



# Town of Carlisle

MASSACHUSETTS 01741

Office of

PLANNING BOARD

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## MINUTES April 27, 1998

**Continued Public Hearing: Proposed amendments to the Rules and Regulations Governing the Subdivision of Land**

**Continued Public Hearing: Stearns Street (Malcolm Meadows) - Amendment to Special Permit for Senior Residential Open Space Community, Northwest Structures, Inc., applicant**

**Public Hearing: Proposed amendment to the Carlisle Zoning Bylaws to establish a new Section 3.2.4, entitled "Distinctive Structures Preservation"**

**Continued Public Hearing: Kimball Road, Lot 39 - Special Permit for Common Driveway (to serve Lots 28B, 39A, 40 and 41), Tall Pines Realty Trust, applicant**

**Review of draft decision: Hutchins Road, Lot 2 - Special Permit for Common Driveway, Tall Pines Realty Trust, applicant**

**Discussion of potential Municipal Incentive Grant application for FY99 funding cycle (Request of Town Administrator)**

**Request by Board of Appeals for comment on application for a variance from the floor area limit of Zoning Bylaw Sec. 5.7.4.13. for unit 21, 319 Stearns St. (Malcolm Meadows SROSC)**

Chair Yanofsky called the meeting to order at 7:20 p.m. Members Epstein, Hengeveld, LaLiberte and Tice were present. Also present was Planning Administrator George Mansfield. David Ives of the *Mosquito* was also present. Members Abend and Duscha arrived later.

The **minutes** of the meeting of April 13, 1998 were reviewed with minor corrections made for clarification. Hengeveld **moved to accept the minutes as amended**. Tice seconded and the minutes were accepted 5-0.

Due to the Memorial Day holiday, it was agreed that the second Planning Board meeting in May will be held on Tuesday, May 26 at 7:30 p.m.

**Town Counsel review of Nitsch engineering services contract**

Mansfield stated that he had spoken with Town Counsel on Friday. At that time Counsel told him the contract had been reviewed and a letter was being drafted. Mansfield asked that the letter be faxed to him before the 4/27 meeting, but it was not received on time.

**Request by Board of Appeals for comment on application for a variance from the floor area limit of Zoning Bylaw Sec. 5.7.4.13 for unit 21, 319 Stearns St. (Malcolm Meadows SROSC)**

Mansfield explained that the occupant of unit 21, Howard Knuttgen, is requesting to partition and finish a portion of his basement to be used as an office. Doing so would increase the living space beyond the allowable limit. The Board agreed that this would not impinge on the intent of the SROSC and asked the PA to draft a memo to the ZBA expressing this.

*(Duscha arrived)*

**Review of draft decision: Hutchins Road, Lot 2 - Special Permit for Common Driveway, Tall Pines Realty Trust, applicant**

The Board made no changes to this draft decision and asked the PA to file as drafted.

**Performance review of PB secretary**

Hengeveld reminded members that she had asked for performance evaluations to be submitted to her by 4/20 and has only received one to date. She asked that members respond as soon as possible.

**Appreciation for Yanofsky's and Duscha's five years of service to the PB**

Hengeveld acknowledged that this would be the last PB meeting for Duscha and Yanofsky and thanked them for their service to the Planning Board.

**Discussion of potential Municipal Incentive Grant application for FY99 funding cycle (Request of Town Administrator)**

Mansfield said that the letter of interest submitted last year is still relevant, perhaps even more so, and recommended that it be submitted again. The Board agreed and asked Mansfield to proceed as recommended.

**Continued Public Hearing: Proposed amendments to the Rules and Regulations Governing the Subdivision of Land**

The following members of the public were present for this public hearing: Kate Reid of Carleton Rd., Dan Holzman of Blaisdell Dr., Ron O'Reilly of Bedford Rd., Tom and Wendy O'Rourke of Maple St., and Debra Hankey of East St.

Epstein noted the latest revisions to the Rules and Regs. as discussed at the previous public hearing. All comments made by Steve Tobin of the Trails Committee were incorporated. He stated that the memo from Deb Belanger of the Bike and Pedestrian Safety Committee was also reviewed. The Board felt these comments were already addressed in the existing Rules and Regulations.

Yanofsky pointed out that the term "Bike/Path" in the definition on page 2, was inconsistent with the term "Bike/Footpath" used throughout the document. The secretary will make this correction.

Wendy O'Rourke asked for a clarification on the width of trail easements and wondered why 20' were necessary. Epstein referred to the citation on page 39 of the Rules and Regs. and read Steve Tobin's memo which explained that 20' are necessary to allow the trail to meander around natural landscape features.

Mansfield said that he received a call from Rich Colman shortly before the meeting. Colman was not able to attend this evening, but wished to remind the Board of his concerns expressed at the previous meeting.

Wendy O'Rourke noted that Abend was not present at the previous meeting and she wished to express her opinions to him as well.

Hengeveld **moved to continue the public hearing to 8:10.** LaLiberte seconded and the motion carried 6-0.

*(Abend arrived.)*

The hearing was reopened later after Abend's arrival. Tom O'Rourke asked if Abend had read the minutes of the previous meeting. Abend said that he had.

Tice **moved to close the public hearing.** Hengeveld seconded. The Board closed the hearing 6-0-1 with Abend abstaining.

**Epstein moved to adopt the Carlisle Planning Board Rules and Regulations governing the Subdivision of Land dated January 23, 1989, revised July 8, 1991, January 9, 1995, September 29, 1997 and April 27, 1998. Said draft Subdivision Rules and Regulations are dated March 30, 1998 with supplements dated April 17, 1998.** Tice seconded and the motion carried 5-1-1 with Duscha opposed and Abend abstaining.

**Public Hearing: Proposed amendment to the Carlisle Zoning Bylaws to establish a new Section 3.2.4, entitled "Distinctive Structures Preservation"**

Vivian Chaput, Grant Wilson and Art Milliken of the Distinctive Structures Preservation Committee were present to present the proposed bylaw. Also present were Kate Reid of Carleton Rd., Dan Holzman of Blaisdell Dr., Ron O'Reilly of Bedford Rd., Walter Woodward of South St., Eunice Knight of Bedford Rd. and Sarah Brophy of Curve St.

Vivian Chaput explained the purpose of the proposed Article 23 on the Town Meeting warrant. She stated that current bylaws allow the use of such structures for home businesses with no more than three employees. This new bylaw would allow barns to be rented out to others for business use. The Board of Appeals will be the permit granting authority and would be responsible for making their decisions based on neighborhood impact, view from the road and appropriateness of the business. Guidance was sought from the MAPC, but similar bylaws could not be found in area towns.

Grant Wilson then explained how the bylaw was drafted. He said that research was done finding that in the early 1930's there were approximately 100 barns in Carlisle. Approximately 25 of these remain today. Wilson said that the year 1932 was selected as a cut-off date for preservation because zoning laws were enacted at this time and few post and beam barns were constructed after this date. He went on to state that maintaining such barns is difficult and expensive, and this bylaw hopes to preserve such structures by encouraging use that would make them economically viable. Wilson explained the language in section 3.2.4.5 and the need to exempt such structures from any minimal dimensional requirements. He stated that the barn might be nonconforming as it exists and should not be required to meet current requirements. This change was recommended by Town Counsel.

Art Milliken then asked if the Board could give them any feedback on this proposed bylaw. LaLiberte referred to section 3.2.4.5 and suggested that language be added to prevent additions that would make these structures more nonconforming.

*(Abend arrived)*

Mansfield noted that Massachusetts General Law, Chapter 40A, section 6 allows a nonconforming use or structure to be increased or extended by special permit by the local ZBA. Carlisle's current Zoning Bylaw allows the ZBA to extend a nonconforming use, but appears to have no provision to make a dimensionally nonconforming structure more nonconforming. Mansfield recommended that this discrepancy be clarified, resolved and appropriately amended.

Epstein said he understood that these barns would be used as businesses, not dwelling units, yet 3.2.4.3.2 allows two dwelling units. Chaput explained that the main purpose of the bylaw was to make these structures economically viable. The BOH and ZBA will be responsible for determining suitability.

LaLiberte **moved to continue the public hearing to 8:30 p.m.** Abend seconded and the motion carried 7-0.

Following the completion of the public hearing on the Rules and Regulations, the Distinctive Structures public hearing was reopened.

Epstein noted that many issues have been raised when the PB is asked to grant special permits. He recommended adding "outdoor lighting, noise, dust and fumes" as a possible cause of negative impact in section 3.2.4.3.3.4. Epstein also noted that the language in sections 3.2.4.4.1 and 3.2.4.4.4 were not comparable. He recommended adding the term "significantly" before the verb in section 3.2.4.4.1 since this term is used in 3.2.4.4.4.

Yanofsky asked if the committee had spoken with the Assessors Office or the BOH. Chaput replied that the assessors found no problems with this bylaw since the assessment would be the same whether renovating for rental or the owner's use. Chaput said she had not spoken with the Building Inspector or the BOH, but any renovations would need to meet current standards.

Yanofsky noted that funding is available to renovate historic structures through the National Trust for Historic Preservation. She then asked why a separate bylaw is necessary rather than an amendment to an existing bylaw. Wilson explained that these structures are in a narrow class and this bylaw has a very specific objective. The existing bylaw ties the owner to uses of the property. The new bylaw would allow greater flexibility in use of such structures thereby encouraging preservation.

Yanofsky then reminded the committee that the ZBA will need to write rules and regulations to support and enforce this bylaw. Chaput said she spoke with the ZBA and they are prepared to do this.

Yanofsky asked if existing foundations could be rebuilt into barns. Wilson said it was clear that a foundation would not be considered a structure.

Sarah Brophy stated that she was a preservationist in favor of this bylaw. Regarding the funding from the National Trust, she noted that this money is generally given to organizations or municipalities and may not be used for bricks and mortar.

Eunice Knight spoke for the Conservation Foundation and the Carlisle Land Trust stating that they are in favor of this bylaw.

Epstein recommended adding a lapsing provision similar to section 3.2.3.4 of the Zoning Bylaws. This would cause the special permit to lapse if not used within a certain time frame or if the structure were destroyed by fire or casualty. The Distinctive Structures Bylaw Committee agreed to add such language to the bylaw.

Abend said he was in favor of this bylaw as a benefit to the Town, but expressed concern as an abutter to such a structure. He felt that it would be difficult to create and screen any parking area at the barn he had in mind. Chaput noted that each situation will be unique and at the discretion of the ZBA. There may be creative solutions to such problems, such as creating parking within the structure.

Yanofsky suggested that a limit to the number of cars might be imposed. Wilson stated that parking provisions will be made when the permit is granted. Yanofsky noted that the burden of enforcement will be on the abutter.

Sarah Brophy was asked her opinion regarding the 1932 cut-off date. She thought this was an appropriate date. She also presented the Board with a packet from "Barn Again," published by the National Trust, with information on Wisconsin's efforts to preserve barns.

**LaLiberte moved that the Planning Board submit a report to Town Meeting in favor of the proposed Article 23 provided that the proposed amendments discussed at tonight's hearing are incorporated into the proposed bylaw. Tice seconded the motion.**

The Board listed the items to be amended: 1) sec. 3.2.4.2 - change the reference to "non-residential" building; 2) sec. 3.2.4.3.2 - change wording to "not more than two dwelling units"; 3) sec. 3.2.4.3.3.4 - add wording to include "dust, noise and light;" 4) sec. 3.2.4.4.1 - add "significantly" before the verb; 5) sec. 3.2.4.5 - add language to ensure the structure cannot be made "more nonconforming"; 6) add language regarding lapsing of

special permit. LaLiberte accepted these as amendments to his motion and Tice seconded. The Board voted in favor of this motion 6-0-1 with Abend abstaining.

Epstein **moved to close the public hearing.** Duscha seconded and the motion carried 7-0. Mansfield will draft the report and Tice and Abend will review it.

**Continued Public Hearing: Stearns Street (Malcolm Meadows) - Amendment to Special Permit for Senior Residential Open Space Community, Northwest Structures, Inc., applicant**

Steven Graham of Graham and Harsip was present to present the landscaping plan for the applicant. Also present were Kate Reid of Carleton Rd., Dan Holzman of Blaisdell Dr., Ron O'Reilly of Bedford Rd., Thomas Rice of Hutchins Rd., Eunice Knight of Bedford Rd., Bill Reeder and Leonora and Albie Jarvis of Stearns St.

Mansfield gave an update and noted that the plans most recently submitted do incorporate all items discussed at the previous meeting.

Graham stated that the trees to the west of the entrance have been cleared and boulders there have been moved. If the Board desires the landscapers will move the existing planting to be exactly as shown on the plan, but noted that they are very close to the plans.

Tice asked if there is a warranty on the plantings in case they die off after planting. Graham said there is a warranty effective one year after completion of the plantings. After that the condominium association is responsible for replacement of the plantings.

The amended plans were then presented. Eunice Knight said that it seemed the parking lot was installed without a base and is now deteriorating. Yanofsky explained that the parking area was built as specified on the plans.

Bill Reeder confirmed that the plantings seem to have been compressed into a smaller area than what is shown on the plans, but he preferred to see these established plantings left where they are.

Knight said that in speaking with Peabody, he had said he would be amenable to moving the stone wall to the west of the units back to the property line. Graham said he could not comment on this, but agreed to mention it to Peabody.

The Board asked that the location of the birches be swapped with that of the spruce on the plan, to reflect where the birches are currently planted. The Board also agreed to have their landscaping engineer review the site once planting is complete.

**Tice moved to accept the partial planting plan of Malcolm Meadows dated April 24, 1998 as shown with red lines indicating trees being swapped, and contingent upon a site inspection at the completion of the planting.** Abend seconded the motion. Mansfield noted that the plans included additional sheets: Sheet 5 last revised 1/8/98, Sheet 6 last revised 12/15/97 and Sheet 7 last revised 1/8/98. Tice accepted these as amendments to his motion which Hengeveld seconded. The amended plan was approved 5-0-2 with LaLiberte and Yanofsky abstaining.

**Tice moved to close the public hearing.** Hengeveld seconded the motion and it carried 7-0.

Graham asked if the Planning Board is interested in being involved in installation of exterior ramps for handicap accessibility. He explained that these would be installed as needed. The Board told Graham they would not need to monitor the installation of ramps, which would not affect the SROSC special permit.

Epstein asked Graham to inform Peabody of Knight's comments regarding parking lot maintenance and moving of the stone wall. A response from Peabody was requested.

**Continued Public Hearing: Kimball Road, Lot 39 - Special Permit for Common Driveway (to serve Lots 28B, 39A, 40 and 41), Tall Pines Realty Trust, applicant**

Joe March and Jody Minkle of Stamski and McNary were present to present the common driveway plan for the applicant. Also present were Stephen Spang of Fiske St., Kate Reid of Carleton Rd., Dan Holzman of Blaisdell Dr., Thomas Rice of Hutchins Rd. and Ron O'Reilly of Bedford Rd. Hengeveld recused herself from this public hearing.

Mansfield said that the return cards had been located and submitted to the Planning Board. A memo dated April 20, 1998 had also been received from abutter, Stephen Spang, expressing support for the common driveway plan.

Minkle presented the reoriented plans. In response to a question posed at the previous meeting, Minkle stated that the endangered species on the property are protected by conservation restrictions. She stated that the common driveway plan benefits the town by reducing the pavement by 5500 sq. ft., being built to a higher standard than individual driveways and giving the Planning Board greater control over its design. The potential ANR plan was also shown, with individual driveways accessing the lots.

Yanofsky noted that Lot 40 is actually a parcel and not a lot. March explained that this lot was originally part of the Tall Pines Subdivision and could be accessed from Hutchins Road. Mansfield asked if lots 40 and 41 have access through their frontage. March said the applicant believes he has access along the side of the detention basin. The Board

noted that this would require approval from Cons. Comm. since this detention basin is under Conservation Restriction A. Minkle contended that this restriction prohibits pavement, but not driveways. Mansfield read from the Conservation Restriction noting that one of the prohibited activities on this land is "Cutting, removing or otherwise destroying trees, grasses or other vegetation." He felt it would not be possible to locate a driveway here given this restriction.

The Board expected that a provision might be offered with approval of the common driveway permit to prevent an extra lot from being developed, but this was not the case. March stated that his client would not give up the right to develop his property. March argued further that his client would be forced to destroy three barns in order to gain access to the lots if the common driveway permit were denied. The Board noted that this would be the applicant's choice. Abend suggested that the barns might be as economically viable as developing the lots and recommended that the applicant consider all options rather than threaten the Board with one scenario.

Board members reminded March that the common driveway special permit cannot be used to create access to lots. It may be used to provide a better alternative access once it has been demonstrated that the lots have individual frontage and access.

Stephen Spang felt that this property is buildable and houses will eventually be constructed there. The farm may also be subdivided. He felt that given the sensitive nature of this land, the common driveway plan would minimize impact to the woodland and vernal pools. He added that the proposed common driveway is along an existing roadbed.

Tom Rice said he would not like to see the additional traffic created by five lots. He also submitted a four page memo regarding Northwest Structures dated today. He was not granted time to read the memo at the public hearing because it was not specifically relevant to the common driveway application.

Kate Reid said that this plan offers no *quid pro quo*. Only the applicant benefits from this plan.

The Board told March and Minkle that the applicant has many options and is not utilizing the common driveway permit as it was designed. Two of the lots do not demonstrate real and actual access through their frontage, and nothing has been offered to the Town. Abend thought a common driveway might be appropriate for the existing Tall Pines lots, but should not be used to put in additional lots. Spang said he was in favor of this approach.

**Abend moved to close the public hearing.** Tice seconded the motion and it carried 6-0.

**Epstein moved to accept the common driveway plan entitled Wheeler Lane Common Driveway, Carlisle, MA, Tall Pines Realty Trust dated March 5, 1998. Duscha seconded the motion. The permit was denied 1-5-0 with Duscha in favor.**

At 10:30, Tice **moved to adjourn.** Duscha seconded and the Board unanimously adjourned the meeting.

Respectfully submitted,

A handwritten signature in cursive script that reads "Anja M. Stam". The signature is written in black ink and is positioned above the printed name.

Anja M. Stam  
Recording Secretary