



Town of Carlisle

MASSACHUSETTS 01741

Office of

PLANNING BOARD

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MINUTES

January 14, 2002

Staff Performance Review

Review of roadway improvements and guardrail and retaining wall design specifications per Great Brook Estates Definitive Subdivision Plan, 195 Rutland Street, Map 26, Lot 18D

Notice of receipt of Site Plan for 698 Concord Street, for review and recommendations to the Board of Selectmen in accordance with Sec. 7.6 of the Zoning Bylaws (submitted by the Carlisle Historical Society, Inc., on 1/3/01)

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

ANR Plan: Berry Corner Lane, Map 6, Parcels 1 & 70, Michael Vale and David Valchuis, applicants
Review of Town's intentions to prepare a Community Development Plan with the funding provided by Executive Order 418

Discussion of proposed amendments to Subdivision Rules and Regulations

Chair Michael Abend called the meeting to order at 7:30 p.m. in the Clark Room at Town Hall. Board Members Michael Epstein (Vice Chair), Louise Hara (Clerk), Dan Holzman, Tom Lane (Treasurer), Kate Reid and Phyllis Zinicola were present. Planning Administrator George Mansfield and Administrative Assistant Anja Stam were present and *Mosquito* reporter Susan Yanofsky arrived at 8:10 p.m.

Lane noted a typographical error on the minutes of December 10, 2001. Hara then moved and Lane seconded a **motion to accept the minutes of December 10, 2001 as amended**. The motion carried 6-0-1 with Abend abstaining. The minutes of the December 10, 2001 executive session were also reviewed and Reid noted a clerical error. Reid moved and Hara seconded a **motion to accept the executive session minutes of December 10, 2001 as amended**. This motion also carried 6-0-1 with Abend abstaining.

The **bills** were circulated for signature. Lane stated that the **budget** is on target. Abend noted that the "Planning and Professional" line item remains unspent at \$6,850 and asked if the Board wished to use these funds in FY02 and if the same amount should be budgeted for FY03. Board members agreed that even if the money is returned to the general fund at the end of FY02, this account should be similarly funded in FY03 since outside technical assistance is an occasional, but continuing need. The Board then discussed the possibility of using the funds to study potential cell tower locations in Carlisle. Members agreed that when the Request for Proposals (RFP) was sent out previously, consultants were not given enough time to respond. Mansfield agreed to make minor revisions and mail the RFP as soon as possible. Reid suggested that Kreines and Kreines should be added to the mailing list. Epstein suggested that the same firms receiving the RFP should also be asked to send their qualifications for reviewing wireless applications. Epstein was concerned that seeking cell tower location information could jeopardize the outcome of the application currently before the Board of Appeals. He asked the PA to confirm the Selectmen's continued interest in moving forward with this study, before sending the RFP. It was agreed to request letters of interest by the end of January with full proposals and/or qualifications to follow.

Wireless Applications

Abend suggested that the Board should spend some time discussing its preferences for wireless sites and facilities before receiving an actual application. For example, he was not sure if the Board would prefer a monopine to a monopole or brown stick. The PA was asked to put this on the agenda for January 28th.

Staff Performance Review

Abend stated that he is in the process of compiling comments received from Board members and call staff by the end of the week to discuss the performance review. He also agreed that a Board member should be present at Mansfield's interview with the Town Administrator.

Town Report

The Board reviewed the Planning Board's report for the 2000 Town Report and agreed that a similar format should be used for the 2001 report. Epstein suggested adding approval dates for subdivisions.

Meeting Schedule

The Board agreed to continue meeting on the second and fourth Monday's of each month, at least through Town Meeting.

(Yanofsky arrived.)

Review of roadway improvements and guardrail and retaining wall design specifications per Great Brook Estates Definitive Subdivision Plan, 195 Rutland Street, Map 26, Lot 18D

The applicants, Albert Gould and Betsy Goldenberg were present. Abutter Rich Puffer of 181 Rutland Street was also present.

Gould suggested that before the Board decided on the aesthetic design of the guardrails, it should consider to what standards the guardrails should be designed. Gould and his engineer, John Kliethermes of Service Engineering, representing Versa-Lok, recommend constructing the guardrails to AASHTO standards. The Board generally agreed that AASHTO standards should be used, but Holzman thought that there might be different AASHTO standards for different applications, and suggested that the Board specify which standard should be used.

Gould then outlined three possible guardrail options: 1) steel posts and rails with a wood façade, 2) 8"x8" wooden posts with steel rails, either faced with wood or oxidized, and 3) 10"x12" wooden posts with 6"x10" wooden rails backed with a continuous 6" steel plate. This last system would also require 6-foot splicing plates at the posts.

Gould stated that he is expecting Great Brook Path to be accepted as a public way, but suggested that if the Board is concerned about maintenance of the guardrail façade, this could be included in the homeowners agreement. He also noted that ConsCom has requested that ACQ lumber should be used wherever pressure-treated wood is indicated.

Puffer stated that as the abutter most directly affected, he would prefer guardrails with a rural character rather than highway steel and thought that wooden posts with weathered steel rails would be a reasonable compromise while still maintaining safety.

Reid said that she was not concerned about using steel for the posts, because they would be covered with plowed snow for much of the winter, and camouflaged by tall grass and greenery during the growing season. Hara asked if any plantings were planned in front of, or behind the guardrails. Mansfield referred to the landscape plan and noted that on the north side, the guardrail was to be set 3-feet off the retaining wall with a two-foot strip of grass in front of it, and daylilies planted between the wall and rail. On the south side, the rail is shown at the wall with a sidewalk and then grass next to the roadway.

The Board discussed Gould's second option of using wooden posts with weathered or oxidized steel (known by the tradename COR-TEN™) rails. They agreed that this option would be both safe and aesthetically pleasing. They raised concerns, however, about the life of wooden vs. steel posts. Epstein suggested that this would become the homeowners' responsibility to maintain and therefore will not burden the Town. Gould stated that his offer to maintain the guardrails was intended to include refacing or painting of the rails only. Because the posts are an integral part of the entire bridge structure, he did not feel that the homeowners should assume the responsibility of

maintaining them. Holzman agreed that the posts are an integral part of the retaining wall structure, and preferred using steel posts. The Board asked Gould to investigate whether COR-TEN™ could be used for the posts as well as the rails. Gould was also asked to research the longevity of wood versus steel post, and to report to the Board at the next meeting. Gould agreed to do so. Discussion was continued to 8:00 p.m. on January 28, 2002.

Notice of receipt of Site Plan for 698 Concord Street, for review and recommendations to the Board of Selectmen in accordance with Sec. 7.6 of the Zoning Bylaws (submitted by the Carlisle Historical Society, Inc., on 1/3/01)

Attorney Jake Diemert and Engineer Rich Harrington of Stamski and McNary were present to represent the Carlisle Historical Society. Society members Charles Forsberg and Sarah Brophy were also present. As an abutter to the site, Board member Louise Hara recused herself from the Board during this discussion.

Diemert explained that the Historical Society is asking the PB to recommend site plan approval to the Board of Selectmen before their meeting of 2/12/02. He also requested that the Board recommend a waiver of the filing fee, the project review fee and as-built plan because the site plan actually involves very little change and the Historical Society provides a service to the Town. He noted that the building inspector has approved the seven existing parking spaces for the new use.

Harrington stated that there are only two changes proposed to the site. The existing pool will be filled in and the stockade fence will be removed from the front of the property. He noted that the septic system has passed Title V inspection, and the Board of Health has approved the existing well and septic system for the proposed use. Harrington stated that the existing sight distances are adequate for Concord Street. Abend reviewed the plan and felt that sight distance should be improved north of the entrance to the property and asked that some overgrown brush be removed. Epstein suggested that the natural growth should only be disturbed if absolutely necessary for sight distance.

Reid asked about the scope of intended use of this site. Specifically she wanted to know whether the public would be accessing the building on a regular basis. Diemert explained that the site would be used for storage of artifacts and preparation of off-site exhibits. A caretaker will be in residence and may receive occasional appointments from researchers. ADA compliance and signage are not required.

Although the Board generally felt that the filing fees could be waived, they agreed to leave that decision to the Board of Selectmen.

Mansfield told the Board of a discrepancy found by Harrington between the Site Plan Rules and Regulations and the Bylaws. He explained that the bylaw requires the PB to report its recommendations to the Selectmen within 35 days of the filing date and that the Selectmen must wait for that report. The Rules and Regulations, however, require the Selectmen to hold a public hearing within 35 days of the filing date, but to immediately continue the hearing to allow time for Planning Board input. Mansfield suggested that the Selectmen could waive this regulation for this application, but recommended that the Board revise the regulation for future applications.

Reid moved to recommend Site Plan Approval for the Carlisle Historical Society shown on a plan dated October 30, 2001, prepared by Stamski and McNary, with the suggestion that minimized brush clearing be required to the north of the entrance to the property in order to improve sight distance. Holzman seconded the motion and it carried 6-0-0-1 with no opposition, no abstention and Hara recused.

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

Litigants Michael Vale (formerly Michael Valchuis) and David Valchuis were present with their attorney Richard Dacey. Abutter Dick Wells of 93 Berry Corner Lane was present.

At 9:20 p.m., Lane moved to go into executive session to discuss the pending litigation, and to return to regular session at approximately 9:35 p.m. Holzman seconded the motion. The Board was polled and unanimously agreed to the motion.

At 9:45 p.m., Hara moved to return to regular session. Abend seconded the motion. The Board was polled and the motion carried unanimously.

Epstein asked Wells if the litigants had attempted to contact the abutters to discuss a maintenance agreement. Wells said he was not aware of any such attempts. Epstein then asked Dacey if he had spoken with the abutters' attorney regarding maintenance. Dacey replied no. Epstein also asked Dacey what document or agreement would allow his clients to implement their maintenance obligation per the proposed Agreement for Judgement. Dacey indicated that the easement agreement for access over Berry Corner Lane, drafted in February 1996 and granted by the owners of the Lane on April 30, 1996, would give them this right. The Board then turned its attention to the ANR plan.

ANR Plan: Berry Corner Lane, Map 6, Parcels 1 & 70, Michael Vale and David Valchuis, applicants

The Board asked Dacey why the applicants had chosen to submit an ANR plan identical to the plan denied in 1996. Dacey stated that the new plan has simply been revised to meet the requirements of the current rules and regulations and also notes new abutters. He explained that the ANR has been presented at this time with the expectation that it will be signed as part of the Agreement for Judgement. Abend noted that the Board has only twenty-one days to act from the date of filing, and he asked why the plan was filed before the Agreement for Judgement was finalized. Dacey said that after working on the agreement with Town Counsel, he assumed that it would be acceptable to the Board.

Epstein explained that the underlying issue is the Board's concern over the applicants' right to maintain the roadway. He said that the Board requires a maintenance agreement to assure that the roadway will be maintained as built and improved. Dacey appreciated the Board's concern, but felt that the Agreement for Judgement, as written, assures the Board of roadway maintenance. He also said that an ANR plan typically does not require a maintenance agreement, and the abutters are not parties to the land-court case. Dacey noted that if the land-court case were settled, Valchuis and Vale would have legal access. Epstein said that the Board would like to see this settlement.

Epstein then addressed Mr. Wells to express his disappointment in the abutters' complacency with regard to cooperating with the petitioners and the Board to settle this case. He asked Wells to communicate to his fellow abutters and their lawyer the Board's desire to have them discuss a common maintenance agreement of the roadway with Dacey. Wells agreed to speak with his attorney. Dacey maintained that the proposed Agreement for Judgement allows the Planning Board to enforce it against Vale and Valchuis. He stated that according to Town Counsel there was little chance of obtaining cooperation from the abutters, and Dacey preferred to proceed without involving them.

The Board then asked if the applicants would be willing to grant an extension to ANR approval, in order to allow the Board time to review the latest draft of the Agreement for Judgement and maintenance requirements. This discussion was tabled at 10:20 in order to allow the applicants time to discuss this request with their lawyer.

At 10:30 p.m. this discussion was resumed and Dacey reported that Vale had declined to offer an extension. Reid then moved not to endorse the Plan of Land in Carlisle, MA, dated 12/31/01 as approval not required because ANR endorsement would add a sixth lot to the number presently allowed to use Berry Corner Lane for access, and thus violate the terms of the original Small Subdivision approval given 6/19/68, under Sec. 6 of the Planning Board's Rules and Regulations, recorded 1/13/61. Epstein seconded the motion and it carried 7-0. The Board authorized Mansfield to file the Board's action with the Town Clerk.

Yanofsky asked what the Board is seeking in order to endorse the ANR and settle the litigation. Epstein explained that the Board seeks an agreement which allows the PB to enforce maintenance of the improved roadway either by the owners or abutters of the lane, or by giving assurance that Vale and Valchuis have the right to maintain the roadway.

Review of Town's intentions to prepare a Community Development Plan with the funding provided by Executive Order 418

Lane explained that Carlisle's existing plans such as the Carlisle Study Plan, Housing Plan, Sidewalk Plan, Open Space Plan, and Growing Pains report may satisfy many of the requirements of a Community Development Plan. He noted that if the Town seeks and receives a \$30,000 planning grant, the money may not be used to pay for staff, but may be used for consulting fees related to preparing and/or updating plans for housing, open space, transportation and economic development.

Mansfield stated that he spoke with Town Administrator Madonna McKenzie who proposed that a task force be created with representatives from the Planning Board, Housing Authority, Municipal Land Committee, etc. McKenzie also suggested that Mansfield should lead this group. Lane supported this and agreed to work with Mansfield and Vivian Chaput to coordinate a task force and move forward with the plan. Hara agreed to provide some help as well.

Discussion of proposed amendments to Subdivision Rules and Regulations

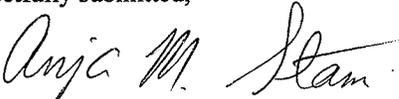
This discussion was continued to January 28th.

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

At 10:45 p.m., Epstein moved to go into executive session to discuss the pending litigation, not to return to regular session. Holzman seconded the motion. The Board was polled and unanimously agreed to the motion.

At 11:05 p.m., Reid moved to exit the executive session and adjourn the meeting. Hara seconded the motion. The Board was polled and the motion carried unanimously.

Respectfully submitted,



Anja M. Stam
Administrative Assistant