



Town of Carlisle

MASSACHUSETTS 01741

Office of

PLANNING BOARD

MINUTES
June 25, 2001

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2001-2002 Board Organization

Public Hearing: Amendment of Common Driveway Special Permit, 299 Bedford Road, Map 22, Parcels 69, 87 & 88, Richard and Nancy Shohet West, applicants

Request for release from covenant for Maplewood Subdivision, Acton Street, Map 17, Parcel 17A, request of Robert Koning

ANR Plan: 291 River Road and Skelton Road, Map 1, Parcel 1, Mark D. and Rachel W. Elliott, applicants

ANR Plan: 299 Bedford Road, Map 22, Parcel 69, Richard J. and Nancy Shohet West, applicants

Discussion of strategy with regard to pending litigation, Valchuis et al. v. Planning Board [Berry Corner Lane, Map 7, Parcel 29] (Executive Session)

Chair Epstein called the meeting to order at 7:30 p.m. Members Abend, Hara, Holzman, Lane and Reid were present. Zinicola arrived at 7:35 p.m. following approval of the minutes. Planning Administrator George Mansfield and *Mosquito* reporter Susan Yanofsky were also present.

Abend made one clarification to the minutes and then Holzman moved and Abend seconded a **motion to accept the minutes of 6/11/01 as amended**. The motion carried 5-0-1 with Epstein abstaining.

(Zinicola arrived.)

2001-2002 Board Organization

Epstein moved to nominate Michael Abend as Chair, Kate Reid as Vice Chair, Tom Lane as Treasurer and Louise Hara as Clerk. Reid stated that she did not wish to serve as vice chair and moved to amend the above stated motion by nominating Michael Epstein as Vice Chair. After some discussion, Zinicola seconded the motion and it carried 7-0. Abend assumed the Chair and requested nominations for appointments to other boards, noting that a PB representative is also required for the newly created Community Preservation Committee. Hara suggested that Kate Reid should serve on the CPC and Abend suggested that she should serve on the Municipal Land Committee as well. Reid agreed that the positions are related and offered to serve on both. Hara offered to serve as alternate for the Municipal Land Committee. Lane offered to continue representing the Board on the Long-term Capital Requirements Committee. Epstein moved to appoint Kate Reid to the Municipal Land Committee and the Community Preservation Committee with Louise Hara as alternate to the Municipal Land Committee, and to appoint Tom Lane to the Long-term Capital Requirements Committee. Zinicola seconded the motion and it carried 7-0. Other appointments and liaisons will be taken up at the next meeting.

Public Hearing: Amendment of Common Driveway Special Permit, 299 Bedford Road, Map 22, Parcels 69, 87 & 88, Richard and Nancy Shohet West, applicants

Applicants Richard and Nancy West were present with their attorney Robert Santomena of Drummond and Drummond, and their engineer George Dimakarakos of Stamski and McNary. The Board's engineer, Sandy Brock of Judith Nitsch Engineering, Inc. was in attendance. The following members of the public were also present: Eunice Knight of 321 Bedford Road, Fire Chief Robert Koning, Deputy Police Chief David Flannery and Conservation Commission Administrator Sylvia Willard.

Santomena summarized the history of the project, from 1983 when the Carlisle Land Trust acquired the Bates Farm parcel. He explained that the original intent of the plan was to preserve the view from Bedford Road, and to allow

five lots to be developed to the rear of the parcel. He showed a copy of the common driveway plan approved in 1983. There are currently three lots in the cluster and the Shohets wish to divide their Lot E into two lots. In order to provide access to this lot, Santomenna stated that the Wests are applying for an extension of the existing common driveway special permit.

Dimakarakos then showed a proposed ANR plan with the two lots and explained how the existing individual driveway serving Lot E would be upgraded to current common driveway standards to serve the new lot. The ten-foot wide driveway would be widened to twelve feet plus two-foot shoulders on either side. Two turnouts and a T-turnaround would also be added.

The Board asked how the maintenance agreement would be drafted. Santomenna stated that all five lots are subject to the maintenance agreement of the existing common driveway special permit, and that the extended portion would only obligate the two users of that portion. Several Board members felt uncomfortable with the concept of two different maintenance agreements. West offered to rewrite the maintenance agreement, dividing financial responsibility into ratios relative to the driveway length to serve each lot.

The Board also asked to have the common driveway easement shown on the plan. Santomenna explained that the plan includes a statement that the easement includes ten feet on either side of the common driveway centerline. Mansfield noted that the easement and maintenance agreement for the new portion of the common driveway states that the easement is "not more than 20 feet wide." Santomenna offered to strike the words "not more than." Although the original plan did not show the common driveway easement, Mansfield recommended that this should not be used as the standard for the current application and that the easement be shown on the plan for the new section.

Brock reviewed comments she made in her June 21, 2001 letter to the Board. First, she recommended that the applicant be required to show the entire common driveway on the plan, including site distances at Bedford Road and locations and details of the culverts. The applicant should also demonstrate that these culverts meet an H-20 loading capacity. Although she did not anticipate any problems, Brock requested drainage calculations since work will be done in the Riverfront Resource Area. Brock asked if the improvements to current common driveway standards would be made along the entire length of the common driveway, or only along the extension. Dimakarakos stated that the entire length would be improved. He noted that the land is fairly level and the existing driveway is already 12' wide. He felt that improvement would require little more than clearing the shoulders of brush. Brock was concerned about the driveway width at the culverts, where she noted an approximate width of 12' of gravel, but the shoulders sloped off quickly. Dimakarakos stated that the fire chief had suggested the addition of guardrails at the culverts, which the applicant has agreed to provide. Brock also suggested that the gravel base should be at least 8"-10" deep along the entire driveway. Mansfield noted that the current lot owners have agreed to allow any improvements to the existing common driveway provided that it is at the applicant's expense.

The Chair then called on the Fire Chief for comments. Koning noted that approximately ten years ago, an oil truck slipped off the common driveway at a culvert and this resulted in a spill. He did not have any concerns with the new portion of the common driveway, but he did wish to see a plan with the entire common driveway. He felt that the existing common driveway is in disrepair and only 10' wide in some areas with no turnouts. Koning also noted that there is no water available in the area to fight a potential fire, and he requested a fire cistern. Finally, he requested that the homes on the common driveway be renumbered with addresses on Bates Farm Lane rather than Bedford Road. Dimakarakos said that he might be able to provide turnouts in the existing driveway.

The Chair asked Willard for comments, and she explained that the Conservation Commission has already opened its public hearing on this application, but are holding it open until the Planning Board public hearing is closed.

West requested that the existing plan from the 1983 application be used to show the sight distances, turnout locations, culverts, etc. Holzman did not believe that West's engineer could superimpose these items onto the old plan and then certify the plan originally drafted by another engineer in 1983. He noted that the Planning Board

regulations require an amendment to be treated as a new application, and therefore a new plan for the entire common driveway should be presented.

The applicant indicated that he would not be able to proceed with the application if he is required to pay for the installation of a fire cistern. Therefore, Epstein suggested that the Board begin its deliberations with this issue.

Holzman stated that although the Fire Chief has requested a cistern in this area, he felt that it was not reasonable to require a cistern for this amendment given the historical context in which it was originally contemplated that five lots would be served from this common driveway. Zinicola agreed and noted that if the Board does decide not to require a cistern, specific reasons must be given in the decision, since other common driveway special permits have required the installation of cisterns.

Before stating his opinion on the cistern, Lane asked the Fire Chief whether the common driveway access to the new lot would be safer than the individual driveway access. Koning stated that the common driveway would be safer if it were upgraded. Lane then stated that he would approach a decision by weighing the benefits of an individual versus a common driveway.

Hara also agreed with Holzman noting that the addition of turnouts on the existing common driveway and the installation of a sprinkler system in the new home would address safety concerns.

Epstein asked if using the nearby pond as a fire pond had been considered as an alternative. West explained that the installation of piping to meet the chief's requirements would be even more expensive than the cistern. Epstein also felt that it was unreasonable for the Board to require a cistern given the history, but noted that perhaps the common driveway regulations need clarification on this issue. Reid also agreed that because five lots were originally contemplated, a cistern should not be required.

Holzman felt that meets and bounds should be required for the existing portion as well as the extended portion of the common driveway easement.

A site walk was then scheduled for Tuesday July 10, 2001 at 6:30 p.m. Abend asked Dimakarakos to have the revised plan available at the site walk and to note approximately where the alternative driveway would be. Hara **moved to continue the public hearing to July 16, 2001 at 7:45 p.m.** Epstein seconded and the motion carried unanimously.

Request for release from covenant for Maplewood Subdivision, Acton Street, Map 17, Parcel 17A, request of Robert Koning

The applicant, Robert Koning was present. Abutters Jan Sachs and Marty Schafer of 337 Acton Street were also present.

Mansfield noted that the Board received a letter from Earth Tech dated 6/13/01 stating that a final inspection had been conducted and the project is complete. On 6/19/01, the Board received a letter from Koning requesting a full release of the covenant and balance of the project review account. Although the document is client privileged and may not be released to the public, Mansfield stated that advisory opinion number 77 from Town Counsel generally states that the pending litigation between the applicant and his abutter does not prohibit the Board from releasing the covenant if the subdivision is complete.

Zinicola questioned this opinion stating that the Board does not know if the litigation's outcome would affect the subdivision.

At 9:35 p.m. Epstein moved and Reid seconded a **motion to go into executive session for ten minutes to discuss the completion of Maplewood in light of the pending litigation.** Board members were polled and unanimously approved the motion.

At 9:45 p.m. Reid **moved to return to regular session.** Lane seconded the motion and the Board unanimously approved the motion by a roll call vote.

Sachs asked to speak to the Board and stated that she felt there were several reasons that the covenant should not be released. Sachs said that she was not aware that the as-built plan had been filed, but she thought that Koning Farm Road does not conform to the original plan in several ways. First, there are no plantings around the fire cistern and second, the shoulders do not appear to be wide enough in several locations. She stated that rather than grading the roadway out 15 feet as shown on the original plan, the roadway has only been graded to an adjacent fence. She noted that this fence was not shown on the original plan, and would have alerted them to the problem had it been included on the plan. Sachs was concerned that the Town may require changes to the subdivision after the litigation, and therefore she felt the covenant should not be released.

Koning stated that the roadway grading had to be revised in the field because the neighbors' deer fence was in the way.

Mansfield noted that the as-built plan was submitted on 12/8/2000 and that he accompanied Dale MacKinnon on the final inspection held on 4/13/01.

Abend asked Sachs to provide Mansfield with a written list of concerns and approximate locations of the areas in question. Because approval of the Maplewood subdivision expires on June 29, 2001, the Board asked Koning for an extension of subdivision approval. He agreed. Reid then **moved to extend approval of the Maplewood Subdivision to 9/15/01.** Zinicola seconded the motion and it carried 7-0.

ANR Plan: 291 River Road and Skelton Road, Map 1, Parcel 1, Mark D. and Rachel W. Elliott, applicants

Abutter Fontaine Richardson of 121 Skelton Road was present.

Mansfield explained that the plan creates three lots including an 11.8-acre porkchop lot within an existing lot. Richardson showed the location of an existing common driveway over this land to serve his lot, but this was not properly shown on the plan. According to Section B.1.E. of the subdivision rules and regulations, any governmental decisions must be shown on the plan. Reid **moved not to endorse the plan of land in Carlisle, MA prepared for Elliott and dated 6/18/01, without prejudice because of inadequacies including, but not limited to, lack of information regarding easements and a common driveway special permit.** Zinicola seconded the motion and it carried 7-0.

ANR Plan: 299 Bedford Road, Map 22, Parcel 69, Richard J. and Nancy Shohet West, applicants

The Board wished to extend their decision until after the West common driveway special permit is approved, but the applicant was not present to grant an extension. The Board found the plan acceptable and Reid **moved to endorse the plan of land in Carlisle, MA, prepared for West and dated 6/6/01 as approval not required.** Hara seconded and the motion carried 6-0-1 with Holzman abstaining.

Budget

Mansfield reported that there was no response to the RFP sent out to wireless consultants and he was not able to reach anyone via telephone today. Because the Town Administrator and the Board of Selectmen are supportive of this project, he suggested that the Board pursue the wireless study in FY 02 and request a reserve fund transfer if necessary. Abend reported that Paul Gill of the Wireless Applications Advisory Committee is also supportive of the study.

Mansfield estimated that \$600-\$800 would be needed to purchase office dividing panels. Lane moved to give the PA or his representative authority to encumber \$1500 for the purpose of purchasing office partitions and accessories. Zinicola seconded the motion and it carried 7-0.

Discussion of strategy with regard to pending litigation, Valchuis et al. v. Planning Board [Berry Corner Lane, Map 7, Parcel 29] (Executive Session)

At 10:40 p.m., Reid moved to go into executive session for the purpose of discussing pending litigation, not to return to regular session. Holzman seconded the motion, the Board was polled and the motion carried 7-0.

At 11:06 p.m., Holzman moved to come out of executive session and to adjourn. Reid seconded the motion and a unanimous roll call vote affirmed the motion.

Respectfully submitted,



Anja M. Stam
Administrative Assistant