



# Town of Carlisle

MASSACHUSETTS 01741

Office of

*PLANNING BOARD*

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## MINUTES June 9, 1997

**CONTINUED PUBLIC HEARING: Definitive Subdivisions Plan for Hunters Run (off Nickles La. and Oak Knoll Rd.). Brian E. Hebb Builders, Inc., applicant.**

### **DISCUSSION:**

**Report on completion of Ice Pond Subdivision**

**Board liaisons and subcommittees for 1997-98**

**Review and discussion of future proposals to amend Zoning Bylaws to permit/encourage Open Space Residential Development**

**Discussion of potential Common Driveway Special Permit application, 307 Cross St. (Ford)**

**Notice of intent to remove land from Chap. 61 status: Mill Pond Lane off Curve St., Lot 6, 14.5 acres**

Chair Yanofsky called the meeting to order at 7:20 p.m.. Members Abend, Duscha, Epstein, Hengeveld, LaLiberte, Tice were present. Also present was Planning Administrator George Mansfield.

The minutes of the meeting of May 27, 1997 were reviewed and amended as follows: 1) On page 3, regarding the trail ending on Page Brook Road, Duscha noted that she hadn't actually spoken with the Carpenters, but rather the Trails Committee discovered that this was a private easement; 2) On page 4, Duscha had actually asked if "Costello intended" to preserve the large trees. 3) Also on page 4 Duscha requested that the term wetlands be clarified by also noting "(Rivers Act);" and 4) Epstein noted that on page 5, in the motion, "U" needed to be capitalized in the term "section 81-U." Hengeveld moved to accept the minutes as amended. Tice seconded and the minutes were approved 7-0.

### **Board liaisons and subcommittees for 1997-98**

Yanofsky explained the requirements of the various liaisons and subcommittees. Duscha said she will continue to work on the Conservation Commission and with MAGIC. Yanofsky is retiring from the Long-term Capital Requirements, but will work with the Selectmen. Abend will take over the Long-term Capital Requirements. LaLiberte will continue working with the Historic Commission and Tice with the Board of Health. Epstein is retiring from Cons. Comm. since he feels one representative is sufficient. A liaison is not needed for the School Committee.

**LaLiberte moved to accept the Liaison Committees as stated above and Tice seconded.** The motion was approved 7-0.

Regarding the subcommittees, LaLiberte agreed to chair the Study Plan Implementation Committee with all Planning Board members being members on the committee. Yanofsky noted that Rich Colman was previously on the Rules and Regs. subcommittee and it was suggested that he be invited to serve on this committee as an associate member. Epstein asked what the Study Plan Implementation Committee actually is. Yanofsky explained that it is also known as the Master Plan Committee.

### **Review and discussion of future proposals to amend Zoning Bylaws to permit/encourage Open Space Residential Development**

Epstein asked if the board believed that what was presented at Town Meeting was good even though it was defeated at Town Meeting. LaLiberte thought it was good, but needs some modifications. The Board should present it again at either fall or spring Town Meeting. Some cautious steps should be taken on the open space issue. Yanofsky asked if he had any particular changes in mind. LaLiberte said that the text needs to be clarified. The board must address the issue of being able to place wells in the open space. Some other technical aspects need to be fine tuned. If the board decides to proceed and make another presentation, it shouldn't go back and start over. The board should concentrate on better communication and address the tax issues and concern over Pope Road. Abend suggested that the board obtain the minutes from Town Meeting and address specific issues that came up there. Those who spoke up at T.M. should be contacted and asked for their input in resolving these issues.

LaLiberte suggested that if a concrete example is given, there will be individuals who will oppose specific sites.

Abend suggested contacting a developer and asking them how the open space issue was handled on a similar parcel of land in another town.

LaLiberte noted that people seemed to be against the development on Pope Road where the houses are close to the road along with the septics. It is important to have more tax

information available and to keep people informed via the "Mosquito."

Yanofsky said that the board needs to be careful about being too specific while making people aware of the general plan. People also need to be made aware of the fact that developers are making inquiries.

Abend said that timing is an issue. When he read the Municipal Incentives Grant (MIG) proposal he noticed that a great deal of attention was given to the fact that the open space proposal was defeated at T.M. and that funding is needed to sell the proposal at the next T.M.

Mansfield explained that this particular grant application will move forward quickly and the board will know by early September whether or not it has received funding.

Epstein mentioned that Vivian Chaput informed him that the selectmen are not in favor of allowing this proposal to be on the agenda again this fall.

Yanofsky said that the board should be able to gain enough public support to petition the selectmen to include this on the agenda. She did note, however, that the entire board would need to be committed to this issue since it is too big a project for Epstein and LaLiberte and Yanofsky to handle alone.

Having read the grant application LaLiberte noted that there might be good reason to delay this issue until the spring, but the board did want to coordinate this grant with other town boards. Mansfield explained that this grant is not really designed for bylaw development. It is actually designed for Rules and Regs. and making them consistent with the Bylaws and the Master Plan.

Epstein wanted to know what actually needs to be done to get ready for T.M. The meeting is planned for early November and he already has a list of thirteen items that need to be addressed. The summer months, when people will be away, are also ahead and the board may not want to push for this at fall T.M.

Yanofsky asked the P.A. if it was known when the library was to receive funding.

Mansfield said they will know in early August. The Planning Board will know by the first of July if it can proceed with a further application. There is a 1-in-4 chance of obtaining funding.

Yanofsky asked Epstein to go through his list of things that need to be done.

Epstein listed the following issues that need to be addressed before the Open Space Zoning Bylaws can be presented at T.M.: 1) Wells in the Open Space; 2) Visualization (show how clusters work); 3) Tax base issue; 4) Strategy and timing. Have the other boards show support at T.M. [Yanofsky said she had heard that most people were in support of the

enough. Yanofsky suggested that there be an informative presentation at T.M. to educate the people.]; 5) Presentation. Previously the board ran out of money so illustrations were not available; 6) Show the percentages of lots in the wetlands and uplands; 7) Explain pork chop lots. People seemed to like these and were reluctant to move away from this. The board did clarify this issue. [Duscha said that people seemed concerned that more development might actually occur if pork chop lots were restricted. Yanofsky suggested that this issue be brought up with an engineer.]; 8) Research other towns; 9) Research how many large tracts of land are available in town and be prepared to answer this. [Duscha noted that this list has now been compiled.]; 10) Research if this will cause a greater likelihood of development on marginal land.

Yanofsky noted that the board seems to agree that it should go ahead with this proposal and the question is whether the presentation should be made this fall or next spring.

Abend said he would be available this summer to help.

Yanofsky said this might not be enough and there may be advantages to waiting until the spring, but the board will be taking a gamble on what else will come in.

Mansfield mentioned that a number of engineers have made requests for copies of the Rules and Regs. in the past few weeks. There seem to be other projects in the works.

Mansfield then explained the grandfathering of subdivisions in the zoning bylaws. If a preliminary subdivision plan is filed under the old bylaws prior to the vote of town meeting, and that is followed by a definitive plan within seven months, then that land operates under the old bylaws for 8 years.

**Continued Public Hearing: Definitive Subdivision Plan for Hunters Run (off Nickles La. and Oak Knoll Rd.), Brian E. Hebb Builders, Inc., applicant**

Present for this hearing were Brian Hebb and his representatives Paul F. Alphen of Balas, Alphen & Santos, P.C. and John Boardman of Ross Associates. Also present were David Kelch, Karla Johnson, Stewart Roberts, Ferris Taylor, Jerry Smith, James A. Ford, George E. Senkler and Kathleen Coyle. Board member LaLiberte recused himself from this hearing.

Mansfield opened by giving an update and presenting additional documents received since the last hearing date of May 27, 1997: 1) Letter from Alphen dated June 2, 1997 with proposed covenant. 2) Letter from Town Counsel Judith Cutler recommending rejection of the covenant proposed by Alphen. 3) Two memos from the Board of Health regarding concerns over blasting and possible damage to wells. 4) Letter from Alphen dated June 5, 1997 in response to Attorney Wickersham's letter dated May 23, 1997. 5) Copy of the final draft of the Beals & Thomas letter discussed in draft form at the last meeting.

Yanofsky asked if there had been a response to the LandTech letter dated May 23, 1997. Mansfield said that no further plans had been submitted to LandTech by Ross. Boardman said that he has met with Mark Sleger to review all items. Hebb has been working on a complete revision of the 8% plan along with the covenant mentioned. Yanofsky asked what they are expecting from this meeting. Boardman replied that they do not expect final approval at this meeting, but would like to know how the board feels about the proposed covenant. Boardman went on to show plans and address each item stated in the May 23rd letter from LandTech. Items one and two have been added. Regarding item three, he is scheduled to attend the Selectmen's meeting on Tuesday June 17, 1997 to request this in writing. Item number 4 is being modified. Item number 5 simply needs to be noted. Regarding item number 6, details are being added to the plan to show the fire cistern and drainage plan. The cart path mentioned in item 7 has been located and will be shown on plans. Item number 8 has been revised. Regarding item number 9, Boardman has discussed drainage with Sleger. Sleger is satisfied that the pond size at Nickles Lane is adequate. Boardman also noted that the way that the Planning Board regulations are written they state that there shall be no increase in flows from pre to post development at the property line. It is therefore necessary to obtain a waiver since the detention basin is outside of the property line. A request for a waiver will be in the mail tomorrow. Boardman intends to have the completed plans and drainage to Mark Sleger by the end of Wednesday. He would like to have the completed plans reviewed and ready for the July 7, 1997 meeting.

Epstein asked about the other waivers. Boardman explained that the first is a waiver, Sec. 4.A.2.a. which would allow an offset of the pavement within the right of way where it meets Nickles Lane. The second is regarding the naming of the road as an extension of one of the existing roads.

Epstein asked why they are not going forward with the 10% plan. Boardman said that Hebb is concerned about the time frame and actually gaining approval for the 10% plan.

Yanofsky asked if they addressed the concerns raised by the Board of Health regarding blasting. Boardman admitted that the 8% plan required more blasting. He is not familiar with other techniques of rock removal. Mansfield pointed out that the Board of Health has agreed to have their engineering consultant research alternative methods of rock removal.

Paul Alphen introduced himself and explained why Hebb is going ahead with the 8% plan. Hebb had asked him what would happen if he works on the 10% plan and it is then appealed by abutters. He preferred to go ahead with the 8% plan which has fewer waivers and is less likely to be appealed. He referred to the Chapter 41, sec. 81U covenant. The proposal prevents construction of the 8% plan until the final definitive 10% plan was also submitted. If the 10% plan were then appealed, Hebb would have the 8% plan to fall back on. Alphen said he was open to other suggestions that would offer Hebb some guarantees.

Epstein asked to be refamiliarized with the 8% plan since it hadn't been the focus of discussion in recent meetings. Boardman showed the plan and explained the grading and the differences between this plan and the 10% plan.

Duscha asked about the fire cisterns. Boardman said they will be on Oak Knoll.

Abend asked about the overall affected area, but Boardman could not give actual numbers. He showed the visual differences on the plans.

Epstein asked if other roadways in Carlisle have similar elevation. Boardman recalled two in Shirley. Hebb said Elizabeth Ridge is similar.

Tice wanted to know the total amount of fill. Mansfield located the numbers as follows: 12,084 cu. yds. are needed. 11,803 cu. yds. are available on site. Net fill required would be 281 cu. yds. of imported fill if all on-site fill is usable.

Hengeveld asked how many trucks that would be, but the answer was not known.

David Kelch asked if the suggestions made by the landscape architect were considered and also wanted to know if the issues raised by the Board of Health were addressed.

Boardman replied that the letter from Beals and Thomas was looked at, but since they are interested in minimizing the waivers, those suggestions will not be used for the 8% plan.

Epstein asked if the Planning Board actually has the authority to make a decision regarding the blasting. Mansfield said that there is nothing in the Rules and Regs. addressing this issue. Epstein suggested that Town Counsel look into this.

Jerry Smith asked how this plan does not comply. He was referred to the three waivers discussed earlier. He also asked if a limit could be placed on the number of truckloads coming in and out of the site. Duscha said a special permit would be required if they exceed the allowed limit. Mansfield said this limit is 1000 cu. yds. in a 30 day period.

Having read the letter from Judith Cutler, Alphen commented that the primary concern of the letter seems to be enforceability of the covenant. He proposed that the board provide Hebb with assurance that Hebb is working in a positive direction and in return, Hebb will assure the board that he won't begin construction until he has presented the 10% plan as well. Alphen suggested working with Town Counsel to come up with appropriate wording to satisfy both parties.

Abend said he is still inclined to approve the 10% plan conditioned on the modifications.

Boardman said that Slegler had suggested that this was an inappropriate action by the board.

Hebb said that he is not in a position to go into a full blown 10% plan.

Yanofsky said that the board cannot go forward with the proposed covenant based on the letter received from Town Counsel, and there seems to have been no progress made since the last meeting.

Alphen objected, saying that another possibility has been presented and he is looking for feedback from the board.

Epstein said he is not in favor of approaching the problem with the covenant. He was expecting more on the 10% plan. He would prefer a vote on one plan or the other.

Hengeveld asked what will be done at the next meeting. Hebb said he will present the 8% plan. Epstein noted that it seems we are moving toward a vote on the 8% plan and the covenant that has been presented. Hebb has moved away from the 10% plan.

Alphen requested an extension to July 15, 1997.

Tice moved to grant the extension. Hengeveld seconded.

Abend asked about the timetable. Boardman said he is hoping that by the next meeting Sleger will have looked over the plans and all outstanding issues will have been resolved.

Abend said he would like to have a letter at the next meeting from Sleger, either with comments or recommending approval.

Yanofsky expressed disappointment that Hebb had worked hard to come this far and is now interested in returning to the 8% plan.

Tice said he is not at all interested in the 8% plan. Epstein said he would still like to keep the options open.

Mansfield noted that Paul Alphen wanted authorization from the board to work with Judy Cutler on the wording of the covenant. This would assume that Hebb would cover the costs incurred.

Epstein asked if this route is taken (the covenant) the board should discuss it with Town Counsel to see if there is a contingency approach.

Hebb said if there are costs involved he'll take care of it. It is his responsibility.

Mansfield asked Boardman to keep LandTech informed of the schedule.

The motion on the table was approved 6-0-1. LaLiberte was recused.

Abend moved to continue hearing on July 7, 1997, 8:15 p.m.. Hengeveld seconded. Approved 6-0-1 with LaLiberte recused.

**Report on completion of Ice Pond Subdivision**

LaLiberte was also recused from this discussion.

Hebb reported that the bounds will be in on June 16, 1997 and the swale will be dug at the same time. The swale for drainage was not shown in the original plan. Mansfield said he understood that there was a swale in the original plan that will accomplish this. Boardman said that he has approval for the additional swale from Cons. Comm.

Mansfield said an extension need not be granted if the project is completed on June 16, 1997.

Hebb also reported that the paving is done.

**Discussion of potential Common Driveway Special Permit application, 307 Cross St. (Ford)**

Ford came forward to show an ANR plan endorsed on May 27, 1997, showing two existng pork chop lots. He would like to sell one lot, but must create an access to it. In order to avoid the wetlands he would like to make the existing driveway into a common driveway to service both lots.

Duscha asked how long the driveway is. Ford estimated approximately 800 ft. of common drive. The driveway currently serves Lot 2B and will serve a future house on Lot 3A.

Mansfield noted that there are currently three drives side by side on Cross Street.

Tice asked what would be required to bring the existing driveway up to code for a common driveway. Ford explained that the original driveway already has a deep foundation, but it would need a turnout for the fire department.

Duscha asked if the Kendalls had been contacted. Mansfield explained that the driveway runs along the Kendalls' property line and perhaps some screen plantings should be recommended since the Kendalls have many windows looking out on this driveway. Mansfield also recommended combining the Kendall driveway and this one at the end so that there is only one outlet onto Cross Street. Ford said he had discussed this with the Kendalls, but they were not interested.

Epstein asked if the new driveway could be prevented from continuing onto Cross Street. Ford said it couldn't since it would have to go through the wetlands. Epstein suggested adding a condition to assure it wouldn't continue through.

Mansfield pointed out that there is a hump in the driveway and recommended that the fork in the drive should come before this hump. Ford said that fill has been proposed to flatten the hump and improve sightlines.

Mansfield expressed disappointment that the Kendalls and Mr. Ford couldn't be here together. He would prefer to have only one entrance off of Cross Street.

Ford asked when he could present the plans. Mansfield explained that once the plans are submitted, the board must hold a Public Hearing within 65 days. Ford is obligated to advertise 14 days prior to the hearing. Ford will try to be prepared for the July 7, 1997 meeting.

At 9:35 p.m. Epstein excused himself for the remainder of the meeting.

Yanofsky explained to Joe March that the Tall Pines issue would not be addressed this evening.

**Notice of intent to remove land from Chap. 61 status: Mill Pond Lane off Curve St., Lot 6, 14.5 acres**

LaLiberte recused himself from this discussion.

George Senkler presented the plans of his property and explained that 7 years ago the Planning Board had approved a common driveway on this property servicing 6 lots. The original engineers laid out the lot lines without regard to topography so one lot has the driveway cutting through it. Lot 6 is under a Purchase and Sales agreement. Senkler is applying for a land swap of 22,315 sq. ft. from Lot 6 to Lot 5. He would also like the board to consider a recommendation to the Selectmen on his proposal to remove Lot 6 from Chap. 61 status.

Regarding the ANR, Duscha **moved to endorse the plan**. Tice seconded. The motion was approved 5-0-1 with LaLiberte recused.

Regarding the Chapt. 61 Forestry Exemption, Senkler pointed out trail easements and gave the past history of the property. He said the town already has benefits from this land. Hengeveld asked if this land abuts state owned land. Senkler explained that Lot 1 abuts state land. In the original approvals, the town received many benefits without cost.

Abend asked if the land could be further subdivided. Senkler answered no.

Duscha said that the benefit of buying land would be that the Trails Committee prefers to have CR's rather than public easements. Mansfield explained that he had made a tour of the site and there are houses in view from this land and vice versa. The selectmen have asked for a recommendation by July 18, 1997.

Abend said there are some questions regarding the various methods of providing public access.

Senkler said that Cons. Comm. has replied and did not recommend purchase. The Selectmen have 120 days to reply. Mansfield said that a recommendation must be made at the next meeting.

Abend suggested that if only one house can be built on this land, then the town should save its money for other parcels of land.

**Hengeveld moved to send a letter to the Selectmen stating that no action be taken regarding purchase of this land.** Abend seconded. The motion was approved 4-0-1-1 with Duscha abstaining and LaLiberte recused.

### **Other Business**

Regarding review of Town Counsel, Yanofsky asked if a letter to the Selectmen should be drafted, or if a meeting with them would be better. She also asked if she could be given the authority to draft the letter herself.

Duscha asked that the letter also mention that others in the same firm were not any more helpful.

Mansfield noted that the Alphen letter Cutler recently reviewed did have a quick turn around time being sent on Thursday and returned on Monday.

Abend expressed concern that Judy Cutler does not have experience in dealing with local ordinances and town government.

Mansfield spoke with Richard Colman who confirmed that Kopelman and Paige, P.C. had agreed to attend one meeting per month *pro bono* indefinitely.

Regarding **budget** items, LaLiberte said there are a few weeks left in the fiscal year and they will be able to pay all bills except those from Kopelman and Paige. The four law suits in the past year have drained the legal budget. The board needs to meet with Fin. Comm. to express these concerns and indicate a need for an additional \$500. Yanofsky suggested a phone call first followed by a letter stating a need to transfer \$500 from the reserve fund. Tice agreed to call Fin. Comm. LaLiberte will work with Tice to resolve this issue.

Yanofsky said that the Tall Pines issue will not be reviewed at this time since a complicated letter was just received from Gallogly and it needs to be reviewed by Town Counsel first. This will be discussed at the next meeting.

Mansfield said the scenic roads request could be advertised and discussed at the next public meeting. Yanofsky asked if Duscha could run that public hearing. Duscha agreed and recommended that photos be taken since this is an aesthetic issue. Mansfield said the board should contact Mrs. Fairweather regarding the trees. The Board agreed to set the public hearing for July 7, 1997.

Duscha expressed an interest in doing Scenic Roads, Rules and Regs. and Open Space.

Regarding the Study Plan Implementation Committee, LaLiberte suggested that since every member of the board is committed to this, it needn't be designated as a subcommittee. If the board is in agreement on going ahead with the open space issue, one member could be designated to oversee this and the board can move ahead together. He also recommended that one person could head the Rules and Regs. Subcommittee. Mansfield noted that a separate subcommittee was set up so that this issue wouldn't impinge upon the board's time requirements on other issues.

Yanofsky agreed with LaLiberte. She also recommended calling Epstein for suggestions before going to the selectmen to petition for putting open space on the Fall Town Meeting agenda. Chaput had suggested pushing this.

Duscha noted that public education is very important and the timing will be tight.

Yanofsky has heard that other towns frequently don't pass these issues at the first town meeting.

Mansfield stated that Mark Bobrowski has offered to attend one more Town Meeting free of charge. He also reported that the official date for moving into the new office is June 19, 1997. The next meeting should be in the new town hall. He also mentioned that since it would be time to clean out the closets any members should reclaim their equipment. Yanofsky said there is a conference table that belongs to the PB and it is most likely at the school. It should be located.

Hengeveld moved to adjourn meeting. Abend seconded.

Meeting adjourned at 10:20 p.m.

Respectfully submitted,



Anja M. Stam  
Recording Secretary