



Town of Carlisle

MASSACHUSETTS 01741

Office of

PLANNING BOARD

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MINUTES

September 10, 2001

Request for additional extension of time to complete Maplewood Subdivision, Acton Street, Map 17, Parcel 17A (Request of Robert Koning)

Endorsement of plans for amendment of Common Driveway Special Permit, 299 Bedford Road, Map 22, Parcels 69, 87 & 88, Richard and Nancy Shoheit West, applicants

Consideration of re-issuance of Request for Proposals for potential site analyses for Wireless Communications Facilities

ANR Plan: 80 & 100 Wildwood Drive, Map 6, Parcels 27 & 28, Charles H. and Carol P. Cox, applicants

Notice of intent to sell property classified under MGL Chapter 61 (forestry exemption) at 80 Wildwood Drive (Map 6, Parcel 27B) (Charles H. Cox, owner)

Request for recommendation to lay out Hutchins Road, Kimball Road and Barnes Place as Town ways (Request of Board of Selectmen)

Report on Zoning Board of Appeals meeting on 9/6/01 regarding the application of American Tower at 662 Bedford Road

Discussion of proposed amendments to Subdivision Rules and Regulations

Chair Michael Abend called the meeting to order at 7:30 p.m. Board Members Louise Hara (clerk), Dan Holzman, Tom Lane (Treasurer), Kate Reid and Phyllis Zinicola were present. Member Michael Epstein (Vice Chair) arrived at 8:00 p.m. Planning Administrator George Mansfield, Administrative Assistant Anja Stam and *Mosquito* reporter Susan Yanofsky were also present.

Abend followed up on several items from the minutes of 8/20/01. He asked if the draft Personnel Handbook had been forwarded to the Town Administrator. Mansfield said that he would forward it to Abend and Zinicola for comment this week and then forward a final draft to the Town Administrator before the deadline. Regarding money for review of the West Common driveway, the Administrative Assistant reported that it had been received and deposited. Regarding the draft letter from Town Counsel to Valchuis' attorney, Mansfield reported that Hucksam has drafted a letter, but is still waiting to review it with Epstein. Abend also asked about whether the wireless notification for abutters within 900' discussed at the last meeting referred to the location of the cell tower or the lot lines. Mansfield stated that the 900' residential setback in the bylaw refers to the location of the cell tower, but that abutters lists are generated using lot lines. The Board agreed to discuss this issue further at a later date.

Abend suggested one clarification to the minutes of 8/20/01 and the Board agreed. Hara moved and Lane seconded a motion to accept the minutes of August 20, 2001 as amended. The motion carried 5-0-1 with Holzman abstaining. Lane moved to accept the executive session minutes of August 20, 2001 as drafted. Zinicola seconded the motion and it carried 5-0-1 with Holzman abstaining.

The bills were circulated and Mansfield noted that the 7/13/01 bill for the final inspection of Maplewood was still unsigned. He stated that he spoke with Dale MacKinnon and requested itemization of this bill, but it has not been received. In the meantime, a bill for the revised final inspection report has been submitted by Earth Tech. Reid suggested that neither bill be signed until they are both explained.

Mansfield asked the Board to determine which four members should be given access to Ordinance.com in addition to the administration. It seemed that all Board members might be interested and the Administrative Assistant was

asked to research the possibility of several Board members sharing one login code as long as they are not used simultaneously.

Request for additional extension of time to complete Maplewood Subdivision, Acton Street, Map 17, Parcel 17A (Request of Robert Koning)

Abutters Janet Sacks and Martin Schafer were present.

Koning submitted a letter to the Board dated 9/5/01 in which he requested an extension of the time for completion of the subdivision to December 31, 2001.

Sacks reported that there was a hearing this morning requesting an injunction to stop any construction work in the disputed area. She stated that the judge ruled to require Koning to give one-week notice prior to beginning any work. Sacks also presented the Board with a copy of a letter from her attorney to Koning's attorney stating that Sacks and Schafer would not oppose any amendment to the subdivision plan that would prohibit grading and construction work in the disputed area.

Lane moved to grant an extension to December 31, 2001 for the completion of the Maplewood Subdivision. Hara seconded the motion and it carried 6-0.

Endorsement of plans for amendment of Common Driveway Special Permit, 299 Bedford Road, Map 22, Parcels 69, 87 & 88, Richard and Nancy Shohet West, applicants

Because the appeal period ends on 9/11/01, four Board members endorsed the plan and Hara will endorse the plan at the PB office after the appeal period expires.

Community Preservation Institute

Both Hara and Holzman expressed an interest in attending this nine-week program. They agreed to attend alternately and Holzman will submit the application for the course.

(Epstein arrived.)

Consideration of re-issuance of Request for Proposals for potential site analyses for Wireless Communications Facilities

The Board considered whether it was in need of consulting services to provide 1) review of the wireless bylaw, 2) review of wireless applications as they come before the Board, 3) identification of potential wireless sites in Carlisle, or 4) advice on possible alternatives and the minimum number of sites required to provide adequate coverage in Carlisle. After some discussion Board members agreed that they needed some review in all areas, but should focus primarily on items 2 and 4. Mansfield was asked to redraft the RFQ to reflect this and to send it to the list of engineers generated by Stam.

ANR Plan: 80 & 100 Wildwood Drive, Map 6, Parcels 27 & 28, Charles H. and Carol P. Cox, applicants and Notice of intent to sell property classified under MGL Chapter 61 (forestry exemption) at 80 Wildwood Drive (Map 6, Parcel 27B) (Charles H. Cox, owner)

David Garcelon, Project Manager of Acton Survey & Engineering was present to represent the applicant. He showed the ANR plan and noted that the proposed land swap does not change the frontage of either lot. Mansfield stated that the two existing driveways should be considered improvements to the lots, but are not shown on the plan. Then Abend noticed that Lot 27, a porkchop lot, did not maintain a 40' wide corridor to access the buildable portion of the lot. He estimated that at its narrowest point the lot is only 33' wide. Mansfield stated that he had reviewed a proof plan with Doug Andrysick, another engineer from Acton Survey, where this lot was shown with 100' of

frontage. He said that this revised plan was not shown to him before the application was filed with the Town Clerk. Mansfield also explained that he visited the site and was surprised to find that a septic system to serve Lot 28 had already been installed on the portion of Lot 27 intended for the swap. He found this problematic not only because it was done prior to ANR endorsement, but also because the land in question is Chapter 61 land. Mansfield said that he has made the Board of Assessors aware of this situation and they are considering possible compensation to the Town. Although the ANR plan showed only a half circle at the cul-de-sac, Mansfield said that it appears that the full cul-de-sac has been built. Garcelon explained that the cul-de-sac provides an adequate turn-around because a full circle has been offset to fit entirely within the right-of-way shown on the plan.

The Board asked Garcelon to withdraw this plan and file a revised plan that would show continuous 40'-wide access to the buildable portion of Lot 27, existing driveways and septic systems, and existing or proposed easements with references to any easement documents. The Board requested a written withdrawal request before 9/20/01.

Garcelon asked how he should resolve the Chapter 61 land issue. The Board advised him to meet with the Board of Selectmen. Mansfield was asked to send a memo to the Town Administrator advising her of why the ANR plan was not endorsed.

Request for recommendation to lay out Hutchins Road, Kimball Road and Barnes Place as Town ways (Request of Board of Selectmen)

David Freedman of Hutchins Road was present.

Abend stated that the Board must decide how it will handle encroachments upon the right-of-way, noting that in the case of Tall Pines, Town Counsel had advised them to release the subdivision, but that the Town should not accept the roadways without a mechanism for legal protection. Abend also noted that the Tall Pines subdivision was approved before the Board had regulations in place to provide for a homeowners association. Hara observed that a street sign was missing at Barnes Place.

Freedman, whose property does not have any structures in the right-of-way, noted that Munroe Hill, Davis Road and Koning Farm Road, among others, all have encroachments on the right-of-way.

Epstein suggested that the Board review roadway acceptance in light of encroachments in other subdivisions and in consideration of the hazardous conditions they may or may not create. He felt that if the encroachments are not considered dangerous, then the Board may move forward by recommending a means to protect the Town from liability.

Reid cited examples of encroachments elsewhere and felt it would be important to eliminate such hazardous conditions throughout the Town. Abend noted that existing roadways are not under PB jurisdiction and then asked the PA to identify which items on his list of encroachments in Tall Pines could be considered dangerous. Mansfield said he did not feel qualified to make that judgement, but cited Lot 35A, which has a dry stone wall that could be a safety issue if the rocks are loose. He also noted that there are now lots with stone pillars or substantial boulders in the right-of-way that were not included on the list prepared last November, and that there are now two granite pillars supporting mailboxes. Holzman noted that most mailboxes are located within the right-of-way and asked if the Town had any regulations governing mailboxes. Mansfield did not think so.

Holzman suggested that the Board should not concern itself with the issue of liability since there are already many encroachments throughout Town. He felt that the roadways in Tall Pines are not in the condition that the Board expected at the time of subdivision approval and this is the basis upon which the roadways should not be accepted. Reid agreed with Holzman and was opposed to roadway acceptance unless the encroachments are removed.

Epstein took the position of accepting the roadways if the Board finds the following: that none of the encroachments are dangerous, any encroachments are excluded from the acceptance, and the Town is indemnified against possible damage to private property situated within the right-of-way. Hara agreed noting that encroachments

on a subdivision road where traffic is generally slow, are less dangerous than encroachments on a through road or main road where cars may travel much faster. Reid did not think that the Board should be responsible for reviewing and judging the hazards of each encroachment.

Zinicola found herself agreeing with both Epstein's and Reid's arguments and said that she would be willing to compromise on acceptance of the Tall Pines roadways because the owners were not made aware of this issue before they built the walls or other structures. However, she felt that the Board must take action to prevent such encroachments in the future.

Lane stated that he could not make a decision without reviewing the site. He felt that the Board should make a recommendation not to approve the roadways and then let Town Meeting decide. Epstein argued that the residents of Tall Pines would likely be able to muster support to pass roadway acceptance at Town Meeting despite a PB recommendation against such action. He preferred a compromise in which the Town could be indemnified against injury and property damage.

Freedman presented his case for roadway acceptance first by noting that there is no as-built plan for the Tall Pines subdivision. He also noted that there are substantial rocks within the right-of-way placed around the fire cistern. Mansfield agreed that he also saw these rocks and found that they are properly located according to the cistern plan. Freedman argued that with certification of subdivision completion, the Board has agreed that Tall Pines has been built according to the subdivision rules and regulations, and therefore the Board must simply verify this to the Board of Selectmen. Freedman also stated that as subdivision roads, the Tall Pines roadways are safer than most other roadways in Town. He requested that the PB specify the indemnification required prior to roadway acceptance so that the Selectmen move forward with the laying out of ways while protecting the Town from liability.

Abend asked Board members to drive through the subdivision and assess possible hazards in order that the Board may recommend acceptance, but only if the Town is indemnified. Holzman and Reid did not think it was appropriate for the Board to do so and preferred a recommendation to not accept the roadway. Epstein argued that the latter would be an easy solution for the Planning Board, but would not protect the Town. He preferred recommending a compromise solution. He noted that he has included a new section in the draft Subdivision Rules and Regulations requiring a demarcation of the 50' right-of-way. He agreed that the Board should not offer compromises in the future when the right-of-way is clearly defined.

Abend asked Freedman to make the residents of Tall Pines aware that this issue may not be resolved by Fall Town Meeting, and that they may be required to provide their own snowplowing services this winter. Freedman argued that the request for roadway acceptance was before the Selectmen on 6/15/01 and that this issue should have been resolved by now. He said that the residents would file suit against the developer and the Planning Board if necessary. Epstein told Freedman that the Planning Board has been working very hard to formulate a compromise with the residents of Tall Pines, but could simply recommend against roadway acceptance if the residents were not willing to work with the Board.

It was agreed that Board members would visit the site individually, and the item would be placed on the next meeting agenda.

Report on Zoning Board of Appeals meeting on 9/6/01 regarding the application of American Tower at 662 Bedford Road

Abend, Hara, Holzman and Reid attended this meeting and reported on the proceedings. Epstein asked the Administrative Assistant to obtain all future BOA minutes regarding wireless applications.

Mansfield noted that American Tower is scheduling a balloon test for the BOA and has requested that this test fulfill the Planning Board's requirement for a balloon test as well. Board members agreed that American Tower should perform the test again when they make their application to the Planning Board, as required by the Zoning Bylaws.

Discussion of proposed amendments to Subdivision Rules and Regulations

Epstein reported that he has reviewed the Planning Board's to-do list and included all items in the draft rules and regulations. He asked Board members to review the draft again paying particular attention to the following areas: 1) fire cistern regulations, 2) access to adjoining towns, 3) number of lots that may be added to an approved subdivision, 4) grading, planting and landscaping plan requirements, and 5) escrow payment in lieu of sidewalks as requested by the Pedestrian and Bike Safety Committee. He also asked members to review the 4/6/01 memo from the Conservation Commission to determine how their goals might be applied to the rules and regulations.

Epstein asked the PA to forward the information on fire cistern regulations obtained from other communities to the Fire Chief for his review and input.

Other Business

Epstein reported that he has not been able to speak with Town Counsel regarding the drafting of a letter to Valchuis' attorney, but will do so this week. The Board noted that construction on Berry Corner Lane has begun, but this is not a Planning Board issue.

The PA noted that a free subscription to "Architecture Boston" was available to each Board member. Abend, Epstein and Holzman requested copies.

At 10:30 p.m. Reid **moved to adjourn**. Hara seconded the motion and it carried unanimously.

Respectfully submitted,



Anja M. Stam
Administrative Assistant