



Town of Carlisle

MASSACHUSETTS 01741

Office of

PLANNING BOARD

P.O. BOX 827
CARLISLE, MA 01741
(508) 369-9702

DRAFT

MINUTES

August 5, 1996

ANR PLAN: Berry Corner Lane

DISCUSSION: "Zoning and Regulatory Diagnostic" recommendations with Terry Szold of Community Planning Solutions

Chair Colman called the meeting to order at 7:30 p.m. Colman, Duscha, Tice and Yanofsky were present. Hengeveld was absent. Epstein and LaLiberte joined the meeting in progress. Also present were Planning Administrator Mansfield and Selectman Chaput.

ANR Plan - Berry Corner Lane (Valchuis)

Present during this discussion were Dick and Judy Wells, 93 Berry Corner Lane. Colman made reference to the memorandum from Elizabeth Lane, Town Counsel, dated August 5, 1996 and received by Fax today. He explained that her letter upheld her opinion and recommendation of June 28, in spite of the issues raised by the petitioner's counsel at the meeting of July 1. At that meeting, petitioner's counsel, Julian D'Agostine, had also offered to send the Board a copy of the recorded 1968 subdivision plan, which he had done. Yanofsky observed, however, that this was not a new piece of information. Mansfield made reference to the background material he had included in the Board's packet, and explained that the 1960 Rules and Regs., as filed in the Land Court, are also on record at the Registry of Deeds. (Subsequent to the meeting, the Registry provided the P.A. with a book and page reference.) Furthermore, he said, the applicant had provided a revised copy of the ANR plan, with the parcels to be combined clearly designated as a "lot."

Yanofsky stated that, given this information and Town Counsel's analysis, she was not inclined to endorse the ANR plan. LaLiberte and Epstein arrived at the meeting at this juncture. LaLiberte said that, Mr. D'Agostine's opinion notwithstanding, the Hamilton case is distinguishable from the present case in that in Hamilton, there was no limitation on the number of lots in the rules and regs. But in our case, there is no requirement that the plan itself show a limitation, since such limitation was already in the regs. Duscha

asked whether, in the analogous situation of a common driveway special permit where said permit is limited to six lots, we should require a notation on the approved plan. Yanofsky replied that it was not necessary since the bylaw already imposes that limit. Colman agreed, and noted that in this situation anyone tracing the title to the land should be aware of the Small Subdivision limitation of five lots.

LaLiberte then **moved that the Board endorse the Valchuis ANR plan as presented.** The motion **failed to carry, by a vote of 1-5** (Yanofsky in favor, Colman, Duscha, Epstein, LaLiberte and Tice opposed). Therefore, the Board did not endorse the plan, and notification was given to the Town Clerk of this action.

MINUTES: The minutes of the meeting of July 1, 1996 were approved as amended with typographical corrections 5-0-1 (Tice abstaining) on a motion by Duscha, seconded by Epstein. Colman suggested that the wording of his statements on p. 6 with regard to proposed revisions to the Conservation Cluster bylaw drafted by Vivian Chaput and George Foote be revised slightly, and the members agreed.

BILLS: Epstein asked whether membership in the Mass. Federation of Planning and Appeals Boards is worth the dues. Yanofsky replied that the notice of workshops and seminars and occasional reports they send to members are indeed worth the cost. Mansfield noted that the Board has not been receiving their newsletter and notices regularly to date, and Colman asked him to check on this.

SCHEDULE OF FALL MEETINGS: Members reviewed the schedule proposed by Mansfield. Yanofsky said that she could not attend Thursday meetings. Duscha and Tice recommended that Thursday night meetings be scheduled only if needed. Members agreed to the proposed schedule. August 19 is to be a Steering Committee meeting for subcommittee reports. Board meetings are to be Sept. 9, Sept. 30, Oct. 28, Nov. 25, and Dec. 9. Meetings will also be scheduled on Oct. 10, Nov. 14, and Dec. 23, if necessary. Selectman Chaput reported that a Fall Town Meeting was possible, but not yet definite and no schedule had been set.

Review of Town Counsel service experience

Continuing the discussion regarding the members' satisfaction with the service provided by Kopelman and Paige as Town Counsel, Colman reported that his attempt to have a phone conversation with Elizabeth Lane about the Board's concerns was unsuccessful. He did leave a phone message, he said, but there has been no response. Epstein reminded him that he had resolved also to speak with the Selectmen to determine if they or other Boards have voiced complaints, but Colman replied that he had not done that. He added that this may not be so important because the Planning Board has independent authority to hire counsel. But Yanofsky pointed out that the Board normally contacts in conjunction with the Selectmen, and so it would not hurt to ask them their opinion.

Chaput reported that she could not recall any particular experience indicating the Selectmen's dissatisfaction in the past few months, but for a longer perspective she suggested asking the Town Administrator. She asked why the Planning Board was dissatisfied. Colman responded that the Berry Corner Lane ANR opinion had been inadequate, unclear and incomplete. One letter, he said, was misleading; the other was sloppy. The attorneys on the Board, Epstein and LaLiberte, were needed to interpret Lane's analysis.

Duscha added that responses to requests have been arriving too late for the Board to consider them thoroughly. Colman pointed to the response received at 6:00 p.m. today to a question asked weeks ago. LaLiberte agreed that the key issue is response time, and Colman and Epstein recalled that both the Evanses and the Malcolm Meadows' developers had complained about this. Colman reminded the Board that he had spoken with Lane four months earlier about response time, and had received an apology then with an explanation that family problems had caused undue stress. Tice suggested that another, more serious discussion was in order. Duscha reasoned that there should be another attorney at Kopelman and Paige who could help when the workload becomes too great.

Chaput suggested that the Board write a letter to the Selectmen outlining these concerns. She said that the Selectmen can then see if anyone else is experiencing difficulty. Epstein asked if there have been periodic updates from Town Counsel on pending suits. Mansfield replied that there have not been, and noted that the Laurajon subdivision appeal is the only outstanding action. Epstein directed the P.A. to ask Town Counsel for an update on this appeal. But Colman said that he would again attempt to speak with Lane directly about this, as well as about the other concerns. Chaput suggested that his discussions be completed before any letter is sent to the Selectmen on this issue.

Ice Pond Subdivision: Completion of improvements

Noting that the developer, Brian Hebb, in a letter to the Board dated July 8, 1996, has explained that he is unwilling to complete the final overlay of the road pavement until all construction on abutting private lots is finished, Duscha asked whether another winter of using the road in its present condition will be detrimental in the long term. Colman replied that this did not matter, and suggested that the Board should not take any more extreme measures to accommodate Hebb, since he did not have faith that he would ever put down the final asphalt course. Epstein suggested that the P.A. send Hebb a letter of response, indicating that the Board expects him to live up to the agreements he has made in the past on or before September 1, 1996, and thus meet the current deadline for completion of the subdivision (October 1, 1996), or otherwise ask for an additional extension. Members supported this approach.

Discussion of "Zoning and Regulatory Diagnostic" with Terry Szold, Community Planning Solutions

Eunice Knight of the Carlisle Conservation Foundation, Ken Ernstoff of Cross St., David Kelch of Oak Knoll Rd., and Bill Costello of Concord joined the Board for this discussion. The discussion in its entirety, which expanded upon Szold's memorandum of July 24, 1996, lasted about 90 minutes and is available on cassette tape, but has not been transcribed to date.

Following Szold's presentation and discussion, the Board discussed the next directions that it might take in preparing amendments to the bylaws and rules and regulations as a means to implement the open space preservation goals of the *Study Plan*.

Yanofsky asked specifically what can be done prior to the Steering Committee meeting on August 19. LaLiberte suggested that Pat Loring ought to be approached in order to involve her in a consulting role to guide the subcommittee exploring funding options for preserving open space. Epstein suggested that members look closely at examples of open space and cluster development by-laws from other communities, of which we now have a substantial collection. He noted that the Weston Planning Board administrator was reportedly willing to talk with our Board about her Board's experience. Yanofsky agreed to call her. Epstein also suggested that information be sought, as Szold had suggested, from Lexington's Planning Director, Bob Bowyer, regarding their experience with PUD's.

Colman said that he was familiar with Battle Road Farms in Lincoln, a cluster development that Szold had referred to, but he noted that it included subsidized affordable housing and it had gone bankrupt. Knight suggested that the Board look at Randall Arendt's work again for examples. She said that she believes that some people in Carlisle favor higher density in exchange for conservation protections. Ernstoff observed that if Malcolm Meadows is a success, it will help to sell the cluster concept. Costello suggested that the Town consider purchasing land for open space, noting that it has been a while since this strategy has been employed.

Chaput noted that it was interesting that Szold suggested that the Board disregard the proof plan and base density calculations on a preliminary plan instead, a strategy with which she agreed. She added that one has to be able to justify greater densities without sacrificing the integrity of natural resources. Yanofsky suggested that a demonstration of comparative runoff charts might be sufficient to support a cluster plan. Costello said that it might be helpful to have a sunset provision on any new by-law developed, with a renewal clause, to make sure that it is achieving its intended result.

Epstein requested that each member prepare a list of policy issues to be addressed in any proposed cluster bylaw, to be discussed on August 19. Mansfield offered to coordinate these and asked that they be submitted to him by August 12.

The meeting was adjourned at 10:30 p.m.

Respectfully submitted,

George E. Mansfield
Planning Administrator