

MINUTES OF THE PUBLIC HEARING CONTINUATION
SUDBURY BOARD OF APPEALS
JANUARY 16, 2007

The Board consisted of:

Stephen M. Richmond, Chairman
Jeffrey P. Klofft, Clerk
Elizabeth A. Taylor
Nancy G. Rubenstein, Associate
Jonas D.L. McCray, Associate

Also: Jody Kablack, Planning Director
Edward Marchant, Consultant

For the Applicant:

Attorney David A. Wallace
Russell Tanner, Applicant
Jeff Richards, Meridian Associates, Landscape Architect
Mark Beaudry, Meridian Associates, Civil Engineer

The public hearing was reconvened by the Chairman, Mr. Richmond. The Board was in receipt of the following:

- Memo dated December 5, 2006 from Beth Rust, Community Housing Specialist
- Letter dated December 6, 2006 from MDM Transportation Consultants (proposal for services)
- Letter dated December 21, 2006 from Russell Tanner to Mass. Housing re Project Eligibility Modification
- Letter dated December 21, 2006 from Russell Tanner to Selectmen re Modification to Project Eligibility Letter
- Letter dated December 21, 2006 from Russell Tanner to Mass. Housing re alternative site plan
- Letter dated December 26, 2006 from Russell Tanner to ZBA enclosing correspondence to Mass. Housing, copies of alternative plans, and copy of Option Agreement for 295 Boston Post Road
- Memo from DRB to ZBA re comprehensive permit review
- Letter dated January 8, 2007 from Russell Tanner with copies of revised appraisal report dated January 5, 2007
- Letter dated January 8, 2007 from Russell Tanner with copies of Subsurface Sewage Disposal System Preliminary Design Report dated January 5, 2007
- Letter dated January 8, 2007 from Russell Tanner with copies of updated schematic plan dated January 5, 2007
- Email dated January 8, 2007 from Russell Tanner re Child Care Center capacity

- Letter dated January 8, 2007 from Selectmen to Mass. Housing re modification of Project Eligibility application
- Memo dated Jan. 8, 2007 from Conservation Coordinator
- Email dated January 10, 2007 from Beth Rust with meeting notes on Affordable Component of development
- Email from Robert Leupold, Board of Health Director
- Letter dated January 11, 2007 from Design Review Board
- Memo dated January 11, 2007 to Beth Rust from Russell Tanner with Updated Unit Schedules
- Memo dated January 12, 2007 from Planning Director
- Proposed Schedule of Permit Review Steps (submitted at hearing)
- Photograph of back wooded area (submitted at hearing)
- Sketch of community aspect of development (submitted at hearing)

David Wallace reported that since the last hearing perc tests were done in the presence of the DEP, and Board of Health Director Robert Leupold was also present. The primary leaching field passed. As there is an existing dwelling within the proposed leaching area, Mr. Leupold wanted additional information to verify the soils under the foundation. In addition he indicated that a groundwater mounding analysis may be necessary for reserve area #2.

Mr. Wallace said the plan has been changed to include two reserve fields. He pointed those out as well as the location of the primary septic area.

Further, he said a traffic review has begun and a report is expected next week.

Mr. Wallace said this project now includes the Kreisel property at 295 Boston Post Road. An amended application for a modification to the project has been submitted to Mass. Housing along with a project eligibility letter which would include up to 74 units. 72 units are proposed. At this time, some thought has been given to adding two more affordable units with the town buying down another one, which would result in over 25% affordable units.

Mark Beaudry reported that soil testing was done on December 13 and 14, 2006 and involved 15 soil test pits and 9 percolation tests. The report is contained in the Subsurface Sewage Disposal Report dated January 5, 2007 which also includes a mounding estimate for the primary area. From the plan, Mr. Beaudry described the areas which were focused on for reserve and primary areas and pointed out the resulting proposed layout. He felt confident that with the design which has been adjusted to reflect the results of the testing, they will be able to move forward.

Because of the varying grades, the final design will look at terracing the system. He said they might be looking at grades where the system in the area over the proposed driveway might be 2-4 feet above the grades. What is proposed is to surround that with a low stone wall type of retaining wall mimicking some of the walls that are around the Kreisel property to avoid having a long 3:1 slope off grading in that area.

Mr. Richmond said when he looked at the elevations, he had concerns on the southern side; however, he felt terracing might work. He asked when the Board would be able to see this on a plan.

Mr. Beaudry felt they were now in a good position to advance the plan with more detailed engineering. At this point, more grading studies can be done. He felt confident knowing what the groundwater tables are in this area right now that they pretty much know what the grades are going to be.

Mr. Richmond asked whether the DEP will require additional soil testing underneath the foundation.

Mr. Beaudry said during the testing DEP did not seem to be concerned about this. Five test pits were dug around the house which is currently occupied. He was confident that good soils exist. He said it was certainly appropriate for Mr. Leupold to mention this – that it is something that should be verified.

Mr. Klofft asked if there was an alternative plan if the soil underneath the foundation turns out to be unacceptable.

Mr. Beaudry said that would have to be worked out with the DEP. He said it's really a small area to the overall primary septic area and felt confident that with the results from the test pits that it would have to be an anomaly for good soils not to exist.

With regard to storm water management, Mr. Beaudry said they have adjusted the conceptual plan to reflect these new disposal area layouts and anticipate doing detailed engineering very soon in order to submit it that as part of the Notice of Intent process with the Conservation Commission.

Ms. Kablack asked why the primary septic field has more area than the reserve.

Mr. Beaudry said it is based on percolation rate. In the primary area the controlling perc rate was between 10-20 minutes an inch, where in the reserve areas the controlling perc rate was less than 10 minutes an inch. DEP guidelines allow a higher loading rate on the better soils. Therefore, if reserve areas are in better soils, as confirmed by witness soil testing, those areas can in effect be smaller than the primary area.

Mr. Richmond asked under what conditions one would expect to see discharge to the reserve area.

Mr. Beaudry said with this type of system it is very remote. He said the DEP doesn't even require a detailed comprehensive design for those areas because they know it's a small chance they're going to be utilized. With this system you're sending the treated affluent which is

almost drinkable to the disposal area as opposed to a Title 5 system where it's only partially treated. With this type of system it's very rare to have the reserve area used.

Ms. Kablack said she confirmed this with Mr. Leupold. They don't even construct a reserve area.

Jeff Richards – Landscape Architect/Meridian Associates displayed the previous plan and the revised plan and described the revisions and comparisons to the previous plan. He said the first series of layouts have been precipitated by the refinement of the primary leaching fields. The first change was the two blocks of D buildings in front – two units were dropped and there are now 3-unit attached instead of 4. The second change was the result of a distillation of comments from this Board and other Town Boards/Departments dealing with requests to try and improve the central green as a community amenity and gathering place.

One way to improve the central green was to shrink the oval of the cul de sac which he pointed out. In addition, they wrestled with the eastern half of the site trying to keep an overall flow of green space. Four blocks of buildings were aligned in a little different fashion and combined into 3-building blocks. Having one fewer separation afforded an opportunity to improve the geometry of the common green space to the backs of each of those units and to add visitor parking spaces at the corner locations.

In addition, the previous layout requested a variance for a 16-foot side setback along the eastern property line. With the reshaping just described, they will comply with the 20-foot setback.

Mr. Richards distributed a sketch which was intended to describe a feel of living in the development in terms of public, private and community space. He gave examples of walkways, paths, etc.

Mr. Rubenstein felt the unit located behind the bus stop was very close to the internal roadway. While she liked the attempt to connect the green spaces, that one unit seemed to be dropped into the middle of all of it. She felt there would be better connectivity if that unit were to be taken out and placed elsewhere – one would actually be able to see all the way back to the green.

Mr. Richards they would try to relocate it without losing a unit.

Ms. Taylor said units can be deleted and felt assumptions are circulating around that haven't fully vetted in this forum as to how dense this parcel needs to be. As to unit layout, she had concerns with regard to the units on the far eastern boundary, especially the front corner which has the Carriage Lane problem of facing the back or sides of other units. To her, the placement looked like an afterthought or was there for the sake of density.

Mr. Richards agreed that perhaps those units could be improved upon.

Mr. Klofft also felt there were pockets which felt overly dense. He asked Design Review Board Chairman (DRB) Frank Riepe to comment.

Mr. Riepe said some members of the DRB did feel that the site felt was too dense. Speaking for himself, he felt it's how the pieces are put together. He personally didn't feel there were too many units to build a successful site. His main concern was how the public spaces come together.

Referring to the plans, Mr. Riepe said fundamentally there is a real challenge in taking the green which is isolated by its elevation and tying it in. He did agree with Ms. Rubenstein's comments and felt that some moving and swapping would allow for more room. He pointed out the challenges and what needs to occur. He felt the plan needs to be unified – and it's not there yet.

Mr. Riepe felt an earlier scheme had more of a sense of enclosure to certain sub clusters which were pointed out. He would like to see more of that sense of multiple walls for the public space in front of those units.

Mr. Riepe said all along the DRB has been concerned with the height of the upper units, and does not want to see them exceed the standard building height for Sudbury. The DRB was also concerned that there not be a wall of garage doors on the two clusters which were pointed out.

Mr. Richmond asked whether Mr. Richards had any suggestions with regard to Mr. Riepe's comments.

Mr. Richards said there are several challenges. He said he would like to work towards an engineering and grading design.

Further discussion followed on possible solutions to the concerns of grading, terracing of the septic area, unifying the green space, unit placement, etc.

Mr. Richmond said there have been some comments on density. He would say there is a more advanced product; it is difficult to address the density issue. He would like to see some architectural and landscape drawings in order to be able to envision what the development is going to look like.

Mylan Jaixen, 25 King Philip Road said as a neighbor who will have to look at this, he felt it to be an urban density project. He asked how this was compatible with Sudbury's Master Plan.

Mr. Richmond explained that since this is a Chapter 40B application, which is a state law, this Board does not have the ability to apply Sudbury's zoning standards to the project.

Mr. Richmond went through the memos which were received from the various town Boards and Departments.

He began with Planning Director Kaback's memo of January 12th which listed the documents submitted to date as well as her comments. Traffic items will be deferred to the next hearing. Mr. Richmond wanted to emphasize the importance of the external pedestrian routes to and from the development with a question on the construction of a walkway which will also be deferred to the next hearing.

Mr. Tanner said they are trying to comply; however, this is complicated by one stretch of road by the day care center – there is a guardrail which drops off – and the wetland. He needs to discuss this further with Ms. Kablack, Town Engineer and the Conservation Coordinator and come back with a practical proposal that spans that and is reasonable to build.

Mr. Richmond asked whether Mr. Tanner had looked at Beth Rust's memo of December 5th which mentions the conversion of the Kriesel and Feinberg houses, of which at least 2 units would be affordable, plus the fact that there are various guidelines for converting existing housing.

Mr. Tanner said he met with Ms. Kablack and Ms. Rust subsequent to that memo and is going to set up a process for looking at those units. He said they are in good shape. The idea is to hold onto them and use them as assets to the development. He described what would be affordable including the buy down of Feinberg house.

Mr. Richmond said Ms. Rust's memo suggests three standards that could apply. He asked whether Mr. Tanner was willing to commit to one.

Mr. Tanner said they will comply with the Mass. Building Code and any HUD standards that may apply with regard to this property. He said he was a little concerned because some of the standards are more applicable to gut renovation and that is not what this would be. He would first want to have Ms. Kablack, Ms. Rust and the Building Inspector visit these houses first and is confident they will find that they comply with all code requirements.

Mr. Klofft asked what would happen in the event there is disagreement.

Mr. Tanner said it would be worked out.

Ms. Kablack said they are interested in visiting those houses and will ask Mr. Marchant to attend as well. She said they need a full assessment of what these units are like because they're being targeted as affordable units. The other affordable units are going to be brand new and they're all going to sell for the same price. She said they have to be able to sell the same product and there is a concern that some of these units may be an inferior product.

Mr. Richmond asked how many units there would be.

Mr. Tanner said 4 are shown on the plan but potentially there would be 5 with 3 affordables.

Mr. Richmond cautioned that he would not want to see a disproportionate number of affordables.

Mr. Marchant said this issue should be looked at very carefully. He felt a larger discussion was warranted as to which units will in fact be affordable and how much of a pro rata distribution the Board wants on building types, locations. He felt this could be part of a larger issue because the Board needs to understand where these buildings are. He said they could make terrific units but this needs to be understood.

With regard to the Mass. Housing letter requesting comments from the Selectmen on the updated project, plan, Mr. Richmond felt the Board might want to submit comments to the Selectmen. Ms. Kablack noted the Selectmen's meeting on this will be January 30th.

Mr. Richmond noted the Conservation Coordinator's memo of January 8th uses the term "where feasible" with regard underground rainwater catchment chambers for landscape irrigation and native plant species. He would like to see the location of the chambers and plant species shown on a plan.

Ms. Kablack said the lawn area over the primary septic leach field should be specified. She said the Conservation Commission may be contemplating wildflowers along Route 20 where the ZBA might be looking at grass.

Mr. Richards said this was discussed in a meeting at which the Commission recognized that above the primary leaching field a turf lawn surface of some kind is needed— the type of which was not determined. They were thinking in terms of a turf with perhaps a couple of pockets of perennials.

With regard to Ms. Dineen's comments on the riverfront area and mitigation, Mr. Richards said during the meeting a number of ideas came out which they could offer the Commission. There was discussion of the units and parking that was intruding into the riverfront. He felt the Conservation Commission needs to go through the exercise of deciding what is preferred from one plan to the other.

Mr. Richmond said the memo discusses swapping the wastewater treatment plan in the westernmost detention basin and that the goal is to move the wastewater treatment building outside the riverfront area.

Ms. Tanner said they are willing to explore that and was convinced by the Commission to do more engineering.

Mr. Richmond felt it critical for the applicants to be pursuing this concurrently with the Conservation Commission who have ultimate signoff on the Order of Conditions.

Mr. Tanner said the intent is to get before the Conservation Commission with a Notice of Intent soon – a few weeks from now or a month and a half, so that they are looking at a detailed plan and can review that plan co-terminus with the ZBA and arrive at the same place at the same time.

Mr. Richmond referred to Mr. Leupold's memo and his concern about the soils below the foundation. He said the Board would be looking for a condition to require testing and that those soils comply with DEP requirements.

That memo also states that the feasibility of the reserve area 2 may require a groundwater mounding analysis.

Mr. Beaudry said he would look into it. He said the Conservation Commission has asked for similar requirements.

There were no further questions. Mr. Richmond said the next hearing would focus on traffic.

Mr. Tanner distributed a schedule which outlined possible next steps. He said they are proposing to do some additional engineering and architectural and would like to set up an informal workshop process. He would hope to be able to schedule a continuance early in February to cover traffic. They will be focused on getting a Notice of Intent to the Conservation Commission in February and will continue with the DRB and anyone else who wants to look at the refinements to the plan.

Ms. Rubenstein said a lot of the issues boil down to density. She felt that the site is a little dense and a lot of the issues – connecting to the green for more of a community feel – getting some of those L-shaped configurations back - could be done if the applicants looked at the density. She said it might solve all of these problems.

Mr. Tanner said he did not come in with the maximum number he could build. He said he could have built more.

Mr. Klofft felt Mr. Tanner was within a few units of really having a really nice development. He didn't see a wholesale kind of slash and burn to get it down but felt there are pockets of tightness that could be alleviated either by having smaller square footage and eliminating a couple of units here and there with the result of having the same project but with a much nicer outcome.

The hearing was continued to February 6, 7:30PM in the Lower Town Hall.

Stephen M. Richmond, Acting Chairman

Jeffrey P. Klofft, Acting Clerk

Elizabeth A. Taylor

Nancy G. Rubenstein, Associate

Jonas D.L. McCray, Associate