



Town of Carlisle

MASSACHUSETTS 01741

Office of

PLANNING BOARD

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MINUTES September 24, 2001

Discussion of proposed amendments to Subdivision Rules and Regulations

**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)**

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

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

Vice Chair Michael Epstein called the meeting to order at 7:40 p.m. Members Louise Hara, Tom Lane, Kate Reid and Phyllis Zinicola were present. Chair Michael Abend arrived at 9:40 p.m. and member Dan Holzman was not present this evening. Planning Administrator George Mansfield and Administrative Assistant Anja Stam were also present. *Mosquito* reporter Susan Yanofsky arrived at 8:45 p.m.

Epstein noticed that the minutes of September 10, 2001 were incorrectly dated. With this change made, **Reid moved and Hara seconded a motion to accept the minutes of September 10, 2001 as amended.** The motion carried 5-0.

The **bills** were circulated and Mansfield noted that he has had no response from Dale MacKinnon regarding itemization of the two bills from Earth Tech. The Board agreed to hold these bills until they are clarified. Mansfield also asked the Board to approve a bill for his attendance at the New England Planning Conference to be held in Lowell on Oct. 4th and 5th. Members agreed that this conference would be worth attending. Epstein reminded the Board to consider the need for expenditures that might be needed for special projects or research.

Lane noted that MAGIC would be holding its legislative breakfast on October 4th in case a Board member would like to attend.

Regarding the Berry Corner Lane matter, Epstein explained that he had originally intended to direct Town Counsel to draft a letter to Valchuis' attorney, Howard Speicher, explaining the Board's decision to reject the proposed agreement for judgement. Instead, Epstein suggested that the Board should direct Hucksam to place a phone call to Speicher to confirm the Board's decision. Epstein also asked the PA to inquire of Town Counsel, under what authority the Valchuis are moving forward with the reconstruction and paving of Berry Corner Lane.

Discussion of proposed amendments to Subdivision Rules and Regulations

The Board began reviewing the proposed changes to the Subdivision Rules and Regulations as compiled by Epstein. During this review, the Board noted that several items required more information or review.

First, Hara explained that it is often difficult to overlay Town maps, with developer's maps because some refer to magnetic north, some to true north and still others to north point or north arrow. She offered to research Town departments to determine which reference method would be most appropriate to provide consistency with Town documents. The AA was asked to add this item to the "To Do" list. Hara also suggested that the Board develop a planting guide to recommend effective vegetation for detention basins. She noted that the Town of Acton planted an

attractive example of a detention basin in their arboretum. Board members agreed that a guide would be useful, but suggested that it need not be incorporated into the subdivision rules and regulations. Epstein recommended that the rules and regulations pertaining to landscaping and planting plans be forwarded to Beals and Thomas for review, subject to the consent of the Chair.

The Board concluded that the section pertaining to conservation restrictions required in depth review. Hara offered to forward this section to the CR committee for their input.

Other sections that require more attention include Article III, Sections 2.A.4 and 2.A.17 regarding subdivision road access to other towns and limiting the number of lots accessed by a subdivision road.

Regarding footpaths, Epstein asked the PA to contact Deb Belanger of the Pedestrian/Bike Safety Committee to remind her that the Board is still awaiting a method to calculate the funds requested in lieu of footpath construction. He also noted that the proposed revisions to the rules and regulations refer to a footpath plan. He asked the PA to ask Belanger when this would be available.

The Board noted that revisions to the design standards should also be incorporated into common driveway and conservation cluster rules and regulations and asked Stam to add this to the "To Do" list. She was also asked to include the sample fire protection regulations in the next meeting packet for all Board members. The Board agreed to continue discussion at its next meeting beginning with Art. III, Section 5.G regarding storm drainage.

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

Applicant Carol Cox and her engineer Doug Andrysick of Acton Survey & Engineering were present.

Epstein moved to accept the withdrawal of the previously submitted ANR application for 80 & 100 Wildwood Drive dated September 4, 2001, per request of Acton Survey & Engineering on behalf of Charles and Carol Cox. Hara seconded the motion and it carried 5-0.

(Abend arrived.)

Andrysick explained that the ANR plan involves a land swap and that the resulting two lots would consist of 2.02 and 27.9 acres. The revised plan provides a continuous 40-ft. width to access the buildable portion of Lot 27A as required by the subdivision rules and regulations. Mansfield stated that the revised plan meets PB requirements, but noted that the revised lot line may infringe on septic setback requirements as required by the Board of Health.

Reid moved to endorse the ANR plan prepared by Acton Survey and Engineering, Inc., for Charles and Carol Cox, dated 9/19/01 for a plan of land on Wildwood Drive in Carlisle, MA. Hara seconded the motion and it carried 5-0-1 with Abend abstaining.

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)

Mansfield noted that the Board of Selectmen met on September 18, 2001 and voted not to exercise their right to purchase this property. Therefore, a recommendation from the Planning Board is no longer required. Lane attended that BOS meeting and explained the PB's concerns regarding this property.

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

John Doyle of Canterbury Court was present. He asked if the Planning Board could respond to the questions from Bob Harvey which were sent to the Board via e-mail this morning, in which he represented the abutters of 662 Bedford Road. First, the abutters felt that it would be in everyone's best interest to consider alternative wireless

sites that require fewer waivers, and they asked if the current proposal at 662 Bedford Road could be tabled until such sites are evaluated by both the carriers and the Town. Abend informed Doyle that the current application must be allowed to continue through the review process. Harvey also understood that the Board of Selectmen have authorized testing of five sites and asked if the PB is working with the BOS to find alternative sites. Abend said that the PB was not aware of the testing and is not currently working to identify other potential sites. Lastly, the abutters asked how they would best be able to convey their concerns if the application came before the PB. Abend suggested that they attend meetings and submit concerns in writing.

Mansfield noted that American Tower would be conducting a balloon test on 9/26/01 from 9:00 a.m. to 2:00 p.m. Hara was concerned that the proposed monopine might be unattractive and was concerned that the Zoning Board of Appeals might specify a monopine in their decision. Hara moved to **direct the PA to draft a memo to the Zoning Board of Appeals asking them not to condition their approval on any design specifications.** Epstein seconded the motion and it carried 6-0. Mansfield agreed to circulate the draft to all Board members for review before forwarding the memo to the ZBA. Hara and Reid will try to attend the next ZBA meeting regarding the American Tower application.

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

The following residents were in attendance: Mike Bishop, Hal Charnley, Mike Hassara, Anil and Abha Singhal, Ross Blair, Richard Boule, Mahesh and Medha Ganmukhi, Michelle and Ken Mostello of Kimball Road; Jay Reichheld, Brian Coffey, Jim and Lisa Philippou, David Freedman, Basil Bourque, Walter Dray, Shervin Ayati, John Solomon, and Joanne Rainville of Hutchins Road; James Lin of Barnes Place; Pat and John Kovach and Deborah Schurr of Swanson Lane.

Mansfield explained that the original supplemental opinion of Town Counsel dated 5/21/01 advised the Board that the Town should not accept the roadways with the structures in the right of way. That opinion was withdrawn, however, and superceded by an opinion dated 6/4/01 advising that the roadways could be accepted excluding the structures, but the Town would retain the right to remove any structures within the right-of-way. Unfortunately, the PB mistakenly referred to the opinion dated 5/21/01 at its last meeting and deliberated the issue based on that opinion.

In a letter dated 9/21/01 addressed to Mansfield, David Freedman expressed his dissatisfaction with how the Board has handled the issue of roadway acceptance in Tall Pines. Epstein replied by reminding Freedman that he originally met with Selectman John Ballantine and Freedman to discuss this issue in February 2001. At that time they were working to find a mutually acceptable solution and requested advice from Town Counsel, which was ultimately received in June. Epstein noted that the Board of Selectmen did not request a Planning Board recommendation on laying out the roadways until September 4, 2001. Abend read a draft motion regarding this recommendation prepared by the PA based on Town Counsel's 6/4/01 opinion and the Board discussed it.

Freedman referred to Town Counsel's opinion of 6/4/01 and suggested that the term "defect" in question 5 should be defined. He also noted that in a memo dated 5/4/00, the Board's engineer stated that the structures in the right-of-way do not interfere with sight distances.

Mahesh Ganmukhi of 161 Kimball Road asked who is currently liable for the roadway. Abend said that in the event of any problems, the owners of the roadway would be held liable, but he also stated that the Board does not have evidence of who currently owns the road. Ganmukhi then noted that the fire cistern and surrounding boulders are also close to the roadway. He asked if this was considered a defect. Abend explained that the cistern has been built according to plan in order to meet fire protection requirements, but other structures within the right-of-way were not approved by the PB.

John Solomon of 186 Hutchins Road was concerned that resolving this issue could delay roadway acceptance and force the residents of Tall Pines to find alternate means of maintaining the road over the winter. He suggested that

structures that the Town finds hazardous could be removed after acceptance at Town meeting. Abend understood his concern, but also noted that the Town may not wish to purchase defective property.

Freedman asked why the Planning Board has singled out this subdivision in their concern over right-of-way encroachments. Abend explained that in this case, the Board still has the authority to make a recommendation and therefore has the opportunity to set precedent for future development.

Shervin Ayati of 65 Hutchins Road asked about the issue of exclusion versus liability of the structures. Epstein explained that the Town would own the underlying land, but that the structures could be excluded from the Town's responsibility to maintain the roadway. However, the Town could still be held accountable if those structures interfere with public safety and therefore the Town should retain the right to remove hazardous structures.

Epstein then moved and Lane seconded the following: **The Planning Board, finding that a Certificate of Completion was issued by this Board on June 11, 2001, for the Tall Pines Definitive Subdivision Plan under the provisions of M.G.L. Ch. 41, Sec. 81U, hereby recommends that the Board of Selectmen lay out Hutchins Road, Kimball Road, and Barnes Place as Town ways.**

If Town Meeting subsequently decides to accept these roadways as public ways, the Planning Board also recommends, on the advice of Town Counsel as contained in a memorandum dated June 4, 2001 (Advisory Opinion No. 76 - Supplemental), that the Town, acting through the Selectmen, acquire a fee interest in the land within the roadway layouts, but exclude any encroachments built by abutting property owners within the layouts.

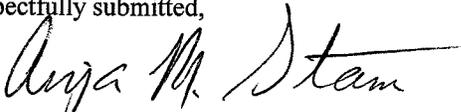
Further, the Planning Board recommends that before the Town acquires the roadways, the Selectmen or their designee(s) should determine whether any of the encroachments within the said roadway layouts could subject the Town to liability pursuant to M.G.L. Ch. 84, Sec. 15 et seq. If there is a determination that the encroachments could subject the Town to such liability, the Planning Board recommends that the Selectmen consult with Town Counsel to ascertain what steps should be taken. The motion carried 6-0.

Freedman asked the Board to forward a copy of Town Counsel's opinion to Tall Pines developer William Costello, but Abend suggested that Freedman do this himself if he thought it appropriate. Rich Boule of 110 Kimball Road asked what the homeowners should do if the roadway is not accepted at Fall Town Meeting. Abend suggested that they hire a lawyer to determine who owns the roadway.

Due to the Columbus Day holiday, there will be no meeting on the 2nd Monday in October and the Board scheduled its next meeting for Monday October 22nd at 7:30 p.m.

The meeting was unanimously adjourned at 11:15 p.m.

Respectfully submitted,



Anja M. Stam
Administrative Assistant