



# Town of Carlisle

MASSACHUSETTS 01741

Office of

PLANNING BOARD

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## MINUTES

September 27, 1999

- Discussion of strategy with regard to pending litigation, Kydd v. Planning Board (Hunters Run Definitive Subdivision Plan – disapproved 7/15/97 and appealed 8/4/97) [Executive Session]**
- Discussion of strategy with regard to pending litigation, Valchuis et al. v. Planning Board (Berry Corner Lane, Map 7, Parcel 29) [Executive Session]**
- Notice of staff performance evaluation due November 12, 1999**
- Notice of copies of Town aerial photos available from the Conservation Commission**
- Review of Preliminary Subdivision Plan for Great Brook Estates, Map 26, Lot 18 & Map 35, Lots 15 and 22Y, 195 Rutland Street connecting to 120 Pine Brook Road (Application of Albert I. Gould and Betsy E. Goldenberg)**
- Review of Preliminary Subdivision Plan for Carriage Way, located at 314 East Riding Drive, Map 23, Lot 1, Map 22, Lot 75 & Map 13, Lots 7, 21, 22 & 23 (Application of William Costello)**
- Continued Public Hearing: Special Permits for Conservation Cluster and Common Driveway to serve 5 lots at High Woods, 662 West Street, Map 6, Lot 63 (Christopher Fleming, applicant)**
- Review of draft covenant and easements for Wilkins Lane Definitive Subdivision Plan (approved 6/14/99); request for endorsement of plans**
- Discussion of request by Vance V. Vaughn, et al., owners of lots in the Tall Pines subdivision (Hutchins and Kimball Roads) for an amendment to the Definitive Subdivision Plan to require granite curbing along all of Hutchins and Kimball Roads**
- Request for release of Lots 1 and 2, Pine Meadow Definitive Subdivision Plan (Davis Road) from set-aside provision for open space and recreation in advance of expiration of 3-year reservation (10/2000) [Request of William Costello]**
- ANR Plan: 221 Brook Street, Map 13, Parcel 7, Lewis Sayer, owner, William Costello, applicant**

Chair Tice called the meeting to order at 7:30 p.m. Members Abend, Hara and Lane were present. Holzman arrived at 7:35 p.m. Planning Administrator George Mansfield was also present as well as *Mosquito* reporter David Ives.

Lane moved to accept the minutes of September 13, 1999 as drafted. Abend seconded the motion and it carried 3-0-1 with Tice abstaining.

**Discussion of strategy with regard to pending litigation, Kydd v. Planning Board (Hunters Run Definitive Subdivision Plan – disapproved 7/15/97 and appealed 8/4/97) and Discussion of strategy with regard to pending litigation, Valchuis et al. v. Planning Board (Berry Corner Lane, Map 7, Parcel 29) [Executive Session]**

Abend moved to go into executive session to discuss litigation with Kydd and Valchuis, and to reconvene by 8:15 p.m. Lane seconded the motion. The Board was polled and unanimously agreed to the motion.

*(Holzman arrived shortly after discussion began.)*

At 8:30 p.m., Abend moved and Holzman seconded a motion to return to regular session. The Board was polled and all were in favor of the motion.

**Notice of staff performance evaluation due November 12, 1999**

Tice asked the Board to prepare comments based on the Performance Review Form received in the packet and to return comments to him. The Chair will then compile the information onto one form.

**Notice of copies of Town aerial photos available from the Conservation Commission**

The PA suggested that it might be useful to purchase a set of these photos at \$20 to be kept in the file. He also noted that it might be appropriate to purchase copies for the Board's review engineers. Tice asked if these photos are available electronically, and the Board asked when these photos are dated. Mansfield agreed to provide the Board with answers to these questions at the next meeting.

**Review of Preliminary Subdivision Plan for Great Brook Estates, Map 26, Lot 18 & Map 35, Lots 15 and 22Y, 195 Rutland Street connecting to 120 Pine Brook Road (Application of Albert I. Gould and Betsy E. Goldenberg)**

The applicants were present along with their engineer, Gary Shepard of David E. Ross and Associates and attorney Sherry Gould of Littleton. The following members of the public were also in attendance: Kate Bauer Burke, Nancy and Gary Stadlander of Pine Brook Lane; Chris Puffer of Rutland Street; Kristine Bergenheim of the Pedestrian/Bicycle Safety Committee; and Ray Faucher, manager of Great Brook Farm State Park.

Shepard explained that, per request of the fire chief, the revised plans now show two 20,000 gal. fire cisterns. These plans also include a note allowing general public access to the open space via the trail easements. The previous restricted access has been removed. Shepard explained that the applicant would like the Board to consider this a plan for only the ten-lot subdivision off Rutland Street and following its approval, to discuss the further development of the conservation clusters and common driveways.

Chris Puffer asked about the structure of the detention pond and cistern proposed near Rutland Street. Shepard stated that a detention pond near the wetland would be designed in the definitive stage to catch and treat run-off at the intersection of Great Brook Path and Rutland Street. A cistern will also be located near this same intersection with another cistern located under the cul-de-sac. The cisterns will be entirely underground except for the pipes required for the fire department.

On behalf of the Pedestrian/Bicycle Safety Committee (PBSC), Kristine Bergenheim asked the Board to require sidewalks along this subdivision road.

Ray Faucher explained that the State is very interested in this development because of the proposed trail easements. He noted that the easements would help link significant trail loops within the Great Brook Farm State Park. Shepard said that the owners have not specified how ownership of the open space will be transferred, but will consider various options including transfer to the State Park.

For the benefit of those not present at the last meeting, Mansfield reminded the Board that it had discussed issues regarding access across wetlands and the number of lots, and had requested an opinion from Town Counsel. He noted that the Board received a confidential letter from Town Counsel on Friday, which addresses these issues. He advised the Board that they may use Town Counsel's comments to question the applicant, or they may find that the letter is appropriate for release as a public document. The Board decided that it had not had sufficient time to review the letter and opted not to release it at this time.

Holzman asked if there were any waiver requests for this subdivision. Shepard stated that one waiver will be necessary for the roundings at Rutland Street because the access is approximately 5 ft. less than the 100 ft. required.

Tice asked if ConsCom had seen these plans. Shepard said that they had reviewed the conceptual plan and were generally in favor of the attempts made to avoid the wetlands. The applicant will return to ConsCom in the next few

weeks to apply for a wetland boundary determination. Shepard also explained that lot 10 would obtain its frontage from the proposed cul-de-sac road, but would not be accessed there. Mansfield noted that this could be significant since the proposed access will likely be through an adjacent conservation cluster. He advised the Board to specify whether it is approving or disapproving the subdivision only, or if it is considering the conservation cluster shown on the plan as part of the preliminary plan in its decision.

Shepard said that the conservation cluster was shown on the plan to disclose the applicant's overall plans for development, however, it was assumed that the Board could only approve the subdivision plan at this time. Shepard explained that the applicant plans to proceed with the definitive plan as soon as a preliminary plan is approved, then follow with the conservation cluster plan served by Great Brook Path. Applications for the conservation cluster off Pine Brook Road and the definitive subdivision plan will be submitted simultaneously.

Albert Gould stated that he has attempted to show the Board the overall plan with a 1000' cul-de-sac and a conservation cluster. He would like to present all plans simultaneously, but he needs subdivision approval first in order to prepare an ANR plan. Gould expressed his willingness to cooperate with the Planning Board in terms of finding the best process to handle these multiple applications. He asked the Board to consider the entire concept and give him guidance in voting on the preliminary plan as presented.

Chris Puffer said she is concerned about safety at the curve on Rutland Street. She also stated that there are wetlands and a vernal pool in the area of the proposed intersection with Rutland Street. She concluded by asking for screening between her house and the proposed cul-de-sac roadway.

Abend suggested that the Board discuss possible conditions to be placed on the preliminary plan approval: 1) ConsCom approval of access to lots 7, 8 & 10, which would require wetland crossing to obtain access through their frontage and 2) ConsCom approval of the roadway. Lane asked the applicant if ConsCom had commented on these issues. Shepard said that they are aware of the wetland fill that would be required to construct the roadway.

The Board felt it could not condition its approval based on ConsCom's approval of access since ConsCom needs an approved definitive plan before making a decision. The Board, therefore, decided not to consider these conditions. Hara felt the Board should focus on the number of lots on the cul-de-sac and whether or not these lots have legal access.

Holzman expressed concern regarding lots that just meet the minimum dimensional requirements. He felt that development is being maximized and there is no room for error. Gould stated that the development is not as tight as it appears and calculated approximately one acre excess land overall.

The Board continued to discuss possible conditions as follows: 1) The applicant will create a public access easement at the end of the cul-de-sac to provide access to the State Park and its trail system. 2) A trail easement will be provided through lots 4 and 5 linking the existing trail system within the State Park. 3) The preliminary subdivision plan will be approved with the understanding that it will be the basis for a conservation cluster application to include lots 4, 5 and 7. 4) An evaluation will be conducted at the intersection of Rutland Street and Great Brook Path to determine possibilities for improved safety in that location, possibly by adding shoulders or providing a better crown on the roadway. 5) The existing driveway to #195 Rutland St. that is to be discontinued shall be replanted with natural vegetation.

Hara noted that during the site walk some grading issues were discussed, and these need to be addressed in the definitive plan.

Shepard noted that the sidewalk issue might require a compromise between the ConsCom, the PBSC and the PB. Bergenheim said that the PBSC would prefer to see paths with any development of 5 lots or more. She said she would work with ConsCom regarding sidewalks. The Board was divided on this issue, but thought that a non-paved pathway might offer a possible solution. Mansfield noted that the PB must make the final decision on whether or not to require a sidewalk in a development. This will be addressed further at the definitive plan stage.

Abend then moved to approve the Great Brook Estates preliminary subdivision plan for Albert I. Gould and Betsy E. Goldenberg, prepared by David E. Ross and Associates, dated 8/19/99, last revised on 9/24/99 with the following conditions: 1) The applicant will create a public access easement at the end of the cul-de-sac to provide access to the State Park and its trail system. 2) A trail easement will be provided through lots 4 and 5 linking the existing trail system within the State Park. 3) The preliminary subdivision plan will be approved with the understanding that it will be the basis for a conservation cluster application to include lots 4, 5 and 7. 4) An evaluation will be conducted at the intersection of Rutland Street and Great Brook Path to determine possibilities for improved safety in that location, possibly by adding shoulders or providing a better crown on the roadway. 5) The existing driveway to #195 Rutland St. that is to be discontinued shall be replanted with natural vegetation. 6) The applicant shall discuss the impact of sidewalks on the wetlands with ConsCom. 7) Approval is granted only for Lots numbered 1 to 10 that have frontage on Great Brook Path. Lane seconded the motion and it was approved 5-0.

Gould asked when the letter from Town Counsel would be made available to the public. The Board said it would review the document and let the applicant know when it becomes available. Gould also asked to be given time for discussion at the next meeting. The Board agreed to review their agenda later in the evening and contact him if time is available.

**Review of Preliminary Subdivision Plan for Carriage Way, located at 314 East Riding Drive, Map 23, Lot 1, Map 22, Lot 75 & Map 13, Lots 7, 21, 22 & 23 (Application of William Costello)**

The applicant was present with his engineer Joe March of Stamski and McNary. The following members of the public were also present: Farshad Nayen and Lauren Schmitt of Audubon Lane, Brian Anderson of East Riding Drive, Kristine Bergenheim of the PBSC and Selectman Vivian Chaput.

Chaput stated that the Selectmen are in favor of the proposed development because it includes access to the Town-owned parcel which could be valuable to the Town.

Schmitt asked what the Town plans to do with the parcel. Abend explained that the parcel would be developed and sold to raise funds for other Town programs. Holzman asked Chaput if the Selectmen have established a procedure for distribution of the revenue from this lot. Chaput said that the Town would submit a Request for Proposals and accept bids. Town Meeting would make the final decisions on both the disposition of the parcel and the distribution of funds.

The Board then discussed the requested waivers listed in the 9/2/99 letter from Stamski and McNary. Mansfield noted that if the Board allows reduction of the right-of-way to 40 ft. then the roadway could never be accepted as a public road. Chaput stated that the Town Administrator is exploring the Town's options regarding roadway acceptance with Town Counsel. Abend suggested that approval be conditioned on the drafting of a covenant similar to a common driveway maintenance agreement.

Abend felt that waiving the requirement to set aside a lot for three years was appropriate because Costello is providing access to Town-owned property. Funds from the sale of this Town-owned land could be used for open space or recreation purposes. For this same reason, he felt it appropriate to allow a cul-de-sac length of 1090 feet.

Hara noted that the cul-de-sac as shown is almost entirely in the buffer zone and would require the removal of a significant stand of pine trees. March suggested that the cul-de-sac easement could be moved back approximately 5 feet. Allowing pavement offset within the right-of-way might pull the cul-de-sac an additional 5 feet out of the buffer zone. The Board agreed that it would consider such a roadway offset and would consider reducing the cul-de-sac diameter.

March showed the location of the proposed fire cistern, but no response has been received from the fire chief or the police chief. March noted that because of good topographic and soil conditions on the property, the cul-de-sac will require minimal fill and no mounding will be required to install septic systems. Clearing will be minimized as well.

Bergenheim requested sidewalks for this subdivision. Hara noted that there is an existing trail across the end of this parcel and a cellar hole has been found on the Town-owned lot. These may be of public interest and historical value. She felt that public access might be allowed by providing a 4 to 5 ft. shoulder in lieu of a sidewalk. Bergenheim said this would be acceptable.

The Board then discussed the proposed cape cod berm. Holzman felt that if curbing is necessary, then sloped granite might be more appropriate, but March argued that such curbing is more difficult to repair or replace and has an urban appearance. March recommended a low profile cape cod berm with a maximum reveal of 3 inches. Abend felt that the use of cape cod berm would be more practical and provide a uniform appearance throughout the subdivision. He asked for sloped granite curb at the roundings at East Riding Lane.

Regarding the width of the shoulders, the Board agreed that it should require 5 feet on the right side going into the subdivision and 2 feet on the left.

March stated that the intersection at East Riding Lane provides minimum sight distances of 282 feet in both directions, which is more than adequate for speeds on this roadway. Abend asked that an 80<sup>th</sup> percentile speed check be conducted on East Riding Lane north of the proposed intersection. He felt that the proposed number of new homes does not warrant a traffic impact report.

Continued discussion was scheduled for October 12<sup>th</sup> at 8:30 p.m.

**Continued Public Hearing: Special Permits for Conservation Cluster and Common Driveway to serve 5 lots at High Woods, 662 West Street, Map 6, Lot 63 (Christopher Fleming, applicant)**

The applicant was present with his engineer, Joe March of Stamski and McNary. The Board's engineer, Dale MacKinnon of Earth Tech was present as well as the following members of the public: Barry Hoffman and Anne Marie Brako of West Street and John Forelli of East Street.

The Board had asked Fleming to contact his neighbors (the Hoffmans and Lehotskys) regarding the possibility of using their existing common driveway to access his proposed conservation cluster. Fleming said he had done so, but the neighbors were not interested due to their concern over increased traffic. Hoffman stated that he is not concerned about the construction of a new driveway, but would like some additional screening provided between that driveway and his home.

Brako expressed concern over the curve on West Street as it approaches the proposed entrance to the cluster. She felt this is already narrow and dangerous and is concerned about school busses stopping there. Abend felt that a widened shoulder should be required for children waiting at a bus stop. Hoffman noted that visibility is poor in that location and the traffic moves quickly. Abend suggested contacting the Police Chief regarding a "Bus Stop Ahead" sign.

Mansfield noted that the Lehotskys spoke with him at the PB office and requested screening along the proposed common driveway in the vicinity of their home.

Dale MacKinnon noted that he had some questions regarding drainage impact. March explained that with only 4 lots and a 14-ft. wide common driveway, structured drainage is not required. Hara noted that the natural runoff would sheet onto the abutting property. Hoffman expressed concern over this because he said there is already flow onto his driveway at certain times of the year. Several drainage options were discussed. MacKinnon advised the Board to require drainage calculations before deciding on how it should be mitigated. March argued that one

common driveway has less impact than 3 individual driveways and he felt the calculations should not be required. The Board asked that the calculations be provided.

The Board asked the applicant to revise the plans by showing screening along the common driveway and by conducting a drainage study. Input is also required from the fire chief, police chief and the Selectmen. Fleming proposed the name Powdermill Lane for the driveway, but the Board noted that similar roadway names are found in Acton and Concord.

The Board could not act on the proposal this evening because it is awaiting the Selectmen's action regarding the Chapter 61 status of this property. The Board agreed to allow March and MacKinnon to discuss the plans outside of the meeting.

Abend moved and Lane seconded a motion to continue the public hearing to Oct. 12, 1999 at 9:30 p.m. The Board approved the motion 5-0.

**Review of draft covenant and easements for Wilkins Lane Definitive Subdivision Plan (approved 6/14/99); request for endorsement of plans**

William Costello was present for this discussion. He noted that the subdivision was approved in June and he is awaiting endorsement. He stated that he is willing to sign the main body of the document, but he disagrees with the addenda proposed by Town Counsel. He argued that the lots could not be sold if a Certificate of Occupancy requires PB approval. He also felt that the PB should not oversee the responsibilities of the Building Inspector, BOH, ConsCom and DEP.

Mansfield said that the PB review engineer, BOH and ConsCom were consulted regarding the addenda and they recommended adding paragraphs 2 and 4 to the covenant. The BOH is also seeking further clarification from the PB. The Board suggested that Costello's attorney contact Town Counsel, Anthony D'Imperio at Deutsch Williams to discuss the covenant.

**Discussion of request by Vance V. Vaughn, et al., owners of lots in the Tall Pines subdivision (Hutchins and Kimball Roads) for an amendment to the Definitive Subdivision Plan to require granite curbing along all of Hutchins and Kimball Roads**

William Costello was present for this discussion. He explained that work on the subdivision was halted when the petition from the owners was submitted to the Planning Board. He now needs to complete the work before winter and asked the Board how he should proceed.

Abend noted that one of the concerns brought up by the petitioners was drainage. Costello said that adding curbing throughout would alter sheet drainage and overall drainage patterns and would require DEP intervention. Abend then suggested that Costello complete the work exactly as shown on the plan. Hara was concerned about photos presented by the petitioners, which showed debris on the roadway at Kimball and Hutchins roads. Costello said this is because the landscaping has not been completed.

Mansfield noted that the Board had requested a legal opinion on this matter, specifically regarding the Board's legal right to amend the plan and responsibility of cost. He said the request for opinion has been submitted, but he is still awaiting a response. The Board decided to act without this information, but asked the PA to obtain counsel's opinion for future reference.

**By a consensus vote, the Board agreed to take no action on the petition submitted by the owners of lots in the Tall Pines subdivision.**

**Request for release of Lots 1 and 2, Pine Meadow Definitive Subdivision Plan (Davis Road) from set-aside provision for open space and recreation in advance of expiration of 3-year reservation (10/2000) [Request of William Costello]**

William Costello was present for this discussion. He wished to have Lots 1 & 2 released in order to build on and sell them.

According to Town Counsel advice, the Board would be required to hold a public hearing in order to amend the subdivision approval and the covenant if the lots are to be released ahead of schedule. The Board agreed to hold a public hearing on October 25, 1999 at 8:00 p.m.

**ANR Plan: 221 Brook Street, Map 13, Parcel 7, Lewis Sayer, owner, William Costello, applicant**

This ANR plan conveys a portion of the Sayer Parcel to Costello in order to create a buildable lot for the Town off East Riding Lane. Abend moved to endorse the ANR plan of land in Carlisle, MA being a subdivision of Lot 12, numbered LC5429C, dated 5/14/99, revised on 9/10/99. Lane seconded the motion and it carried 5-0.

Future meeting dates were set for November 8<sup>th</sup>, November 22<sup>nd</sup> and December 13<sup>th</sup>. The agenda for the meeting of October 12<sup>th</sup> was discussed. The Board asked the PA to contact Mr. Gould and advise him that he could be placed on the agenda late in the evening on October 12<sup>th</sup>, or he could come in earlier on October 26<sup>th</sup>.

The Board then discussed the letter received from Town Counsel regarding the Gould application. They agreed that the letter needs further review and it might be necessary to advise the applicant of concerns not addressed in the preliminary plan approval.

The meeting was adjourned at 12:03 a.m.

Respectfully submitted,



Anja M/ Stam  
Recording Secretary