



Town of Carlisle

MASSACHUSETTS 01741

Office of

PLANNING BOARD

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MINUTES

March 9, 1998

- Report from Town Bicycle and Pedestrian Safety Committee**
- Discussion of potential subdivision of P.C. Hart property off Curve St.**
- Request from Selectmen for recommendation re: the laying out of Ice Pond Road as a public way**
- Request of Selectwoman Chaput to consider sponsorship of Distinctive Structures Preservation bylaw for Town Meeting warrant**
- Request for determination of applicability of Secs. 5.2.4 - 5.2.6 of the Zoning Bylaws with respect to proposal of Mass. DEM to extend an existing culvert and construct a headwall to provide for a relocated ski trail on North Road at the Russell Millpond Brook crossing**
- Request for modification of common driveway maintenance agreement and covenant for McAllister Drive, off North Road (request of Craig Holch)**
- Request for extension of time to exercise Special Permit for Common Driveway, Rose Drive, 886 Lowell Street, Thomas Erickson, applicant**
- Report from Rules and Regulations Subcommittee**
- Discussion of strategy with regard to pending litigation, Valchuis et al. v Planning Board (Executive Session)**

Chair Yanofsky called the meeting to order at 7:35 p.m.. Duscha, Epstein and Tice were present. Also present were Planning Administrator George Mansfield and David Ives of *The Mosquito*. Abend and Hengeveld were absent from tonight's meeting and LaLiberte arrived at 8:45 p.m.

Report from Town Bicycle and Pedestrian Safety Committee

Deborah Belanger, chair of the Town Bicycle and Pedestrian Safety Committee (BPSC) came before the Board to explain the goals of this committee. Their first goal is to establish safety for bicyclists on the roads. Currently there are several roads in Carlisle that are too narrow and have no bail out for bicyclists using them. The committee will work with Gary Davis at DPW to incorporate safe shoulders when roads are undergoing maintenance work. The second goal of the committee is to have discussions with other

area communities to coordinate bike paths, specifically the Middlesex path planned to connect Alewife with Lowell. This path will go through Carlisle near the intersection of Routes 27 and 225. The committee's third goal is to ensure pedestrian safety, particularly in the area of the Town Common. In accordance with the findings of Carlisle 2000, pedestrian safety is a high priority of the Town and achieving this goal will recognize that the Town is made up of people and thereby help build the community.

Belanger then explained that the Mass. Highway Dept. has funds available for paths to encourage alternative modes of transportation. Plans for the first path are to be completed on March 26, 1998 and will connect the Town Center. Currently the BPSC is working with the Historic Comm. and Cons. Comm. The Master Footpath plan encompasses approximately 12 miles of paths that run along each of the five roads leading away from the rotary. The BPSC has used previous studies and continues to conduct traffic studies to establish a priority for each of these paths. Currently, the highest priorities are along Bedford Road and linkage of points of town public interest. The sidewalks will be constructed of asphalt with granite curbing.

Yanofsky asked if funds would be available annually. Belanger said that the Town receives \$200,000 annually from the Mass. Highway Dept. and the BPSC will work with DPW to allocate the funds appropriately.

Mansfield asked who was designing the paths. Belanger replied that Noonan Engineering is doing the work.

Yanofsky suggested that the BPSC come before the Board when new subdivisions are being developed so that the committee might offer some guidelines for sidewalks and paths. Mansfield recommended that the BPSC request a mailbox at Town Hall so that they can easily be kept up-to-date of potential development and Town business.

Continued Public Hearing: Stearns Street (Malcolm Meadows) - Amendment to Special Permit for Senior Residential Open Space Community, Northwest Structures, Inc., Applicant

The following members of the public were present for the public hearing: Thomas Rice of Hutchins Road, Steve and Debbie Webster and Greg Felch of Stearns Street, Ferris Taylor of Hemlock Hill Road.

The hearing was opened, but no testimony was taken because the five Board members eligible to vote on this decision were not all present this evening. Tice **moved to continue the public hearing to March 30th at 8:45 p.m.** Epstein seconded the motion and it was approved 4-0.

Minutes

Tice moved to accept the minutes of February 23, 1998 as drafted. Epstein seconded the motion and the minutes were approved 3-0-1 with Duscha abstaining.

Budget

Tice and Yanofsky will attend the Finance Committee meeting on March 11, 1998.

Discussion of potential subdivision of P.C. Hart property off Curve St.

Mansfield explained that he had been contacted by Paul C. Hart's attorney, Joe Shanahan. Hart owns approximately 90 acres of land off of Curve St. and over the years has tried, unsuccessfully, to obtain frontage. Recently he entered into a P&S with an abutter, the estate of Daniel Ohs, giving Hart minimal frontage. Shanahan then met with Mansfield and Katrina Proctor of Cons. Comm. to discuss alternate access to his property. Shanahan explained that they are in a position to obtain frontage from another abutter, but this would be expensive for Hart. Instead, they propose to offer land for conservation in exchange for another egress over Town owned land.

Yanofsky asked what the priority of this parcel of land was in the Town's Open Space Report. Mansfield explained that Hart's property is priority 1 and Ohs' parcel is priority 2, and that the Ohs parcel is currently in Chapter 61A. [It was subsequently found that the Assessors had declassified this parcel about two years ago.]

Mansfield continued by explaining that Hart is asking if the PB would entertain a conceptual plan. Hart also asked if it would be possible to have a joint meeting with the PB and Cons. Com. before a conceptual plan is presented. Members agreed that Hart was welcome to come before the Board with a conceptual plan.

Selectwoman, Vivian Chaput, suggested that the Board ask Hart to seek legal counsel before proceeding. She suspected that it would not be legal for the Town to make such a deal, without putting the land out for bid.

Request from Selectmen for recommendation re: the laying out of Ice Pond Road as a public way

Duscha moved to recommend to Selectmen that Ice Pond Road be accepted as a Public road. Tice seconded the motion and it was approved 4-0.

Request of Selectwoman Chaput to consider sponsorship of Distinctive Structures Preservation bylaw for Town Meeting warrant

Vivian Chaput came before the Board to describe her proposed bylaw. She explained that during the Master Plan process, many people were interested in ensuring the viability of barns to prevent their disrepair and loss. The Town expressed interest in maintaining the rural aesthetic of the community.

In February 1996, Chaput composed a proposed zoning bylaw, patterning it on the historic district bylaw. She structured it to be by Special Permit from the Planning Board. Chaput stated that there has been interest in this bylaw but it has not been pursued. She suggested that some of the many home businesses in town might be able to use these barns making the barns economically viable. She estimated that there were approximately a dozen barns that might qualify for this type of use.

Yanofsky said that the PB is not practiced in building design. This is a ZBA issue and that the existing Zoning bylaws could be amended by adding a use variance. Chaput said she was hoping to set this up as a special permit so that building use could not be changed by-right. She hoped the PB could make findings based on siting, location, traffic, etc. Yanofsky suggested that other towns be studied to see if this issue is handled as a special permit or a zoning bylaw. Regarding the question of amendment to either the bylaws or the rules and regs., Epstein said that the legal requirements and enforceability of each need to be researched.

Chaput then explained that she would like to put this issue on the warrant for Spring Town Meeting and the warrant closes on Thursday, March 12th. She asked if any member of the Planning Board would be interested in working with her and being a liaison. Members who were present expressed interest in the issue, but could not commit time to this endeavor outside of the Planning Board.

Yanofsky suggested that Chaput seek further help from the ZBA and the Historic Commission. Epstein noted that Sec. 3.2.2.9 of the Zoning Bylaws should be considered when formulating proposals.

(LaLiberte arrives.)

Request for determination of applicability of Secs. 5.2.4 - 5.2.6 of the Zoning Bylaws with respect to proposal of Mass. DEM to extend an existing culvert and construct a headwall to provide for a relocated ski trail on North Road at the Russell Millpond Brook crossing

Kelly Killeen of Whitman and Bingham Associates, Inc. presented the plans to extend an existing culvert and construct a headwall, approximately 14 ft. off the existing road rather

than reconstruct the bridge that was washed out in a storm. He referred to Sec. 5.2.4.3 of the Zoning Bylaws and asked the PB to make a determination on the need for a special permit for this project since it is in a wetland/flood hazard district.

The Board discussed whether or not it had jurisdiction over this construction. According to Town Counsel the PB does not have jurisdiction because the state is not subject to local zoning on state property, and the Selectmen have jurisdiction if it is in the right-of-way. The Board concluded that the PB is only concerned about the existing stone wall and trees under the Scenic Road Act. Yanofsky said that the PB would obtain a letter from Kopelman and Paige regarding jurisdiction over these issues and would then hold a scenic road hearing.

LaLiberte moved that based upon statements on the record regarding the scope of the anticipated work, and upon opinions received by counsel, the Board finds that it does not have jurisdiction over the proposed scope of work, except that it does have jurisdiction under the Scenic Road Bylaw. Tice seconded the motion and it was approved 5-0.

Upcoming Meetings

The PB agreed to send Mansfield to a seminar entitled *GIS & Database tools for Title 5 Management Programs* on March 19th.

Mansfield informed the Board that a staff meeting is scheduled for 1:30 p.m. on Friday March 20th. At this meeting, training in performance evaluation will be provided. He thought that the same seminar might also be scheduled for an evening, which was preferable to Board members.

Request for modification of common driveway maintenance agreement and covenant for McAllister Drive, off North Road (request of Craig Holch)

Craig and Kristy Holch were present for this discussion. They explained that they are interested in purchasing the existing residence on Lot 7 served by McAllister Drive, but in reviewing the common driveway maintenance agreement and covenant, they found some discrepancies and wished to amend the covenant.

Epstein moved to provide a letter to Mr. and Mrs. Holch indicating that it is the Planning Board's determination that Sec. 9 of the Declaration of Easements and Restrictions concerning Lot 7 at 97 McAllister Drive, will not require approval of the Planning Board. The changes to that agreement do not amend or modify the provisions or conditions of the special permit that was previously issued by the Carlisle Planning Board. Tice seconded the motion and it was approved 5-0.

Referral of common driveway special permit application (Lot 2 - Hutchins Road) to review engineer

Board members asked Mansfield to refer this project to Judith Nitsch Engineering for review.

Request for extension of time to exercise Special Permit for Common Driveway, Rose Drive, 886 Lowell Street, Thomas Erickson, applicant

The Board determined that this Special Permit was designed in accordance with the current Rules and Regs. and they agreed to grant the extension as requested. Tice **moved that the Board grant a two year extension from the expiration date to the Special Permit for Common Driveway, Rose Drive, 886 Lowell St.** Duscha seconded and the motion was approved 5-0.

Mansfield noted that the current Rules and Regs. do not make it clear that a Public Hearing is not required for extension of a Special Permit. This item will be taken up with the Rules and Regulations subcommittee.

Report from Rules and Regulations Subcommittee

Epstein reported that the meeting scheduled for March 4th was cancelled. He said that comments on the Rules and Regulations had been received from Abend, Hengeveld, LaLiberte and Dale McKinnon. In response to one question, Mansfield was asked to consult with the BOH to come up with proper terminology to replace the term "certified soil evaluator." Apparently, this is not a certified position.

The next meeting of the Rules and Regulations Subcommittee will be held on March 23, at 8:00 p.m. Comments on the Rules and Regs. will be circulated prior to that meeting and Mansfield was asked to layout a timetable for the approval process.

It was noted that elections will be held on May 11, and the closing date for declaration of candidates is March 31. Mansfield will also confirm publication dates for *The Mosquito*.

Discussion of strategy with regard to pending litigation, Valchuis et al. v Planning Board (Executive Session)

LaLiberte **moved that the Board go into executive session to discuss strategy with regard to pending litigation, and that no other business will be discussed after the**

executive session. Tice seconded the motion. The Board was polled and unanimously approved the motion for executive session.

The Board came out of executive session at 10:10 p.m. and immediately adjourned the meeting.

Respectfully submitted,

A handwritten signature in cursive script that reads "Anja M. Stam". The signature is written in black ink and is positioned above the printed name.

Anja M. Stam
Recording Secretary