

CARLISLE PLANNING BOARD

MINUTES

SEPTEMBER 24, 1990

Present:

Vivian F. Chaput, Chairman
Norman S. Lindsay
Stephen P. Tobin
Sylvia Sillers
George B. Foote
Elaine H. Olden,
Planner Assistant

Meeting called to order at 8:04 p.m.

ANR Plan - Bates Farm

On motion of Mr. Foote seconded by Mr. Lindsay, the members voted unanimously to endorse a plan entitled "Plan of Land in Carlisle, MA. Prepared for Michael S. Kimball," dated September 17, 1990, by McGlinchey Associates Inc., Chelmsford, Mass. "Approval Under the Subdivision Control Law Not Required."

Minutes

On motion of Mr. Lindsay seconded by Ms. Sillers, the members voted unanimously to accept the minutes of the September 10 meeting as presented.

Bills

The members authorized payment of bills as presented.

Vote on Common Driveway - River Road - Rolando

On motion by Ms. Sillers seconded by Mr. Lindsay, the members voted unanimously to amend the Special Permit granted September 11, 1978, for a common drive constructed off River Street to permit relocation and paving said common drive in accordance with a plan entitled "Riverloft Common Driveway/River Loft/River Street in Carlisle, Mass. (Middlesex County) prepared for Charles Rolando" dated Oct. 14, 1987, revised March 8, 1988, April 14, 1988, 11/27/89, and 7/9/90, by BSC-Bedford, 18 North Road, Bedford MA 01730, because the proposed changes do not have a significant impact in any areas of concern to the Planning Board as Special Permit Granting Authority under the Zoning Bylaws.

Public Hearing on Amendment to Brookview/Nickles Lane Definitive Plan

CARLISLE PLANNING BOARD MINUTES
SEPTEMBER 24, 1990
PAGE 2

At 8:17 p.m., Chairman Chaput called to order the public hearing continued from September 10, 1990, on the application of Nickles Lane Realty Trust, George Senkler, II, Trustee, to amend a previously approved definitive plan entitled "Brook View, Carlisle, MA; Definitive Plan for: The Ledgewood Group LTD." by Stamski and McNary, Inc.; dated Revised Nov. 14, 1988, to extend the roadway within the street as shown on the approved plan.

The applicant presented three easement documents: one for grading and utilities, one for fire protection equipment, and one for drainage. After discussion, the members requested the applicant to conform the designation on the plan to the title of the fire protection easement and to change the drainage easement to include the entirety of parcels X and Y. After a review of the file, the members requested the applicant to submit the following documents before endorsement of the plan: a modification of the Affidavit of Memorandum Regarding Street dated November 14, 1988, such that the fee interest of the roadway of the entire subdivision shall be held by a Homeowners Association; and a new covenant executed by the present owner and mortgagees.

Mr. Foote moved to waive the requirements of the Board's subdivision regulations for those sections of the Brook View Subdivision as shown on a plan entitled "Amendment to Brook View, Carlisle, Mass., Plan and Profile/Grading and Drainage, For: Nickles' Lane Realty Trust," dated June 29, 1990, Revised September 7, 1990, and revised in accordance with Planning Board's requests in the previous discussion, on the basis of the findings that the proposed plan is more in the public interest than a plan meeting the requirements of the Board's regulations because (1) it uses the land in a more sensitive fashion, protecting the wetland area and preserving a boulder which is a significant feature of the site, and (2) it provides access for both adjoining property pursuant to Section 4.A.2.c. of the Board's regulations and for this and other property, in a manner which is consistent with the already-approved subdivision road while adequately meeting safety regulations for a turnaround at the end. Mr. Lindsay seconded the motion. Mr. Foote, Mr. Lindsay, Ms. Chaput and Mr. Tobin voted in favor of the motion. Ms. Sillers voted in opposition.

Mr. Foote moved to amend the previous approval of a plan entitled "Brook View, Carlisle, MA Definitive Plan For: The Ledgewood Group Ltd," dated May 9, 1988, revised July 11, 1988, July 25, 1988, and August 9, 1988, by Stamski and McNary, Inc., 80 Harris St., Acton, MA, in accordance with a plan entitled "Amendment to Brook View, Carlisle, Mass., Plan and Profile/Grading and Drainage, For: Nickles' Lane Realty Trust," dated June 29, 1990, Revised September 7, 1990, and a plan entitled "Amendment to

CARLISLE PLANNING BOARD MINUTES
SEPTEMBER 24, 1990
PAGE 3

Brookview, Carlisle, Mass. dated September 7, 1990, both plans by Stamski and McNary, Inc., and both plans revised in accordance with Planning Board's previous requests, with the following additional waivers and subject to the following additional conditions:

Waivers

Section 4.A.5.a. [road length]
Section 4.A.5.c. [cul de sac]
Section 5.B.1. [street alignment]
Section 5.B.6. [granite curbing]
Section 5.C.1.a. [location of bike/footpath]
Section 5.J. [standard roadway cross section]

Conditions

1. Endorsement of the Amended Plan is conditional upon the provision of documents acceptable to the Board creating a Homeowners Association. Said documents shall be duly executed, noted on the Amended Plan, and recorded with the North Middlesex County Registry of Deeds ("Registry").
2. Endorsement of the Amended Plan is conditional upon the provision of an agreement acceptable to the Planning Board modifying the existing Affidavit of Memorandum Regarding Street dated November 14, 1988, such that the fee interest of the roadway of the entire subdivision shall be held by a Homeowners Association. Said agreement shall be executed by the Planning Board and the Applicant, noted on the Amended Plan, and recorded with the Registry.
3. Endorsement of the Amended Plan is conditional upon the addition of a note to the Amended Plan that the fee interest in the road shall be held by the Homeowners Association.
4. Endorsement of the Amended Plan is conditional upon the provision of a fire cistern easement which is consistent with the Amended Plan. Said easement shall be acceptable to the Board, noted on the Amended Plan, and recorded with the Registry.
5. Endorsement of the Amended Plan is conditional upon the provision of a revision acceptable to the Planning Board of the Drainage Easement document submitted to the Board on September 24, 1990, and marked #38 by the Board. Said easement document shall include parcels X1 and Y1 in their entirety as well as that portion of Lot 4B indicated in document #38, noted on the Amended Plan, and recorded with the Registry.

6. Easements shown on the Amended Plan running in favor of the Town of Carlisle shall be recorded. The return address on the easement documents shall be "Planning Board, P.O. Box N, Carlisle, MA 01741."
7. After the Amended Plan has been approved and endorsed, the Applicant shall furnish the Planning Board with two prints thereof.
8. The retention area and its outfall as shown on the Amended Plan shall be planted with indigenous plant material.
9. The expiration date for the entire subdivision, including the plan approved on September 12, 1988, and the Amended Plan, shall be October 31, 1991.
10. The following statement shall be noted on the Amended Plan before its endorsement and recording: "The security interest shall not be released until a finding of satisfactory installation, operation and testing of a dry hydrant connected to a storage tank with minimum capacity of 5,000 gallons, which tank shall be automatically maintained at full capacity by recharge from a well and pump system as shown on the Amended Plan, is made by the Fire Chief."
11. Endorsement of the Amended Plan is conditional upon the provision of a performance guarantee for the entire subdivision, including the Plan approved on September 12, 1988, and the Amended Plan, duly executed and approved, noted on the Amended Plan and recorded with the North Middlesex County Registry of Deeds, said form of guarantee being variable from time to time by the Applicant subject to agreement on the adequacy and amount of said guarantee by the Board.
12. Upon completion of the project, the Applicant shall submit the following to the Planning Board:
 - (a) an as-built plan; and
 - (b) a document in recordable form for certification of completion to be signed by the Planning Board.

Mr. Lindsay seconded the motion. Mr. Foote, Mr. Lindsay, Ms. Chaput and Mr. Tobin voted in favor of the motion. Ms. Sillers voted in opposition.

Chairman Chaput closed the public hearing at 9:55 p.m.

Request for Extensions of Ice Pond Road Permits

The Board considered a letter from Charles Boiteau dated September 19, 1990, requesting extension of the Common Driveway and Conservation Cluster Special Permit and the Definitive Plan Approval for the Ice Pond Road project. After reviewing the files to ascertain the expiration dates of these permits, the members instructed Mrs. Olden to write to Mr. Boiteau as follows:

Definitive Plan Extension

Please specify both the approval date and the expiration date of the definitive plan approval which you wish to have extended, as the Planning Board record seems to indicate that the approval does not expire until July 1991.

Conservation Cluster Special Permit

The Board suggests that you request a determination from the Zoning Enforcement Officer (Mr. Koning) as to whether the recording of documents as stated in Attorney Nelson's November 13, 1989, letter to me constitutes substantial use of the Special Permit. In that connection, the Board would appreciate receiving copies of all the documents with the recording information, and Mr. Koning may wish to see them as well.

Common Driveway Special Permit

Since it seemed obvious to the members without further discussion that the Common Driveway Special Permit expires in October, and since the publication deadline for a public hearing on October 15 was the next day, they instructed me to order publication of the enclosed Notice of Public Hearing.

The members did this to expedite your desire for an extension and in the expectation that you will file an application (form enclosed) together with the appropriate fee.

Ice Pond Road Fire Protection

In response to a letter from Charles Boiteau dated September 19, 1990, the Board reviewed the draft of an easement document to be executed by Norman D. Brooks and Mary Ann Brooks which is part of Mr. Boiteau's proposal for meeting the fire protection requirements of the Ice Pond Road subdivision by enabling use of a fire pond already existing on the Brooks' property. After discussion, the Board instructed Mrs. Olden to write to Mr. Boiteau as follows: The members noted that the Easement relates

to the requirements of Section 4.F.4 of the subdivision regulations only and that the other requirements of Section 4.F are still to be addressed. The members request the inclusion of reference to a plan in order to locate the pond and to identify its boundaries. They note that the easement does not seem to allow access to the pond for a backhoe for maintenance purposes. Perhaps the plan will make it clear that such access is included in the description. If not, the members request that such access be included in the easement. Since the Town does not undertake maintenance obligations pursuant to Section 4.F.4, the members request the deletion of paragraph 4 and suggest that you may wish to substitute a sentence relieving the grantors of any obligation for maintenance of the dry hydrant e.g., "The Grantors shall have no responsibility for maintaining the dry hydrant running from the pond." Noting that several provisions of this Easement which seemed to them unusual, the Board also decided to request the opinion of Town Counsel on provisions of the easement as follows: What is the effect of the prohibition against assignment of the easement and is such a prohibition contrary to the Town's interest? Is it possible for the easement to be "extinguished" as provided and is such a provision contrary to the Town's interest? If this provision should be included, how would the decision be made that "the pond is no longer used or needed by the Town for fire fighting purposes"? What is the significance of the Selectmen signing the easement? Does such signature constitute "acceptance" of the easement? Is it necessary, as the applicant contends, that Town officials "accept" the easement? If so, why?

Planning Board Policy Concerning Review of Legal Documents

The members reviewed a draft list prepared by the Planner Assistant of the elements which a document presented to the Board for approval should contain. After discussion, the members directed Mrs. Olden to finalize this list as a list of the elements which a document transferring interest in property by fee or easement should contain and submit it to Town Counsel for review and comment. On motion by Mr. Foote seconded by Mr. Lindsay, the members voted unanimously that it is Board policy about agreements with applicants is to make both their form and their content as complete and clear as possible to avoid misunderstandings which could require litigation to resolve.

Revision of Subdivision Regulations

The members noted that they wish to revise the subdivision regulations to require final approval of the fire protection by the Board's engineer rather than the Fire Chief, since the Board's authority extends only to making sure that the fire protection apparatus has been constructed in accordance with the

CARLISLE PLANNING BOARD MINUTES
SEPTEMBER 24, 1990
PAGE 7

approved plan. The members also decided to review proposed regulation changes at the October 15th meeting and to hold a public hearing on revision of the regulations in early November.

Meeting with a Representative of Cleverdon, Varney & Pike

Mrs. Olden reported a conversation with John Anthony concerning the services provided by the Board's consulting engineer in which Mr. Anthony suggested a meeting with the Board. The members agreed that such a meeting would be very helpful as the Board considers its options for engineering services and decided to request a meeting with a representative of the firm who can present a broad overview of the way the company interacts with a Planning Board in general. Mrs. Olden was instructed to follow up with this idea with Ms. Chaput.

Engineering Costs for Budgeting Purposes

The Board instructed Mrs. Olden to prepare a summary of engineering costs for each subdivision over the past year.

Meeting adjourned at 11:35 p.m.

Respectfully submitted,

Elaine H. Olden
Planner Assistant