

June 24, 2008

PRESENT: Andy, Chan, Bob, Tom, karyl

ALSO PRESENT: Susy Affleck-Childs, Planning Board Assistant

Call to order at 7:05 p.m.

Citizen Comments – None

Fisher Woods Subdivision /Shady Lane - Discussion on Request for Bond Release

Mike Curatola –

Andy – covenant? Usually there is

Mike – it was a private way; always meant to be – I don't recall if there was a covenant, it's been a long time

Ken bach, 2 shady lane – been there since the house was built in 1987 –

Andy – any questions

Chan – what was in your mind when you did a private way development?

Mike – I think the town wouldn't allow it to be a public way because of the steep grade – I think that was the reason why – it was actually the town that wanted that.

Chan – I can't understand why anybody would want a private way

Ken – we do want it to be a public way and we would be delighted if the town were to accept it

Bob – susy,

Mike – there was a larger amount – they gave us most of the balalnce back – they kept back some money – catch basin on the left hand side – it is my recollection is that we had it repaired and town came by and said it was fine – there might have been one other issue I don't recall – I think Jim Brodeur was on the PB then – he came out and said it was fine – I completely forgot about the money – until I saw a print out from my bank

Andy – have you driven up there at all – it is not in pristine shape – 20 years

Bob – what were they holding the bond for??

Karyl – was there any written communication ?

Mike – I threw all that stuff away about a 1.5 year ago –

Tom – what is the status of the road shown as abandoned

Andy – who owns the road? Did

Ken bach – right of way is split 50-50 with abutters

Moiton b bob – to releasw the bond – seconded by chan - all yes –

Susy – agree to cut two checks – one to mike curatola and one to joe Griffiths . . .

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Pay bills

Norfolk county registry of deeds - \$100 – bob, chan – all yes

PGC Associates – 43D expedited permitting – \$1040 – funded by grant money – chan, bob – all yes

PGC Associates - \$37.50 – construction inspection account – motion by chan, bob – all yes

Gary Jacob – LID conference registration - \$85 – karyl, chan – all yes

Wb mason – office supplies – 128.02 – bob, chan – all yes

TTR – Murphy Insurance 2515.78 – clients – kayrl, chan – all yes

PGC – consulting services – 937.50 – bob, chan – all yes

PGC – plan review – john’s auto body, Murphy, marian - \$768.75 – chan, bob – all yes

7:18 pm – Continuation of the public hearing for Murphy Insurance Agency site Plan

Dan Wolfe, David E. Ross Associates

Dennis and Julie Murphy

Dan – when we last met, we discussed the letters from two consultants and some intridut matters – I have gone thru both of the letters and made revisions to the plans that were submitted to you – I have also spoken to both gino and dave and appear to have come to satisfactory conclusions on all issues raised – also since we last met – we also had our final meeting with the DRC – and we also closed our hearing with concom – the commission did as us to make one revisions to the plan having to do with the locationof

the haybale dyke – a little area offsite that needs to be restored – I have brought another full size plan and reductions for you – VERY MINOR – with the packet of info I submitted to you a week or so ago, it included a letter with our waiver request and I kept them to a minimum – letter dated June 17<sup>th</sup> –

Andy – has everybody had a chance to read? Any problems with anything? Just a comment to TTR – it was nice to see how you responded – CLOSED – was very helpful – this is the first major thing you have done for us – that was very helpful – shall we review the waivers? Any issues

Bob – does TTR have any open items?

TTR – none,

Andy – hay bale issue

Hale bales on the property to the west – remove bark mulch and help it go back to its natural state – move haybale dyke closer to the wetlands – concom – on sheet #6 – they wanted us to eliminate any reference to haybales – we had put silt fence or haybales – they don't like haybales anymore – they prefer silt fences or mulch tubes –

Andy - gino, any issues?

Gino –no

Bob – I read with some interest their position on the sidewalk

Andy – they would like to construct the sidewalks on their site; Dave would like them to not do so –

Karyl – did you guys come up with a color plan for the building?

Dan – it was discussed – drc said at the end, it loved the red – we discussed – felt it might be too bold with the building closer to the street in medway to be red . . .

Karyl – please provide a paint chip

Dan – are you saying you have seen the letter about this?

Chan – I can see why the sidewalk would benefit them . but I can't see there being a sidewalk westerly to milford because it is all wetlands – but it could go considerably east – either way I don't have a problem

Andy – 176 feet is their frontage here – with respect to your wetland filing – did it include constructing a sidewalk?

Dan – we could probably ask for an amendment – we hadn't broached the sidewalk subject with concom –

Bob – we wouldn't be going down into the wetlands . .

Dan – it might be that the last 30 feet of the sidewalk would be within 100 feet of wetlands

Chan – no sense to extend past

Andy – so make a contribution and pay into the fund for 75 feet worth

Dan – that is even more of a twist – TTR had put together two standards – one with granite curbing and one with concrete – what do you want?

Mr murphy – we are hoping the area we are going into is going to fully develop based on our conversations and info we have gained from the town – we are going to have to address the sidewalk one way or another – we really would prefer it to be done in front - \$81/foot for granite curbing – what does he want?

Mr. Murphy – we could put the money into escrow –

Andy – we can work this out and include something in the decision –

Mr. murphy – one thing I am fearful of, we pay into the fund now but later we would be assessed in the future for a comprehensive sidewalk plan –

Andy – it could be several years before anything is done – these things take time . . .

Mr. murphy – we hope we can act as a catalyst for the area . . .

Andy – are you OK with us working this out with Dave Dmaico and then we will resolve it . . . is the board OK with us to meet with dave

Mr. Murphy – we are talking about \$16,000 –

Acknowledge the memo from the DRC dated June 16 – Karyl highlighted

Acknowledge memo from Dave D' amico – June 19<sup>th</sup> memo –

Dan – the particular LID method dave noted has not been approved by the state . . . I tried to find a close or similar layout within the new Mass policies and it does have something similar but it does nto give you credit for infiltration . .

Susy – any more info?

Dan - we had talked about the holly being planted, but that was to be in the back but in the front

Walter Swift – 133 Milford Street – as a landscape designer – holly will not tolerate that area – too many deer down there – it will just be wiped out –

Karyl – do you have a suggestion?

Dan – something to give a little screening –

Walter – some type of juniper - ADD to decision . . .

Susy – I would like to hear from the board – granite or concrete

Karyl – granite, that is what it will be

Chan – will the state approve granite? But precedent was set in Millis

Karyl - that is what it is in Millis . . .

Karyl – and summer street

Chan –no brainer to prefer granite –

Bob – money is the only issue . . .

Motion to close the public hearing - chan, bob – all yes . . .

Dennis Murphy – question – can I just post the higher amount?

Andy – we will get to it

Mr Murphy – I want to get started – generally the first of august

Mr. swift – does decision have to be filed with town clerk

Susy – yes

Chan motion to approve the waivers as specified in the June 17<sup>th</sup> letter from David E. Ross Associates - seconded by Tom –

DISCUSSION

All OK – on all waivers . . . approved

Andy – maybe we can make a mental note to discuss . . .

PB LIAISONS appointments –

Medway Commons completion –

Andy – treasurer has said it is OK in her book to move on and go ahead and sign off on the

Karen Johnson – subcontractor to general contractor – question is whether foxborough transport – there still has not been a good accounting – the good news is that the town has a judgment against foxborough – we asked for a certificate of completion – you asked me to hold off –

Sisu – would recommend that we move on this . . .

Motion to authorize a certificate of completion – chan, kayrl -

John – benefit to the applicant is what? What is at stake?

Andy –

Karen – internal processes – complete the close out procedures – good due diligence – good internal practice

Bob – kind of like getting an occupancy permit on the whole project

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Revisit ANR Plan for 25 Summer Street –

Andy –

Paul Kenney's letter of June 18<sup>th</sup> . . .  
Gino's review letter of June 23<sup>rd</sup> –

Paul Kenney  
Paul Desimone

Paul Dnney – in terms of the rights in the private way – statute does not address – the one deed conveying out lot#3 – there was an acknowledgement in that deed – they cannot deny – court an abutter has an easement of the way which means they have access – that being the case, the abutter does have rights in the way

With respect to the fact that the PB imposed no conditions on the way in 1984, no cert of action, no covenant – it was essentially a 2 lot condition – the PB imposed no conditions – we have submitted evidence that the way does exist and a letter from the fire chief that

the way is adequate for emergency vehicles – why the PB in 1984 did not impose any conditions is anyone's guess – it was properly endorsed by the full board and duly recorded – the application – the strict guidelines of the statute – the application meets the requirements – I think going back 25 years is impossible

Gino – there were rules and regs in place at that time and no waivers from those were granted – I don't expect the regs allowed for

Paul –

Gino – in the absence of waivers, the rules and regs apply

Paul – the board at that time, the board waived the regs by endorsing the plan

Karyl – they didn't waive all standards because there was a clear right of way/width- that was a standard form

Paul – the board didn't create anything in writing that we can locate

Karyl – they did provide a standard road layout and cul de sac and allowed a private driveway which exists – and it also noted that this is a private way

Karyl – if this is a private way owned by Margaret Jason – what rights do the abutters on the opposite side really have

Paul – tatten vs. corwin – unless there is a specific reservation of the fee in the road, the owners cannot deny the existence of the road – the opposite abutter has an easement of way – when Mrs. Jason conveyed lot 3 out, it conveyed the right to use it

Bob – wouldn't there also need to be a conveyance to allow others to use it?

Paul – by creating the way, the abutting property has an easement in the way

Karyl – I think we need legal counsel –

Andy – he is essentially challenging our authority to say we will not endorse it - that the absence of specifics on how it would be built,

Tom –

Karyl -

Paul – the board made no specifications as to the construction of the way

Andy –

Paul Desimone – I called Rob at GLM who did the plan – there was definitely no road construction plans – it was one sheet subdivision – just the legal sheet – they didn't do any proposed profiles – the board probably approved it with the assumption that they would put a driveway in

Paul Kenney – we specifically called and asked the secretary at the time – we called and asked the secretary at the time whether there was a covenant – she said the PB did not require a covenant or conditions

Karyl – they did subdivide it with a standard road layout –

Karyl – I still don't feel that they have the rights to use that road

Andy – what if we ask Paul to respond to Gino's memo

Chan – what regulations – I was on a PB 40 years ago, there were detailed rules and regs – they didn't build it in accordance with the regs at the time – there is no evidence

Andy – there is no waivers

Paul Desimone – we

Chan – the way was constructed as a driveway as an expedient for the guy in the back to get to his property – I don't see it is incumbent upon us now – for those two new lots to be legal, you need to build it to fit the rules and regs

Tom – I think it is two questions – is it a real street? And do the different statutes and case law say that these two lots have a right to use that way – forward packet to town – should it come back to us, do we need to construct a street – I don't see how we can possibly have 5 lots using that to construct a street –

Chan – I would challenge the Chief's statement that the road is adequate for emergency use

Tom – there is only 11 feet of pavement up there – his statement is an advisement

Paul – there is case law, this is a constructed way – fire chief has indicated it is adequate

Karyl – in my personal opinion, it functions as a driveway

Tom – it appears

Tom – let's get some agreement whether they have any rights to use that private way – 11 feet troubles me a lot



Chan – emergency vehicles – I don't feel it is adequate for emergency purpose

Tom – if we were going to vote on an approval, I would vote no –

Susy – get an estimate from Barbara for review

Paul – I will advise him that

Tattan vs. kurlan – issue about rights in ways, etc. not in an ANR context – it involved unconstructed ways –

Susy – has your client spoken with the jasons

Paul – yes, he has . . . he has spoken with them – possible –

Chan - who do you represent?

Paul – fasolino improvements

Chan – have they thought about improving the driveway? Then there is no question?

Paul – I don't believe my client was intending to construct a way there

Chan – the question of constfuting the street is paramount for my approval of the process – it still has to be done from my point of view . . .

Thanks. . . .

Susy – issue of legal fees for project specific – guidance from TA -

Karyl – at the time of the application, that was a legal question . . we should have some kind of legal response in hand –

John – we have to get a better handle on the small projects –

Tom – burden of proof is on them – they should go to the person and get something specific –

Andy – if there is one lesson to learn from tonight – early 80's decisions –

Karyl – we should get this money up front –

John – If rural character is important, then I would strongly consider against expanding anything for sewers . . .

Chan – it seems with the reorg with the town – there has to be a channel for the boards to have interface with the TA in discussing her desire to keep costs down – there should be some give and take – in our need for legal services – we can't throw everything on the developer – I can see complications with that . . .

Susy – perhaps we need to adjust our ANR fees

Andy – additional deposit for legal work –

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Appointments to IDC – hold off . . .

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Adult Entertainment

Andy – under the current language, where are the actual areas where it can be allowed – where are we vulnerable?

Reference to letter from Town Counsel dated 6-18-08 –

Andy – we need to sit down and do some mapping . . .

Chan – I cannot imagine any place we have that would be conducive – so I am not worried about it happening in Medway . . .

Andy – emergency preparedness maps show schools, etc – use those to

Gino – I don't think you could do it in commercial III and IV – too close

Andy – we could pull it out and just put it in industrial as an option . . .

Gino could look at this for us . . . . .

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Endorse sit plan modification

Bob – they did give us a detailed crosssection - I think it does give us enough detail –

Board endorses plans . . .

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Committee Reports

DRC – having lots of good discussions – we had a sign application for dr. carchidi – we have been discussing GREEN stuff in design –

Bob – no reports

Chan – I want to report one interesting thing – SWAP has suggested that we have a session on Design Review Committees – who are they going to get as a speaker? It will be in Millis Town Hall -

Dover, Sherborn, hopkinoth, medway, mmillis, Bellingham, franklin, milford,

Other reports??

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Bob has to depart – 9:30 p.m. –

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Presentation on proposed 43D regs

Gino – this is not just PB regs – this would apply to all the boards that are covered by the expedited permitting state law (and perhaps some additional ones that would make sense to bring in) – all of the boards need to adopt these rules to be in effect . . .

The basis for this is the existing site plan rules and regs and then I made some changes to accommodate 43D and added in info to accommodate CONCOM info and BOH –

Andy – when a priority dev site application is triggered – where we talk about

Andy – should we generally adopt this and then go around and meet with all the boards, and then revise . . .

Tom – what constitutes a priority dev site?

Gino – designated by town meeting and approved by the state – we have CYBEX now - then we recently added two areas of 3 lots each (Rosenfeld) – those need to be submitted to the state for approval –

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Streifer property – they have asked us whether the town would take own

Ask OSC if there is any value to it . . .

Could they even split off and have a conforming lot??

Is there an interest?

Chan – I would want some legal opinion – what liability do we have?

Tom – I don't see the value to the town to do that so . . .

Gino – one thing to remember is that no easement was ever created for that detention basin . . .

Andy – I don't want to spend any more time on this – there is no benefit to the town

General consensus to not proceed . . .

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Motion to authorize the release of all units at Pine Ridge – karyl, chan – all yes . . .

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Chan – MAPC asked why having the discussion – they are illegal, and why can't the PB do it

Extra meeting on July 15<sup>th</sup> – 7 pm – sandwiches - . . .

Motion to adjourn – karyl, tom – all yes 10:50 p.m.