

November 8, 2008 Planning Board Meeting

PRESENT: Bob Tucker, Tom Gay, Karyl Spiller-Walsh, Andy Rodenhiser

ABSENT WITH NOTICE: Chan Rogers

ALSO PRESENT: Susy Affleck-Childs, Planning Board Assistant
Barbara Saint Andre, Town Counsel
Glenn Trindade, Board of Selectmen
Ken McKay, ConCom

Called to order at 8:06 am

Citizen Comments – None.

Discussion focused on the November 10, 2008 special town meeting.

Article 22 – Street Acceptances.

Ken McKay – I am here, but not as a representative of the ConCom. I can only speak from my own perspective.

Paul Yorkis – Representing Granite Estates, Inc.—I am an officer and can make decisions on behalf of the corporation.

I would like to thank the Planning Board and others for being here this morning. The issue is simply this: an Order of Conditions was issued by the Medway ConCom. It was appealed by an abutter. As a result, the Mass DEP Worcester Office issued a Superseding Order of Conditions. That was not appealed by any party. The work progressed under the Order of Conditions which included changes to drainage and things of that nature. The Town of Medway ConCom issued an Enforcement Order because they believed we had violated the Superseding Order of Conditions. The work was completed. Mass DEP issued a Certificate of Compliance in response to our request for such. That information has been shared with the Planning Board and ConCom. ConCom did not feel that we adequately addressed their concern under the enforcement order. As a result, the applicant did additional work, even though we had the DEP Certificate of Compliance. We constructed a vernal pool replacement in the same location as the certified vernal pool, and we have done everything we can. As far as we are concerned, there is no outstanding enforcement order. We have tried to cooperate. We believe it is null and void because the state has issued a Certificate of Compliance. We are in full compliance with all the other aspects required by the Planning Board. It is our position that the roads should be accepted.

Andy Rodenhiser – Questions. Has anybody been by to look at it?

Tom Gay – I have.

Karyl Spiller-Walsh – Refresh me to the status of the vernal pool.

Andy Rodenhiser – My understanding is that it has been reconstructed. It is my belief, from talking with Dave, Travalini, that they would like to wait until the spring to see if the work holds. I was there yesterday. There are two monitoring wells.

Paul Yorkis – We have been paying the firm as a result of the request from ConCom – 3 individuals have been paid to monitor 2 vernal pools for 4 years.

There are two independent vernal pools (on Parcel D) – one at the rear and one forward. The forward one is closest to the street. That is the one in dispute (near guardrail). The water table functions differently in each vernal pool over the past 4 years – the relationship of the water tables in the two pools has been consistent - the levels are different – when water table comes up – designed to hold water for 2 months per the state law and national heritage standards. It was engineered and constructed under the direction of a civil engineer, botanist, hydrologist, etc.

Andy Rodenhiser – is there any certifications from them –

Paul Yorkis – Not at this time. They did have as-builts that they were going to present to ConCom Thursday night.

Ken McKay – A few things (to clarify). The enforcement order was not issued against the Superseding Order of Conditions. It was issued because witnessed damage was being done to the vernal pool. That order is independent of the Superseding Order of Conditions.

What we have seen done in the past 4 weeks is a tremendous effort to mitigate the damage – I applaud him – it has been 4 years – we realize the old vernal pool is gone – it is impossible to bring it back – once upon a time, the ponds functioned at the same level

Paul Yorkis – What has just been said is factually incorrect. The two vernal pools were never connected – uplands separating them – that was never disturbed

Andy Rodenhiser – Is there a hydraulic connection?

Ken McKay – At ground water level, yes; at surface level,

Andy Rodenhiser – Testifying to what you know, is it true what he said?

Barbara Saint Andre – This is a fascinating discussion – but you are not the ConCom- you are here to determine whether they have complied with your (subdivision) certificate of approval – I am hoping that the board will get to the certificate of action , to determine whether that has been accomplished.

Andy Rodenhiser – I understand. I am trying to show respect to ConCom in terms of their concerns. I am not trying to be the ConCom. We do want to get people's info here.

Karyl Spiller-Walsh – What I heard Ken McKay say is that at some point there was a water connection between the two pools

Ken McKay – I do not know if they were truly contiguous. We know the old pool is gone. It is substantial. It had great depth. Our concern is that a new habitat be able to form

Andy Rodenhiser – Would you agree that it is on parcel D?

Ken McKay – Yes.

Andy Rodenhiser – Have you guys accepted.

Ken McKay – No.

Paul Yorkis – The Certificate of Compliance of the DEP trumps any and all enforcement order

Andy Rodenhiser – Was DEP aware of the ConCom enforcement order?

Paul Yorkis – Yes.

Ken McKay – I am telling you from a lay persons perspective

Ken McKay – The applicant is responsible for remedying. The entire course of action has been theirs. We will not rule on the functioning of the vernal pool until the next certification period which would be next spring, 2009.

Glenn Trindade – If we accept the roads, do we have to accept the parcels?

Andy Rodenhiser – Yes, unless we modify the (subdivision) decision – the decision states that prior to acceptance of the public roads, parcel D needs to be accepted by the town

Glenn Trindade – If we accept, and the vernal pool doesn't function in the spring, whose responsibility...Do we have liability? Yes or no?

Barbara Saint Andre – The owner of the property is responsible for whatever the issues are under the Wetlands Protection Act.

Andy Rodenhiser – Could we be provided with some sort of indemnity?

Glenn Trindade – Then we are in a nightmare position because now the Town has to take on the responsibility. We need to get this taken care of. The developer is trying to do the right thing. We should be trying to do everything we can to make it easy to go through the process. I am uncomfortable with any one board usurping any other's responsibility. What comes to mind is the Planning Board when you worked on the Medway Commons site plan and the Board of Selectmen completed disregarded your recommendations - if we are going to go thru the process - I am very disappointed that the chairman of the ConCom is not here.

Andy Rodenhiser – Were they notified?

Susy Affleck-Childs – Yes.

Paul Yorkis – What I have shared with the secretary of the Planning Board and with the chairman is that the applicant has indicated, and will formally indicate, to the Planning Board and to the Board of Selectmen that we currently have a \$40,000 bond being held by the Planning Board. We have agreed to allow/permit to have the Planning Board hold \$20,000 of that \$40,000 until after the spring when the vernal pool will be in a position to function for 60 days and have appropriate egg masses that are defined as laying eggs – one of those two criteria needs to be met under National Heritage – I would suggest the town accept the roads, keep \$20,000 until that period of time that the town has been assured that it (the vernal pool) functions.

Andy Rodenhiser – Barbara, do you see a way? Is there a way for us to come up with an agreement?

Barbara Saint Andre – If they are willing to do that, I would suggest you have the ConCom hold the bond.

Paul Yorkis – We will not agree to do that.

Ken McKay – We have no mechanism to do bonds.

Barbara Saint Andre – Does the Board of Selectmen have the authority? The purpose of the bond that they are going to let you hold is to ensure function of the vernal pool under the authority of the ConCom. I don't think it makes any difference.

Andy Rodenhiser – Could we make that agreement?

Barbara Saint Andre – Is the Planning Board going to make determinations as to vernal pools?

Andy Rodenhiser – Is this board prepared to take action in the spring on the recommendation of the ConCom to release the bond?

Karyl Spiller-Walsh – Let's go back. Because we don't know the failure or success of the vernal pool until after the winter, how do we know that \$20,000 is going to (be enough) to correct that problem? I would suggest we keep the full amount of the bond until spring.

Paul Yorkis – Then don't accept the roads under those conditions. That is unfair, unreasonable, and unwise.

Andy Rodenhiser – Any cost estimates of what it would cost to replicate it a second time?

Paul Yorkis – There is no reason to redo it. The whole idea is not to make it a pond – any deeper to go would turn it to a pond. Some water comes from surface; some comes up. The idea and goal under the certification for vernal pools is that it needs to function for two months and have egg masses.

Andy Rodenhiser – Thoughts?

Tom Gay – Based on the paper trail – I am catching up – I agree with Paul that we either do it or we don't. I am okay with a partial guarantee and accepting the roads – everything else in this packet says it is fine

Bob Tucker – I don't disagree with what Paul has presented here. And I have talked with Ken McKay previously – what I see us trying to do right now is to usurp another board's responsibility. I don't agree with doing that. The fact that they haven't stepped up to the plate, and had a meeting, and addressed this does not set well with me. The paperwork needs to be clean when it comes to us. We are trying to slam something home at the 11th hour.

Ken McKay – It is unfortunate that we didn't have a meeting (November 6th). Our quorum evaporated. We couldn't have voted. We cannot lift the enforcement order responsibly until we see it functioning – they have made a marvelous attempt to restore this – we want it to succeed – we cannot rule on its success

Bob Tucker – It is not completed; therefore we shouldn't be considering this at this time.

Paul Yorkis – As a good faith effort we have done everything we were asked. The commission is incompetent in its knowledge of its act. The enforcement order is null and void because you have a certificate of compliance from Mass DEP. The ConCom enforcement order is nothing. Now – an understanding that an applicant has made an effort to comply with a null and void enforcement order – we chose to proceed to address their concerns and not go to court –

Ken McKay – I don't want this to be controversial.

Paul Yorkis – You have failed repeatedly to conduct yourselves in professional manner.

Andy Rodenhiser – Let's stop the discussion.

Andy Rodenhiser – Barbara Saint Andre, does the state order supersede?

Barbara Saint Andre – Whether it does or doesn't isn't the issue. The issue is whether the roads are ready for acceptance. Condition #14 (of the subdivision decision) requires that a deed has been tendered to the town and that there be a vote to accept

Andy Rodenhiser – There is a February 2004 ConCom memo agreeing to do so

Barbara Saint Andre – That memo is in response to Condition #12 – we have to have both acceptance of the deed from ConCom and BOS

Barbara Saint Andre – It is a statement of intent.

Ken McKay – When these letters come out – we have been asked to express our opinion or desire about accepting open space.

Paul Yorkis – Our attorney sent to the Planning Board a series of deeds some time ago. I have no idea whether they have been reviewed by town counsel. I have requested a status report. Up to and including this moment, I have not received an answer.

Glenn Trindade – This should be pretty black and white. 2004 precedes my being on the board. I haven't seen anything on these parcels to accept these as open space.

Susy Affleck-Childs – The practice is to accept roads, parcels and easements all together.

Barbara Saint Andre – There is no problem with doing it all together.

Andy Rodenhiser – On face value of the letter, it seems like they are okay.

Karyl Spiller-Walsh – Can we separate the street acceptance from the decision? The parcels are a part of the decision?

Barbara Saint Andre – The key is the part that says these parcels have to be accepted by the town. I don't want to sit here and have you make a decision about whether vernal pools function. The only issue is your certificate of action. I assume you have a checklist.

Paul Yorkis – It is a very long list.

Barbara Saint Andre – As Susy Affleck-Childs says, if you had something from ConCom and Board of Selectmen that says they would be okay, that seems to be the last issue.

Paul Yorkis – I just want to share the following – If the Planning Board's decision to make a decision is based on another board's decision, that is really unfair to any applicant – if this commission or any board were to say we are not going to act in the manner being asked – the applicant is left high and dry – We have followed the letter of the law. I understand and appreciate the commission's concern about the functioning of the pool. I appreciate it. I understand chairman Trindade's comment relative to making sure the pool is functioning. That is why we would agree to have the Planning Board hold half of the bond until such time as it meets the criteria for vernal pools as outlined under the act.

Karyl Spiller-Walsh – I was on the Planning Board when this came about. One of our huge concerns – proximity of this vernal pool

Paul Yorkis – These parcels were never vernal pools until after an appeal was made by an abutter and then certified after the appeal about 6 months – we were well into our construction process after the cert of action.

Barbara Saint Andre – When you say to hold back half of the bond, are you asking the board to accept all the roads and all parcels, or not accept parcel D?

Paul Yorkis – I would go with whatever your recommend

Barbara Saint Andre – You wouldn't have a problem with holding back on parcel D.

Andy Rodenhiser – Our decision says parcel D to be conveyed – Paul Yorkis is saying it is not fair

Susy Affleck-Childs – When we wrote the text of the decision it was to remind us to make sure to accept the parcels as well as the streets. There had been other subdivisions where the town had not accepted the associated parcels and it made for problems.

Andy Rodenhiser – If we accept the parcels, we take liability. If we take streets, we get chapter 90 money and the residents get their streets taken care of. The ConCom still gets their say on parcel D. Can we still do the bond agreement? That would provide additional assurance.

Barbara Saint Andre – Obviously. The problem I am having is that Conservation would have the bond. Apparently they don't have the authority – a lot of ConComs do that – I guess we would have to think of some way to do that – assuming town meeting votes to accept and (the paperwork) is recorded in 120 days, that is usually it from a Planning Board's perspective

Barbara Saint Andre – I suppose we could say Condition 14 continues in effect. Normally, once the 120 days goes by, if you haven't fully complied, you have agreed to post a bond to assure compliance. I am not recommending this is a perfect way to do it.

Tom Gay – Almost a new bond.

Tom Gay – The liability issue of the open space... with this certification by DEP that the order of conditions is met – what is the liability?

Barbara Saint Andre – I don't want to speak for ConCom. ConCom takes a position that they have local wetlands bylaw that is more strict than the state law in regard to vernal pools. ConCom feels that they still have issue under the local wetlands bylaw, I believe.

Andy Rodenhiser – So when he said the certification from the DEP supersedes or trumps them, how can that be?

Paul Yorkis - I am not an attorney but I understand the wetlands protection act pretty well. Communities that have (conservation) bylaws, as Medway does have, are supposed to issue two orders of condition – one per the state act and one per their bylaw. That was not done, to the best of my knowledge. I have not seen that (practice) in Medway. The Town of Franklin issues two – one under the act, and one under their bylaw, and they can conflict. The Town of Medway, if you look at the order of conditions (form), it references only the state. If you look at the enforcement order, it does not make any reference to the local bylaw. That is a defect in how the Medway ConCom conducts its business. It is very difficult to work with them. You don't know what you are supposed to respond to. We have received a superseding order of conditions from the state

Barbara Saint Andre – I don't believe you have to have two separate orders. I understand that is often a reference at the top of the form that would reference the local bylaw - the enforcement order (in this case) does not specifically state what authority

Andy Rodenhiser – I want to say several things- I agree with Tom Gay that the documents and the paper trail are strong - Based on my own interaction with the ConCom during my time here on the board and as well as what Bob Tucker just said – I am upset that we are put in this position – I am bummed out that the chairman of the ConCom is not here today – that they are leaving us in this position – to Glen Trindade's point – if boards are going to work together, it takes two – we are being left here – I hope we can find a way to carve out parcel D as a board and get the bond money and that will provide the best solution for the applicant, town, residents, and some due process for some methodology

Karyl Spiller-Walsh – How much time?

Andy Rodenhiser – ConCom says in the spring.

Paul Yorkis – I would suggest that there is going to be your annual town meeting, and if the Planning Board is so inclined, to have acceptance of parcel D be on the warrant for that meeting and hold the bond until that time. We are confident and comfortable

Andy Rodenhiser – I think it avoids litigation for the town – fairness doctrine –

Andy Rodenhiser – Do you see any problems with it?

Barbara Saint Andre – I am not going to comment (whether) \$20,000 is enough.

Barbara Saint Andre – You would hold it under the subdivision decision based on Condition #14 - you determine that it has not been complied, not complied fully, but we are recommending streets be accepted but not parcel D, hold back part of bond, to comply with Condition #14

Karyl Spiller-Walsh – I am comfortable

Bob Tucker – Susy Affleck-Childs, under specific conditions of conditions of approval, are there any issues?

Bob Tucker – So the only issue is really parcel D?

Andy Rodenhiser – Yes.

Bob Tucker – If everything else is completed, and we can do an exception around parcel D, is that legitimate? That is what we are coming down to.

Barbara Saint Andre – Condition #14 – if they haven't done, then they haven't complied.

Bob Tucker – Is it legitimate to make an exception? Is it within our authority to do so?

Barbara Saint Andre – What you are doing is accepting bond money, whenever you build a subdivision, to ensure that all the conditions are complied with. So, that is the purpose of the bond money. What you are saying is that this particular condition, you haven't done that – I think it is yes, you can do that – I want it to be clear – it is within the Board's authority to accept bonds to assure completion of conditions in here

Bob Tucker – All we are looking at is a demonstration that the vernal pool functions.

Barbara Saint Andre – No, you want to see acceptance of parcel D - ConCom is looking at how the pool functions

Barbara Saint Andre – It seems they won't accept it until they are comfortable with its functioning.

Bob Tucker – I am still disappointed that ConCom has not met.

Bob Tucker – I will also reiterate: if everything is not ready and complete, we shouldn't be looking at accepting anything. I do believe there are occasions when some exceptions could be made. This is one of them. Whether or not the recommended bond be kept in place is sufficient to cover any reparations that maybe required in the future I don't know – I have a gut feeling, I have no ideas – it could be way more, or way less. I would be more concerned with having a warranty of sorts from the corporation (developer) that would indicate they would go in and take whatever actions deemed appropriate and necessary to ensure the operation for that system as a vernal pool. So bond dollars, as far as I am concerned—I am more concerned about the organization and the individuals providing a warranty of sorts, shall we say, to go through that first cycle.

Paul Yorkis – The sum of money which was proposed (\$20,000) is twice as much as would normally be required to do the work. Based upon the work, what would be entailed would involve removing leaf litter, top soil, sub soil and going down in one location approximately 2 feet, which in essence would create a pond vs. a pool; and then replace all of that area, that is 20 x 20 feet. We are overkill on it. And that is the work being supervised by a botanist, civil engineer and hydrologist—we are very confident that that is not going to be necessary based on 4 years of monitoring. I don't know how to warranty this. The \$20,000 is there to ensure that if what I have described doesn't happen

Karyl Spiller-Walsh – So, one of my questions, at that point, assuming at that point, it doesn't work and you did repairs, would we need another year's cycle?

Paul Yorkis – Yes, you would need another cycle.

Andy Rodenhiser –Are you willing to put a warranty forward from the corporation and personal guarantee?

Paul Yorkis – Personally, no. The corporation is a viable corporate entity. We are comfortable with the bond

Karyl Spiller-Walsh – I still am not comfortable with the amount of the bond. We are expected to jump in

Andy Rodenhiser – If we don't accept parcel D then we don't accept liability.

Karyl Spiller-Walsh – I don't want to get into the vernal pool questions.

Andy Rodenhiser – We could recommend to not accept.

Karyl Spiller-Walsh – We are trying to be a fair participant. It is good idea to go ahead and accept the roads, having seen many times that the town and the Planning Board is left holding the bag

Andy Rodenhiser – If we don't accept parcel D, then Granite Estates, Inc. would continue to own parcel D.

Bob Tucker – If it is legitimate action, I am OK.

Karyl Spiller-Walsh – if we don't accept parcel D and it fails, we will need an extension on that – what recourse do we have to eradicate the problem

Andy Rodenhiser – We continue to hold the \$20,000 bond indefinitely.

Bob Tucker – And they keep paying taxes.

Paul Yorkis – We have paid separate and distinct \$5,000 in anticipated legal feels.

Barbara Saint Andre – Question: am I correct that the town doesn't need to have parcel D for the stormwater system?

Paul Yorkis – The structures are in the street layout, not on parcel D.

Andy Rodenhiser – There is no maintainable infrastructure on parcel D.

Barbara Saint Andre – No detention pond on parcel D?

Paul Yorkis – No.

Andy Rodenhiser – It is very deep away from the roadway.

A motion was made by Bob Tucker, seconded by Tom Gay to recommend acceptance of the roadways (Freedom Trail and Independence Lane) based on the condition that the board will retain \$20,000 of the bond until Condition 14 (of the subdivision decision) is complied with, and not recommending acceptance of parcel D at this time and that we craft mutually agreeable new agreement for the \$20,000 to protect the Town's interest in parcel D. APPROVED.

Paul Yorkis – Who is going to craft the agreement?

Barbara Saint Andre – I will do that.

Paul Yorkis – Please send to bill Sack and me

Paul Yorkis – I would like to thank you and staff and town counsel. This has been a very difficult time for the applicant and me, trying to get this done. We have tried to operate in good faith, and it has not always been reciprocal. I sincerely appreciate you being here today.

Andy Rodenhiser – Doing our job.

Bob Tucker – Make sure it works.

Broad Acres/Country View Estates Street Acceptance

Andy Rodenhiser – The original connection was on Ken McKay's property. The pedestrian easement was never recorded. Where it is shown on plans is in the center line of the sewer, and you can't actually walk it. What has occurred on the ground is about a 2 foot wide in places to a 3 foot wide footpath that goes down the edge of the driveway. The sewer easement goes across the lot. It looks normal, and it is on their property. It continues along the private property and joins back up past the sewer structure. What Ken McKay has described is a desire to keep it in that fashion. He moderates the area in terms of people's behavior. He prefers having it in his ability to modify, but that is what it is. If we move the easement to one side, it allows it to work; and I would suggest, even though this happens on paper, it will continue to function.

Mrs. McKay – The paper that Greg (Whelan) gave us said 10 feet.

Andy Rodenhiser – Greg never secured the pedestrian easement when he sold the lot. Apparently Greg can't work out stuff with the McKays.

Andy Rodenhiser – Greg and his wife have thrown up their hands. We have \$72,000 left in the bond.

Bob Tucker – It is his responsibility to provide everything that is needed. If he is throwing up his hands, we are not going to do the job for him. Sit on the bond money. He will get hungry. I don't want to accept the streets that way

Karyl Spiller-Walsh – Having been there through the phase of the walking easement – the intent was to have an ability for people to casually walk through and between subdivisions. I don't see it as a deal breaker. Are the McKay's okay to allow people to walk across?

Andy Rodenhiser – What if they sell their house tomorrow?

Bob Tucker – How much use does that get?

Mrs. McKay – Varies

Andy Rodenhiser – There is a litany of legal issues on all the lots.

Karyl Spiller-Walsh – I appreciate that situation. You know how I feel about public access with good reasons

Barbara Saint Andre – This is quite a project. I am more concerned about the sewer easement. It is there and must need little or no maintenance. We want to make sure the easement is in place. Nobody wants to have an issue on their property. As far as the streets go, I don't care whether you accept them or not. There are drainage easements to go with it; we have to get those.

Tom Gay – If job was done correctly to start with . . . it would not be a job down the line. I would be inclined to say no; don't forgive his transgressions. He has a responsibility to do his job the right way, to satisfy our needs and the landowners.

Karyl Spiller-Walsh – That when this project was done. The standards of the town were different. What he did was consistent with business at the time

Tom Gay – If he did it in short order, if he had done things the right way from the get go there wouldn't be a problem

Mrs. McKay – Are you talking about the whole development? Are we holding this up?

Andy Rodenhiser – Yes, Karyl Spiller-Walsh is even okay with abandoning the least of the

Susy Affleck-Childs –

Barbara Saint Andre – They are proposing that the

A motion was made by Tom Gay, seconded by Karyl Spiller-Walsh that we not (re) accept the Broad Acres and Country View Estates streets (Broad Acres Farm Road, Stable Way and a portion of Olde Surrey Lane). APPROVED.

Barbara Saint Andre – I will talk to the Board of Water and Sewer Commissioners re: the sewer easement they can take care of that. We will do that independent of everything else.

Susy Affleck-Childs – You have to know that this is going to be very difficult – there will be rumors and lots of misinformation

Tom Gay – There are still residents that have issue.

Susy Affleck-Childs – Are you saying that you will or won't consider doing this by eminent domain?

Barbara Saint Andre – To take land by eminent domain requires get an appraisal. Since there are a number of parcels here, go out and appraise all the parcels to determine if there are any damages that would be awarded to those that own to the center line of the road - Often appraisers say there are no damages because there is a greater benefit – And there is a benefit to having a public way. The result is often that there are no damages. But then you have to look at all the drainage easements which are across peoples' properties. There is the potential that you will have to award damages. It is the Board of Selectmen that would take roadways by eminent

domain – have to have a plan that supports where – review the titles and as indicated earlier, if you are awarded – you have to notify all mortgagees and lien holders – Either way you slice it, it can be a bit of a chore. I had hoped he would take care of the easements at least, but apparently he has thrown in the towel – If you are not going to accept the roads, make sure you get the sewer easement – appraisers, plan, vote, records, notices, damages – thousands of dollars

Bob Tucker – More than what is in escrow (bond)?

Barbara Saint Andre – No.

Karyl Spiller-Walsh – By May he could have this done?

Barbara Saint Andre – One would think it would be sufficient time.

Bob Tucker – It is his responsibility to provide documentation to the town.

Andy Rodenhiser – It is a legal morass.

Bob Tucker – If he doesn't want to do it, let the money sit in the bond account.

Karyl Spiller-Walsh – I think the Town does have some responsibility or obligation because the standards are different now than they were then.

Bob Tucker – I don't agree. I live on an unaccepted street.

Karyl Spiller-Walsh – There are some extenuating circumstances with the economy. The residents are the victims here.

Andy Rodenhiser – When you are a developer, there is a standard of care, if you are going to be reaping the rewards of the development. Why should we be put in the position?

Karyl Spiller-Walsh – Different standards

Andy Rodenhiser – How long have towns been reserving fee in the road/

Barbara Saint Andre – Every town is different.

Susy Affleck-Childs – There were no rules in the past.

Andy Rodenhiser – Best management practice.

Barbara Saint Andre – They did hold it back in some cases but not in others. They should be responsible for the cost. You are looking for conveyance of fees. You won't get clear title or mortgages.

NOTE - Barbara Saint Andre left at 9:45 am to go to the Board of Selectmen's meeting.

Tom Gay – I have been consistent with what we have asked him to do – the same three or four things come up at every meeting.

Andy Rodenhiser – He was able to sell the McKay lot probably for more money because there was no pedestrian easement recorded on the site.

Andy Rodenhiser – We need to craft a letter and send a letter to the residents. And send it out. Let's be proactive and disclose what the options are. Put it on the web site.

Karyl Spiller-Walsh – Can we take plow money out of the bond money.

Mrs. McKay – If you live on a street that is unaccepted, and we pay the same amount of taxes, why do we pay the same taxes if we don't get the same services?

Tom Gay – It's not any different than a landlocked parcel.

Andy Rodenhiser – I live on a private way. I have to take care of it.

Andy Rodenhiser – They have an expectation that their street was to be accepted

9 Walker Street.

Susy Affleck-Childs – CPC voted to support up to \$5,000 in CPA funds to support conveyance of 9 Walker Street for affordable housing

Bob Tucker – Habitat for Humanity is still very interested. It would be in perpetuity. I would love to be able to see my own kids be able to live in this town. Instead they have to move out of town. They still work in the area, but financially they cannot afford to buy anything here. To make that opportunity available to them or other people—it is tremendous.

A motion was made by Karyl Spiller-Walsh, seconded by Bob Tucker to support Article 27 (for the 11/10/08 special town meeting). APPROVED.

Bob Tucker – The other thing suggested at the CPC meeting was John Schroeder made a presentation re: the Charles River Acre OSRD to possibly look at it for affordable housing – it is on the market - the idea would be to look at an affordable concept and an open space section – less intrusive and more consistent with the style and character of the neighborhood

Karyl Spiller-Walsh – The new concept would be a model development.

Susy Affleck-Childs – The CPC asked the AH committee to look at this.

Invoices

\$7,988.00 to Whalley Computers for the first server (for the MUNIS software) to be funded from the 43D grant account. Motion by Bob Tucker, seconded by Tom Gay to approve. All YES.

Other Business

No meeting for us Monday.

Andy Rodenhiser – Susy Affleck-Childs and I will be at FinCom Monday night on street acceptance issues (article 22) - they have to decide their recommendation

Susy Affleck-Childs – Alison Slack and I will be at FinCom on 9 Walker Street (article 27).

Andy Rodenhiser – Should we share these minutes as drafts to ConCom?

Susy Affleck-Childs – Let's wait until next week. Let us do the basic edits and clean up, then we can forward them then

A motion was made by Karyl Spiller-Walsh, seconded by Bob Tucker to adjourn. APPROVED.

The meeting was adjourned at 10:05 am

Respectfully submitted,

Susan E. Affleck-Childs
Planning Board Assistant