

MINUTES OF THE PUBLIC HEARING CONTINUATION
SUDBURY BOARD OF APPEALS
JUNE 18, 2007

The Board consisted of:

Jonathan G. Gossels, Acting Chairman
Elizabeth A. Taylor, Clerk
Jeffrey P. Klofft
Nancy G. Rubenstein
Jonas D.L. McCray, Alternate

Also: Jody Kablack, Planning Director

For the Applicant:

Robert Engler, Development Consultant
Kevin Duffy, Partner, Duffy Properties
Paul Finger, David Fisher, Engineers
Ed Clinton, Architect

The hearing was reconvened by the Acting Chairman, Mr. Gossels. Associate Stephen A. Garanin was not able to be present this evening. However, in accordance with the Mullin Rule recently adopted by the town, he will review the recording and documents for this hearing in order to be able to participate in the next hearings.

The Board was in receipt of the following:

1. Revised site plans dated June 1, 2007 prepared by Paul Finger Associates, ESS Group Inc. and Precision Land Surveying Inc. including:
 - a) Sheet L-100, Layout and Materials Plan;
 - b) Sheet L-101, Planting Plan;
 - c) Sheet L-102, Lighting Plan;
 - d) Sheet L-103, Details;
 - e) Sheet C-100, Grading and Drainage;
 - f) Sheet C-101, Utilities (septic, gas, electric, tel, CATV);
 - g) Sheets C-102-104, Details;
2. Existing Conditions Plan prepared by Precision Land Surveying dated Jan. 5, 2006 (unstamped);
3. Sheet A1.1 (dated 5/16/07), A1.5 (dated 5/16/07), A2.1 (dated 5/16/07), A3.1 (dated 5/31/07), A3.2 (dated 5/16/07), A4.1 (dated 3/7/06), A4.2 (dated 9/28/06) and A101 (undated) prepared by Clinton Design Associates (unstamped)
4. Building Specifications for Market Rate and Affordable Units (no date)
5. Unit Summary Sheet (undated)
6. Impervious Surface Calculations prepared by Paul Finger Associates dated March 7, 2007
7. Comparative Market Analysis prepared by Eileen Logan, William Raveis Real Estate and Home Services dated April 25, 2007

8. Summary Appraisal Report and Valuation Analysis prepared by Avery Associates dated July 28, 2005
9. Affordable Sales Price Calculations for 2BR Unit (undated)
10. A memo from the DPW Director to the Board dated June 12, 2007
11. A memo from the Design Review Board to the Board dated May 24, 2007
12. A letter from DEP to Janet Bernardo, PE (ESS Group, Inc) dated June 1, 2007 regarding use of the existing septic system
13. Email from Fire Chief Ken MacLean to Planning Director dated June 14, 2007 regarding circulation and emergency access
14. Memo from Planning Director dated June 18, 2007 listing documents received and list of items still outstanding
15. Certificate of Appropriateness from the Historic Districts Commission dated June 11, 2007 (handed out at this hearing)

Paul Finger reviewed the key issues raised at the previous hearings. One was the driveway configuration. He said the Board suggested that it might work with a single driveway curb cut on the westerly side near Peakham Road with the easterly driveway used as emergency egress only with grass pavers.

Mr. Finger said they met with the Fire Chief and the result of that meeting was that the Fire Chief felt strongly for the need to maintain a paved surface and that the potential for having grass pavers was not appropriate in this particular case.

The second item discussed was with the Board of Health regarding the septic system. One of the questions that the Board of Health did raise was that as a redevelopment project whether in fact the existing septic system could be reused. A letter was written to the DEP outlining the project, the intention, and the capacity for both the existing system and what is being proposed. The DEP responded in its letter dated June 1st which indicated that the existing septic systems as they currently exist can be reused. The requirements for retesting of the reserve systems must still be met.

The last item was with regard to the Conservation Commission. Mr. Finger said they have filed with the Commission – the first hearing has been held and the continued hearing was rescheduled because of a conflict with the ZBA's hearing this evening. Initially the question was raised as far as compliance with the local Wetland Bylaw. Mr. Finger said it was his understanding that while they would provide information on the local bylaw, they were not going to file under the local bylaw the reason being that to do so involves a different set of regulations, appeal process, etc., which basically they are not subject to. He reiterated that the data would be submitted to the Conservation Commission.

Mr. Finger said they comply with the Mass. Wetlands Protection Act. He said as a result of the meeting that was held when they first began, everyone was pleased with the storm water management that was being provided. The end result is that as far as storm water management and wetlands protection, this is going to be a better project once it's redeveloped than what currently exists on the site.

At issue is a discussion between the Town Engineer and the Conservation Commission. Mr. Finger said alongside the railroad right of way which runs parallel to Peakham Road there is a drainage swale. Under the bylaw, that drainage swale is jurisdictional. Under the Wetlands Protection Act, it's not jurisdictional. Thus, two separate filings have been made with the Conservation Commission. Town Engineer would like the drainage reduced out onto Peakham Road. The Conservation Commission doesn't want a reduction in drainage which goes down that swale and is a resource area.

Mr. Finger said ultimately they will work things out between the two parties.

Mr. Gossels said at the first hearing an abutter spoke and said his land is not a wetlands but just the water running off his property which is making it wet, and that it didn't used to be wet.

Mr. Finger said historically, this is a designated wetland and he is treating it as such.

Mr. Finger said he would like to have the ZBA's agreement on the reconfigured site plan so that they could move forward and propose the final engineering.

Ms. Kablack said she still does not have the storm water calculations. Mr. Finger said he thought they were submitted, but will sent copies.

At Mr. Gossels request David Fisher presented the site plan which he said was discussed with the Design Review Board (DRB) and the Historic Districts Commission (HDC). He submitted a copy of the Certificate of Appropriateness from the HDC.

The roadway to the eastern side has been finalized. The existing entry has been removed and located further east as shown on the plan. This will be an exit only, right turn only toward the center of town. The three existing buildings will stay exactly as presented earlier. There will be a 2-car garage between building 2 and building 1. The roadway configuration proposed as an exit and entrance over by Peakham Road will remain the same. There will be two new buildings in back which will be duplexes. They have a different footprint from what was presented before – and the change is that instead of a single 6-car garage between the two buildings, they were broken in half to create two 3-car garages. The goal is to have one parking space inside for every unit. All 20 units will have an assigned parking space for themselves with exterior on-site spaces.

The parking configuration is basically the same – it has changed slightly with the islands. There are still four handicapped parking spaces on the site. The dumpster location has been consolidated to one dumpster between the two garages on the western side of the site.

The proposal, in agreement with the HDC, is to retain the stone walls in front of the road, and where the old entrance was, a small segment of stone wall will be removed and replaced with granite posts and wood rails.

Mr. Gossels asked why the easterly driveway couldn't be 12-14 feet wide since it is one way.

Mr. Fisher said the fire lane requirement is 18 feet.

Mr. Gossels questioned the need for 18 feet for a one way and said the Board will request input from the Fire Chief on the width.

In response to a question from Mr. Klofft, Mr. Fisher said the right turn will be restricted by making is a "hard turn area". He described what is normally done in that type of situation.

Mr. Klofft was still concerned with the location of the right turn only driveway where the middle of the 2-lane portion on Hudson Road begins and the relationship to the Concord Road intersection. He felt this will be a safety issue when turning right onto Hudson Road and then left onto Concord Road.

Mr. Finger felt anyone wanting to turn left at the intersection onto Concord Road would learn to exit this development from the Peakham Road side.

Mr. Klofft asked whether there was a plan for the Concord Road intersection. Ms. Kablack said there is no definite plan. The intent is to better accommodate the right turn lane from Hudson onto Concord.

Ms. Kablack said her issue is with the 2-way access at Peakham Road which she felt is very close to Peakham Road. She felt a better definition of the pavement and right of way width needs to be provided – that the developer needs to show fully the edge of pavement on Peakham Road and Hudson Road. She said she has been asking to see a better definition of the pavement and right of way width and where the lanes are – the plan which has been submitted cuts it off. Once this is provided, she felt there might be more ability to determine what the possibilities are. She said clearly also there's a lot of frontage on this property and there is ability to make some widening; however, the historic area must also be taken into consideration.

Mr. Finger said if anything they are actually making improvements because they are reducing the amount of traffic leaving the Peakham Road driveway. The curb cut is in the exact same location as it currently is.

Mr. Klofft said while he agreed that there are fewer total trips, they are concentrated at peak hours.

Further discussion followed on the driveway configuration. The Board expressed their discomfiture with the traffic and safety issues with the plan proposed noting that it raised those issues at the last hearing without coming to closure.

Mr. Finger asked whether the Board was looking for them to potentially analyze to see whether there are additional improvements which could be made in the location of the driveway.

Ms. Kablack said they were; however, both she and the Board would also like the opportunity to look at the plans either with the developer or with copies to her and the Board.

Mr. Finger suggested a work session might be the best way to proceed. He felt with a working session they could sit down with a staff person and a member of the Board and go through the plans. Both Ms. Kablack and the Board members were agreeable to scheduling a work session.

Continuing with the site plan changes, Mr. Fisher said there is agreement with the DRB & HDC on the layout of the common. The previous layout was more formal and the DRB requested it be less formal, which was done. The concept is the same. He described the amenities which will be provided and the landscaping which could be used.

Also described was the type of landscaping proposed for the back side of the garage which would be some type of arborvitae. There was some discussion of perhaps planting within the railroad right of way to achieve more flexibility in the size of plant materials.

Mr. Gossels noted that at the last hearing there was discussion on the height of the garages, how close they were to the right of way, and how to manage that. He said the problem with arborvitae is that they look good when first planted, but after the first snow storm they start to look unsightly. He preferred a solution that won't be a problem after the first snow storm.

Mr. Finger suggested that 6-foot high rhododendrons could be used and added that there are many alternative plantings which could be considered.

Mr. Klofft said the DRB mentioned a drainage problem in the front.

Mr. Fisher said it's not there anymore. He said the Conservation Commission requested rain gardens which is essentially roof drainage which goes into a depression containing certain types of planting and can be a good idea in certain places. He said the DRB & HDC were not in favor of these, and the Conservation Commission withdrew their request.

Edward Clinton, Architect, presented the architectural plans. He pointed out the Bldg. 1 elevation facing the public way noting that the patio doors have been made more formal and some of the fenestrations have been changed to be more in the same vernacular as the rest of the historic district. The architecture on the opposite side has been adjusted to respond to some of the issues that the DRB had.

Mr. Clinton presented some photographs taken within the historic district. He then described the townhouse units noting that the photographs were an inspiration for the units.

Mr. Klofft said the townhouses are 2 bedroom 2700-2800 s.f. units not counting basements. He asked for the rationale behind such large units.

Mr. Duffy said the reason was marketability. He said economics are tight.

Mr. Klofft said he would like to know how tight the numbers are given that there isn't a lot of landscaping or septic to do, plus there are a lot of buildings already existing.

Mr. Engler said there are only four units of that size.

Mr. Klofft was concerned about the overall density of the site. He understood the need to have units that sell, but not to maximize the total space of the site.

Mr. Gossels asked for an informal sense of the Board as to whether they shared Mr. Klofft's concern regarding density.

Ms. Taylor and Ms. Rubenstein were not overly concerned. Mr. Gossels said he shared Mr. Klofft's concern. He said at the last hearing there was discussion about having the garages along the Peakham Road side, which ends up with too much on the site. He felt too many new structures were proposed for the site.

Mr. Gossels said he asked the question to determine whether there should be an additional working session to deal with the density. It was agreed to defer until input is received from ZBA Associate Garanin.

Mr. Gossels said before the Board can go forward they need to understand the economics and the offsite issues which go hand in hand with the economics.

Ms. Kablack said a revised pro forma has not been received. What has been received is that which was submitted to Mass. Housing. She said that information needs to be submitted to the Board.

In terms of economics, there is the issue of 4 affordable units vs. 5. Ms. Kablack said the town wants 5 units at 80% - the goal is to get as many as possible because Sudbury is so low on subsidized housing.

With regard to off-site improvements, Ms. Kablack said traffic and circulation is a big issue. She said she needs the information from the developer in order to review it to be in more of a position to have some recommendations for off-site mitigation.

She felt these items could be dealt with predominately in the work sessions.

A work session was scheduled for July 8, 2007, 8AM in the Flynn Building conference room. Mr. Klofft will attend with Mr. Gossels as backup.

Discussion followed on the next hearing continuance. Ms. Kablack said she would like to see the plans enlarged to show the house on the property next door, the closest properties and the main intersections.

Mr. Gossels felt the next formal hearing should focus on economics with the town's consultant Ed Marchant being present to go through the pro forma. Also at this hearing there should be consensus on the site plan density – either agreement with the plan or an additional working session.

The hearing was continued to July 25, 7:30PM in the Lower Town Hall.

Jonathan G. Gossels, Acting Chairman

Elizabeth A. Taylor, Clerk

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