

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
Monday, February 1, 2010

The Board consisted of:

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

Also: Jody Kablack, Director of Planning and Community Development

For the Applicant:

Larry O'Brien, Sudbury Housing Trust; Phil Giffie, NOAH, Inc., Developer; Bob Wegener, Architect, Narrow Gate; Wayne Keefner, Engineer, Meridian Associates; and Toby Kramer, Project Manager.

Notice was published in the *Sudbury Town Crier* on January 14 and January 21, 2009, posted, mailed and read at this hearing.

Prior to beginning, Jody Kablack, Director of Planning and Community Development, noted that ZBA members had in their application packages new guidelines for comprehensive permits issued by the Department of Housing and Community Development. She pointed to the summary of changes to the Comprehensive Permit – Section 5605 local Zoning Board hearing policies, noting that one of the major changes was that decisions must be determined within 180 days of opening a hearing.

Mr. Klofft, acting as Chairman, explained to those in attendance that the Zoning Board of Appeals is governed by M.G.L., chapter 40B, Sections 20-23, the Sudbury Supplemental Rules for Comprehensive Permit Rules and State regulations 760 CMR 31. He explained that the 40B law encourages affordable housing in communities across Massachusetts so that units can be rented or purchased at 80 percent of the median area income and offer long-term affordable housing. He said that this meeting would mark the beginning of the process for considering the proposal from NOAH, Inc and the Sudbury Housing Trust and he outlined for the benefit of the applicants and large audience the meeting format. He explained that the hearing would most likely be continued for future meetings and said that in the event of a continuation if any party wishes to submit additional information to the Board, up to 21 copies of the submittal may be required at least seven days prior to the continuance in order for information to be distributed to the appropriate Town Departments, Boards, and members of the ZBA. Any information not received within the time frame may not be considered at the continuance.

Documents received for February 1, 2010 included the following:

- NOAH, Inc/Sudbury Housing Trust Application
- Department of Housing and Economic Development Guidelines for 40B;
- 1/11/2010 Letter from Mass Housing;
- 1/22/2010 Letter from Mike Fee, Planning Board;

- 1/25/2010 Statement from the Neighbors;
- 1/27/2010 Memo from Jody Kablack, Department of Community Development; and a
- 1/28/2010 Memo from the Design Review Board.

Larry O'Brien spoke on behalf of the Sudbury Housing Trust (the Trust) providing the background for the project. Beginning in 2002 the Town saw a need for affordable housing in Sudbury and with funds raised through the Community Preservation Act a Community Housing Plan was created and adopted by 2005. Results of Town Meeting showed that the community preferred affordable homeownership over affordable rentals. Therefore the Sudbury Housing Trust was created in 2006 to focus on affordable homeownership projects. The Trust serves as an entity that is complimentary to the Sudbury Housing Authority that sustains the affordable rental market.

Mr. O'Brien then introduced NOAH Inc. as the developer of affordable housing projects. He said that this project is unique in that 100 percent of the units would be affordable versus the 25 percent requirement as has been the standard of past 40B projects in Sudbury.

Mr. O'Brien explained that the site at 3 Marlboro Road was selected because the house that originally stood on the property had been on the market for 180 days and the property was available. The Trust purchased the house for \$275,000 and then conducted a number of site visits to check the land for development feasibility.

Mr. O'Brien then introduced the applicants including Phil Giffie, NOAH, Inc.; Bob Wegener, architect with Narrow Gate Architects; Wayne Keefner, engineer with Meridian Associates; and Toby Kramer, Project Manager, NOAH, Inc.

Mr. Giffie thanked Mr. O'Brien for the overview of the project and explained his 20 years of experience with developing affordable housing properties in towns such as Holliston and North Andover. He gave a basic overview of the site layout and said that the proposed units themselves are smaller than other houses in Sudbury and he does not feel that the overall result would resemble a parking lot. He said that they were willing to take and work with the ZBA's feedback.

Referencing architectural drawings and floor plans Mr. Keefner then walked the ZBA members through the site. There would be 180 feet of frontage and accommodations for two parking spaces per unit and two visitor spaces at the site. The driveway would be off of Marlboro Road. Units would be numbered 1-6. The engineering team would have to cut into the site for grading at approximately three percent grading at the front, five percent in the middle, and thirty percent grading at the back. Modular block retaining walls up to six feet high would line the sides. He then described the proposed setbacks. Sudbury's Zoning bylaws require a 40 foot setback in the front and NOAH proposes 46 feet. The Bylaw requires a 30 foot setback in the back and NOAH proposes 72 feet. The bylaw requires side yard setbacks of 20 feet so the applicant will require a waiver for ten foot setbacks.

Mr. Klofft asked whether or not the property was considered a corner lot. From the audience Sudbury Building Inspector Jim Kelly was asked for his opinion. Mr. Kelly thought that it was

perhaps a corner lot although this would have to be confirmed. Jody Kablack, Planning Director, said that the frontage was along Maynard Road. She noted that Town Engineer Bill Place, designator of the Town's addresses had stated his preference for not changing the address from Maynard to Marlboro Road. Mr. Klofft said that he wanted clarification on the corner lot issue so that waivers could be written for the setbacks. Ms. Kablack said that she would look into this issue.

Wayne Keefner then presented traffic information. There were approximately 10,000 vehicles counted per day with an even distribution between those heading north and those heading south. Trips into and out of the property were estimated to be 35 per day, or 5.8 trips per unit. By way of comparison the average house in Sudbury generates ten trips per day. Upon checking with the Sudbury Police Department, between 2005 and 2009 there were no reported vehicle crashes directly at the site. There were approximately 16 total accidents reported at Maynard and Fairbank Roads, however, there were no injuries reported by MassHighway.

The plot plan is situated due North, a solar orientation. Communal space for residents is cited at the center of structure. Primary entrances to units are off the parking area to encourage a sense of community. Each unit would have its own deck at the back. Decks facing Maynard Road would be screened by plantings for privacy. Two of the units would be handicapped accessible and there would be an accessible parking spot and walkway for each. There would be new landscaping throughout although efforts would be made to preserve some of the existing trees at the front of the property.

Mr. Klofft questioned the density of the project. Mr. O'Brien responded by saying that the Housing Trust sent out a Request for Proposals (RFP) with consideration for six units and several architects weighed in, one of them being Jeremiah Eck whose design is the basis for the Trust's proposal. He also said that six units fits into the financial formula, the combination of mortgages, the Trust subsidy, and Department of Housing and Community Development's state funds. The financing formula will not work if the number of units is lower.

Mr. Klofft again pressed the issue of density. He asked for examples of density comparisons with Sudbury's other 40B projects, for example Snowberry Lane. He said that the Snowberry Lane development is also situated on a state highway but has a lower density. Mr. Klofft also said he had issues with some of the project's design elements such as parking.

Mr. O'Brien replied that the ZBA did not yet have the benefit of hearing a full presentation by NOAH, Inc. which would address these issues.

Mr. Wegener described the parking arrangement, vegetative screening, and layout of the decks which are to be stepped down the hill. The back sides of the building will have dormers to make them appear more like building fronts. Mr. Klofft felt that the design of the buildings appeared to turn their backs on the street. Ms. Quirk noted that the property was situated on busy road and was not in a typical neighborhood.

Mr. Giffee said that given Mr. Klofft's comments and questions he felt that the ZBA had already made its mind about a decision. He said that he did not feel his team had been able to give a full presentation and wanted the chance to do so out of respect for the hearing process.

Mr. Klofft said that the ZBA has had, in the past, design concerns about 40B projects in general and was trying to convey those concerns before becoming invested in the plan. Mr. Klofft said that the Design Review Board (DRB) had raised their concerns, however it was noted that NOAH had not yet had an opportunity to formally present their plans to the DRB.

Mr. Wegener then walked the ZBA through the floor plan. There were no questions about the floor plans.

Ms. Rubenstein questioned whether or not the courtyard plan would enable a wheelchair user to maneuver around the walkways. Mr. Wegener said that the walkways do have stairs but suggested that a wheelchair-user could go around the building and enter through the back. Not all of the units are accessible, nor are they required to be.

Mr. Klofft then opened the discussion to the audience.

Steve Tripoli, 31 Marlboro Road, read a statement compiled from 20 households located near the proposed site. Concerns about the project are broader than just the issue of density, which he called preposterous. Among neighbors' concerns were the visibility of decks from Maynard Road, the six closely packed units, the 10.2 foot setback from the property line the 12-14 space parking area with the five foot setback on the parking side, the "sardine can" design, concerns about "company" and guest parking, the snowplowing plan, accessibility by emergency vehicles, drainage, the new septic system and its visibility from Maynard Road, the fear of increased mud, water and ice present in winter, the proximity to the wetlands, the location of the driveway feeding into a "double" intersection of Maynard and Fairbank Roads and/or Maynard and Marlboro Roads, and the location and logistics of a potential school bus stop. He said that this project would create a "rush hour flying circus" and felt that NOAH was badly pushing the aesthetic envelope and badly pushing the 40B envelope. He noted that Marlboro Road is a scenic road and said that there was a 1700s farmhouse on the property originally. He asked whether there was a peer review done for a traffic study and voiced concerns about the parking area being so close to the neighbors' lot line. He then referenced the Sudbury Housing Authority's recently proposed duplex projects and questioned why the Sudbury Housing Trust was not considering a duplex for this site. He said that he didn't see any vegetative buffers on the proposed plan as there are at the Snowberry Lane properties, which he also said do not show their building backs. He then said that there were no other projects like this in Sudbury.

Mr. Tripoli also said that he felt that public notice was ineffective and that neighbors were surprised, upset and in disbelief about the project. He said that he feels that the project will impact the enjoyment of his property. And he wondered what would happen if "problems" arise. He then requested that the ZBA send the plan back to the drawing board and suggested that the neighbors would be more amenable to a two-unit project.

Mr. Klofft said that the State sets forth the guidelines on number of affordable housing units required per town and said that the State could allow a six-unit project to go through regardless of what a local ZBA determines.

Mr. O'Brien said that he did not hear anything new from Mr. Tripoli's statement that was not brought up at the neighbor's meeting a few weeks prior other than the mention of deck design.

Mr. Klofft asked that the Conservation Department be contacted for a confirmation about wetland location. In regard to maintenance issues he also asked that information be presented on condominium associations' handling of site maintenance. Mr. Gossels used as an example the sprinkler system and payment for annual maintenance. Mr. Giffie assured the Board that condominium associations are structured to accommodate payment for maintenance. Mr. Klofft asked to see examples of condominium documents.

Mr. Klofft noted again that the DRB has not yet seen a presentation on this proposal from NOAH and suggested that NOAH present to the DRB prior to the next ZBA hearing.

Mr. Gossels said that he is less concerned at the moment about technical issues but rather he is still concerned about the overall density of the project.

Mr. Klofft again said that the DRB's comments would be helpful with the density issue. He also wanted to see sight lines from the driveway and Marlboro Road.

Ms. Rubenstein said that most of her initial concerns had been or will be addressed. From this hearing she had wanted information on unit density, traffic at the intersections, and an investigation of the frontage and corner lot issues. She asked whether a model or view of the street elevation could be prepared for both the Maynard Road and Marlboro Road views.

Mr. Garanin was concerned about the soil that would be removed from the back of the property and how that would affect the hydrology of the area. He was concerned about runoff from the steep bank at the back and the large amount of paving and sidewalks running down to the retention pool. He wanted confirmation that the pool could accommodate the amount of water it would receive next to the septic system. He said he was concerned about potential icy conditions in winter compounded with greater traffic issues. He wanted more information on water management, the screening plan, and the density issues as he felt the lot was over-crammed and likened it to an apartment complex.

Ms. Quirk said that she still had concerns about parking and access to the site. She also felt that it would be useful to see a traffic analysis. She felt that parking on the site would be tight with just two guest spots for the number of units. Although she noted that not all residents would have cars since some would be young children.

Mr. Stevenson said that he would like to see more information on the economics of six units versus fewer. And he noted that affordable housing needs to be fairly distributed throughout the town.

Discussion was then opened to the audience for any new issues to be addressed.

Jean Hubelbank, of 167 Maynard Road, noted that some residents in the area utilized private wells downhill and their needs should be considered. Mr. Giffee said they would.

Lee MacPhee, 5 Marlboro, wanted more information on traffic.

Jean Conley, 31 Marlboro, expressed concerns about how traffic would turn into the development coming from Marlboro Road which she felt would require almost a u-turn at the driveway. She also wanted more traffic analysis done.

Mr. Klofft asked whether the proposed driveway was situated in the best spot.

Dom Vingiano, of 5 Hamblin Lane, suggested that Google maps could be used to create site elevations. Mr. Klofft said that the applicant could produce better visualization that would be more cost-effective.

Mr. Vingiano also wanted to know whether the drainage study had been done by a licensed engineer. Wayne Kefner had, in fact, done the study. Town of Sudbury Engineer, Bill Place, had also provided his opinion.

Doris Grandinetti, 8 Hamblin Lane, questioned the Trust's goal. She felt that the existing neighborhoods would be compromised by the development and even suggested that the 40B project would take away town value and safety.

Pete Salvatore, 279 Maynard Road, had concerns about any impact traffic at the property would have at rush hour and whether the driveway could accommodate cars pulling out so close to the stop sign. He questioned the management of Maynard Road traffic and was worried that unsightly lights would be added.

Carlo Lepordo, 156 Fairbank Road, wanted to know about the reserve septic. Wayne Keefner briefly described the process.

Ed Gottmann, 271 Maynard Road, expressed concerns about the reserve pool being close to Maynard Road and questioned whether small children might fall into it. He asked if it would be protected by a fence. Mr. Kefner estimated that the pool might be 18 inches to 24 inches deep at maximum. Mr. Klofft said that there are other pools of water throughout town and that this would not be unique to this property. Mr. Gottmann then asked whether there were other fenced pools at a main crosswalk. Mr. Keefner said that the pool was meant to be dry with relatively quick drainage time.

Mr. Klofft then summarized a list of action items for the next ZBA meeting. The Sudbury Housing Trust would gather:

- An analysis of driveway placement and sight lines;

- A letter from the Conservation Department stating that wetlands are not an issue;
- A Generation of low cost streetscape views; and
- A summary of project economics and sample condo association documents.

The Trust would also meet with the DRB and the Trust would obtain confirmation on whether or not the property is considered a corner lot.

The hearing was continued to Tuesday, February 23, 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

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Elizabeth T. Quirk

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Stephen A. Garanin

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Benjamin D. Stevenson