

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
Thursday, January 19, 2012

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

For the Applicant:

Ben Stevens, Manager, Trask Inc.

Thomas Wirth, Landscape Architect, Thomas Wirth Associates

Ms. Quirk, Chair of the ZBA, re-opened the hearing. She read into the record the minutes from the December 8, 2011 hearing that were then approved by the Board.

Ms. Quirk then reported for the record that the ZBA was in receipt of the following documents:

- 12/8/2011 From Bruce Saluk, Summary of Rainfall Depths
- 1/7/2012 – e-mail from Ben Stevens to the ZBA/Jody Kablack
- Revised Landscape Plan, sheet L1, dated 1/5/2012
- Revised Wetland Edge Planting Plan, sheet L2, dated 1/5/2012
- Revised Detail of Unit Entrance Zones, sheet L3, dated 1/5/2012
- Planting details, sheet L4, dated 1/5/2012
- Architectural elevations, sheet A1, dated 1/5/2012
- Existing conditions plan, sheet EX, dated 8/23/2011
- Revised Layout Plan, sheet C1, dated 1/5/2012
- Revised Grading Plan, sheet C2, dated 1/5/2012
- Revised Drainage and Utility Plan, sheet C3, dated 1/5/2012
- Revised Details sheets, sheets C4, C5, and C6, dated 1/5/2012
- Revised Plan and Profile, sheet C7, dated 1/5/2012
- Building and grading plan, sheet C8, dated 12/30/2011
- 1/16/2012 – Memo from Bruce Saluk, Bruce Saluk & Associates, Inc., to Bill Place
- 1/17/2012 – Memo from the Eric Poch, Vice-Chairman of the Planning Board, to the ZBA
- 1/17/2012 – Memo from Jody Kablack, Director of Planning and Community Development, to the ZBA

Mr. Stevens then provided an update on progress made since the December 8, 2011 ZBA meeting. He distributed a project update memorandum and an updated list of exceptions dated January 18, 2012.

In regard to the site plans, Mr. Stevens reported that there have been no changes to the building locations, grading, or drainage. Per the request of Sudbury Water District Superintendent Al Renzi, Mr. Stevens had relocated a water line so the utility plan was altered, which shifted some of the fire hydrants which the Sudbury Fire De Department then approved.

He noted that Planning Director Jody Kablack pointed out some conflicts between the landscape and engineering plans with some of the decorative items. These items are now reflected on the final landscape plan.

Mr. Stevens said that he is working with Ms. Kablack to finalize the waiver list which he distributed to the Board at the hearing.

He said that he now has a septic permit under Title V, but included in the waiver list are waivers from the Sudbury Board of Health regulations.

He said that he has received the State's Wetlands Order of Conditions. There were no waivers from the local bylaw requested because he felt that the plans complied with the spirit of the local bylaw and because the project was in fact examined under the local bylaw.

He also submitted to the file a sample of an entry sign, street light design, and the stone entry pillar.

Changes were also made to the parking areas to create three-car parking spaces from two-car spaces. His experiences with the Homeowners Association at The Village at Old County Road necessitated the revision. He said he was pleased that the parking spaces were spread out throughout the site to avoid the political issues that have occurred at Old County Road.

Also added to the plans are the locations of trees that are to be saved, trailers, stop signs, temporary signs, wall heights, and areas for snow storage. He said that he has now had meetings with the Conservation Commission, the Board of Health, and the Department of Public Works. There was just one open issue related to stormwater that the Town Engineer has yet to approve.

Thomas Wirth of Thomas Wirth and Associates was present to show the final landscape and planting plans along with the final Route 20 elevation plan. It was discussed that the mounding plan, or berm, along Boston Post Road should be included in the final set of plans presented to the ZBA.

Mr. Stevens said that the only new plan that has not been seen by the ZBA prior to this hearing is the actual unit planting plan, shown on sheets 3A and 3B and will be part of L5 when submitted. These will also be included in the final set. Ms. Kablack requested the unit planting plans in advance of the decision.

Ms. Kablack said that she anticipates being able to begin work on the decision.

Mr. Wirth explained that the plantings have been organized into five sections and he proceeded to walk the Board through the species and materials in each.

Mr. O'Brien asked about the planting plans for zones C and D, or the septic area, where the neighbors had expressed concerns at the last meeting. Mr. Wirth said that cedar trees, spruce, pines and juniper would be located in that area and would be eight to twelve feet high when initially planted. Ms. Kablack noted that those heights are standard starting heights for new trees.

On sheet L2, Mr. Stevens said that much of the same material would be planted in the immediate buffer zone set down below the stone wall behind the units and will be larger than other plantings. Mr. Klofft asked about the height of the wall. Mr. Stevens said it ranges from two and half to three feet high. He

reminded the Board that there is no grass behind units but instead there would be plantings of leaf litter mulch and wetland species plugs.

Ms. Quirk reported on a recent site visit. She said it was instructive to see the existing conditions, including the amount of existing screening and where additional screening would be crucial.

Ms. Quirk then asked what sort of screening was proposed for the septic area to keep people out of it. Mr. Stevens said that there could be nothing planted there that had a root structure. The landscape architect planned an open meadow planted with a wild flower seed mix for that area where there is wildlife present. This area would be cut no more than twice per year. The area would also not be irrigated or otherwise maintained. He said that his experience has been that if the area is not cut perfectly people will not go into it due to the prevalence of ticks. Landscaping maintenance would be concentrated at the middle of the site at the walkways and dog area so people would be apt to stay at the middle of the development.

Mr. O'Brien asked whether any vegetation was being removed at the rear of the property near the stone wall. Mr. Stevens said that the trees that are there are so vine wrapped and dead that they would have to be removed. Most likely he would clear up to the stone wall and replant. He did say that there were three large oaks in good shape at the far back wall. Bittersweet was found in the area at southeast wall. Twelve foot tulip trees with an understory and some hydrangeas would be planted at the rear units. There would be no clear path to septic area. Abutters' houses in that area are situated far away from the units. Mr. Stevens said that one could only see one level of the units from the abutters' vantage point. The patios are flat and there are no decks there. Ms. Kablack pointed out some inconsistency with notations on the landscape plans versus the site plans where units are labeled with decks rather than patios. Mr. Stevens will update the plans to use the correct labels.

Mr. Wirth then described the plantings that would be at the entries to the units. Silver maples will be planted at the street and other trees will fill in. Each unit would have a small garden area.

Ms. Kablack pointed out that the Conservation Commission's order of conditions does state that the meadow should be cut at least every other year to minimize woody invasive plants. If ZBA wants to add its own condition to restrict mowing the ZBA can do so. Ms. Kablack cautioned that not enough mowing could be problematic in regard to ticks.

From discussions at the last meeting Mr. O'Brien said that he thought the plan was to have that area be as wild as possible.

Henry Noer, 55 Goodmans Hill Road, asked the Board to consider only allowing mowing one time per year. He said that there are other ways to deal with ticks and he suggested that the more the meadow is mowed the more the coyotes would take it over. The Board discussed that allowing mowing only once per year might not be enough.

Ms. Quirk said that a future homeowners association might only want mowing done at certain times per year. She said that at this point allowing two times per year will enable it to be wild enough.

Mr. Stevens said that Jim Kelly, Sudbury's Building Inspector, had initial concerns about grading and so a sheet on the grading is included in the plans to address his concerns. Ms. Kablack noted that Mr. Kelly had not put those concerns in writing yet. Mr. Stevens explained that Mr. Kelly wanted to ensure that the building code was followed for required unit elevations. For example measurements from the wood of the

unit to the ground and the pitch of the ground away from unit should be accurate so that there is no trapped water at driveways that could affect the unit itself or the neighboring units or homes. Ms. Kablack said that she did have a verbal conversation with Mr. Kelly where he noted that all of the buildings are level and not stepped. She recommended that the ZBA keep the hearing open so that Mr. Kelly can add his written comments to the file.

A discussion ensued about the location of controls for water meters at the units to ensure that the Fire Department and Sudbury Water District have adequate access to those meters. Mr. Stevens said that he had spoken with the Building Inspector about that issue as well. He was still in flux about the exact locations because the sprinkler code had recently changed. Mr. Stevens had included language on Sheet C1 of the plans stating that whatever decision was made about meter locations would have to be approved by the Building, Fire, and Water Departments. Those decisions hinge upon the size of the water lines that would connect to the units. Ms. Kablack briefly discussed the situation with water meter access at Old County Road that the Town wants to improve at Landham Crossing by potentially having two water lines leading into the units. Mr. Stevens explained the need for water meters to be located in basements where there is a warm, dry area for fire suppression systems. He said that one solution was to have separate basement entries with separate bulkhead doors that would alleviate privacy issues and enable access by the Fire and Water Departments.

Given that the ZBA is nearing the end of the review process, Mr. Gossels asked Ms. Kablack whether there were any more substantive issues to address.

Ms. Kablack reviewed her memo to the ZBA dated January 17, 2012. She noted that the landscape plan showed a rendering of lighting plans that are very similar to Old County Road. There are some inconsistencies to the plans, as mentioned before, that still need to be cleaned up. There may also be changes to the benches located on the plans and to surface treatments on paths.

She then noted that the plans show a retaining wall with grading also built up at that area so there would not be a steep drop between the roadway and the neighbor's property. She noted that Mr. Stevens may be able to negotiate a construction or grading easement with the neighbor, but he is not prepared to do so yet. Therefore there may be a retaining wall or there may not be a retaining wall built on the east side at the entrance. Mr. Stevens said that the wall would only be two feet tall and he described the proposed levels of grading with about four feet of fill in total.

Ms. Kablack added that she had asked for details on the stone pillars and surface treatment plan. Mr. Stevens said that they were shown on the landscape plan. The surface would be concrete pavers at the Boston Post Road end where the bus stop would be located and then the material changes to compacted pea stone farther into the development.

In regard to Mr. Stevens' waiver letter Ms. Kablack confirmed that he was not requesting any waivers from the wetlands administration bylaw. She said that the Conservation Commission may be discussing this at an upcoming meeting. However, the Conservation Commission has granted an order of conditions and in that they do discuss how the project exceeds the minimum requirements under the wetlands protection act. At this point the ZBA needs input from Conservation Commission to verify the waivers.

Mr. Stevens said that he had received the Order of Conditions granted under the Massachusetts Wetlands Protection Act. He did not file the application under Sudbury's local bylaws because he is not required to under 40B law. However Mr. Stevens did file with the State with the Sudbury Conservation

Commission's bylaws in mind and the application was reviewed by the Sudbury Conservation Commission. The Conservation Commission granted the Order without prejudice and without comment because it complies with the local bylaw. Mr. Stevens said that he is comfortable, knowing the bylaw and with the discussion that he has had with the Conservation Commission, with the ZBA not granting any waivers to the local bylaw. There was some discussion about what the ZBA might need in order to craft their decision about compliance with the local bylaw and whether an official waiver is needed. If no waiver is granted then the risk of compliance, or lack thereof, is on Mr. Stevens. The ZBA, by granting a comprehensive permit, is not granting Mr. Stevens a permit under the local bylaw because he is not required to have that permit under the local bylaw. Ms. Kablack felt that applicants for comprehensive permits still need to identify where the waivers are from local bylaws even though they are not requesting permits under the local bylaws. In the end the ZBA determined that they still need a statement from Conservation Commission before their decision can be rendered. Ms. Kablack said that she would write a letter to the Debbie Dineen, Conservation Coordinator, and would show it to Ms. Quirk for her approval prior to submittal.

Ms. Kablack noted that the maximum building height should be shown on the plans. The maximum building height will be forty-one feet.

Ms. Kablack pointed out that Mr. Stevens intends to illuminate the front entrance sign from the ground. She reminded the Board that there was a condition placed on the entrance sign at Old County Road stating that it could not be illuminated between the hours of 11:00 p.m. and 6:00 a.m. Mr. Stevens agreed that the same condition would be fine for Landham Crossing.

Ms. Kablack explained that there is still a small stormwater issue surrounding the inclusion of the 100 year storm. Town Engineer Bill Place and the applicant's engineer Bruce Saluk have spoken. The applicant has done the calculations for the 100 year and has demonstrated what the size of the system would have to be in order to incorporate the 100 year storm. Mr. Saluk has opined that there will be a negligible impact however Mr. Place still feels that the impact is quantifiable. Mr. Saluk determined that there are four neighbors between this property and Allowance Brook and when a 100 year storm arrives the difference between the two stormwater systems would only possibly affect those four neighbors. It was Mr. Saluk's opinion was that there is a vast watershed and that this development's increase would have no great impact on that watershed, which is why a waiver was requested.

Ms. Quirk asked for clarification on whether Mr. Place would be satisfied with a calculated number and not just an opinion provided by Mr. Saluk. Ms. Kablack said that perhaps would be forthcoming and would not change the plans, but the documentation is what Mr. Place is requiring.

A discussion ensued about whether or not enclosed porches could be allowed for certain units rather than patios. Mr. Stevens is contemplating offering enclosed porches for units eight through twenty-eight. No screened porches would be facing the road or the interior of the development. He said that the original roof load can be handled by the existing system and none of the offsets would be affected. The porch style would be an elevated, four season screened porch with no door leading to the interior of the unit. He reminded the Board that a limited number of enclosed porches were approved at the Old County Road development as modifications to the special permit and he just wanted to request that flexibility prior to the Board's decision. He said that this was not a feature that was tremendously sought at Old County Road, but was offered as an added amenity to the market rate units. The enclosed porch concept was cleared with the Conservation Commission.

Mr. Klofft questioned whether the enclosed porch would add square footage to the unit. Ms. Kablack said that a condition could be included in the decision that the porch shall not exceed some percentage of the unit size, with language similar to what was included in the decision for Old County Road.

Mr. Gossels agreed that enclosed porches would more square footage on already large buildings. But he also agreed that the porches would not be highly visible from a public way.

It was also discussed that the permit could have language requiring that porches be added during initial construction in order to alleviate a future buyer adding the enclosure at a later date.

ZBA Member Mr. Stevenson expressed an issue with the visibility of enclosed porches along the western side of the development where careful attention had been paid to screening and the neighbor's view.

Mr. O'Brien said that he likes the idea of alternatives to the view through the use of enclosed porches. Mr. Stevens noted that the enclosed porches cannot be added to the affordable units because an enclosed porch would be considered an upgrade. He then proposed putting them on the model house only (unit 8) and on units 12 to 28 which are far from abutters and not on units 9 to 11. The Board appeared to be satisfied with that compromise.

Ms. Kablack said that the Sudbury Housing Trust may want to serve as the lottery agent for the affordable units.

Ms. Kablack said that a decision could be drafted and reviewed at the next hearing. She reminded the Board that the deadline for closing the hearing is February 29.

Ms. Quirk asked whether any neighbors wished to comment at this time.

Mr. Noer, 55 Goodmans Hill Road, reiterated that he wanted to ensure that the meadow will not be mowed more than two times per year. He also asked that restrictions be placed on further development in the septic area. Ms. Quirk reminded Mr. Noer that the Comprehensive Permit would give approval for a specific plan only so anything additional proposed for the site would require a request for a modification.

There were no further questions from the Board or audience.

A motion was made to continue the hearing.

The hearing was continued to Monday, February 13, 2012 at 7:30 p.m. at the Flynn Building, second floor Silva Conference Room, 278 Old Sudbury Road.

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Elizabeth T. Quirk, Chair

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Jonathan F.X. O'Brien

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Benjamin D. Stevenson, Clerk

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Jeffrey P. Klofft

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Jonathan G. Gossels