

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
Monday, April 27, 2010

The Board consisted of:

Jeffrey P. Klofft, Acting Chairman; Nancy G. Rubenstein, Clerk; Stephen A. Garanin; Jonathan G. Gossels; and Elizabeth T. Quirk

Also: Jody Kablack, Director of Planning and Community Development; Beth Rust, Community Housing Specialist

For the Applicant:

Larry O'Brien, Sudbury Housing Trust; Phil Giffie, NOAH, Inc., Developer; Bob Wegener, Architect, The Narrow Gate; Wayne Keefner, Engineer, Meridian Associates; Toby Kramer, Project Manager, Daniel Hewett, Sudbury Housing Trust; Amy Lepack, Sudbury Housing Trust; and John Burns, Landmark Structures.

Mr. Klofft, acting as Chairman, opened the meeting at 7:30 p.m.

Documents received for April 27, 2010 included the following:

- 2/1/2010 Draft Minutes of the ZBA Hearing
- 2/23/2010 Draft Minutes of the ZBA Hearing
- 3/10/2010 Draft Minutes of the Design Working Session
- 3/29/2010 Draft Minutes of the Design Working Session
- 2/1/2010 Memo from Faith in Action Committee, First Parish of Sudbury (read at the ZBA meeting held 2/23/2010)
- 2/23/2010 Letter of support from neighbors
- 2/22/2010 Letter of support from Greg Gammons, 1 Snowberry Lane
- 2/23/2010 Letter of support from Thomas P. Conroy, State Representative
- 2/25/2010 Letter of support from Congregation Beth El
- 2/25/2010 Letter of support from Sudbury United Methodist Church
- Undated letter of support received March 1, 2010 from Sudbury resident Kim Morgan
- Undated letter of support received March 1, 2010 from the League of Women Voters of Sudbury
- 2/26/2010 Letter of support from The Presbyterian Church in Sudbury
- 3/31/2010 Additional letter of support from Sudbury Methodist Church
- 4/21/2010 Memo from the Design Review Board
- 4/21/2010 Letter from the Citizens for Responsible Affordable Housing (CRAH)
- 4/21/2010 Development Redesign Presentation from NOAH, Inc.
- 4/23/2010 Additional signatures from neighbors, attach to 4/21/2010 letter from CRAH
- 4/23/2010 Copy of undated article that appeared in the Sudbury Town Crier
- 4/26/2010 Additional signatures from neighbors, attach to 4/21/2010 letter from CRAH

Documents received at the meeting included:

- 4/27/2010 Hardcopy print-out of NOAH's Power Point Presentation
- 4/27/2010 Memo from Debbie Dineen re: determination of no wetland jurisdiction areas
- 4/27/2010 Revised list of waivers requested

- 4/27/2010 Memo from Ralph S. Tyler
- 4/27/2010 Additional signatures from neighbors, attach to 4/21/2010 letter from CRAH

Larry O'Brien, on behalf of the applicant, gave an overview of the work that had occurred since the last ZBA hearing held on February 23, 2010. Concerns about the streetscape, overall building design and layout, parking, driveway placement and public safety, and the site's grading and topography led to a series of meetings geared toward resolution of these issues. The first meeting was comprised of architects serving on the Sudbury Housing Trust, Design Review Board (DRB), and from The Narrow Gate. There were also two subsequent working meetings with participants from the ZBA, DRB, Sudbury Housing Trust, NOAH, Inc., and the community in attendance. With revised site plans the Sudbury Housing Trust then met for a second time with the Fire Chief and the DRB where approval for the new design was obtained. The Sudbury Housing Trust then sent invitations and notices to approximately thirty neighbors inviting them to a second community meeting on April 24 which was attended by three residents. The Sudbury Housing Trust also met three times with a direct abutter to the property to discuss plans for a shared driveway. Throughout the process all participants agreed that the new design was a vast improvement over the original plan.

Mr. O'Brien said that the new design reduces the waivers required, reduces the total building footprint by 465 feet, increases open space up to 75%, and addresses a multitude of design issues. He then showed a slide of five scenarios from which the new design was adapted. The new design is comprised of two buildings designed to look like a typical Sudbury farmhouse and barn, which conjures an image of the structures that originally stood on the site.

Mr. O'Brien acknowledged that there were still concerns circulating about the project costs and the Comprehensive Permit guidelines. He said that the guidelines have been the ZBA's working guide since the community developed them. The Sudbury Housing Trust feels that the scope of the project is within the guidelines and within the reasonable bounds of projects the ZBA has previously approved.

Beth Rust, Sudbury's Community Housing Specialist, provided an overview of the project finances. She explained that reducing the proposal by two units would eliminate the ability to build housing for five additional families elsewhere in town due to higher subsidies needed. She said that all affordable housing is developed somewhat at a loss. For example, if the cost to build is \$350K then the affordable sale price is limited to \$175. Private 40B project costs are then offset with market sales and public projects are subsidized with grants. She said that the Sudbury Housing Trust uses a benchmark of \$150K per unit local subsidy which has been determined by past experience.

Toby Kramer, Project Manager for NOAH, then led the Board through a slide presentation showing a Unit Mix Financial Comparison between four and six units. The four unit plan was shown with larger unit sizes in order to maximize proceeds. The six unit plan showed two bedroom units. Her summary showed that smaller units are more costly to build and require more money than the State is willing to fund.

Amy Lepak, member of the Sudbury Housing Trust and former Chair of Sudbury's Community Housing Committee, provided a brief history of how Sudbury's Comprehensive Permit guidelines were developed. She said that the guidelines are intended to provide administrative assistance to the Zoning Board when evaluating 40B applications, but that they are not binding. In the course of their development there was much discussion about the allowable number of units per acre. The Committee had reservations about assigning a definitive number because they wanted to ensure flexibility. Density could not be greater than a regular septic system could handle. In the end the allowed number of units per acre was set between five to seven units, however the State Smart Growth guidelines allow eight units per acre. She noted that there

are other areas in Sudbury with similar units per acre, for example Pine Lakes. Compared with other 40B projects in Sudbury, the Maynard Road proposal falls in the middle.

Daniel Hewett, an architect and member of the Sudbury Housing Trust, then presented the newly designed plan. He said that because there were numerous concerns about the original plan the Sudbury Housing Trust, along with the project architects, started over to create an entirely new design.

Mr. Hewett referenced a slide to illustrate the differences between the two designs. The streetscape was entirely changed. In the original plan there were two identical buildings that showed their backs to the street and were sited close to the road. The presentation of the buildings gave the impression of public housing which is not appropriate for this neighborhood. The new plan is reminiscent of Sudbury's historic vernacular, the farmhouse. Proposed are two buildings of unequal size, with the smaller farmhouse screening the rear barn-style building. In regard to parking, the old plan had one main parking lot exposed to the street and situated on a slope. The new plan incorporates level parking, broken up and screened with landscaping, with four spaces essentially hidden under the back building. Snow removal, another concern, is also improved by the new plan. The grading and topography has also been changed. No retaining walls are necessary at the back of the property because the barn building serves that purpose. The buildings also have a lower profile and are not situated as closely to the property lines. There is a deep front yard setback with added trees and lawn area for the septic system. The appearance is a typical single-family home with a barn similar to two that are currently standing on Maynard Road. The house structure in front contains two units and its footprint measures 1,673 square feet. The net square footage is 2,170. One of the units is a townhouse and the other is one-story high. The entrances face the street. The back barn structure contains four town house units built into the grade. The building footprint measures 2,554 square feet with net square footage measuring 5,024.

Bob Wegener, architect with The Narrow Gate, explained the interior layout of the two buildings. The barn building would likely have a mean height of 33 feet. He said that one of the units in the lower house could be classified as a Group 1 accessible unit. Then he presented a computer animation of the site in order to illustrate the property view from several angles.

Mr. Wegener also said that the team was working to incorporate several green strategies for the site. One charrette had already been held. Working with a consultant from Conservation Services Group the site would be LEED certified and stretch code compliant. Low impact drainage and building systems for heating, water, and insulation would be utilized. There would be a solar orientation of structures. The end goal would be certification with Energy Star's New Homes program.

Mr. Wegener then listed the various additional objectives of the redesign. For parking there would be fourteen total spaces, separated on the site. Four of the spaces would be covered under the new structure. Only two spaces would be located near the street. All other spaces would be within the interior of the site close to the units. There would also be adequate movement for emergency vehicles. Overall there would be a reduction in pavement and less visibility of parking as compared to the original design.

He reported that the driveway has been relocated from Marlboro Road to Maynard Road. The driveway would be combined with the direct neighbor's existing driveway therefore eliminating an additional curb cut. This change would reduce public safety and traffic concerns. The driveway follows the grade of the site more gracefully and its layout facilitates snow removal and storage. The driveway has been approved by the Fire Department.

Lastly he said that the grading and topography has been addressed by building the barn structure into the grade. The building will act as a retaining wall and the new design works better with the site contours.

Wayne Keefner, Civil Engineer with Meridian Associates, Inc., explained the revised zoning table and updated setbacks. He then walked the Board through the proposed septic system, explaining that the Presby Enviro-Septic Leaching System is one that is used by several properties in Sudbury and he noted that both single and multifamily properties are using it. He also noted that the system has preliminary approval from the Sudbury Board of Health. Mr. Keefner also said that the proposed stormwater system meets DEP requirements of the Massachusetts Stormwater Handbook and the Sudbury Stormwater Bylaw regulations. He also noted that the site is over 100 feet from any wetland resource.

Mr. O'Brien then explained how the Sudbury Housing Trust would be involved in the project post sale. He said that as with all affordable homeownership units in Sudbury the Town would be the designated monitoring agent. A deed restriction would ensure that monitoring would take place in perpetuity. Banks would have a qualifying process for potential purchasers so that they would meet eligibility requirements. There would also be annual verification of affordability restrictions, including approval for refinancing and capital improvements to ensure that the property continues as primary residence and to provide general assistance. Additionally the Sudbury Housing Trust proposes to retain a Trustee seat on the Condominium Board for five years. Mr. O'Brien noted that this is similar to the procedure at Frost Farm. Additional benefits to this arrangement include on-going support for property maintenance and ensuring appropriate funding of the condominium budget.

Mr. Klofft then opened the discussion for public comment.

Rick Johnson, 38 Bent Road, asked for the definition of 40B, why Smart Growth Guidelines were being followed, and for an explanation of the Stretch Code. Mr. O'Brien explained that the Stretch Code, which was recently adopted at the 2010 Town Meeting, requires new developments to be energy efficient and environmentally friendly. Smart Growth refers to the development of new housing, using an infrastructure that is already in existence.

Wayne Thomas, 203 Marlboro Road, described how his taxes have increased over the years he has lived in Sudbury. He said that he has served on the Town Traffic Committee and described his dissatisfaction with the difficulty with getting a sidewalk installed on Marlboro Road. He then questioned why this site was chosen for the project without, in his opinion, consideration for the people on the street, in a neighborhood concerned about additional traffic on the road.

Steve Tripoli, 31 Marlboro Road, said that he was speaking on behalf of thirty-four families in the neighborhood and around Sudbury. To provide a context for the neighborhood's disapproval of the proposal he reminded the Board that at the 2010 Town Meeting funding of the Sudbury Housing Trust only passed by one vote, 103-102. He noted that half of the town's Finance Committee did not vote on the matter or had changed their votes on whether the Housing Trust should be funded. He said that the former ZBA chair also voted against the Housing Trust funding. He said that he felt that there had been no effort by the Housing Trust to reconsider the number of units being proposed. He also said that he attended a working session and considered it a slap to discover that only six units were being proposed. He said that the neighbors had to endure another meeting held by the Housing Trust that included a pointless presentation about how the residents of the new development would be "people just like you and me." He said that he felt that the Trust was painting the neighborhood group as against affordable housing. Mr. Tripoli requested that the ZBA require the Trust create a new proposal for a three-unit development. He

cautioned the ZBA and the Housing Trust that the Maynard and Marlboro Road neighborhood group would galvanize to fight other pending issues in the town now that they are angry about this proposal.

Keith Armstrong, 166 Marlboro Road, said that he was a long-term resident of Sudbury. He said that he would sign the neighborhood petition in a heartbeat and was appalled that there were forty-five names already on it. He felt that there was a conflict of interest due to town officials serving on the Housing Trust and supporting the project. He said that the town depends upon volunteers to make decisions on projects and this is clearly an emotional one. He then asked whether or not there were any monetary payments offered to any abutters or anyone associated with the project to get their agreement.

Mike Grandinetti, 8 Hamblin Lane, said that he was surprised by the decision to cram the number of units into such a density. He said that he felt that the developer's revised drawings provided nothing but a smokescreen with aesthetics and "green" building methods and that the issues of density and other concerns were skirted over. He said that the intersection was dangerous and asked why the relevant issues were being avoided. He said that he was disappointed. He also asked whether or not the members of the Zoning Board of Appeals had any financial stake in the project.

Mr. Klofft said no, that the Zoning Board was comprised entirely of volunteers. He said that the ZBA does its best to interpret the bylaws and that inevitably some people are going to be dissatisfied with the rules. He said he would have to draw the line at any presumption of outside dealings.

Mr. Klofft went on to provide some education about the guidelines. He said that the ZBA is bound by restrictions of 40B guidelines, a document which he had in his presence.

Doris Grandinetti, 8 Hamblin Lane, said that she wanted to provide the Board with a "Mom's perspective" saying that of the women she spoke with in the neighborhood many are concerned about safety at the intersection of Marlboro and Maynard Roads and because, she estimated, there are about 100 kids in the area. She said that she has spoken with both the fire and police departments about the dangers of the intersection. She feels that the additional cars and expansive parking is just too much for the intersection to handle.

Mr. Klofft asked the applicants about the pro forma used to determine financing.

John Burns, of Landmark Structures in Woborn, MA, was present to provide an overview. Community Housing Specialist Beth Rust said that a full construction budget would also be provided at the next ZBA meeting.

Mr. Gossels said that he wanted to see the numbers per square foot clarified.

Jean Conley, 31 Marlboro Road, said that she felt the cost of the project was simply too expensive and she did not yet see any plans to bring costs down. She suggested that if the project was too expensive then the Housing Trust could choose to build nothing on the site. Or, she suggested, rather than pay the high costs of new construction the Housing Trust could buy properties currently for sale around Sudbury that would perhaps cost less to develop into affordable housing.

Janice Ryan, 6 Canterbury Drive, told the Board that she work in the real estate business and recently did a builder's risk quote for a 40B project in another town that was much lower. She said that she came to the meeting to encourage the Board to stick to the guidelines and she reminded the Board that the ZBA has the right to control the project through variances or non-variances.

Mr. Klofft noted the audience's concerns about costs.

Lee MacPhee, 5 Marlboro Road, spoke about the many constraints of 40B requirements. He wanted confirmation about whether or not state funds would be given for this project.

Dom Vingiano, 5 Hamblin Lane, noted that Route 27 is not a state road. He expressed concerns about increased traffic and sight lines at the intersection. He asked about the likelihood of a traffic light at the intersection. He also wanted to know whether a traffic study had been done.

Christine Faucher, 12 Trillium Way, asked whether the arrangement of the septic system had changed since the original proposal. The septic system and basin had switched places in the new proposal. Grouse Hill was provided as an example of a development that utilized the same septic system.

Jane Graham, 32 Marlboro Road, expressed concern about the paving area in light of the unprecedented amount of rain that fell in the spring of 2010. She questioned where water of that volume would go given the amount of paving proposed. She also noted that there are wetlands across the street and asked about the wetland boundaries. Wayne Keefner again explained that the project area had been flagged to show wetland boundaries and the existing wetlands are outside of the 100 foot buffer zones. Mr. Klofft said that Debbie Dineen, Conservation Coordinator has agreed that there would be no wetlands impacted by the project. Mr. Keefner then described the soils in the area and how the catch basin, or rain garden, would work to capture runoff.

Mr. Klofft said that the Board relies upon reports from the engineers and this plan had been reviewed by the Town Engineer, Bill Place.

Dom Vingiano asked about the height of the grade on Marlboro Road and whether it would be raised to accommodate the septic system. Mr. Keefner said that it would be raised about three feet.

Siobhan Hullinger, 55 Washington Drive, commented that the driveway as proposed would be a "death trap." She asked whether there would be additional blind spots created by raising the grade. Mr. Klofft said that the Police Department would also be reviewing the proposed plan and could weigh in on the traffic impact.

Jean Conley asked where the children living at the property would play.

Carlo Lepordo, 156 Fairbank Road, said he was concerned about the number of children that could be occupying the property. He stated concerns about the crowding of schools and continued rise of taxes.

Steve Tripoli said that he wanted the ZBA to tell their honest opinion about the project.

Jan Ryan, 6 Canterbury Drive, asked whether there was any conflict of interest within the Board. Mr. Klofft said that there was none.

Lynn Migliozi, 32 Widow Rites Lane, asked whether there was any preference given to occupants. Beth Rust said that approximately 70 percent of occupancy was dedicated to local preference, meaning occupants with some form of Sudbury connection.

CASE 10-8  
NOAH, Inc.  
278 Maynard Road (3 Marlboro)

The public hearing of the ZBA was continued to Monday, May 24, 2010 at 7:30 p.m. in the Lower Town Hall Meeting Room.

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Jeffrey P. Klofft, Chair

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Jonathan G. Gossels

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Nancy G. Rubenstein, Clerk

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Elizabeth T. Quirk

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Stephen A. Garanin