



Town of Carlisle

MASSACHUSETTS 01741

Office of
PLANNING BOARD

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MINUTES February 10, 1997

CONTINUED PUBLIC HEARING: Definitive Subdivision Plan for Hunters Run, Brian E. Hebb Builders, Inc., applicant.

Meeting with Town Counsel to review legal aspects of ongoing business and litigation. Tall Pines Subdivision, request for lot releases and submission of appraisal.

Chair Colman called the meeting to order at 7:25 p.m.. Colman, Duscha, Epstein, Hengeveld, and Yanofsky were present. LaLiberte and Tice were absent. Also present were Town Counsel Judith Cutler and Planning Administrator George Mansfield.

The **minutes** of the meeting of January 13, 1997 were held until the next meeting since two of the members present at that meeting were absent.

In reviewing the **budget** Colman noted that the professional and technical account may be expended before the end of the fiscal year and may require an emergency transfer. He also noted that the Fin. Com. had asked for some documentation regarding the FY '98 proposal for the Planning Administrator's time from the personnel board, but, as outlined in Colman's memo of February 6, 1997 to the chair of the Fin. Com., that information is not necessary. Epstein asked for a review of the 53G accounts. Colman observed that \$6000 in legal fees were set aside in the Ice Pond security account and suggested that we ask town counsel how that can be transferred into the Planning Board's budget.

Regarding personnel issues, Colman met with Seba Gaines of the Personnel Board and reported that Mansfield is to be evaluated once per year. There will be a form provided for that evaluation he said, and also noted that the current job description is acceptable.

Continued Public Hearing: Definitive Subdivision Plan for Hunters Run, Brian E. Hebb Builders, Inc.

Colman opened the hearing at 7:38 p.m. Present were Lynn Remington and John Boardman of David E. Ross and Associates. Members of the public in attendance were Kathy Rubenstein, Nickles Lane; Ferris Taylor, Hemlock Hill Road and Pam Boutin, Rutland Street.

Remington reviewed the substance of previous hearings. She noted that the project was submitted on October 28, 1996. On November 25th they showed the board an overlay of the effects of increasing the grade of the roadway to 10%. On December 5th they went to the Conservation Commission with a colored sketch and decided as a result of that meeting to move to a more detailed design of the 10% plan. On January 13, 1997 they presented the Planning Board with that design plan of the 10% grade. On January 14th, they showed the Selectmen this plan. The Selectmen suggested extending the approaches to these roadways at both ends as well and asked them to consider a grade greater than 10%. Remington then presented what she called plan B representing the extended roadway with a 12% alternative grade. She explained that cuts required with an 8% grade would be 16 feet deep, with a 10% grade 5 feet deep and with a 12% grade less than 1 foot deep. However, she noted, this plan would require filling above the existing grade of Nickles Lane for a distance of about 200 feet. She also noted that at the low point where the roadway crossed the wetlands in a culvert, about 5 feet of fill would be required. The greatest depth of fill at any point along the roadway she said would be 12 feet. A 4 1/2 foot cut would be required at the end of Oak Knoll Road and the Kelch driveway would be extended down to meet the new grade.

Colman and Duscha questioned the right of the developer to work within a temporary easement. Epstein asked if the sketch was available of the extended grading at the Oak Knoll Road and Nickles Road ends. Remington replied that there would be no problem with the Nickles Road grading. Epstein asked if the Kelch's had been informed about the preparation of these plans. Remington answered that they had not. The question was also raised about the location of the detention basin in relationship to the roadway at its highest elevation. Remington explain that the top of the detention pond is 6 feet below the roadway; the bottom of the pond is 12 feet below the roadway. Duscha asked whether there was a landscape architect available in the Ross Engineering firm to prepare plans that the board could better visualize and make suggestions to minimize environmental disruption. Remington replied that such plans would be available, but that they have to know what grade the board wishes them to pursue before a landscape architect can reasonably look at the plans. She said she hoped to come to closure on some of these issues tonight. She also reported that she had a meeting with Mark Sleger to go over his suggestions and has found the Nickles Lane detention basin is constructed properly. She said that they will work with the fire chief on the final location of a fire cistern.

Yanofsky recalled that the board had discussed retaining an objective landscape architect to look at the whole roadway design. Boardman added that Concord had hired an architect to review a 4 lot subdivision and to revise the site design plans. Yanofsky agreed that we have to decide what a landscape architect should review. She suggested that the architect be sent the original

subdivision plan and drainage design. Duscha added the architect should look at the route of the roadway as well. Referring to her telephone conversation with Paul Finger of Beals and Thomas, Inc., a landscape architect, Yanofsky reported that he said the services she discussed were in the range of \$2,000. He needed more information, however, to give us a menu of choices. Remington replied that if the work is going to cost more than \$2,000, Hebb should be notified.

Colman summarized the members' concern. He asked if they were in agreement that they wished to have a landscape architect who would review the plans and come up with as natural looking a project as possible. The membership agreed. Remington suggested a process. She said that they would submit Scheme C in several copies. She suggested that the board approve the original, non-waiver subdivision with conditions to all the gradings and slopes shown in Scheme C. The board asked attorney Cutler if this was possible. Cutler replied that it would be more appropriate for the developer to present the Planning Board with a choice saying that he was willing to go with the original scheme or Scheme C, whichever the board accepts, otherwise, she explained, the developer could challenge the conditions attached to the original application. Remington countered that the abutters could challenge any waivers associated with Scheme C, but Cutler responded that this doesn't make any difference. Boardman suggested that Hebb could express, in written form, as an affidavit, that he was willing to abide by the conditions imposed by the board. He asked Cutler if that would be sufficient. She responded that it would and that he would formally be giving up his right to appeal.

Duscha said that she was very reluctant to spend a lot more time on this application until the Board of Health is heard from. Remington explained that all necessary information has been submitted to the Board of Health. They will meet tomorrow night, she said, and they anticipate a letter from that meeting. Perc. tests have not been completed on two lots, but the soils on those lots don't differ from the soils on those that have been perked. Colman suggested that Ross Assoc. send a letter to the abutters regarding Scheme C, including an explanation of the role of the landscape architect. Remington agreed to this suggestion. Duscha added that more information should be provided to Mr. Kelch regarding the effects of scheme C on his driveway. It was also agreed that Colman, Yanofsky and Mansfield would review the menu provided by the landscape architect and keep Remington in the loop. The hearing was then continued until February 24th at 9:00 p.m.

Meeting with Town Counsel to review legal aspects of ongoing business and litigation

Hengeveld moved to go into executive session for the purpose of discussing strategy with regard to pending and potential litigation, specifically with reference to the Treibeck case and Ice Pond. The motion was seconded by Duscha and approved by roll call vote of 5-0 with Yanofsky, Hengeveld, Colman, Epstein and Duscha all voting in the affirmative.

After completing this discussion, Yanofsky moved to reconvene in open session with Duscha seconding the motion. Again the vote was unanimous 5-0 with Yanofsky, Hengeveld, Colman, Epstein and Duscha in favor.

Tall Pines Subdivision, request for lot releases and submission of appraisal

Prior to the January 30th meeting, Bill Costello had submitted a written request to release 9 lots from the restrictive covenant of Tall Pines. The board had not taken action on January 30th, preferring to wait for LandTech's review of the estimates of the cost of completion of the subdivision improvements. LandTech had not yet been able to provide these estimates. However, Mark Sleger believes the variance in cost will be slight, especially in relation to the total value of the property still held in covenant, so he suggested the board could proceed with the releases if it so desires, Mansfield reported.

Costello was present for this discussion. Colman began by raising the question of the role of the kidney dam in this subdivision. Costello explained when he originally proposed the subdivision, he wanted to reconstruct this historic dam to use as a flood control device, but the Planning Board did not want to touch it. Conservation Commission subsequently negotiated a conservation restriction covering the area of the dam, and Costello explained that the breach in the dam now is the same as was there in 1987. Colman explained that the board wanted to know who has the right and the responsibility to repair the dam. He suggested that Mansfield send the easement documents as well as the certificate of approval to Judy Cutler to determine the answer to this question. He reiterated that the only important question is whether the town has any rights or obligations with regard to the kidney dam.

Turning to the requested lot releases, Colman asked Costello to locate the lots. Costello pointed them out on a plan explaining that all are on roads or common driveways that have been brought to binder course. Colman asked if release of lot 19, adjacent to the kidney dam, could be delayed. Costello explained that a buyer is set to close on this lot in March. Colman said he thought the information could be obtained from Town Counsel before that time and the other lots could be released conditional on LandTech's review of the cost information. Yanofsky and Epstein both said that they would like to see the LandTech analysis. Costello argued that the cost of completion can be no more than the \$400,000 estimated last August and the remaining security is in the neighborhood of \$4 million. Nevertheless, Yanofsky said she would rather be holding a bond than a covenant at some point and would not be comfortable until she saw LandTech's letter. Epstein pointed out that the board would be meeting the following week, tentatively on February 19th, and suggested that this item be taken up at 7:15 p.m. at the beginning of the meeting. Costello suggested that when he comes to release the last ten lots that he deposit 10% of the value of the remaining improvements. No action was taken on the request.

Hengeveld was recused from the entire discussion.

Report on preparation of bylaw amendments for wireless communication services

Yanofsky reported on a meeting held on February 5th at which Bob Koning, Dave Galvin, Teresa DeBenedictis and Kathy Coyle were present. She distributed a memo she had prepared to Joel Bard at Kopelman and Paige posing several legal questions. She noted that the big policy decision is the creation of an overlay district and what parcels would be eligible for cellular towers. She noted that some towns include only town-owned land while others include commercial land as well. Duscha responded that she doesn't care whether these are located on town land or not, but Colman said he would like to keep them on town land to better control the aesthetic qualities.

1996 Town Report

An initial draft of the town report prepared by Yanofsky and Mansfield was reviewed by the board.

Review of draft rules and regulations to administer scenic roads bylaw

Colman asked the board what they wished to do with this long-standing item. Duscha explained that she would like to move ahead and adopt rules and regulations, but she felt that Tice and Hengeveld had concerns. Colman suggested that it ought to move ahead. Hengeveld said that the only concern she had is the mixed messages received from Town Counsel at Town Meeting. She said, however, that subsequently her questions have been answered. Epstein also noted that a lot of questions were raised at Town Meeting that the board did not have answers for, but Yanofsky explained that the answers are there. Epstein proposed waiting to take action on this until after Town Meeting. Although observing that this should have been done long ago, Duscha said she was willing to wait.

Review of draft bylaw amendments to establish open space residential development provisions for town meeting warrant

The board continued its review of an 18 page series of proposed article revisions prepared by Mark Brobrowski.

The meeting was adjourned at 11:00 p.m..

Respectfully submitted,



George Mansfield
Planning Administrator