the Board engage a landscape architect to review these plans before making a final decision on the grade waiver. She said that such a review could suggest what other measures might be taken to minimize the aesthetic impact of the

proposed roadway. The other members agreed, and asked the P.A. to ask LandTech for a recommendation of an architect who might perform this service.

The schedule for further hearings and decision-making was discussed. Mansfield pointed out that, since the 135-day period to act expires on February 12, the Board should make a decision at its next meeting, January 30, or the applicant should request an extension. However, since the Board of Health has not yet issued its approval, the Planning Board cannot approve this plan, even if all the other information was available. Remington said that she could not have revised drainage calculations for LandTech to review until the Board decides whether 8% or 10% grades should be used. Colman replied, however, that the Board's decision on grades depends, at least in part, on the review of these calculations.

Because the January 30 meeting will be devoted primarily to working with the Board's consultant developing an Open Space bylaw, it was suggested that **the hearing be continued to 7:30 p.m. on that date, with the intention of restricting consideration at that time only to a request for an extension of time, at least until March 15.** Yanofsky **so moved**, and Tice seconded the motion which was **approved 4-0-1**, LaLiberte recused. A further continuance will then be entertained at that time, probably until February 10.

Proposal to Selectmen for Special Town Counsel services

Colman reported that he had spoken with Selectmen in advance of the meeting tomorrow, and found that they are interested in having the Planning Board explain its reasons for requesting Special Counsel. He said they appear to believe that if Town Counsel does not represent all boards, that could lead to problems. He thinks they place a strong value on retaining one firm to represent the entire Town. Mansfield distributed a list of towns where planning boards are served on occasion by special counsel, developed from the qualifications packets that had been submitted to the Board by several firms. He explained that he had also spoken with Jim Lampke, the Secretary of the Mass. City Solicitors and Town Counsel Association, and learned that at least two towns, Rockland and Dracut, display the model of an on-going separate special counsel for the Planning Board such as this Board has proposed. Mr. Lampke also suggested several firms, almost all of whom have already submitted their qualifications.

Pine Meadow Subdivision: Applicant's failure to record approved Definitive Plans

Applicant William Costello and his attorney, Richard Gallogly, were present for this discussion. Gallogly explained that in December, Colman, having learned from the P.A. that the Pine Meadow Definitive Plans, approved in March 1996, had never been endorsed or recorded, brought this situation to his attention. Under the Board's Rules and Regs., he said, unless the plans are recorded within 60 days of the expiration of the

appeal period [April 3, 1996], the subdivision approval is automatically rescinded. Mansfield read for the Board the relevant section of the Regs., 3.B.9.a. Gallogly said that he and his client wished to discuss where they should go from here. He said he was a little perplexed and did not understand the purpose of this regulation.

Colman cited Town Counsel's opinion dated 1/10/97, and concluded that this is a rule of the Board, the applicant missed the deadline and thus must refile the plan to obtain subdivision approval. Epstein added that one cannot assume from the conduct of the Board during its deliberations last year that they waived this reg., unless it was specifically so stated. But Gallogly argued that procedural rules do not require an express waiver, citing the Meyer case, which he distributed. He also argued that the certificate of approval is the controlling document after the Board's vote. Specific regs. that are meant to be in effect after the approval should be restated either in the certificate or in the covenant (which was never offered), he said. He explained that he had suggested in a conversation with Town Counsel that the 60-day period be extended by the Board at this time. This is his client's request, he said, adding that they are not prepared to refile the plan at this time. Even if they were to refile, he added, they could not record a new approval within 60 days, since there is a wetlands appeal pending whose outcome may include inconsistencies with the easement rights granted to the Town in the subdivision plan. He also asked whether these easements have been reviewed and approved by Town Counsel. Mansfield assured him that this work was completed last spring.

Epstein concluded that Town Counsel has presented the Board with only one alternative, and that requires the applicant to refile. But Gallogly distributed a letter to Town Counsel stating the position he had presented. Epstein asked the P.A. to make an appointment to discuss this letter with Town Counsel via conference call, including himself, LaLiberte and, perhaps, Colman.

Malcolm Meadows SROSC: Carlisle Conservation Foundation proposal for trail layout within the Open Space parcels

The Special Permit decision for the Malcolm Meadows SROSC, approved by the Board last April, included a condition that the approval was "subject to the Planning Board's subsequent approval of the initial layout of the trails within the Open Space,..." Eunice Knight of the Carlisle Conservation Foundation (CCF) was present to seek that approval. She presented a hand-drawn plan, dated 1/13/97, showing the layout of both a handicapped- accessible trail and a standard trail system. She explained the Trustees of Reservations (TOR) have provided an estimate of the cost to construct this trail at \$10,000. She said the CCF hopes not to have to strictly adhere to the standards in the TOR estimate for the accessible trail, so that they can do more on the rest of the trail system. Although the plan does not show the trail connecting the accessible trail to the parking area to itself be accessible, Knight said to convert that trail for handicapped use should be easy since it is over a level open field. She also said that the trail builders

intend to "wiggle through" the white pine stand to the west of the condominiums, saving most of the trees and screening the trail from sight. She added that the CCF intends to go next to the Conservation Commission for approval of the wetlands crossing. With their approval, she said they will be removing some of the underbrush.

Epstein suggested that the plans met the standards of the Special permit decision for approval. Thus, Yanofsky **moved approval of the final layout of the trail system within the Malcolm Meadows SROSC, substantially as shown on the CCF plan dated 1/13/97, provided that the final plans are submitted to the Planning Board for their files.** Tice seconded the motion and it was **approved 5-0.**

Tice left the meeting at this time.

Discussion of possible proposed bylaw amendments for wireless communication services (cellular towers)

Mike Symonds of 70 Canterbury Court was present for this discussion. he explained he would have been impacted by the tower proposed last fall on Bedford Rd. He urged the Town to address this issue, concluding that if there is a need for such a structure, a suitable place might be found in town, such as a church steeple.

Epstein, who had originally suggested this item be addressed by the Board, asked that someone else take the lead on it. LaLiberte asked if any materials were available from the recent MAGIC meeting on this subject. Mansfield explained that Duscha had not been able to attend, but that he would seek any materials from MAPC.

Yanofsky said that there is a packet available from the APA on this subject that she will search out. She also offered to head up this effort, noting that she has some familiarity with the town's topography and will discuss public safety needs with Chiefs Galvin and Koning. As Building Inspector, the latter also has other information on this subject, she said. Epstein suggested that she also contact Selectman Chaput and Town Counsel for more information. Yanofsky concluded that she would prepare a memo for distribution at the meeting of 1/30.

Draft Rules and Regulations to administer the Scenic Roads bylaw

This draft had been distributed for a previous meeting. In the absence of both Duscha and Tice, Mansfield explained that they each represented two points of view on the need for these rules and regs. and any discussion should be had when they were present. Those present agreed and suggested that discussion of this item be continued until February 10. Epstein observed that Duscha, as the primary author of these regs., should be well prepared to answer the questions that were raised at fall town meeting. There was some discussion of how the record of Town Meeting could be obtained, since

minutes are not produced. Members suggested that the P.A. work with Duscha, using the handout he prepared for Town Meeting and perhaps the audio or video tape of the session , to try to reconstruct the questions.

1996 Town Report

Mansfield reported that the Town Report is due on February 4. Yanofsky offered to prepare a draft of the report with particular attention to growth management implications.

Members asked if copies of the Assessors' Maps could be obtained for each member.

The meeting was adjourned at 10:00 p.m.

Respectfully submitted,

George E. Mansfield
Planning Administrator