

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
THURSDAY, APRIL 28, 2005

The Board consisted of:

Jeffrey P. Klofft, Acting Chairman
Jonathan G. Gossels, Acting Clerk
Elizabeth A. Taylor
Richard L. Burpee, Associate
Constantine Athanas, Associate

Also: Nancy G. Rubenstein, Alternate
Jody A. Kablack, Town Planner

For the Applicant:

Louis W. Mountzoures, Esq., Pari Holdings LLC, applicant
Robert L. Devin, Esq.
Michael Sullivan, Sullivan & Connors Engineers

Notice was published in the Sudbury town Crier on April 7 and 14, 2005, posted, mailed and read at this hearing.

Mr. Klofft, Acting Chairman, noted that this hearing is a review of a Comprehensive Permit Application for the Sudbury Meadows development located at 534 Boston Post Road. During these proceedings, the Board will be governed by Mass. General Law, Chapter 40B, Sections 20-23, the Sudbury Model Rules and Mass. Regulations 760, Section 31.

Mr. Klofft explained the format of the hearing process will consist of a review of the components of the application to make sure all is in order. There will then be a presentation of the project by the applicant followed by questions at the end of the presentation by the Board, members of other Town Boards who may be present, and then by the public.

For future meetings the Board will establish a rule that no information will be discussed that hasn't been received seven days prior. The Board has agreed not to begin any new topics past 9:30PM and do a hard stop at 10PM unless the topic under discussion can be dealt with shortly after.

Mr. Mountzoures affirmed that the applicant is Pari Holdings LLC, which has an option to purchase the property located at 534 North Road. It is proposed to construct 16 units on 4.93 acres going through the New England Fund administered through Mass. Housing. The letter dated January 3, 2005 from the Mass. Housing Finance Agency notes there to be a 25%

affordability for four of the sixteen units for a duration of thirty years. Mr. Mountzoures said he was willing to extend the duration of the affordable units in perpetuity.

Michael Sullivan, Engineer displayed a plan of the property. He described the topography as fairly gradual after which about 100 feet to the wetlands it starts to slope to the wetlands. The blue line represents the edge of the wetlands. The Conservation Commission has verified this line along with the stream which is not a perennial stream but an intermittent stream.

The proposal is to construct 16 2-bedroom units for ages 55 and older. There will be two buildings with 3 units and the remaining 5 will have 2 units in them.

The road network is in a T fashion, 200 feet long with the T portion also about 200 feet long. Pavement width is 26 feet. All fire apparatus can be maneuvered effectively through the road system. Mr. Sullivan said they met with the Fire Chief on this back at the beginning and he did not express any concern in terms of fire apparatus having any problems.

The area is fairly level area in front. From the plan Mr. Sullivan pointed out the road profile, the yellow line being the existing grade, the red line being the proposed. The road will come in at a 1.6% slope and then the T portion would be a 1.5% slope. It will be a very level road requiring a minimum of excavation and disturbance for the road.

Road drainage will be subsurface. Storm water runoff will go through a series of catch basins and manholes which are sized appropriately for the 100-year storm event. This will have an overflow that will be approximately 30 feet off the wetland and that will discharge onto the surface that's flowing to the wetlands. This will accommodate the road only.

The buildings themselves will have a subsurface drainage system that will accommodate roof runoff which will also be able to mitigate a 100-year storm event.

Mr. Sullivan pointed out the area of the septic system. Testing has been done and witnessed by the Board of Health Director. The soils in this area are sand and gravel. Groundwater is very low; perc rate is 2 minutes per inch. In terms of being conducive for on-site disposal, there is no a problem.

The septic system is a pressure dose system, not a conventional gravity flow system and it will have a de-nitrification controller thereby creating a higher quality effluent when it enters the ground.

The water system will be looped. It will be along one side, down the other and out. Mr. Sullivan pointed out a proposed hydrant located in the front. The Fire Chief indicated he would also like a hydrant in the back. He said this is something that can be proposed once they get further into the process.

Mr. Sullivan said a traffic study has been done and submitted to the Board. (GPI, Inc., Nashua, NH dated March 2005) There is a stump that has to be removed and some clearing in the right of way, but the sight distance is not a problem in terms of traffic volume.

Mr. Sullivan said this is the stage of development at this point. He emphasized that this is just a conceptual plan, not done definitively. Drainage calculations will be done once it is known what the project is going to look like. When there is input from the abutters and the Board, they will proceed to address all the issues from the Town Planner, Planning Board and the Engineer as well as the other Boards who will be submitting letters.

Attorney Robert Devin submitted the following documents for the record: Master Condominium Deed, Declaration of Trust, Mass Housing Regulatory Agreement and Monitoring Services Agreement, and Deed Rider.

Mr. Mountzoures said this is the first the Board has heard over 55 mentioned formally. He noted the Town Planner has gone through the gallonage and reports in her letter that this gallonage for 16 units couldn't be supported for an under 55. He said comments from the Board and abutters could change the over 55 perception.

At Mr. Klofft's request, Mr. Mountzoures displayed conceptual plans for the proposed units which consist of 2-unit, 2-story duplexes. Each side is 22 feet wide making the total unit 44 feet wide. The 54 foot depth shown on the plan has been reduced on the architectural to a 48-foot depth. The units have 2-foot setbacks. This reduction was an attempt to bring in a smaller size and bring it away from the wetlands or abutting lines. The approximate height is 32 feet although the roof level will be reduced.

The units contain a one-car garage, family room, kitchen and half-bath on the first floor, and a set of stairs up to the second floor to the 2-bedrooms and 2 baths. There is a full basement.

Mr. Klofft said at some point the Board will want to schedule a site visit of the property.

Mr. Gossels added that the Board will be looking for more detail in landscaping and the perimeter buffer plans.

Given the changes in sizes of the buildings, Mr. Klofft asked whether some of the requested exemptions will change.

Mr. Mountzoures said that depended upon input from the Board and abutters.

In response to a further request from Mr. Klofft, Mr. Sullivan pointed out the structures on the property which consist of the existing house and an additional foundation. To his knowledge there is no hazardous waste on the property.

Mr. Klofft asked whether walkways are proposed. Mr. Sullivan said if they can get parking along the side they would rather not put in a sidewalk, unless the Board feels it appropriate.

Mr. Gossels asked how the 16 units came to be proposed.

Mr. Mountzoures said part of it goes to what makes the project viable and part of it goes to Title 5 and gallonage.

Ms. Rubenstein asked where visitor parking would be.

Mr. Sullivan said the distance between the building and the roadway is approximately 30 feet. Another car can easily park behind the car that is in the garage. Also, a car can be parallel parked along the street

Ms. Kablack said parking calculation requirements are 2 spaces per house. Technically this meets the requirements.

Ms. Rubenstein said she would be interested in knowing the capacity of visitor parking on the site to be sure it works for the number of units.

Given the proposed additional left turns coming off Route 117 and the speeds along that road, Mr. Klofft asked whether Mass. Highway had been contacted.

Mr. Mountzoures said he had not applied to Mass. Highway or discussed the project with them. He said the traffic report did show the speed of cars a bit higher than the posted speed limit. Typically, with other project he has worked on, the state says the town should govern the speeds within their town.

Mr. Klofft said even at the posted speeds, this is not like a back street. It's a state highway and fairly open.

Responding to a further question from Mr. Klofft, Mr. Sullivan said there was no discussion of a fire suppression system with the Fire Chief. He said all the Chief wanted was another hydrant. It was Mr. Sullivan's understanding that sprinklers are required if there are four units per building; otherwise they are not.

Mr. Klofft said there have been developments in Sudbury where, with a one-egress situation, developers have been required to install suppression systems. Mr. Sullivan said he would speak with the Fire Chief on this.

Given that the plans are for 55+, Mr. Klofft asked whether a multi-level unit would be a concern with regard to financial viability. He felt most older people would be looking to move to fewer levels, not more levels.

Mr. Mountzoures said they tried to develop a project that could essentially be for over or under 55 depending upon the town's and the Board's wishes on which way to go. Under 55 would result in a reduction in density because of the septic and Title 5 constraints.

Mr. Klofft asked whether there were any plans for mitigation of wetness in basements, particularly for the row of units along the back level of the wetlands.

Mr. Sullivan said there is an immediate drop off into the wetlands. The elevation is 216 at the units and the wetland elevation is 200. He said they went down about 12 feet and it was dry, considering that this spring was fairly wet. He said they saw nothing to indicate that there would be a problem with water.

Mr. Klofft said the plans show the closest unit will be 30 feet from North Road. He said there have been a lot of demolitions and reconstruction in Sudbury that come before this Board and typically it has been the policy to push for a 60-foot setback in an attempt to keep the new, larger units from looming over the road. He felt for this project it could improve the sight lines into and out of Route 117 and provide a buffer to shield the units from the road.

Carol Lewis, 24 Mary Catherine Lane, abutter, voiced concerns with the lack of pervious surface and the fact that there was no recreation area anywhere

Mr. Sullivan pointed out a small area in front of the units which will be grassed; however, he said there were no plans at this time to set aside a community area. He pointed out the wetland buffer which will be an unimproved area.

Mr. Klofft asked whether calculations of the percent of impervious surface coverage on the non-wetland area were made. Mr. Sullivan said they were not. Mr. Klofft said the Board would like to have those calculations – just on the non-wetland area.

Marc Calandrella, 59 Powder Mill Road, abutter, had concerns as to whether the application was complete with respect to the regulations. asked what the original date of the application was.

Mr. Klofft replied that technically the application is in compliance. However, there are some significant issues the Board will be discussing. He said the State is clear that they don't expect final construction drawings. As to scale drawings, Mr. Klofft believed those were submitted. He said the Board will want to see an updated preliminary site plan with building

footprints that match the proposed building. He would also want to see at least one of the elevations with the revised roof line.

Mr. Calandrella pointed out the location of his house. He said the hillside where the back units are proposed sits at grade level and those units will look into the second story windows of his house. He wanted to be sure someone took a look at the actual contours of what will be there.

Mr. Sullivan said these are conceptual plans; the finish grading is not represented. They will need final grades when they meet with the Conservation Commission.

Mr. Gossels said the Board will need responses on visual screening and runoff.

Mr. Sullivan said both the road and roof runoff will be directed to subsurface systems and pointed out those locations. He said there won't be a lot of runoff sheet flow because the soils are so pervious. Whatever will be disturbed and regraded cannot go in the direction of the abutters.

Mr. Klofft voiced concern with regard to the close proximity of the disturbed portion to the buffer zone. He asked if consideration was given in terms of mitigation during the construction period.

Mr. Mountzoures said he is trying to establish a contour line with the Conservation Commission that is farther away from the wetlands than they are now and which assumes the natural grade for no disturb. He was sure there would be a great deal of mitigation to make sure nothing in any building process could exceed the no disturb.

Glen Lewis, 24 Mary Catherine Lane, abutter had question with regard to Title 5 and the location of the leaching field.

Mr. Sullivan pointed out the location of the field and explained the requirements of Title 5 as pertains to testing and ultimate unit size.

In response to a question from Mr. Gossels, Mr. Sullivan explained the function and operation of the pressure dose system including what would happen in the event of a power failure. He also explained that a traditional septic system is not an option for this project because once the gallons are over 2,000, the DEP requires a pressure dose system.

Several questions followed from the Board and abutters on clarification of the operation of a pressure dose system which were explained by Mr. Sullivan.

Mr. Lewis had a question on the buffer zone and approval process.

Mr. Sullivan explained the process of filing a Notice of Intent with the Conservation Commission, followed by a public hearing and issuance of an Order of Conditions. He said that Order of Conditions will dictate the development from beginning to end.

Mr. Lewis had concerns with regard to parking, noting that there is very limited parking proposed. He said cars cannot park on North Road. He saw Mary Catherine Lane being used as a parking area for overflow parking, for example, when there was a party. There would not be enough room.

Mr. Sullivan countered that that same argument could be made for any single family dwelling.

Mr. Klofft felt there was a difference in that there would be 16 families here so the likelihood of gatherings is 16 time greater. Mr. Gossels added that he would hope some serious consideration is given to this.

Andrew Reynolds, 531 North Road, abutter pointed out the location of his house which is directly across the street from the proposed project. He said people travel upwards of 50-60 mph on Route 117 and it's dangerous, even for him driving down to take a left into his driveway. He said people cut through his driveway which is a double car width loop. He added that there have been several accidents along that stretch of road including both his and his neighbor's dogs having been hit by cars.

In addition to the safety issue, Mr. Reynolds said his house is set approximately 50 feet from the road. He noted that when the traffic study was being performed, there were two wires strung across the street and the noise of the cars going over the wire was very annoying. If there are going to be units located 20 feet from the road, Mr. Reynolds said he would pity those persons who had to put up with the noise from traffic on Route 117.

Other concerns voiced by Mr. Reynolds dealt with the impact of this project on the wetlands and the proposed lighting at the entrance which could create a visual nuisance by shining onto his house.

Michael Garrett, 21 Mary Catherine Lane, abutter, also had issues with regard to traffic safety on Route 117. He pointed out the location of Mary Catherine Lane and the blind turn caused by a telephone pole. His concern is that with 16 units and early risers, this will increase traffic flow. He said the blind turn is something that needs to be considered.

Another issue is that there is no place for the residents to walk. He said Route 117 is not a place to walk. There has to be a way for pedestrians to walk, and sidewalks should be considered.

David Stewart, 10 Mary Catherine Lane, abutter, felt there was an opportunity to mitigate the leisure issue by putting a sidewalk somewhere along Route 117, certainly along this side of the driveway because there is a cross walk along 117 at the corner of Mary Catherine Lane.

Mr. Stewart also suggested the residents might bring up at the Conservation Commission public hearing the fact of this area being a wildlife corridor and the impact of this project to wildlife

Carol Lewis, 24 Mary Catherine Lane, abutter, reiterated the concerns of the previous abutters with regard to the need for sidewalks and the hazardous conditions because of the blind turn. Her other concern was with runoff. She said you can see the surface of the water. It is saturated. When the snow started to melt, the perennial stream had a strong flow, even in February. She said the runoff for Mary Catherine Lane is to these wetlands and 16 additional homes are proposed to be built on Mary Catherine Lane. Adding to those 16 houses, an additional 16 units for which she assumed the runoff would go to the wetlands, is cause for concern.

Barry Murphy, 541 North Road, abutter, pointed out the location of his house, and also voiced concerns with regard to traffic safety. He said it is already difficult for him to get out of his driveway. Now he said he will be dealing with up to 32 additional cars.

Mr. Murphy also asked about the green space. From the plan, Mr. Sullivan noted that each unit will have a single car garage and driveway. He pointed out the areas of grass adding that while it will not be massive, there will be some green.

In response to further questions from Mr. Murphy, Mr. Mountzoures said the plan that the abutters saw showed a brick front. These units will be clapboard. He said he received comments from the Design Review Board and this something they can try to work on when they get closer to the actual plan.

With regard to trash, Mr. Mountzoures said there will not be a dumpster. Pickup will be by private service, once a week to each individual unit.

As to lighting, Mr. Mountzoures reiterated that these plans are very preliminary and modifications will be made.

Doris Kelly, 7 Mary Catherine Lane, abutter, pointed out the locations of her house. Her main concern was with the density. She felt the number could be less and said it was bothersome that this was being considered instead of what would fit in nicely. She said it seemed as if the developer was trying to make the most money possible.

Mr. Klofft said there are limits on the profit that can be made coming out of this project.

Mr. Devin said 20% is the maximum; the average is usually between 14-17%. He said the case law on 40B is not focused so much on the specific number of units per acre but rather on the ability of the site to sustain and support the number of units proposed.

Mr. Gossels said to balance that, given the nature of the site with the extensive wetlands in the back, it forces the development to be clustered up at the front end of the site which has a greater impact on the neighbors. If it were distributed, it could be a nice little neighborhood of its own.

Mr. Mountzoures said one of the goals is to bring affordable housing to the town. He said if this was all dry land and 5 acres, a conventional or cluster subdivision could be done, but the land would be worth \$3-4 million instead of \$600,000. And, the affordable component couldn't be offered because of the cost of the land.

In addition, Mr. Mountzoures said there are always problems when looking to acquire a site offering affordable housing. Route 117 is a problem because of the traffic, if you're in a neighborhood, it's a problem because of the neighborhood, if you're in woods, it a problem because of conservation or otherwise. There's never the right site. With this site, Mary Catherine Lane and the direct abutters across the street are impacted by the project.

Several comments were made from the abutters reiterating earlier statements with regard to the impact of this project from a visual standpoint as well as concerns that the value of their homes may decrease as a result.

Mr. Klofft said similar concerns were made when the concept of cluster development was introduced and those concerns were unfounded.

Mr. Gossels said there are steps to be taken noting the applicant will be meeting with the Conservation Commission. There are issues with the 100 foot buffer. The end result may not even be 16 units.

Mr. Klofft reiterated that this is a process. He said earlier there were questions as to whether this is a complete application. Part of the reason why the 40B process doesn't require the developer to come in with finished plans which are expensive to develop is because there is this understanding that there are issues that need to come to light, some of which the developer may not have been aware of when the plan was put together. Which is why this process is as it is.

Mr. Mountzoures said they were here to cooperate with the town in every regard, including the neighbors and everybody else. They will do whatever they can assuming it can work for everybody.

Mr. Gossels said Ms. Lewis and others have raised the issue of density. The Board has heard it and so has the developer. He felt the issues that have been raised tonight are very useful for the developer to hear. It gives them an opportunity to figure out what ways in which they make it work for everyone.

Amy Lepak, 54 Jarman Road, resident, asked how large the developable area was with relationship to Carriage Lane.

Mr. Sullivan said it was 1 ½ -2 acres.

Ms. Kablack added that Carriage Lane was 2.5 acres.

In response to a question as to the size of the leach field, Mr. Sullivan said the total is 110X60 feet which is divided in half – 3,000 s.f. for the primary and 3,000 s.f. for the expansion area. He then described the method by which the size is determined.

Mr. Lewis wanted to be sure there was adequate on-site storage for soil, equipment, etc.

Mr. Sullivan said there will not be a lot of cut and fill for the road. The topsoil and subsoil will be excavated out, a decent base will be brought in and then it will be brought up to grade. The topsoil will be stored on the site and spread after everything is done.

Mr. Mountzoures added that with a development such as this they would attempt to do whatever had to be done at one time so there was no impact to the neighborhood. He said there is not a lot of road; it's more of a driveway.

Mr. Mountzoures also wanted to comment that if this were to be an under 55 development there would be less density. He said the makeup of the units is such that people are not going to buy this unit to move in a family. It would more likely be a professional couple or someone over 55. He was not sure whether this would be the same for the affordable units.

Discussion followed on what the Board expected the applicant to provide prior to the next hearing with additional comments made by the Town Planner. This included a more complete list of waivers to the bylaws, preferably a side-by-side chart which includes what the requirement is and what is proposed.

Ms. Kablack noted that while this list may change over time, there are bylaws other than zoning which will need to be addressed. These were addressed in her memo dated April 6, 2005 which is part of this record. Understanding that the plans are still conceptual, Ms. Kablack felt putting those houses on the site is going to go a long way to alleviating some of the concerns because it was stated earlier that the building footprint is smaller and will affect how these units lay out. She felt the applicant should show more detail of the surrounding property including the houses that are directly abutting. Street elevations, traffic pattern, a tabulation of buildings by type, size, ground coverage, paved areas, etc., are needed. Grading also needs to be shown, particularly at the rear of the units

Mr. Klofft felt the location of the rear line must be established in order to determine where the placement of the buildings will be. Speaking for himself, he felt this project is very, dense. He said Mr. Sullivan talked about an acre and a half of a buildable lot with 16 units in an area where the housing is more sparse than others. He felt there is far too much impervious surface and that is related to the density.

Mr. Mountzoures said he didn't think the Conservation Commission would support that line until there is some sort of negotiation towards mitigation. He said it's very difficult to get them to commit to a line

Mr. Klofft said in that case then he would encourage Mr. Mountzoures to assume a conservative line. He said obviously the applicant needs to come back with a site plan with the items Ms. Kablack addressed – with the actual footprints of the properties and the driveways, because there are a lot of questions about street parking and what's happening there. However, in general, Mr. Klofft would also encourage the applicant to look at a plan that perhaps has fewer units and less dense.

Mr. Mountzoures asked whether the Board would consider under 55 less dense.

Mr. Klofft felt this needed to be discussed. He also felt Mr. Mountzoures needed to go back and talk to the Selectmen since they clearly have an interest in 55+ housing.

Ms. Kablack said the Selectmen will be addressing this on Tuesday at her request. At this time Sudbury is looking at approximately 150 senior condos within the next 5 years. There are essentially zero family condos. She said she will report back to the ZBA on this.

Ms. Kablack added that there will be a reduction in density if this is not an age restricted development because of the septic system requirements.

Mr. Klofft said if it goes that route he would like the applicant to consider a sidewalk that runs from the property at least to the crosswalk at Mary Catherine Lane. He would also pay

more attention to screening, especially along some of the buffers – where the screening is today and where there was potential to add additional screening.

Mr. Gossels said there are specific neighbors with issues. He would suggest, as the process goes forward, that Mr. Mountzoures meet with them to talk about the type of mitigation being proposed.

Mr. Mountzoures was agreeable to this.

The general feeling among the Board was that the updated plans should propose an under 55 development unless, after the Selectmen's meeting, there appeared to be a compelling reason not to do so.

Mr. Athanas voiced concern that potentially the developer could reduce the number of units and expand the size of the units which would bring this back to square one.

Mr. Klofft felt the Board made it clear though that there is also the issue of just how much development there is on the parcel. To the extent that this can be reduced would be helpful.

Ms. Kablack noted that one of the things that Town Meeting did was vote ½ million dollars for affordable housing under the Community Preservation Act looking to buy down additional units in these developments. She would like Mr. Mountzoures to consider this and discuss the possibility of a buy down for one or 3 units, or whatever would be agreeable to him.

With regard to the 20% profit on these developments, Ms. Kablack said in discussions with the Selectmen it was brought up that if there is an overage of the 20%, that overage is supposed to come back to the town. There was also some discussion about requiring post construction cost accounting in the decision to address this.

A motion was then made, seconded and unanimously voted to continue this hearing to May 19, 7:30PM.

Jeffrey P. Klofft, Acting Chairman

Jonathan G. Gossels, Acting Clerk

Elizabeth A. Taylor

Richard L. Burpee, Associate

Constantine Athanas, Associate

Nancy G. Rubenstein, Alternate