

Present: Michael Fee (Chairman), Joe Sziabowski, Christopher Morely,
Michael Hunter, Eric Poch, Jody Kablack (Director of Planning and
Development), Lisa Eggleston (Associate)

At 7:35 p.m., Chairman Fee called the meeting to order.

Public Hearing - Stormwater Permit – 118 Nobscot Road

Present: Thomas DiPersio, Sr. and Thomas DiPersio, Jr., Thomas Land Surveyors & Engineering
Consultants, Inc., property owners Audrey and Glen Murphy

At 7:35 p.m., Chairman Fee opened the Stormwater Permit Public Hearing regarding an application submitted by Audrey and Glen Murphy to construct an equestrian facility consisting of an indoor riding arena, barn, parking, sewage disposal system and related facilities, property located at 118 Nobscot Road, Sudbury, Assessor's Map L07, Parcel 0202. He read the public notice, stating the Hearing was duly published in the *Sudbury Town Crier* on June 24 and July 1, 2010.

Ms. Kablack reviewed materials received to the file to date, including a Stormwater Management Permit application and accompanying report, Stormwater Site Plans, an email message to Mr. DiPersio from Ms. Kablack noting comments and concerns, emails from Mr. DiPersio to Ms. Kablack dated July 7, 2010 and July 13, 2010 addressing previously presented concerns, and an email from Ms. Kablack to Mr. DiPersio dated July 13, 2010 regarding the location of the manure pile and its runoff controls in relation to Board of Health regulations. She noted that drainage calculations have been provided and a Draft Decision has also been prepared.

Representing the applicant, Thomas DiPersio, Sr. presented an overview of the project application with the use of exhibits. He reviewed an existing conditions plan, indicating the wetlands zone and a site design plan. Mr. DiPersio noted that tonight's focus is on the stormwater design and plans to mitigate issues according to local and Department of Environmental Protection (DEP) regulations. He stated there is a well on site, and there will be a private septic system, which has been approved by the Board of Health. In addition, an erosion control plan was displayed, and it was noted that sediment control measures during construction would be included.

Thomas DiPersio, Jr. explained that analysis has been done regarding present runoff conditions examining the topography, types of soil and soil covers. Runoff calculations have also been done regarding how much, and at what rate, runoff would take to reach the wetlands. Mr. DiPersio also stated that analysis has been done regarding what the site would look like after development, and it appears that it will maintain pre-existing conditions. He noted that runoff would be managed in three areas by rain gardens, and he described their location at the request of Chairman Fee. Mr. DiPersio, Jr. also stated that soil conditions are sandy and amenable to infiltration treatment.

Ms. Eggleston stated she had reviewed the initial application submission and had presented her comments and suggestions, most of which have since been addressed.

Mr. DiPersio, Jr. stated that today, test pits were performed at each rain garden location, indicating depth greater than four feet from the water table. He later stated the soil logs from today's tests are available. Mr. DiPersio also stated that Ms. Eggleston had noted that pretreatment would be required, since the site's location is considered Zone 2. Thus, grass swales and sediment forebay areas have been provided as mitigation before the runoff reaches the rain gardens. After development, Mr. DiPersio, Jr. stated that the net result would be that the peak rate would be reduced, and the total volume would be equal to, or reduced from, existing conditions. Calculations have also been done to address roof runoff.

Ms. Eggleston questioned whether there was a problem with the planned vegetated swale, noting that the 2' contour presented, rather than 1,' are difficult to analyze. Ms. Kablack later clarified that the 2' contours are acceptable according to Town regulations.

Ms. Eggleston asked if sizing calculations for the forebays are available. Mr. DiPersio, Jr. stated he would provide them at a later date. Ms. Eggleston asked the width of the swales and was informed they would be three-foot wide.

Ms. Eggleston asked if planting plans for the rain gardens are available, noting that more definition is needed regarding the types of plants and their maintenance. Mr. DiPersio, Jr. responded that a generalized listing has been developed. Ms. Eggleston emphasized that since the rain gardens are drainage structures, they need to be treated as permanent structures in the O & M plans. Chairman Fee suggested that such language be added as a condition of approval. Ms. Eggleston suggested the following language: "The rain gardens or hydraulic equivalent are part of the drainage system, and thus should be maintained in perpetuity."

Ms. Eggleston also recommended that overflow of the rain gardens be directed. She also asked what type of roof is planned. Applicants Glen and Audrey Murphy stated that a metal roof of galvanized steel is planned. Ms. Eggleston noted that DEP prohibits infiltration in Zone 2 for leaching of zinc. Mr. Murphy further clarified that it is a pre-painted metal roof, with a 50-year warranty for corrosion. Mr. Morely and Ms. Eggleston requested that cut-sheet specifications of the roof be provided to the Board for review.

In response to a question regarding manure management, Mr. Murphy stated that an initial covered 24-foot storage area would be provided to house a dumpster. He further stated that they have also applied for grants from the National Resource Conservation Group to build a compost building for the long-term. When asked to explain the location of the compost building on the site, Mr. Murphy stated that it was specifically placed as far away from neighbors as possible. Mrs. Murphy stated she brought plans tonight of the interior of the covered compost area.

Ms. Eggleston asked if there would be a pasture area. Mr. Murphy stated there would be and that the Conservation Commission already has a letter of intent and has opined that the land could be used up to the wetlands.

Sudbury resident John Finlay, 32 Old Framingham Road -Unit 16, asked if there would be manure runoff. Cosmo Erbaфина, 32 Old Framingham Road -Unit 26, specifically asked Mr. DiPersio, Sr, who he believes to be an honest man, whether neighbors would be able to smell the manure. Mr. DiPersio, Sr. stated that he could not guarantee there would be no smell, but that he believes the applicants are doing everything possible to prevent that from being an issue. Mr. Murphy asked if neighbors could smell anything now, and the consensus was no. Mr. Murphy stated the conditions should be even better than they currently are, since the manure would be stored in a covered shed.

Chairman Fee noted that tonight's focus for discussion is stormwater-related issues. He further stated that if there are future odor concerns, such nuisance issues could be broached with the Board of Health.

A Sudbury resident from 32 Old Framingham Road asked if these matters would be monitored into perpetuity, and by whom. Ms. Eggleston responded that little maintenance, such as weeding and mulching would be required, since fertilizer would be prohibited. However, she further noted that ongoing maintenance and periodic inspections should occur. Chairman Fee noted that conditions of the decision could include inspections and maintenance of three years of records. However, he emphasized that abutters are in the best position to monitor the situation and identify to the Town anything needing attention. Ms. Kablack clarified that once the plan is finally constructed, the Town does not perform any further inspections. She noted that the plan would be effective and work, since it would be built based on previously examined and valid calculations. If the Town received reports of improper maintenance, Ms. Kablack further stated that a lien could be placed on the property.

Mr. Morely asked if there should be more detail regarding the noted retaining walls. Mr. DiPersio, Jr. clarified that there are no retaining walls, and that the plan notation in question is really grading.

Chairman Fee summarized that the Board needs additional information regarding soil logs, planting information, reinforced rain garden overflows, roof specification sheets, and final language regarding maintenance into perpetuity.

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

VOTED: To close the Stormwater Permit Public Hearing regarding an application submitted by Audrey and Glen Murphy to construct an equestrian facility consisting of an indoor riding arena, barn, parking, sewage disposal system and related facilities, property located at 118 Nobscot Road, Sudbury, Assessor's Map L07, Parcel 0202.

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

VOTED: To conditionally approve the Stormwater Management Permit Decision dated July 13, 2010 as reviewed tonight, regarding an application submitted by Audrey and Glen Murphy to construct an equestrian facility consisting of an indoor riding arena, barn, parking, sewage disposal system and related facilities, property located at 118 Nobscot Road, Sudbury, Assessor's Map L07, Parcel 0202, subject to the receipt and satisfactory review by Ms. Eggleston of additional information regarding soil logs, planting plan, reinforced rain garden overflows for 100-year events to be added to a revised plan, roof specification cut sheets, and final O & M plan language regarding maintenance into perpetuity, sizing calculations for the forebays, and a long-term pollution prevention plan.

MassHousing - Pine Grove Development – Discussion Continuation

Applicant Peter Karassik, President of The Eligius Homes Company and his Land Surveyor Thomas DiPersio, Sr.

At 8:15 p.m., Chairman Fee welcomed applicant Peter Karassik, President of The Eligius Homes Company, to the meeting to continue discussion regarding his application for a comprehensive permit pursuant to M.G.L. c 40B to construct twelve units (three of which will be affordable housing) of detached housing on approximately 7.1 acres of land located at 293/301 Old Lancaster Road.

The Board was previously in receipt of a letter sent to the Massachusetts Housing Finance Agency from the Town Manager dated July 7, 2010, noting the Town's comments and recommendations and suggesting that alternative designs be considered, and a letter from Sudbury's Planning Board concurring with those comments and suggestions.

Chairman Fee summarized the Board's last discussion regarding the pending Chapter 40b application for 12 units. At that time, the Board also discussed the possibility of a five-lot subdivision alternative plan and waivers that might be necessary.

Mr. Karassik reviewed the history of his ideas for the site, originating with a six-lot subdivision plan a few years ago, which had a waiver issue regarding roadways in too close proximity to each other. Recently, he submitted the Chapter 40B application and has received Town feedback from the Selectmen and the Planning Board and from the public. Mr. Karassik reported that he has also met with a few neighbors on Old Lancaster Road, whose major complaints are the number (12) of proposed units. Mr. Karassik stated, at this time, he is proceeding with the Chapter 40B application. However,

Mr. Karassik has also asked his surveyor, Mr. DiPersio, to look at alternative designs. Mr. DiPersio has developed a five-lot subdivision plan, with a slightly relocated entrance road to avoid wetlands issues.

Mr. Karassik stated that his lawyer has suggested that the Chapter 40B application cannot be retracted unless the Board/Town were to contractually assure the applicant that the subdivision plan would be approved.

Chairman Fee stated that the purpose of tonight's working discussion is to ascertain if the Board would favorably entertain the idea of granting a waiver for the five-lot subdivision plan. Chairman Fee asked if the waiver issue has been minimized or exacerbated in the five-lot subdivision plan. Mr. Karassik and Mr. DiPersio noted that the waiver issue remains the same as it has been. Chairman Fee concluded that the curb cuts are fixed, and thereby cannot be changed by any design plan.

Mr. Morely emphasized that it is not the Board's intention to deliberately steer the applicant in a certain direction, but rather to have a thorough discussion of the options available.

Mr. DiPersio stated that the applicant would appreciate knowing the position of the Board prior to spending more money and time to pursue a five-lot subdivision plan, which might not be approved.

Mr. Karassik reported that he met today with Mr. and Mrs. Craig Blake, who live across the street from the site, and they prefer the five-lot subdivision plan to the 12-unit Chapter 40B proposal.

Chairman Fee noted that no relief would be needed from the Conservation Commission and that the only threshold issue for this Board is the necessary roadway location waiver. He noted that the Board might entertain a waiver, if rationale were provided indicating a public benefit to be received.

Mr. DiPersio explained that the five-lot subdivision plan created more land on one side, which allowed the five lots to be completely kept out of the river front area. Thus, it is possible that now 1.9 acres could be set aside to convey to the Town or Conservation Commission as open space and as a public benefit. Chairman Fee concurred.

Mr. DiPersio further stated that the five-lot plan creates less infrastructure, less roadway, possible trail opportunities and results in a low-impact development, which is less dense than the previous proposal.

Ms. Eggleston asked if cluster developments have been considered. Mr. DiPersio responded that the acreage does not conform to that model.

Mr. Morely asked if the mature trees in the area could be maintained, since neighbors have suggested they be retained. It was noted this would be taken into consideration.

Ms. Eggleston asked what the price point and square footage would be for the five homes. Mr. Karassik responded that those factors were well determined for the Chapter 40B proposal, but that the five-lot plan includes risk. He estimated the size of the homes to be between 2,800 to 4,500 square feet. Mr. Karassik emphasized that he does not want to be restricted regarding the size of the homes once he determines what size will be profitable, otherwise he would rather construct the Chapter 40B homes.

Chairman Fee invited public comment on the limited issue under discussion of whether the Board should waive one Town regulation for a five-lot subdivision plan instead of proceeding with the

Chapter 40B proposal for 12 units. He noted that, generally, the Board is not inclined to waive a requirement without evidence of significant public benefit for doing so.

Lisa Vitale Barth, 286 Old Lancaster Road, stated her ideal preference is that the property not be developed at all, but given the choices, she prefers the five-lot plan because it is less dense.

Katherine Jacob, 328 Old Lancaster Road, opined that the Chapter 40B design is atrocious and too dense. She believes the five-lot plan is better.

A Old Lancaster Road resident opined that the five-lot plan is laid out better than the Chapter 40B plan, and he favors the idea of land being conveyed to the Town.

Anne Fischer, 24 Wildwood Lane, prefers the five-lot plan with less density, and she has concerns about a road being developed in an already small area.

Douglas Grant, 375 Old Lancaster Road, stated that the applicant did reach out to him and his brother Howard, which they appreciate. They would support the five-lot subdivision plan over the 12-home plan. He perceives the Chapter 40B as a disaster, and prefers fewer homes be built.

Ken Lefner, 238 Old Lancaster Road, asked about the road going to the wetlands area, and whether there would be a lot of runoff.

Mr. DiPersio stated that, if the subdivision plan proceeds, the Planning Board would vigorously review stormwater and drainage plans in comparison to the Town and DEP regulations, and the burden would fall on the applicant to prove, through the use of infiltration techniques, that flooding would not occur.

Ms. Eggleston noted that the advantage of a subdivision plan is that local regulations and the Town's Stormwater Bylaw are not circumvented, as they are through the Chapter 40B process.

Katherine Bautze, 482 Peakham Road, prefers the less dense option of the five-lot subdivision plan and hopes it is workable for all parties.

Mr. Morely noted that there are no trail opportunities to connect to through this property.

Chairman Fee asked each Board member to state their opinions regarding the two plans discussed.

Mr. Morely stated he prefers the five-lot subdivision plan, however, he is concerned about how the Board will handle future matters, if a precedent is set.

Mr. Sziabowski stated that he views the five-lot-subdivision plan as a different plan than what was previously presented, and that it is now one that has public benefit. He also believes that the subdivision process, which he favors, would allow for better input from the Town and neighbors. Mr. Sziabowski noted that he believes a better 12-unit Chapter 40B project could have been

submitted than the one that was, but that would not now be achieved through the Chapter 40B process.

Chairman Fee concurred with Mr. Sziabowski, stating it is a different plan than previously presented, and he believes the subdivision process would provide opportunities to make better decisions regarding the parcel.

Mr. Hunter stated that he perceives the five-lot subdivision plan as providing enough of a public benefit to allow him to support the plan.

Mr. Poch stated that the threshold issue for the Board has always been to not allow a waiver until all regulations are met. However, he also stated that the five-lot subdivision plan is clearly preferable and more controllable for the Town. Mr. Poch questioned what the process would be to retract the Chapter 40B application.

Ms. Eggleston stated that she is concerned about setting a precedent with a waiver exception, since the Board has always taken a strong position to not grant waivers unless all regulations have been met. She concurred with Mr. Sziabowski that a better Chapter 40B proposal could have been presented than the one chosen by the applicant. However, Ms. Eggleston further stated that the applicant has proved the land is developable and it is in the Board's interest to pursue the public benefit which could be derived. Later in the meeting, Ms. Eggleston also noted that this applicant made a genuine and concerted effort of his time and money pursuing the Chapter 40B application. Chairman Fee concurred.

Chairman Fee asked the applicant if enough feedback from the Board had been provided this evening to determine the applicant's next course of action. Mr. Karassik and Mr. DiPersio responded the discussion had been helpful in helping them to determine how to proceed.

ZBA Petition #10-39 – Accessory Dwelling Unit – 10 Crestview Circle – Discussion

Present: Petitioners Joe Jowker and Marta Redjaee, Petitioners' Attorney Robert W. Landry and Building Inspector James Kelly

At 8:50 p.m., Chairman Fee opened the discussion regarding the Zoning Board of Appeals (ZBA) Petition #10-39 regarding an accessory dwelling unit Special Permit proposal for 10 Crestview Circle from Joe Jowkar and Marta Redjaee.

The petitioners' attorney Robert W. Landry explained that they would like to avail themselves of the bylaw stipulation, which allows for an opinion from the Planning Board regarding whether their application complies with the intent of the bylaw. He explained that the petitioners recently applied for a Special Permit to the Zoning Board of Appeals (ZBA) and a Public Hearing was held on May 3, 2010, wherein contrary positions were presented regarding the proper measurement of the property for the purpose of determining the allowable size of an accessory dwelling and the use of a waiver under the bylaw. Three ZBA members perceived the accessory apartment size as almost

half the parcel square footage. The petitioners disagree, but withdrew their application, without prejudice, rather than accept a denial. The petitioners plan to re-file their application, believe it to be reasonable and have retained legal counsel. The next ZBA hearing is scheduled for July 19, 2010.

Mr. Landry displayed photographs and reviewed the proposal for a 932 sq. ft. accessory unit, which equates to 31.18% of the total structure according to Town Assessor's Office information. He noted that this is slightly over the recommended 30% mentioned in the bylaw, however it is consistent with other accessory dwelling units approved in Sudbury. The current home has four bedrooms, and the proposal would be for the original home to maintain two bedrooms and the basement accessory dwelling to also have two bedrooms. In response to a question from Chairman Fee, Mr. Landry stated that the ZBA's main concerns related to the size of the unit and that the proposal seemed more like a single to a two-family home conversion.

Mr. Landry distributed copies of revised data based on Assessor's Office records, which included new construction percentages. Mr. Landry emphasized that, given the layout of the current home and the plan to create an accessory unit on the lower level, it seems within the intent of the bylaw to consider the existing property conditions and constraints, and thus propose a slightly larger unit. He also noted that the petitioners requested verification of their measurements from Building Inspector James Kelly.

Building Inspector Jim Kelly reported that six applications for accessory dwelling units would be reviewed at the next ZBA meeting.

Chairman Fee stated that the purpose of the bylaw was to increase housing opportunities in Town to increase the diversity of options available to property owners who might need to avail themselves of this choice for additional income. He recommended that the petitioners present their argument to the ZBA according to the language of the bylaw, and thereby demonstrating how their application meets the criteria.

Mr. Jowker stated that the house is now too big for the three remaining residents, and that with a job change in recent years, he is not making as high a salary as he was before.

Ms. Eggleston, opined that the application proposes to create alternative housing without increasing the footprint of the house, without additional bedrooms, with no impact, and thus she does not understand the ZBA's opposition.

Mr. Kelly stated that the ZBA perceived the application as splitting the home by 50%/50%, which it concluded far exceeded the 30% stated in the bylaw, and it does not want to promote two-family home conversions.

Ms. Kablack noted that she and Mr. Kelly have reviewed and revised the application for these Special Permits. She further recommended requiring a certification from the Building Inspector to assist the ZBA with its deliberations. Mr. Kelly stated that, although site visits for measurements

would not occur, certification of measurements could be done from plans. Mr. Kelly and Ms. Kablack noted that flexibility within the process is needed.

Mr. Morely advised that accurate calculations be submitted with the application, which might include the new construction data.

Chairman Fee referenced language from the relevant bylaw, noting that a requirement may be waived due to the physical constraints of the building, which this application appears to demonstrate. Ms. Eggleston concurred, stating that the current building logically breaks at the 31.18% mark, and therefore she views this application as an ideal waiver candidate.

Mr. Morely recommended, and the Board concurred, that Ms. Kablack, on behalf of the Board, draft a letter to be sent to the Zoning Board of Appeals, stating that the Planning Board has reviewed the proposed application and the bylaw, and assuming all calculations presented are accurate and verified by the Building Inspector, it would view the petition favorably. Chairman Fee recommended that language from the bylaw be referenced, noting that the Board spent considerable time discussing the discretion within the bylaw, which it believes the ZBA should exercise, to not necessarily adhere to strict guidelines when an application comes close to the stated targets, and further noting that the Planning Board believes that, given the constraints of the property, further restriction on the accessory dwelling unit is not logical.

Mr. Jowker asked for the rationale for establishing the limit for these units at 850 square feet. Mr. Morely stated that 850 square feet is equivalent to a spacious one-bedroom apartment, and smaller units were what the bylaw intended so as not to encourage two-family home proposals. Chairman Fee concurred, noting that the argument to the ZBA should veer away from any resemblance to a two-family home. Ms. Eggleston noted that Sudbury is primarily a community with a single-family home mindset. She suggested that the petitioners emphasize to the ZBA that they plan to remain living in the house as well.

Mr. Kelly opined that more can be done to refine the ZBA Special Permit application and the information requested from petitioners to facilitate review. Chairman Fee recommended that this observation be included in the letter and that it be noted that the Planning Board continues to support this bylaw.

Mr. Morely emphasized that the guidelines noted in the bylaw were intended to be targets, rather than limits, for working within the confines of an existing structure, and this is what the Board expected to see for requests.

Mr. Poch concurred, noting that this application is for existing built space, and fulfills the intent of the bylaw.

Mr. Kelly noted that, at times, the ZBA is still distinguishing the purpose for the unit as an in-law or rental unit. Chairman Fee noted that the bylaw passed last year removed that distinction, and if a

decision were to include a condition for an in-law unit, the decision could be appealed and possibly expose the Town to liability charges. Ms. Kablack will further discuss this matter with the ZBA.

At 9:30 p.m., Chairman Fee closed the discussion.

Johnson Farm - Chapter 40B Proposal - 189 Landham Road - Discussion

Developer Moss Development Inc.

Ms. Kablack distributed copies to the Board of the Meeting Notice for the Board of Selectmen public meeting to be held on July 27, 2010 at 8:30 p.m. regarding the application for a comprehensive permit pursuant to M.G.L. c 40B to construct The Residences at Johnson Farm, consisting of 120 newly constructed housing units located on 35.6 acres (21.7 buildable acres) of land located at 189 Landham Road. Ms. Kablack reported that the Town has been given a period to comment on the project to the Massachusetts Housing Finance Agency. Ms. Kablack will prepare a letter for the Selectmen noting her comments.

It was noted that this parcel was identified in the Town Open Space and Recreation Plan as a property of interest for purchase by the Town.

Minutes

On motion duly made and seconded, it was unanimously

VOTED: To approve the regular meeting minutes of May 12, 2010, and to accept and approve minor revisions suggested by Chairman Fee and Mr. Poch to the minutes of June 9, 2010.

Miscellaneous

Planning Board Membership – Interested Candidate Introduction

Ms. Kablack introduced Craig Lizotte, who is interested in serving as an Associate Member on the Planning Board. Craig attended tonight's meeting, and will plan to attend a few more to get a sense of the matters that come before the Board. Craig is a civil engineer, with 20 years of experience.

Planning Board Associate Member – Resignation

Ms. Eggleston announced that she would like to officially resign her position and will send an official email notification to Ms. Kablack tomorrow. Ms. Eggleston stated her preference to continue to participate as a member of the Technical Advisory Committee (TAC). Ms. Kablack will research participation with TAC, but initially believes Ms. Eggleston would be able to remain as a TAC member.

On motion duly made and seconded, it was unanimously

VOTED: To accept the resignation from the Planning Board of Associate Member Lisa Eggleston.

Upcoming Planning Board Meeting Schedule

The Board's next meeting is scheduled for September 15, 2010.

The meeting was adjourned by Chairman Fee at 9:53 p.m.