

Present: Michael Fee (Chairman) arrived at 7:46 p.m., Lisa Eggleston, Christopher Morely, Michael Hunter, Eric Poch, Joe Sziabowski (Associate), and Jody Kablack (Director of Planning and Development)

**Dakin Road - Scenic Road Public Hearing**

Present: Scott Taylor, Tree Warden, Lyn MacLean, Sudbury Historical Commission Chair

At 7:42 p.m., Ms. Eggleston called the meeting to order and opened the Scenic Road Public Hearing concerning the removal of certain trees on Dakin Road, a designated scenic road in Sudbury. Removal has been requested by the Department of Public Works, and each tree has been posted with a notice of public hearing by the Tree Warden. She also read the legal notice for the record, which was published in the *Sudbury Town Crier* on February 8 and February 15, 2007. Ms. Kablack noted corrections to the legal notice regarding the two 8"- 12" oaks and the one 8" oak, which are located respectively at 67 and 61 Dakin Road, and not at utility poles 61 and 67.

Ms. Kablack displayed photographs and a site plan for the construction of the walkway going towards North Road. She noted that the stone wall shown on the site plan does not exist on the ground, as this is an old plan. No stone wall will be removed. A small well house is located within the right of way, which may be removed for construction of the walkway. The DPW Director is discussing ownership of this structure with an abutter. Ms. Kablack also reported that this project will be done in conjunction with area roadway drainage work.

Lyn MacLean, Sudbury Historical Commission Chair, reported the Commission has viewed the trees, and concluded they are small and insignificant. The Commission has no objection to removal of the proposed trees. Ms. MacLean also was questioned regarding recommendations for preservation of the small well house within the right of way. She stated that the structure is in a state of tremendous disrepair and may soon collapse if not removed first by the Department of Public Works. Discussion followed regarding ownership of this structure and the use of a well on the property.

On motion duly made and seconded, it was unanimously:

VOTED: To close the Scenic Road Public Hearing concerning the removal of certain trees on Dakin Road, a designated scenic road in Sudbury.

On motion duly made and seconded, it was also unanimously:

VOTED: To authorize the removal of four 2"- 4" ash trees at utility pole #67, six 5" - 10" oaks at utility pole #67, two 8" - 12" oaks at 67 Dakin Road, one 26" maple at the

corner of Blacksmith Drive and Dakin Road and one 8" oak at 61 Dakin Road, as per the application submitted by the Department of Public Works.

**2007 Annual Town Meeting Revision to Sign Bylaw Public Hearing**

Present: Jim Kelly, Building Inspector

At 7:48 p.m., Chairman Fee opened the Public Hearing concerning the Zoning Article on the Warrant for the 2007 Annual Town Meeting to amend Article IX, Section 3259A by replacing the section on "Temporary Signs." The purpose is to provide greater flexibility for businesses not clearly visible from the street by creating a provision for portable signs. He also read the legal notice for the record, which was published in the *Sudbury Town Crier* on February 8 and February 15, 2007.

Building Inspector Jim Kelly briefly reviewed the evolution of this amendment and its purpose. He stated it is a continuation of efforts to refine the sign bylaw, which began three years ago. Presently, a temporary sign can be displayed only 35 days a year. The proposed amendment would allow portable signs, in compliance with the bylaw, to be displayed for the entire year. Mr. Kelly has extensively canvassed the business community, and found them generally cooperative and agreeable to this change. He believes there is a strong need for the approval of these small signs. He also noted that the proposed annual registration fee of \$250.00 will go to the revolving fund to help defray the cost of enforcement of the bylaw. Mr. Kelly reported that the Design Review Board had no objections to the proposal and helped clarify sign visibility issues. He reinforced that the bylaw would not constitute permanent approval of these signs, as they will be reviewed annually regarding compliance with the bylaw.

Ms. Kablack noted that the bylaw will allow signs only on certain properties meeting the established criteria. For example, properties which possess a freestanding sign will not be allowed to also have portable signs. She also reviewed that each frontage will only be allowed two signs per lot, which will need to be negotiated amongst the tenants and property owners. Ms. Kablack stated this amendment should help the businesses on Route 20 attract more customers.

In response to a question from Mr. Morely, Mr. Kelly explained his thought for enforcement. Ms. Eggleston asked whether signs displayed along the entrances of business by their doors would also be covered by this bylaw. The Board determined that although the amendment does not differentiate between the two sign locations, the intent was to regulate signs on the street and not those by a business entrance.

Chairman Fee noted there is a lot of inherent, subjective discretion for the person enforcing the bylaw, and asked how it can be ensured that it is done fairly. Everyone agreed that an element of subjectivity exists, however, they also agreed that the process should not be over-regulated.

Ralph Tyler, 1 Deacon Lane, asked the Board to further research whether a sunset clause should be added to the bylaw language so as to avoid any confusion that renewal of the registration fee is tantamount to approval in perpetuity. He would prefer that the proposed language clearly indicate that the license is for a limited time, and not a permanent license. Chairman Fee agreed that the language could be revised to note that the Town will allow for a temporary annual license. Mr. Kelly said there has been previous discussion about adding a sunset clause, and he is willing to revisit that topic.

Mr. Tyler also believes the proposed registration fee is too low, since it equates to only 68 cents a day. He would rather see a daily fee assessed of perhaps \$15-\$20, which would still provide the business with a tremendous advertising bargain, and might help to self-regulate the number of days the businesses choose to display the signs, not to mention, possibly generate more revenue for the Town.

Mr. Tyler also believes that if the public is going to be subjected to these signs for potentially a year, a review should be conducted regarding the initial design by the Design Review Board to at least establish and reinforce some parameters. In response to a question from Ms. Kablack, Mr. Kelly stated that the Design Review Board indicated no interest in reviewing these proposed signs.

The Board strongly recommended adding a condition k.) to the proposed language noting that it will be sufficient grounds for non-renewal of the annual license if businesses do not comply with the bylaw. Ms. Eggleston suggested revising condition j) to read that authorization must be renewed on an annual basis. She also requested that condition e) be revised to convey that no more than two signs shall be displayed along the street frontage.

Mr. Tyler noted there are many legal issues regarding the sign industry and property rights and he reiterated the need for additional research. Chairman Fee agreed and asked Ms. Kablack to seek guidance on these matters from Town Counsel.

Mr. Sziabowski questioned that if there are no design standards established, on what basis will you be able to deny renewal and upon what standards will non-compliance be judged.

Discussion ensued as to whether the proposed bylaw language was clear regarding whether the registration price is per site or per sign. The Board and Mr. Kelly believe it clearly suggests \$250.00 per portable sign. Mr. Kelly did indicate an openness to considering another figure other than \$250.00, if deemed appropriate by the Board.

Chairman Fee said it is important to balance helping businesses succeed, yet maintain the aesthetics of Route 20. He foresees public reaction at Town Meeting to be voiced regarding the proposed amount of the registration fee and as to how the discretionary

element of regulations can be enforced fairly. Chairman Fee requested that analysis be completed to justify the registration fee to be collected, so as to provide a more defensible figure of the revenue needed to defray the cost of enforcing the bylaw.

On motion duly made and seconded, it was unanimously:

VOTED: To close the Public Hearing concerning the Zoning Article on the Warrant for the 2007 Annual Town Meeting to amend Article IX, Section 3259A by replacing the section on "Temporary Signs."

On motion duly made and seconded, it was also unanimously:

VOTED: To recommend the revisions, as discussed this evening, to the Zoning Article on the Warrant for the 2007 Annual Town Meeting to amend Article IX, Section 3259A by replacing the section on "Temporary Signs," and to request that Town Counsel provide the Board with an opinion regarding the legal issues related to this proposed amendment to the bylaw, prior to the Board presenting this article at the Annual Town Meeting.

**Petition Article for 2007 Annual Town Meeting Warrant - Outdoor Wood-fired Boilers**

Present: Peter Glass, Robert McDonald, Walter and Karen Bent, John Platt, and Board of Health Member Lynne Geitz

Peter Glass, 523 Hudson Road, reported to the Board that he and other concerned citizens have drafted an article petition, "Use of Outdoor Wood-fired Boilers," (OWB) for presentation at the Annual Town meeting. The Board was in receipt of previous information from Mr. Glass, including an article "Wood Boilers Cut Heating Bills. The Rub? Secondhand Smoke," by Anahad O'Connor, which was published in the New York Times on December 18, 2006. Mr. Glass described the public safety dangers from odors and thick smoke created by OWBs via photographs and a brief PowerPoint demonstration. He noted that there are three units in Town already, and he hopes the passing of the proposed bylaw would force these to cease to operate as well as prohibit others from being installed. Mr. Glass also hopes that the Planning Board will support the bylaw at Town Meeting.

Chairman Fee stated the presentation was well done. He noted that Mr. McDonald had initially brought this topic to the Board four months ago, and was told at that time, to work with, and seek guidance from, the Board of Health.

Representing the Board of Health, Ms. Geitz thanked Mr. Glass and Mr. McDonald for the information they have provided. She announced that the Board of Health has determined that a moratorium on the use and further development of these boilers is

justified. A public hearing was posted in the *Sudbury Town Crier* to be held March 8, 2007.

Ms. Geitz stated that Board of Health Director Bob Leupold has consulted with the Department of Environmental Protection (DEP) as to when the Department might be

issuing regulations for these devices. It appears the DEP will act on some form of regulation no earlier than September 2007.

Mr. McDonald strongly rejected the suggestion that Sudbury wait for DEP to set limitations. He believes it is the responsibility of the cities and towns to act quickly to ban these boilers in the interest of public safety.

Ms. Geitz cautioned that it is important to weigh as much evidence as possible so as to institute proper and fair decisions. On behalf of the Board of Health, she said that the frustration a neighbor would have with this situation is certainly understandable.

Chairman Fee asked Ms. Geitz what the Board of Health's position is on whether these devices are health hazards. Ms. Geitz said that while the Board clearly acknowledges that the boilers are unpleasant aesthetically, there have not been enough studies and research performed to provide conclusive evidence of the severity of health hazards. Ms. Eggleston posed a few questions to Ms. Geitz regarding chronic exposure, in close proximity, to these structures. Ms. Geitz responded that there are many factors, which must be considered when determining potential health hazards for the public. She noted that there are potential harmful effects from many things, such as emissions from SUVs, wood-burning stoves, and fireplaces, but they vary as to the degree of danger posed.

Mr. McDonald again rejected the suggestion that there is not enough health evidence to act quickly in the best interest of Sudbury's children and adults. He is appalled that the Board of Health appears to be moving so slowly on a matter that, in his opinion, is of critical importance, and feels "more is done to protect citizens from barking dogs" than from unhealthy emissions in their own backyards. He believes it is better for the Town to err on the side of caution than to do nothing at all.

Ms. Geitz stated that the Board of Health is not opposed to regulating the use of these devices, however, it would prefer to have help and guidance from the DEP as to what is appropriate and how to define for example, what qualifies as a safe versus an unsafe emission. She said Mr. Leupold has reviewed the proposed bylaw petition and has recommended the inclusion of, and mechanism for establishing, a site plan. Mr. Leupold also suggested that the Fire Chief be consulted regarding safety permitting requirements.

Many Board members expressed shock at the fact that there are no local permits required for these structures if they are smaller than the required 10 feet by 12 feet, and given that in essence, an underground utility is being piped into a household from structures which have no foundations. The Board also noted that the draft bylaw does not specify who will enforce the prohibition of the boilers. Discussion also included consideration of proper setback requirements.

Chairman Fee acknowledged the frustrations expressed regarding the situation, and said that "it was a difficult issue upon which reasonable minds can differ." However, as to whether the Planning Board can endorse this bylaw petition, Chairman Fee stated that as written and drafted, much of the content is not germane to the purview of the Board.

John Platt, 273 Lincoln Road, an owner of one of the three boilers in Sudbury, told the Board that he understands the need for the discussion, but hopes that whatever regulations are instituted will be based upon scientific documentation and not emotions.

Walter and Karen Bent, 539 Hudson Road, who own another of the boilers in Town, also stated that it is not their intent to cause harm to themselves, their children or their neighbors. Mr. Bent said the significant smoke is emitted intermittently for only five to ten minutes at a time as the device builds up to temperature.

Ms. Geitz reiterated that the Board of Health has taken this issue quite seriously, as evidenced by instituting the moratorium. She hopes the efforts by the Board of Health to thoroughly perform its due diligence regarding this matter will be appreciated.

Chairman Fee summarized the Planning Board's conclusion that perhaps the proposed bylaw, as drafted, does not adequately address the issues surrounding this matter. He stated the topic does require expert analysis and the Planning Board would also prefer DEP regulations as a guide. He informed the petitioners that the Board would consider this discussion, and subsequently notify them of its position.

#### **Articles for 2007 Annual Town Meeting Warrant**

Ms. Kablack provided the Board with a list, dated February 13, 2007, of all Annual Town Meeting Warrant articles and reports pertinent to the Board for review. When reviewing Article #4 for the Police Headquarters, she announced that a presentation by the Permanent Building Committee and the architect for the construction of the new Police Station has been scheduled for the March 14, 2007 Planning Board Meeting.

The Board discussed Article #13 for Street Acceptances of Skyview Lane, Fox Hill and Mary Catherine Lane. Ms. Kablack noted that the Conservation Commission is reviewing construction of the drainage basins and volume capacity, although neither

subdivision was subject to an Order of Conditions. Bill Place has reviewed the as-built plans and finds them constructed in general conformance with the approved plans. The Planning Board holds performance bonds on both projects for completion of landscaping and other minor items.

It was on motion unanimously

VOTED: To support the street acceptances of Skyview Lane, Fox Hill and Mary Catherine Lane, subject to the developers finishing all outstanding items on the punch lists and that bonds not be returned until all work is finished.

The Board also requested that Ms. Kablack send both developers a letter to inform them of this decision.

It was on motion unanimously

VOTED: To designate Christopher Morely as the Planning Board speaker at the Annual Town Meeting for Articles #22, #23, #24, and #25, which relate to the CPC - Rail Trail and Johnson land issues.

It was on motion unanimously

VOTED: To support Article #26 regarding the CPC, Housing Trust Allocation at the Annual Town Meeting, and to designate Chairman Fee as the Planning Board's speaker.

It was on motion unanimously

VOTED: To support Article #27 regarding the CPC, Amend Buy-Down Article at the Annual Town Meeting, and to designate Jody Kablack as the Planning Board's speaker.

It was on motion unanimously

VOTED: To support Article #28 regarding the CPC, Carding Mill House at the Annual Town Meeting.

It was on motion unanimously

VOTED: To oppose Article #34 for the Street Acceptance Petition at the Annual Town Meeting, on the procedural grounds articulated by the position of Town Counsel.

It was on motion unanimously

VOTED: To not support Article #31 to amend the Bylaw regarding Use of Wood-fired Boilers at the Annual Town Meeting, as written, due to the structure of the bylaw, language ambiguity, and lack of an enforcement provision, and to authorize Chairman Michael Fee to communicate to the petitioners that the Board would support a revised petition for a ban of the devices.

### **Miscellaneous**

#### **Minutes**

On motion duly made and seconded, it was unanimously:

VOTED: To approve the minutes of February 7, 2007, while noting the accurate spelling of Christopher Morely for future minutes.

#### **Frugal Flower - Site Plan Update**

Ms. Kablack distributed to the Board, for informational purposes, copies of a letter from the Design Review Board and a memo from the Building Inspector, both dated February 15, 2007, regarding the proposed site change of use plan. The Design Review Board noted no objection to the proposed architecture. However, the Board did express concern regarding adequate landscape design. Thus, the Board recommended withholding further approvals until the spring, when the site can be improved. The Building Inspector provided several recommendations to be completed prior to approval. She also distributed a letter dated February 19, 2007, from abutters, Esther and John Brockman, 12 Revolutionary Road, expressing strong opposition to the site plan change of use application.

Ms. Kablack also distributed to the Board, for informational purpose, copies of the final letter she sent to the Board of Selectmen reporting the Planning Board's recommendation to deny the request for a change in use of the site based upon several significant concerns.

#### **Board of Appeals**

Ms. Kablack distributed to the Board, for informational purposes, the February 27, 2007 Board of Appeals Notice of Public Hearing.

#### **Sudbury Village 40B Update**

Ms. Kablack distributed to the Board, for informational purposes, copies of letters sent by the Town Manager on behalf of the Board of Selectmen, both dated February 2, 2007, to the Sudbury Zoning Board of Appeals and the Massachusetts Housing Finance Agency,



providing commentary from the Town on the modified proposal for the Sudbury Village project.

**Metropolitan Area Planning Council - MAGIC Representative Appointment**

Ms. Kablack distributed to the Board, for informational purposes, the agenda for the first meeting Sudbury will host for the Minuteman Advisory Group on Interlocal Coordination (MAGIC) subregion meeting on March 1, 2007 at 7:00 p.m. at Town Hall. The Board also signed the vote which appointed Michael Hunter as the Sudbury Planning Board Representative to the MAGIC group.

The meeting was adjourned at 10:15 p.m.