



Town of Carlisle

MASSACHUSETTS 01741

Office of

PLANNING BOARD

P.O. BOX 827
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MINUTES October 12, 1999

Notice of staff performance evaluations due November 12, 1999

Request for permission to use concrete bounds in Tall Pines Subdivision [request of William McNary]

Request to reduce the performance bond for the Tall Pines Subdivision, currently set at \$250,000, by an amount up to \$211,922 [request of William Costello]

Transfer of encumbered FY99 legal budget balance to Selectmen

Public Hearing: Proposed amendment to Section 5.9 of the Zoning Bylaws, Commercial Wireless Communications Facilities (submitted by Wireless Communications Advisory Committee for Special Town Meeting, 11/2/99)

Review of Preliminary Subdivision Plan for Carriage Way, located at 314 East Riding Drive, Map 23, Lot 1, Map 22, Lot 75 & Map 13, Lots 7, 21, 22 & 23 (Application of William Costello)

Continued Public Hearing: Special Permits for Conservation Cluster and Common Driveway to serve 5 lots at High Woods, 662 West Street, Map 6, Lot 63 (Christopher Fleming, applicant)

Discussion of proposed revisions to Carlisle Open Space and Recreation Plan, last revised 9/94 [request of Susan Emmons]

Discussion of Carlisle Recreation Commission's long-term planning [request of Carol Peters]

Review of draft covenant and easements for Wilkins Lane Definitive Subdivision Plan (approved 6/14/99), request for endorsement of plans

Request for recommendations regarding the Town's right of first refusal to purchase land at 662 West Street under the provisions of M.G.L. Chap. 61 [request of Board of Selectmen]

Request for recommendations and comments on future uses of Conant Land [request of Town Administrator]

ANR Plan: 698 Concord Road, Map 7, Lot 43A, Judith Pettit, applicant

ANR Plan: 64 and 72 West Street, Map 18, Lots 24 & 26, Ted Bush applicant

ANR Plan: 138 East Street, Map 22, Lots 62, 62B, 63C, 63D & 71, Theodore Treibick and Deborah MacDonald, applicants

Chair Tice called the meeting to order at 7:30 p.m. Members Abend, Epstein, Hara and Lane were present. Planning Administrator George Mansfield was also present as well as *Mosquito* reporter David Ives. Holzman was present from 7:35 to 10:00 p.m.

The minutes of September 27, 1999 were reviewed and Abend made one clarification. He then moved to accept the minutes as amended. Lane seconded the motion and it carried 4-0-1 with Epstein abstaining. (*Holzman arrived.*) Abend then moved and Lane seconded a motion to accept the minutes of the executive session of September 27, 1999 as drafted. This was approved 5-0-1 with Epstein abstaining.

Bills were circulated, as well as copies of aerial photos of Carlisle.

Notice of staff performance evaluations due November 12, 1999

Mansfield noted that the evaluation forms are available electronically from the Town Administrator, but they have not been forwarded to the PB office. The PA agreed to have David DeManche forward the forms to Tice who would then distribute them to Board members.

Request for permission to use concrete bounds in Tall Pines Subdivision [request of William McNary] and Request to reduce the performance bond for the Tall Pines Subdivision, currently set at \$250,000, by an amount up to \$211,922 [request of William Costello]

Mansfield reported that both requests have been forwarded to LandTech for review and he is awaiting a response. The Board agreed to continue this discussion to the next meeting.

Transfer of encumbered FY99 legal budget balance to Selectmen

The Board reviewed a summary of the legal budget history and concluded that a transfer of funds would be appropriate. The Board has encumbered \$2570 of the FY99 legal budget of which \$1000 has been earmarked for engineering review. Abend moved to release the balance of the encumbered amount (\$1570) to the Selectmen's budget to be used toward the retainer fee paid to Town Counsel. Lane seconded the motion and it carried 6-0.

Great Brook Estates

Tice announced that the 10:00 p.m. discussion with Albert I. Gould regarding Great Brook Estates has been cancelled.

Public Hearing: Proposed amendment to Section 5.9 of the Zoning Bylaws, Commercial Wireless Communications Facilities (submitted by Wireless Communications Advisory Committee for Special Town Meeting, 11/2/99)

Paul Gill, Don Allen and Lucinda Cutrer of the Wireless Communications Advisory Committee (WCAC) were present as well as the following members of the public: Dave Willard of Long Ridge Road; Larry Barton, Ethan Royce, Diane and Michael Bleday, Janice and Kerry Kissinger, Ken Meyers, Gordon and Susan Bannister of Elizabeth Ridge Road; Bert Willard and Margie McCormick of Bellows Hill; David Duren, Joseph Campagna and Fred Lewis of Bedford Road; Terry Herndon of Hillside Drive representing the Board of Appeals; JoRita Jordan of Pheasant Hill Lane; Kathy and Dana Booth of River Road; Marie Fiedrich of Red Pine Drive; Lauren Schmitt and Farshad Nayeri of Audubon Lane; Selectmen John Ballantine, Doug Stevenson, Michael Fitzgerald and Bert Rubenstein; Margaret Franklin residing on East Street and of McDermott, Quilty & Miller representing Sprint; and Michael Fred representing Bell Atlantic.

Paul Gill began by giving a brief history of the Wireless Communications Bylaw. He explained that the current bylaw is three years old, and in dealing with a proposed cellular tower on River Road, it was found that this bylaw does not protect the Town. Therefore, Town Meeting voted to instate a 6-month moratorium to allow time to redraft the bylaw. As a result the WCAC was formed. He noted that the proposed revisions have been drafted by Don Allen and are still being revised based on input from Town boards, committees and the public hearing. He noted that the main goals of the revised bylaw are to require the applicant to demonstrate the need for a cellular device, to establish minimum setback requirements, to limit the height of a cellular device and to provide for independent testing and monitoring of the completed structures and their emissions.

Gill showed the order of preference given to cellular devices: 1) install simple repeaters, 2) add antennae to an existing tower, 3) add height to an existing tower and 4) add a collocated tower. The proposed bylaw would also limit device location to publicly-owned land, would require a 900-ft. setback from historic buildings, homes, schools and childcare facilities, would only allow construction of monopoles and would limit the height of the monopoles to 55 feet in open space or 10 feet above the tree canopy in forested areas.

The Board of Selectmen would have executive regulatory authority and would establish a regulatory board to review applications. The Zoning Board of Appeals would be responsible for granting the special permits and adjudicating the process.

Gill noted that the current draft is long and unwieldy and based on recommendations made by several boards and committees, it will be divided into a bylaw containing substantive legal requirements and a rules and regulations document. The final draft will be voted on at Town Meeting.

Michael Bleday asked why it would be necessary to divide the document into two separate documents. Gill stated that many requirements are not of a legal nature and can be written as rules and regulations rather than a bylaw. Epstein further explained that procedural matters written in the rules and regulations require a public hearing, but are not voted at Town Meeting. By contrast, the bylaw does require a Town Meeting vote. Terry Herndon noted that the ZBA is a quasi-judicial authority and is responsible for enforcing the Zoning Bylaws. He stressed the importance of placing procedural matters into the rules and regulations in order to allow the appropriate board to oversee them. Herndon stated that the ZBA should only be responsible for the substantive legal implications of zoning. Don Allen noted that they are not considering a major change in substance, but rather in form. Providing for such a separation will make the bylaw less cumbersome and more likely to be approved by the attorney general.

Margaret Franklin asked what the WCAC considers to be substantive enough to be included in the bylaw. Gill said that this has not been discussed, but the final draft would be available before Town Meeting.

Ken Meyers asked why a setback of 900-ft. was chosen and also asked if this setback requirement referred to lot lines or structures. Gill stated that the setback refers to actual structures or the footprint of proposed structures and that this number was chosen based on the experience of other communities. Meyers expressed concern over setback from outdoor facilities such as playing fields or playgrounds.

John Ballantine asked how many sites there are in Town that might accommodate a 900-ft. setback. Gill said that the committee has looked at maps informally and that it has not conducted a survey, but feels that there are feasible sites in Town.

Sue Bannister asked if the Transfer Station has been considered as a possible site. Gill said that potential sites have not been discussed. Abend asked if the committee has an approximate number of possible sites in Town. Gill thought this would range between 5 and 12 sites.

Gordon Bannister asked if the WCAC could provide the community with a list of potential sites. Gill stated that this could not be done with accuracy and felt uncomfortable providing such information.

Janice Kissinger stated that her neighborhood of Elizabeth Ridge Road and Sunset Road is close to the transfer station and DPW. She feels that this location has already decreased her property value despite the high taxes she pays and she is very much opposed to any cell tower in the area. Other residents of this area expressed their agreement with Kissinger.

Abend noted that the hearing should focus on the bylaw and not a specific site, however, he felt it would be relevant to know which sites have potential for cellular development. As a member of the Municipal Land Committee he noted that Town-owned property is also being considered for other uses such as affordable housing and recreation, and cell tower set-back requirements could have an impact on potential use.

Lucinda Cutrer said that she spent much time looking at Assessor's maps to identify potential sites, but noted that these maps are not accurate and do not show any structures. She thought that providing such a list might cause undo concern.

Epstein complimented the WCAC on its extensive work and noted that the proposed bylaw is completely new. He felt that the new bylaw is more restrictive because it removes private and business zoned land from potential use for wireless communications facilities. Gill noted that it also allows for more use of Town, State and Federally-owned land.

Don Allen stated that he studied the wireless bylaws of Concord, Wayland and Pound Ridge, NY and incorporated many features of their bylaws into this draft. He noted that the current bylaw provides no protection to neighborhoods such as Elizabeth Ridge Road, while the proposed bylaw would be more restrictive.

Diane Bleday stated that she had reviewed the entire draft document dated 9/17/99 and her only suggestion was to change the word "harmony" in the first paragraph on page 15 to "compliance." She felt this would make the bylaw more legally enforceable.

David Duren asked if it is legal for the Town to allow itself to be the sole recipient of profits from such an enterprise. He also noted that he had attempted to site a cell tower on his private land and testing results showed that a tower 20 feet above the treeline was insufficient to provide coverage in the area. He recommended allowing one taller tower to be used by several providers rather than allowing several smaller towers throughout the town. Duren also thought that a cellular provider might sue the Town based on this strict bylaw and this would allow a judge rather than the Town to decide the location of a wireless facility.

Following another request by Abend for potential sites, Gill reluctantly listed the following sites, beginning with those that seemed to offer the most potential: The old O'Rourke land which is now federally owned, Great Brook State Park, the Greenough land, Council on Aging Trailer Lot and Foss Farm. He listed several more with less certainty. He noted that conservation land has not been eliminated from consideration.

Terry Herndon stated that the moratorium on wireless communications facilities expires on November 11, 1999. He noted that if the new bylaw is not approved at Town Meeting, then the old bylaw would again be in effect as of that date.

Mansfield noted that the draft document might be revised before the next meeting, and this revision could then be considered by the Board.

Abend moved to continue the public hearing to October 25, 1999 at 8:30 p.m. Lane seconded the motion and it carried 6-0.

Review of Preliminary Subdivision Plan for Carriage Way, located at 314 East Riding Drive, Map 23, Lot 1, Map 22, Lot 75 & Map 13, Lots 7, 21, 22 & 23 (Application of William Costello)

The applicant was present with his engineer, Joe March of Stamski and McNary. The following members of the public were also present: Lauren Schmitt and Farshad Nayeri of Audubon Lane; Kristine Bergenheim of Palmer Way; and Brian Anderson of East Riding Drive.

March presented a revised plan showing a 50-ft. wide right-of-way. The cul-de-sac length was reduced from 1090-ft. to 1086-ft. Previously the cul-de-sac had extended 85 ft. into the buffer zone, but the revised plan showed that it extends 60 ft. into this buffer zone. A waiver would be required to allow a 20-ft. radius of the right-of-way rounding onto East Riding Drive. March noted that the pavement would still have the required 25-ft. radius at this location. March stated that the applicant prefers using a 20-ft. wide pavement rather than a reduction to 18 ft. The applicant also requested direction regarding the Board's preference for sidewalks and/or shoulders.

Mansfield noted that he received this revised plan, along with a waiver-free, subdivision demonstration plan, today and he had not had time to review them. Epstein asked if the applicant could obtain 9 lots from this parcel without reliance on waivers. March stated that he could.

Mansfield noted that the fire chief provided a memo dated 10/5/99 to the PB requesting two 20,000 gal. cisterns on Carriage Way. March stated that they have provided one cistern approximately 250-ft. from East Riding Drive. This location could be used to serve houses on East Riding Drive as well as on the new cul-de-sac. March noted that the cistern could not be located closer to East Riding Drive due to the location of existing septic systems.

Hara asked if there are any environmental problems associated with providing access to the Town-owned land. March said that there would be construction within the buffer area, but no wetland fill would be required. Mansfield asked if parcel X-3 could be moved in order to create a wider access away from the wetland. March felt this would not be necessary, but perhaps a land swap could provide an extra 10 feet to this access strip.

Lauren Schmitt asked if the Town knows that this land is buildable. March stated that the lots' dimensions comply with zoning regulations, but soil testing has not been conducted. Based on the topography of the land and other testing done in the area, March stated that he has no reason to believe the land is not buildable.

For the Board's benefit, the PA noted that Judith Nitsch Engineering has not reviewed this revised plan, although he felt that the applicant has addressed concerns raised in the previous review. He also noted that the Board is awaiting comment from the Selectmen regarding the use of this Town-owned parcel.

Epstein felt comfortable that the applicant had demonstrated the ability to obtain nine lots by-right and the Board proceeded to discuss the possible waivers and conditions. Epstein then moved to approve the Preliminary Subdivision Plan in Carlisle, MA, entitled Carriage Way, dated 8/31/99, most recently revised on 10/12/99 with the benefit of the following waivers: 1) a waiver of the three-year open space set aside requirement set forth in Art.III.1.E of the rules and regulations; 2) a waiver of the maximum cul-de-sac length from 1000 ft. to 1086 ft. as set forth in Art.III.2.D.1; 3) a waiver of the granite curb requirement set forth in the rules and regulations as follows: that cape cod berm will be used throughout the subdivision with sloped granite curbing at the roundings onto East Riding Drive, subject to definitive determination of the grade of the proposed roadway; 4) a waiver of the maximum 5% grade at the intersection of the proposed roadway with East Riding Drive as set forth in exhibit E of the rules and regulations, to 6%; 5) a waiver of the design standards of the rules and regulations to allow the cul-de-sac roadway to be offset within the right-of-way as shown on the plan; 6) a waiver of the 25ft. rounding to allow a 20 ft. radius of the right-of-way rounding on the northerly side of the intersection with East Riding Drive as per Art.III.2.B.3 of the rules and regulations; 7) a waiver of Art.III.2.D.2 to allow the outside cul-de-sac diameter to be reduced to 140', the pavement diameter to be reduced to 110' and the landscape island diameter to be reduced to 74'; 8) a waiver of the definitive subdivision filing fee of approximately \$3000, but retention of the project review fee of \$10,000. Approval is further conditioned upon 1) further discussion regarding the sidewalk requirement or potential contribution to a sidewalk trust fund in conjunction with discussion of shoulder width requirements; 2) Board satisfaction with the proposed fire cistern, hopefully with the concurrence of fire chief; 3) the applicant's voluntary conveying to the Town parcels X-2 and X-3 and otherwise reaching satisfactory agreement with the Selectmen concerning the conveyance of X-2 and X-3 and the sale of X-1, X-2 and X-3. The approval is subject to all terms and conditions of the rules and regulations. Abend seconded the motion. The Board discussed the need to give the applicant specific guidance concerning sidewalks and shoulder widths, but Epstein suggested that more information is needed regarding the cost and possible contributions to the sidewalk trust fund before a decision can be reached. Costello stated that he would be willing to meet with the Board to discuss these issues before proceeding with the definitive plan. The Board then approved the above motion by a vote of 6-0.

Because of personal time constraints, the Board asked for an extension to October 22, 1999 to allow for preparation of the decision. Costello granted this in writing.

(Holzman left the meeting.)

Continued Public Hearing: Special Permits for Conservation Cluster and Common Driveway to serve 5 lots at High Woods, 662 West Street, Map 6, Lot 63 (Christopher Fleming, applicant)

No testimony was taken for this public hearing because the PA had just received new information from the applicant's engineer regarding this petition today, and neither the PA nor the Town's engineer has had opportunity to review it. For this reason, Abend moved to continue the public hearing to October 25, 1999 at 9:15 p.m. Epstein seconded the motion and it carried 5-0.

Discussion of proposed revisions to Carlisle Open Space and Recreation Plan, last revised 9/94 [request of Susan Emmons]

Betsy Fell and Susan Emmons of the Carlisle Open Space and Recreation Committee explained that the Open Space and Recreation Plan had last been revised in 1994, and the committee is now reviewing its goals for the next five years. Fell reviewed Planning Board initiatives as listed in the 1994 document and the Board explained how it has dealt with each of them. The PB has accomplished most of the goals listed. Fell asked if the PB has a schedule for review of the Master Plan. The Board said that a periodic review has not been scheduled. The Planning Board also felt that it is not able to initiate plans to beautify the Town center. Abend suggested that the PB could contribute to this goal if it could be involved in site plan review for all municipal projects. Abend also noted that the Municipal Land Committee was created in order to address possible improvements to the Town center. Fell was concerned that no board or committee has taken responsibility for aesthetic issues. Epstein stated that the PB is willing to work with other committees regarding Town center improvements, but it cannot assume a leading role. The Board agreed to forward a list of its current goals to the committee.

Discussion of Carlisle Recreation Commission's long-term planning [request of Carol Peters]

Carol Peters of the Recreation Commission came before the Board to make them aware that the Town has great need for recreational land. She asked that land for playing fields and playgrounds be considered when developers are asked to set aside land. She noted that it is not necessary to have a buildable lot for many recreational needs. Epstein suggested that the RecCom attend PB meetings when Chapter 61 land or subdivisions are discussed.

Developer William Costello was present and he suggested that a soccer field or playground could be built on land that is otherwise unsuitable for building. This would also make the land less expensive for the Town to purchase. Abend asked Costello if he would be willing to donate funds for such a purpose in lieu of the current lot set aside requirement. Costello thought it might be appropriate to have this as an option. Peters noted that land that does not perc or that has excessive ledge underneath might still be appropriate for recreational purposes.

Review of draft covenant and easements for Wilkins Lane Definitive Subdivision Plan (approved 6/14/99), request for endorsement of plans

Because of the difficulty the Board and applicant have had in coming to an agreement regarding the covenant, Epstein suggested that a "Covenant Form" might be drafted by Town Counsel to be used in future developments. He asked the PA to consult with the Town Administrator to determine if such legal fees would be covered in the retainer agreement with Town Counsel.

Epstein then moved to endorse the Wilkins Lane Definitive Subdivision Plan approved on 6/14/99 and to accept the covenant dated 9/24/99. Abend seconded the motion and it carried 5-0.

Request for recommendations regarding the Town's right of first refusal to purchase land at 662 West Street under the provisions of M.G.L. Chap. 61 [request of Board of Selectmen]

Member Epstein was not present for this discussion. The following members of the public were in attendance: Chris Fleming, B. Hoffman, Marge and Ed Getchell, Alan Lehotsky and John Forelli all of West Street.

The Board concluded that the \$1million cost of obtaining this land would be questionable use of Town funds and considered the Conservation Cluster option more desirable. Abend then moved to draft a memo to the Selectmen indicating that the Planning Board is not in favor of exercising the Town's option to purchase under Chapter 61 regarding 662 West Street, because the Board is currently reviewing and considering approval of a conservation cluster which would preserve a portion of this property. Lane seconded the motion and it carried 4-0.

Request for recommendations and comments on future uses of Conant Land [request of Town Administrator]

Abend stated that as a representative to the Municipal Land Committee, he recognizes that the Town has a variety of needs for public land and he felt there should be no restrictions placed on Town-owned land. He noted that the Conant Land is being considered for affordable housing use because other suitable public land has been placed under conservation restriction.

Hara stated that the Conant Land is valuable to the Town in its current state because it is accessible to the school for field trips in geology, history, biology, ecology, etc.

The Board generally agreed that the Town is running out of land for required municipal use and must make difficult decisions in the near future. Epstein stated that if the Conant Land must be developed, then he would be in favor of developing the periphery of the property while preserving the interior. Abend also expressed his support for limited development, particularly along Rockland Road. Hara concurred, but noted that the needs cited by the MLC are indefinite and might not be appropriate at the Conant site. The Board came to a general consensus that limited development should be allowed if it serves the needs of the Town, preferably limiting development to the periphery of the property. The Board did not have a copy of the proposed warrant article for Town Meeting and could not make specific comments. Abend offered to obtain a copy, review it and draft a response to the Selectmen. The Board agreed to give input via e-mail.

ANR Plan: 698 Concord Road, Map 7, Lot 43A, Judith Pettit, applicant

As an abutter to this property, Hara recused herself from this discussion. After reviewing the plan, Abend moved to endorse the ANR prepared for Coppermine Trust by R. Wilson and Associates, dated 10/1/99, last revised 10/7/99. Lane seconded and the motion carried 3-0-1 with Epstein abstaining.

ANR Plan: 64 and 72 West Street, Map 18, Lots 24 & 26, Ted Bush applicant

The applicant did not sign the ANR application form, nor was his name indicated on the plan. Finding this, the Board instructed the PA to return the application as incomplete.

ANR Plan: 138 East Street, Map 22, Lots 62, 62B, 63C, 63D & 71, Theodore Treibick and Deborah MacDonald, applicants

Finding that the parcels shown on the ANR plan do not show the areas, the Board returned the application due to these deficiencies.

At 11:40 p.m. the Board unanimously adjourned the meeting.

Respectfully submitted,


Anja M. Stam
Recording Secretary