

MINUTES OF THE PUBLIC HEARING
SUDBURY BOARD OF APPEALS
Monday, October 3, 2011

The Board consisted of:

Elizabeth T. Quirk, Chair; Benjamin D. Stevenson, Clerk; Jonathan G. Gossels; Jeffrey P. Klofft; and Jonathan F.X. O'Brien

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

For the Applicant:

Ben Stevens, Manager, Trask Inc.

Joshua M. Fox, Attorney, Rollins, Rollins & Fox

Bruce Saluk, Design Engineer, Saluk and Associates

Wes Wirth, Landscape Architect, Thomas Wirth Associates

Ms. Elizabeth Quirk, Chair of the Zoning Board of Appeals, re-opened the hearing, reporting for the record that the ZBA was in receipt of the following documents:

- 10/3/2011 - List of Waivers
- 9/30/2011 - Revised Layout Plan
- 9/22/2011 - Revised Grading Plan
- 9/22/2011 - Revised Utilities Plan

Mr. Stevens then provided an update on progress made since the September 7, 2011 ZBA meeting. Another meeting was held with the Conservation Commission. The overall concept of the site plan had not changed, however it was furthered along. The placement of both temporary and permanent signs had been noted, existing and proposed trees were located on the plan, final grading around trees and the rear of the units was shown, and a drainage area had been moved to accommodate the large silver maple tree in the middle of the development. He said that street trees that were to be saved at the intersection of Landham and Boston Post Road had been marked on the plan. The grading along the side and rear of the western units also had been reduced.

Bruce Saluk referred to page C2 of the site plans dated September 30, 2011. He pointed out the forty inch caliper tree and trees along the front of the property and noted where the grading had been changed to accommodate those. The subsurface infiltration system has been shifted around to stay outside the drip line and some manholes were relocated due to the changes. Signage for the project under temporary permits was added at the entrance and includes some up-lights. A stop sign and stop line was also added to sheet C1. There is an approximate 850 square foot recommended easement area that would be to the benefit of Mass Highway for future work along Landham Road at the front of the property. Plan C1 also shows the locations of the affordable units, marked AFF. They are scattered around the site.

A filter strip was added to the rain garden as requested by DEP in order for the applicant to get the 10% DSS removal credit they recommended that the strip be added. DEP also requested that the applicant show soil testing information which was also added to plan on C2. Soil logs are shown in the drainage report. The property perimeter had some minor changes after a retracement survey was done during the summer and new lines were drawn.

Also, a few more trees along the abutter's property were also noted on the plan, page C2. The Stormwater management report was also revised to address comments by Sudbury's Town Engineer Bill Place and also DEP. That information has been added to the revised stormwater management report. Revisions included more info and additional calculations but were not major changes.

Mr. Stevens said that he had compiled a preliminary list of waivers, which includes only one waiver request from the Sudbury stormwater management bylaw. Ms. Kablack said that she was hoping to ensure that a complete waiver list was at hand that would include a complete and detailed description of the impacts of these waivers so that the Board could have a sense of what they are for and can make a determination on whether those waivers should be granted. Mr. Stevens then handed out the waiver list. He said that the only two that he felt needed further explanation were the waiver from the Board of Health and the Stormwater management bylaw. These relate to multifamily use in a single family zone or to signage.

In going over each waiver with the Board he said that the Zoning waivers include one related to multifamily use. There are some driveway zoning bylaws that need to be considered. The development calls for a common driveway with lots of little driveways. Also included are waivers for temporary trailers during construction and temporary signage for the development. He said that the plan as it stands meets all setbacks. He said that the Board of Health permit is ready and has possibly been issued under Title V standards which are slightly different than the local standards.

Mr. Klofft questioned how much larger the total leaching area would need to be to comply with Sudbury's local bylaws versus Title V. Mr. Saluk said that he had not calculated a comparison although it could be done.

Mr. Klofft then wanted to know whether or not Bob Leupold, Sudbury Health Director, had weighed in on the plans. Ms. Kablack said that Mr. Leupold had not commented specifically on that, but in her conversations with him he felt that the system has been designed in accordance with Title V and it would function that way due to the nature of the soil. She added that almost every 40B that the Board has reviewed is in compliance with Title V versus the local regulations. She noted that Conservation Coordinator Debbie Dineen had asked whether the local rights have a 100 foot setback to wetlands. Mr. Saluk said that the Title V requires fifty foot setbacks to wetlands, but a 100 foot setback to a tributary. The plan therefore meets the fifty foot setback requirements given that the wetlands on the property are not a tributary to a water supply and are not subject to the 100 foot requirement. Ms. Kablack noted that this waiver was listed on the original list of waivers however it did not have any explanation on any exception of a deviation. She added that if the Conservation Commission is not happy with the setback and will not issue an order of conditions, and this plan will only be permitted under the Wetlands Protection Act and not under the local bylaws. She said that this is another bylaw where Mr. Stevens should indicate where the plan does not comply and what impact this would have on the development. Mr. Stevens said that there is not any specific waiver request from the local conservation bylaw in the proposal.

ZBA Member Ben Stevenson asked about the status of the Conservation Commission's processing of an application with the wetlands protection act. Mr. Stevens said that he has filed his application as the ZBA sees it along with any modifications and he has had a preliminary meeting and an open meeting with the Conservation Commission where they focused energy on the buffer zone. The landscape architect and botanist were both present at those meetings. They talked about two issues with their landscape treatment. One issue included what to do with an invasive treatment from the ten foot no-disturbance area to

potentially ten to twenty feet into the wetlands area where there are some bad invasive species. The other area is the ten foot no-build area to the backs of units, a landscape and maintenance treatment, and a limit of lawn. They are also working on a transition species planting for the back yards of the units that would work well with the existing vegetation . He said that the Commission had wanted him to look into existing trees. He felt that as conversations continue there would probably be limits of lawn, different types of lawn, meadow areas, and edge plantings. They will also talk about snow storage, chemical use, irrigation systems or lack thereof in certain areas. He said that he feels fairly static on the locations of units and their design. He said that he still needs to work on stormwater management with the Conservation Commission and then the landscape designer will have to do additional work on the landscape plan.

ZBA Member Ben Stevenson asked specifically where the project was out of compliance. Mr. Stevens said that his interpretation of the local bylaw is that it is very generically written. The Conservation Commission has jurisdiction over a certain area and have jurisdiction over areas that affect that area. He said that the local bylaw has jurisdiction over the whole project and stormwater management and over landscaping of the entire project. But there is not a specific bullet list he can give to the ZBA to say where he does not comply. He said that he did not know how the Conservation Commission would treat this project if it were a non-40B.

Ms. Kablack said that further input is needed from the Conservation Commission to find out which provisions the Conservation Commission does not feel are being met and if they have any recommendations.

Mr. Stevens said that the project does not require much earth removal, but he does not have the exact calculations yet on whether fill will be imported or exported. He said that there may be some swapping of loam for roadway material, but definitive amounts are yet unknown. Mr. Saluk said that he was close to having those calculations.

Under the general bylaw there is a waiver for driveway locations and a no public access permit.

There is a separate irrigation permit through the Board of Health. He said that he will need to file for a well permit with Board of Health. The irrigation system is off of a private well. There will be no filing of a separate permit for irrigation. They will meet the setback requirements for well location which is 100 feet from a septic system, wetlands, and vernal pools.

Mr. Stevens reminded the Board that he will be building under the stretch energy code so will not need a waiver from the stretch energy code.

In regard to the Stormwater Management Bylaw, Bruce Saluk explained the volume numbers for rainfall. Ms. Kablack reminded the Board that the Planning Board does not issue its own stormwater permit, but rather the ZBA does through incorporation into the Comprehensive Permit. Ms. Kablack said that in terms of not using bylaw rainfall amounts the Board should know what that number is. She said that she wanted the number verified. Mr. Saluk will get the number. Ms. Kablack also said that the Board should know what impacts there are in the infrastructure costs under the local bylaw versus under DEP. Mr. Saluk said that in his opinion there is no benefit to using the Cornell system. He said that this site is very close to the Sudbury River and would be holding water longer so he did not see any real advantage to using the Cornell system.

Jonathan O'Brien asked where the water is being contained. Mr. Saluk explained the containment system underground.

Mr. O'Brien asked whether there would be an erosion effect if the water were let out more quickly. Mr. Saluk said that the water was being let out at a flat area so the velocity is not increased.

Ms. Kablack asked what happens in a cul-tech system. Mr. Saluk said that a rain garden would have a weir and then gave an explanation of a weir system and what happens with a 100 year storm. The details were shown on sheet C3 of the site plan.

To address a concern that was raised about flooding at abutting properties, Mr. Stevens then described the location of abutters' houses. He noted that the house on Greenhill Road was very far away. The stormwater report has the locus plan. There is a wetlands system in between house and lot. The rain garden is nearer to neighbor Pat Delaney's house.

Turning attention to sheet C3 of the site plan in the rain garden there is an underground drain that percolates water into a catch basin which then flows into a well. The slope of the property and the neighbor's property both lead toward the wetlands. The rain garden picks up roof run-off and water from the backs of the units. Mr. Saluk said that the rain garden is not designed to collect runoff from the roadway, however.

Mr. Stevens said that behind all of the units there are Cultecs, which is a form of gutter system. A loose boulder wall will allow drainage flow.

ZBA Member Ben Stevenson asked about the topography of the neighbor's land that would be taking on the water. Mr. Saluk explained the elevations.

The abutting neighbor, Pat Delaney, was present at the hearing. Mr. Delaney agreed that the land does slope at that location however he noted that the corner of the property is relatively flat. He stated that he does have concerns about putting water at the back of the yard. He asked how often a rain garden might overflow. Mr. Salek said that it would be very unusual for a rain garden to over flow. He then described the size of the rain garden and talked about the components of a rain garden, such as mulch, which offers quick drainage.

Ms. Quirk reiterated that there needed to be more specificity with waivers.

The Board then walked through Jody Kablack's memo with recommendations dated October 3, 2011. Ms. Kablack noted that:

- 1) the revised plan, as distributed to the Board, has updated the location of the stormwater management structures to avoid harming the large silver maple tree at the center of the project.
- 2) Other large trees have been located on the property however those that are to be preserved should be noted on the plan. The landscape architect said that he would add that to the plan.
- 3) The Board of Health is ready to issue a final septic system permit.
- 4) The Conservation Commission is currently processing an application under the Wetlands Protection Act but, no application under the local wetlands bylaw has been submitted. The applicant must document those provisions under the local bylaw that are not in compliance and provide reasons why they cannot comply.

- 5) The Stormwater Management Report has had several revisions based on comments from DEP and the DPW Director, Bill Place. The system is being designed to meet the DEP Stormwater Guidelines, but not the Sudbury Stormwater Management Regulations. Final comments from the DPW Director are pending. The applicant must document those provisions under the local bylaw that are not in compliance, and provide reasons why they cannot comply.
- 6) The applicant is requested to revise the waiver list to be more specific and eliminate unnecessary requests. The Building Inspector has recommended that the Stretch Code not be waived for this development.
- 7) Landscape plans showing details on screening plantings, the berm along Route 20, tree preservation, lighting details, common area amenities, etc. needs to be submitted.
- 8) Calculations for earth removal need to be submitted.
- 9) The location of the construction trailer must be shown on the plan.
- 10) An Operation and Maintenance Plan must be submitted since the narrative in the July 2011 Stormwater Management Report is inadequate.
- 11) Final comments from the Fire Chief should be solicited by the Applicant. The buildings will be sprinklered and access to the controls will be in a common building.
- 12) The height of those buildings which have walkouts must be shown on the architectural plans.
- 13) The Building Inspector has expressed concern in all multi-family developments or the grading of front yards. The applicant should submit a blow-up grading plan of the typical front of a unit showing grading in compliance with the Building Code.
- 14) Lighting on the rear of the units should be detailed to avoid spillover onto abutting properties.
- 15) Areas for snow removal must be shown on the plan.
- 16) A detail of the rock retaining wall along the edge of the wetland must be shown on the Plan.
- 17) The width of the internal walkway should be labeled.
- 18) Comments from the Sudbury Water District should be obtained.
- 19) The ZBA should require some mitigation for traffic impacts caused by this development. A contribution towards the construction of a traffic signal at Landham Road would be appropriate.
- 20) The applicant should describe in writing the finishes in the affordable units. The location of the affordable units should be added to the plan.
- 21) The Board has until November 9, 2011 to render a decision on the application.

In regard to lighting, Mr. Stevens said that the condominium documents will include restrictions on lighting. There are to be no rear deck spotlights. The restrictions will be similar to those conditions at Old County Road.

Mr. Saluk noted that on plan C6 there is a detail of a two foot retaining wall made of fieldstone. No post will be over four feet and the wall will be developed by a structural engineer.

Mr. Stevens said that he would be speaking with the Sudbury Water District as plans for sprinklers are developed. He said that he also needs to talk with the Sudbury Fire Chief as well.

In regard to traffic mitigation Ms. Kablack said that this could be a topic for the first working session. She noted that Mass Highway has indicated that this was not a high priority intersection for their consideration. She and Mr. Stevens had initially discussed his contribution of \$1,000 per unit toward the light and Mr. Stevens was willing to contribute a total of \$31,000. Ms. Kablack said that the amount was generous.

Mr. Stevens said that the affordable units are now noted on the revised plans. He will prepare a list of finishes for the next hearing. The Board will review and comment at the next hearing.

An extension of time will be required to complete the review of this application. Mr. Stevens agreed to extend the deadline to December 30, 2011. An extension of time form will be prepared to be signed by Mr. Stevens and Ms. Quirk.

Wes Wirth, landscape architect, was present. He walked the Board through the landscape plan.

He noted that they were working with the Conservation Commission on a plan for the back buffer line.

At this hearing Mr. Wirth presented Route 20 and interior landscaping plans. Landscaping along Boston Post Road will be planted along the berms which rise four to eight feet. There will be groupings of conifers in line with each cluster of housing. Species will include eastern red cedar or western arborvitae. The applicant opted not to use white pines there. A mix of deciduous brush will be interspersed throughout. Smaller clusters of winterberry, hydrangea and sumac, bottlebrush and buckeye will be planted. Two big blocks of evergreens on the road will offer a broader palette of plants. Also along the road are silver maples with red maples mixed in. Several trees on the site will be preserved.

Sugar maples are located in the lower right corner. There is also a large black cherry tree, but it may not survive construction. Along the top property line are more maples.

Mr. Wirth said that there is good screening between the abutter's house to the north. That neighbor's house is screened by a row of conifers and there are additional existing white pines.

At back of site are brambles. He said that given that the abutting houses are far away there may not need to be additional screening there. The rain garden at lower corner will provide some screening and as will a grove of trees by the Delaney's property line. All vegetation along the wetland edge is natural.

Mr. Wirth said that a number of sidewalks had been revised.

He said that the mowed area at the center of the project is the only mowed area at the site. River birch and ground cover are proposed for that area with perhaps path connectors so that residents could walk into the green. There is a single mow path or mulch path around the perimeter to offer a recreational loop or dog walking area. The leaching field area could also be a dog park with fencing or could remain natural. Mr. Stevens did not feel that the area would get a tremendous amount of use but it is a space that could be flexible for different uses.

ZBA Member Ben Stevenson asked whether Mr. Delaney was comfortable with the landscape plan. Mr. Delaney said that he felt the screening near his property looked fine but suggested perhaps planting evergreens on the bank of the rain garden that would be similar to the clusters along the front of the property. He just wanted the screening to look natural. Ms. Kablack suggested that if Mr. Delaney had further suggestions he should let the Board know.

Mr. O'Brien asked whether or not there was an estimate on the number of potential children at the property. He wanted to know where the children would play. Mr. Stevens said that at other sites he has sometimes had requests for basketball hoops, so that is the anticipated age of the children who would be

living at the site. He said that at The Residences at Old County Road, which has 37 units, there are approximately eight or nine children.

Mr. Klofft asked whether there was a designated bus stop area. Mr. Stevens said that benches would be provided for sitting at the bus stop.

Mr. Stevens added that often the kids are on their bikes and are all over the place at the properties. They tend to take walks along the paths provided and said that the leach field area would be a flexible space for congregation. Although he did note that the Conservation Commission does not want a mowed lawn there.

Mr. Klofft asked about the streetscape view from Route 20. Mr. Stevens said that the buildings would be able to be seen through the trees but not completely. He said that the goal was to screen them in such a way that they would not be noticeable from the street. He added that the berm blocks the first floor and street noise.

Ms. Quirk asked for a front elevation drawing which Mr. Stevens said he could provide.

The Board then reviewed a memo from Community Housing Specialist Beth Rust. Of the things that Ms. Rust pointed out, Mr. Stevens said that unit location and disbursement had been added to the revised site plan. It was noted that of thirteen middle units, eight were designated as affordable. There was discussion about whether that was a high percentage of middle units or should changes be made. Ms. Kablack explained that the affordable units should not be distinguishable from the market rate units so should be more evenly disbursed. Mr. Gossels and Mr. Klofft felt that they were disbursed well enough. Unit mix will be worked on between Mr. Stevens and Ms. Rust so that it is known which of the units would be three-bedroom and two-bedroom.

Ms. Rust asked whether there would be a unit available for a buy-down unit by the Sudbury Housing Trust. Mr. Stevens said that there was not room to add another affordable unit.

Common access to utilities and water was also discussed. Mr. Stevens said that the configuration of those systems was still being worked out but access would not be in a location that was inaccessible.

Timing of construction will also be determined so that the Community Housing Coordinator can review prior to a building permit being issued.

Lottery and Monitoring Agent roles will be similar to what was utilized at The Villages at Old County Road in that the Town or Housing Trust will employ an agent to review all determinations. Monitoring responsibility will follow Mass Housing Regulations and lottery requirements will satisfy the Local Preference option. Condominium fees are determined by the sales price methodology.

There were no further questions from the Board or audience.

A motion was made to continue the hearing.

The hearing was continued to Monday, November 7, 2011 at 7:45 p.m. in the Lower Town Hall Meeting Room.

Elizabeth T. Quirk, Chair

Jeffrey P. Klofft

Benjamin D. Stevenson, Clerk

Jonathan F.X. O'Brien

Jonathan G. Gossels