



Town of Carlisle

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Office of

PLANNING BOARD

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CARLISLE EDUCATION CENTER
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JUNE 13, 1994
MINUTES OF MEETING

MINUTES OF PUBLIC HEARINGS:
PENHUNE
SPECIAL PERMIT FOR COMMON DRIVEWAY, CON'T.

BOITEAU
SPECIAL PERMIT AMENDMENT
TO CONSERVATION CLUSTER AT ICE POND

Chair Colman opened the meeting at 8:10. Present were board members LaLiberte, Chaput, Evans, Duscha and Hengeveld.

The minutes of May 9, 1994 were accepted as amended.

Bills were approved for payment as presented.

Colman reported on a meeting of the School St. neighborhood which he had attended. Generally, they were not in favor of the purchase of the church, fearing increased traffic, inadequate interior space, poor location for a town hall, and too many hidden costs. Colman also reported on his meeting with the Board of Health. The meeting had been sought by the Planning Board as a way to establish easier interchange of ideas and to further mutual understanding of each board's role in guiding development. One area of misunderstanding was eliminated when Health understood that the SROSC bylaw was not devised to operate as a comprehensive permit; they recognized they would have their usual control over lot development. Colman promised Health the board would send them drafts of the SROSC rules and regs for review. Evans suggested we invite them to working meetings so they hear the board's deliberations; Chaput asked that Bayne send Health a copy of *Overview of Development in Carlisle*.

PUBLIC HEARING ON SPECIAL PERMIT FOR COMMON DRIVEWAY, NORTH ROAD, PENHUNE, APPLICANT

At 8:30, Colman reopened the hearing, which was continued from May 9, 1994. Present was Marly Lucier of 991 North Rd. Colman read a letter from Mrs. Penhune's representative, Chris Hart. He explained that Mrs. Penhune wished to withdraw her application for the special permit. LaLiberte moved, and Chaput seconded, that the board

allow the application to be withdrawn without prejudice; the vote was unanimously in favor. Chaput asked Bayne to encourage Hart to investigate an alternate common drive, and to provide a restriction on the open field. Bayne explained that at the close of the hearing, the board would be asked to approve an ANR plan for this property, and that Mrs. Penhune wishes to move forward immediately; nevertheless, she will call Hart. There being no further discussion, La Liberte moved, and Chaput seconded, that the public hearing be closed. The vote in favor of the motion was unanimous; Colman closed the hearing at 8:45.

PENHUNE ANR, NORTH ROAD Four lots at the above location; this ANR supersedes the one signed in Jan. 1993. Chaput moved and LaLiberte seconded that the plan be signed; all voted in favor.

**PUBLIC HEARING ON AMENDMENT TO SPECIAL PERMIT FOR
CONSERVATION CLUSTER AT ABERDEEN ROAD (ICE POND), BOITEAU,
APPLICANT**

Colman opened the public hearing at 9:00. Present were the applicant, Charles Boiteau, and Steve Nelson, attorney for the applicant; no abutters were present. Colman immediately explained to Nelson and Boiteau that the notice was defective, in that it requested to amend the special permit approved on January 10, 1994, by changing the date by which it must be recorded from 60 days hence to 240 days hence. Colman explained that, on the advice of town counsel, he believed this cannot be done, because the permit no longer exists, having lapsed when 60 days passed without recording. Therefore, a new special permit is needed, and a corrected notice should be circulated which states the above. With that in mind, he stated his belief that no testimony should be taken the evening of June 13, 1994. Nelson argued that the board could disregard town counsel's advice, that special permits are good for up to two years under Chapter 40-A, that special permit conditions are amended all the time, and that the amendment requested is within the board's power. Colman stated that should the board ignore town counsel's advice and were a problem to arise, the board would have no protection against a malpractice suit. Duscha felt that whether or not the board has the power to amend the special permit, she would like the notice to be accurate, as the point of the notice is to allow the public to know what is being proposed so they may choose whether to attend the hearing. Chaput suggested that it is in Boiteau's best interest to play it safe by re-advertising. Nelson and Boiteau replied they were willing to take the risk. Duscha moved, and Hengeveld seconded, that the notice be accepted as adequate; the vote was 5 against the motion, with an abstention by LaLiberte. The applicant objected to the \$200 fee, stating that he was simply asking to change one word in an approved amendment, and felt the imposition of the fee was directed personally against him. Colman stated advertising fees will be \$110, and when the Planner Assistant's time is considered, more than \$200 will have been expended. The applicant agreed to ask the P.A. to re-advertise, and a continued hearing date was set for July 11, at 8:30. The board voted, with 5 in favor and LaLiberte abstaining, to return the \$50 check which had been submitted, and to require a check for \$200 to be submitted to the P.A., along with a new application, designating the correct action and fee. The hearing was closed at 9:40.

DUMKA ANR, 307 FISKE ST.

Mr. Dumka presented a plan to show as a separate parcel a back portion of his lot. The parcel has no frontage, and the ANR plan states that it is not to be used as a building lot. The P.A. had added the zoning district designation (Residence B) with the verbal approval of the engineer, Roger Corbin. Because his home exists already and has been shown on a previous ANR, Colman moved and Duscha seconded that the board waive the requirement for the ellipse to be shown on the mylar. The vote was 5 in favor, with Hengeveld abstaining. Evans moved, and LaLiberte seconded, that the board sign the plan; the vote was 5 in favor, with Hengeveld abstaining.

M.P. SUBCOMMITTEE The committee agreed to meet on July 20 at Chaput's house.

SROSC/S.P. RULES AND REGS SUBCOMMITTEE The subcommittee agreed to meet on June 22 at Colman's house.

CONSCOM/TOLS Duscha reported that ConsCom had begun to re-evaluate their priorities for protection/purchase of land in town as part of the required 5 year update of the town's Open Space Plan. Malcolm remains high on their list, and they would prefer no building at all there, thus seeming to disapprove of the proposal to use the land as a SROSC site. Colman reported his conversation with Dick Taylor, manager of Harvard's Estabrook Woods Research Facility. Taylor stated that the development status of the Malcolm land is important in two ways: first, the Davis Corridor is used by wildlife entering Harvard's Estabrook Woods; second, all buffer property to the Woods needs to be below some critical density of development. The development status of the Evans property, he reported, as an immediate abutter to the Woods, is important in three ways: first, it too encompasses part of the Davis Corridor and is used by wildlife; second, it also is a buffer to the Woods and therefore needs to be kept below some critical level of development; third, because it abuts the Woods, there are particular aspects which must be protected from development. He further stated that development which occurs away from the Corridor is acceptable, so long as the open space portion of the development protects the Corridor. Mark Green of the land swap committee told Colman that it might be possible for the Housing Options Group to buy all of Malcolm, thereby protecting it without the town incurring any costs.

Hengeveld mentioned that the 100' set back from a public road requirement may be problematic for the proposal by Carlisle Housing Options (layout #2) if Two Rod Road is accepted as a public road. The board agreed that we intend the access road to a SROSC to remain private, so there would be no conflict.

Yanofsky, who had attended several meetings of the TOLS committee (town offices/land swap), was unable to attend tonight's meeting because of illness.

MAPC REGIONAL WATER STUDY A Carlisle meeting of the MAPC staff, Peggy Wong, Duscha and Bayne will occur Thursday, June 16, at 4 PM, in the CEC.

HOUSING AUTHORITY Chaput will not be able to attend the meeting on June 16, but will call Kress to get a report on their activities.

NICKLES LANE / BROOKVIEW Bayne will consult with Judith Cutler as to whether the subdivision has expired based on the condition in the subdivision approval amendment and extension of 1990 which states it will expire if work not completed by Oct. 31, 1991. She pointed out that the Nickles Lane file holds an April 1992 letter from Senkler asking to extend his security agreement through June 1992, and signed by him and Concord Coop officials, but the agreement was never executed. The board questioned whether subdivision, like special permit, needs only to be substantially begun to continue in effect. Bayne will also confirm that the board does indeed wish a written opinion on this question and on the question placed to Cutler by Colman, which was whether a special permit lapses if a condition is not met. Specifically, the example given her was the failure of Boiteau to follow the condition of his Jan. 10, 1994 permit which required him to record the permit within 60 days.

Bayne will draft a letter to Cooperative Bank, holder of the tri-partite account for Nickles Lane, to assure them that the board does indeed intend to hold the account until the road has been completed according to plan; she will have Colman review the letter.

Andrea Bayne, Planner Assistant