

February 10, 2009
Medway Planning & Economic Development Board Meeting
Sanford Hall – 155 Village Street

PRESENT: Andy Rodenhiser, Tom Gay, Chan Rogers, John Williams, Bob Tucker, Karyl Spiller-Walsh

ALSO PRESENT: Susan Affleck-Childs, Planning Board Assistant
Gino Carlucci, PGC Associates

Chairman Rodenhiser called the meeting to order at 7:03 pm

CITIZEN COMMENTS - None

OTHERE BUSINESS

2009 Articles for Town Meeting

Andy Rodenhiser – We had decided last week to hold over any decision on the proposed changes to the OSRD bylaw until Tom Gay had reviewed the draft. Do you have any comments as to clarity and language? What are your thoughts?

Tom Gay – Susy sent me the draft and I have looked through it – nothing there that is giving me any pain

Andy Rodenhiser – So, you are OK with it?

Tom Gay – Yes, I think that this effectively starts to address my concerns – the change in wording that the applicant is not entitled to the maximum number of units is a qualification that is good rather than expecting they can cram in units – I think it is a lot easier to figure out and the wording out about the conservation land is a lot easier to understand

Susy Affleck-Childs – Gino Carlucci did a great job on revising that language.

Andy Rodenhiser – Do you need an official action from us?

Susy Affleck-Childs – Yes.

John Williams – What about the suggestion to establish a different minimum OSRD area size requirement for areas that abut important resource areas?

Susy Affleck-Childs – John Williams had suggested we start to look at ways that areas that abut some significant resource areas be allowed to be smaller in area than the 8 acre minimum. Right now (with this draft) there is a minimum of 8 acres. The thought had been if something abutted a waterway or park, it would make sense to allow it to be an OSRD if it is smaller than 8 acres –

my thought was that we should ask the Open Space Committee to look at areas – to put the language in without constituting the criteria or without having a specific list is not good practice

John Williams – So that would be a follow-up with the Open Space Committee?

Andy Rodenhiser – Yes. Anything else, Tom?

Tom Gay – The things I was concerned about have been addressed, and the minor changes you have added make a lot of sense; and we have clarified what can go into the open space and parking issues – certainly makes sense – I am good.

Andy Rodenhiser – Can I have a motion to accept as amended, and submit to the Board of Selectmen/Town Administrator for the warrant?

A motion was made by Bob Tucker, seconded by Karyl Spiller-Walsh to accept the proposed revisions to the OSRD bylaw as amended and submit to the Board of Selectmen/Town Administrator for the warrant for the May 2009 Annual Town Meeting. The motion was approved unanimously.

Susy Affleck-Childs – I did submit all of the zoning articles to the Town Administrator's office by the deadline on Monday (February 9th). I did include this one, and also a compilation of our non-zoning articles as well. As we go thru the next couple of weeks, we can adjust. At least everything is in the hopper.

Gino Carlucci – I spoke with Barbara Saint André today about the Adult Uses article. She is concerned that the criteria we have may result in too small an area. She is worried that we still don't have enough size. With the requirement for 500 feet from any residence, that leaves only 4 lots available. At one point we had talked about making it closer to residences if there was 100 feet of heavily vegetated buffer. That would open it up more to about 8 parcels. She wants to think about it some more.

Susy Affleck-Childs – On Monday when I filed everything with the Tow Administrator's office, I sent it everything along to Barbara as well.

Andy Rodenhiser – Will that be a change at town meeting? Do we have time?

Susy Affleck-Childs – We can deal with these minor text changes directly with the Town Administrator's office before the warrant is finalized.

Andy Rodenhiser – If that were to be an expansion that could be ruled against us – Mark Cerel (Town Moderator) would say it wouldn't be allowed – do we need to take action?

Gino Carlucci – Barbara is also contemplating whether it is even enough with the added change.

Andy Rodenhiser – Let's wait until she comes back with some kind of comment.

Bob Tucker – I hope she is not doing it just based on "I think" kind of basis.

Gino Carlucci – No, she is looking at case law.

Karyl Spiller-Walsh – I am surprised by all this.

Andy Rodenhiser – Just an update to you guys on the FY 10 budget. The format this year is going to be presented to the Board of Selectmen as well as FinCom by Susy Affleck-Childs. That is the way the Town Administrator wants to proceed. Certainly, for this year, I will attend and sit off to the sidelines, and let Susy do it. It is a department budget, not a board budget. That is the way they want to structure it under the new charter.

Chan Rogers – Who is the department?

Andy Rodenhiser - Susy Affleck-Childs and Fran Hutton Lee. So that is the way they want to run the budget hearing. We will do a handoff this year. That is the way it is to be presented going forward.

Bob Tucker – And then next year, they will change the way they do it again.

Andy Rodenhiser – I think they are trying to change the way that it gets presented so it is a single point of contact instead of having a political spin to it. So it is just staff presenting. That is speculation on my part.

Bob Tucker – I think it is a game.

Karyl Spiller-Walsh – It might be nice to have a short statement from Suzanne Kennedy – just a brief explanation as to why they are trying to do it this way.

Andy Rodenhiser - I am trying to get that from her. I am working to have a meeting with her.

7:15 p.m. PUBLIC HEARING CONTINUATION – Williamsburg Condos OSRD

Paul Yorkis, Patriot Real Estate

Paul Yorkis – I have 3 handouts to go over with the Board. The first one relates to comments presented at the last meeting by the Planning Board’s planning consultant (Gino Carlucci) relative to the provisions within the bylaw regarding side load garages vs. front load. I am not sure this has been distributed to you yet. I have a copy of revised plan for Unit model F. Look at the lower corner.

Susy Affleck-Childs – They have it already in their board packet.

Paul Yorkis – You can see we were able to adjust the plan so that 50% of the units have side loaded garages and 40% are front load. And to help you visualize what that would be I have a copy of the new F building elevation which we believe will work.

Karyl Spiller-Walsh – This is much better.

Paul Yorkis – I am just trying to bring consistency so you have a complete package.

Paul Yorkis – With respect to the list of requested waivers (from the subdivision rules and regulations), we reviewed this again today and there is one change that we need to make. New Handout.

Susy Affleck-Childs – If you printed out what I sent you earlier today, I suggest you throw it out. It will look the same as this one.

Paul Yorkis – There is a new date at the bottom. Let me explain. There is only one change from what was emailed to you earlier today. I would like to go over this list of waivers with you so I am as clear as I know how to be. Turn to page 2 and go to item 7.9.7.g. The site driveway which is a private roadway is 14 feet at the entrance increasing to 16 feet (for the rest of the road) with a layout of 18 feet which is less than what is required. This has been reviewed by the Fire Chief. I have a letter for you from him indicating that everything is okay for him. I didn't want there to be any confusion or misunderstanding. The road width increases to 16 feet where it needs to be the widest as that is where the residences are.

Andy Rodenhiser - Why are you requesting a waiver?

Paul Yorkis – Because in your regs, it says to. I felt that because this is a special permit, I would be as specific as I know how. I want to put this into English to tell you what is happening so there is no confusion.

Chan Rogers – The street is not going to be up for acceptance anyways?

Paul Yorkis – Correct.

Bob Tucker – And it is a one way street as well.

Paul Yorkis – Correct. I know at some point in time, somebody might go back and ask why did we do it this way? We need to be able to explain how the waiver reflects on the plan. The two are in concert with each other. The waiver was always on the list of waivers, but it did not clearly address what is on the plan, and we felt it was better to be specific.

Gino Carlucci – I am not sure I understand the concept of having an 18 foot layout with the ownership already existing with the condo association.

Paul Yorkis – At some point in time the road may need to be widened. It is clearly there and everybody will understand. The drainage swales are going to be outside the 18 foot layout. The whole idea is to take into consideration the need to do something different in the future.

Andy Rodenhiser – Why is it starting at 14' and then going to 16' and then leaving provisions to go to 18'?

Paul Yorkis – Because we are trying to be good planners.

Andy Rodenhiser - Is there a reason why it shouldn't be 16'?

Paul Yorkis – There is no reason to. There are sidewalks now. More paving increases the need for drainage which is unnecessary. We are trying to be logical. We are trying to be good planners.

Bob Tucker – It reduces amount of impervious covering you will have.

Chan Rogers – It is more to keep people from parking on the street.

Paul Yorkis – That may be the result, but that was not the intent with the road design.

Karyl Spiller-Walsh – It is just a travel lane.

Paul Yorkis – I have given you all my up-to-date handouts. I am glad to respond to questions.

Andy Rodenhiser – I want to pose a question to the board. In the event the residents who purchase these units decide they want to have the town maintain the street, and they get together the signatures, does the board think it might be wise to make it clear to the residents as they buy through some kind of agreement that it is to be a private way never to be accepted as a public way?

Susy Affleck-Childs – Certainly the language in the decision will say that, and there very well may be a condition that the condo documents be very specific and include that information.

Paul Yorkis – It is a department of redundancy department statement, so it is fine. It is going to be clearly communicated by one realtor (Paul Yorkis) that it is a private way. If the board thinks it is better to include some statement in a future deed, we won't object.

Andy Rodenhiser – The only reason I bring it up is because of some recent activities at Kingson Lane.

Bob Tucker – My concern is how the bond is put forth. How we reconcile the closeout of the bond and whether or not we have sufficient verbiage in our rules without going through great pain and anguish.

Paul Yorkis – The Town currently has a bond on an OSRD (Pine Ridge). The understanding is that when the development is complete, we need to provide as-builts to show it has been built as approved and when that is done, there is no town meeting action needed. It is a Planning Board action to return the bond when the work is completed.

Bob Tucker – I want to make sure that our rules reflect that approach. This is incumbent on us, a housekeeping issue that needs to be in place.

Paul Yorkis – As I said about 2.5 years ago, the OSRD rules work very well for conventional subdivisions and they don't with a multi-family condominium project.

Chan Rogers – What are we requiring a bond for?

Paul Yorkis – To ensure that the applicant and the person who actually builds it, puts in the utilities, and the private way.

Andy Rodenhiser – To do everything they are supposed to do.

Paul Yorkis – I don't see a problem with a modest bond.

Andy Rodenhiser – Do you feel we have the language issue? Certainly we can use Pine Ridge as a model.

Susy Affleck-Childs – When you start to look at the decision you will see some text. I drew from some ARCPUD decisions and an OSRD decision.

Andy Rodenhiser – And possibly we create a “to do” for clean up of the bylaw.

Susy Affleck-Childs – That is a rules and regs thing, not a bylaw change.

Andy Rodenhiser – Is that already on a “to do” list?

Susy Affleck-Childs – Yes.

Bob Tucker – I think it just needs to get moved to the front of the list.

Andy Rodenhiser – We always seem to have problems between our rules and regs and utilities.

Paul Yorkis – In Medway, the lead utility is NSTAR, so all of the other utilities follow NTSAR. If NSTAR says this is where they want the utilities, NSTAR is the lowest in the trench, then Verizon, then Comcast is on top.

Andy Rodenhiser – Do you want to go through these waivers? Any problems?

Tom Gay – I have a couple. No pain on waivers 1-12 On 7.9.1 e – I don't understand what you are asking for.

Paul Yorkis - All of these are here because the subdivision rules and regs limit something, and so the number of dwellings allowed on a private way is less than what we are proposing.

Susy Affleck-Childs – This needs some text to go along with this statement. The regulation says x amount, and we are producing y amount; and we need an explanation like you have done for some of the other waiver requests.

Bob Tucker – I am not ready to go through these. I don't have the regs in front of me right now. I think we need to look at it and make sure that everyone understands what they are asking for. I don't see anything here that is of much concern.

Tom Gay – I am just looking for some clarification on some items.

Chan Rogers – Wouldn't we want waivers here to approve?

Andy Rodenhiser – We have to condition approval of the waivers on findings. We have to find it is OK that we approve.

Susy Affleck-Childs – The waiver section is a piece of the decision that is not done. I held this aside.

Paul Yorkis – With the exception of 7.9.7.g, this is the original list of waivers that we submitted with the original application. There has been one deletion because we are including sidewalks now.

Andy Rodenhiser – I thought the plans always showed sidewalks.

Tom Gay – Not originally, no. 3 quick questions . . . 7.9.7.g – it says “8”; it should say “18”.

Tom Gay – When we start to get into 7.10.2 it talks about road design. It says no curbing is proposed along private driveway. Are we talking about the main road thru the development or the individual building driveways?

Paul Yorkis – Yes, I can clarify that language. I will address that.

Chan Rogers – It should be private way.

Tom Gay – Then on 7.13.3 in the second paragraph, it says no sidewalks are shown on the plan and are not requested for the definitive plan review. What is that about?

Paul Yorkis – We are putting sidewalks in (internally). This relates to the requirement for sidewalks on the frontage (on an existing way) not within the subdivision. I can clarify. We are not proposing sidewalks on West Street.

Tom Gay – The confusion starts to come in with reference to the private driveway. It says here 18’ paved. Up above, it says 16’ paved. We need to make that match, okay?

Paul Yorkis – Yes.

Susy Affleck-Childs – I would like us to come back to this issue of the sidewalks.

Andy Rodenhiser – What I am handing out to you guys is what our subdivision rules and regs say re: what is to be included in a waiver request. As we think about these things and ask these questions, we have to make sure that we address these things that are in 5.5.6. **Insert text of waiver language**

Andy Rodenhiser – Some of these waiver requests are pretty self evident, like a private way; but in the instance of sidewalks a fuller explanation is required, and due diligence on our part for seeking those answers. The list you prepared is somewhat self evident, and there are some other areas where it is kind of deficient.

Paul Yorkis – Part of that may be addressed after the board is in a position to share a draft of a decision.

Andy Rodenhiser – Do you think in some of these instances it can be addressed like what Tom Gay has pointed out?

Paul Yorkis – Some is very easy to change; it is just language.

Andy Rodenhiser – Why the waiver requested may be obvious, but we need to know why.

Paul Yorkis – I can answer. If you don't grant the waivers, we won't do the project. It is that simple. If we don't do the project, we will go back to a 40B.

John Williams – I beg to differ. A criterion for granting an OSRD is to compare it to a standard subdivision. Linking it back to the 40B implies a little hostage situation with the board. I would like to see an explanation.

Paul Yorkis – You are asking the applicant to match the opportunity with the subdivision rules and regs which are incorrect, outdated and inappropriate.

Andy Rodenhiser – My reason for asking this, in the process of documenting the public hearing, we take in the information and we use the info to do our findings and grant the waivers or deny them. I understand you may not do the project if we don't grant waivers. It is not my intent to try to find ways for you not to do the project, but if you want to present waivers then at least present the info that allows us to make a decision.

Paul Yorkis – If you want people to do OSRD, you should have regs that are relevant to a project that you are trying to promote. It goes both ways. It becomes very expensive every time we have to go back and talk to an engineer to put language down which is unnecessary because of what this board did in having an OSRD bylaw. But then you have to go back and justify it under a totally different set of rules and regs. It becomes very expensive.

John Williams - At any time when we discussed going toward an OSRD option, were sidewalks on West Street bargained away as part of any earlier discussions to get you to do it as an OSRD?

Paul Yorkis – No. At the same time, I have been informed that the Affordable Housing Committee is saying the affordable units need to be 3 bedrooms. You are asking for a lot, and then you are asking the developer for even more. And I, on behalf of my client, am cautious on the total fiscal impact of this. There is a recommendation made to put \$1000 in the fire alarm maintenance account. I understand that. \$1,000 here and there and all of a sudden we are in a position to ask does this make sense. I don't want to go there. The applicant doesn't want to go there honestly.

Andy Rodenhiser – I don't think we are asking you to perform a study or involve your engineers, but to provide some sound reasoning as to why you are requesting the waiver.

Paul Yorkis – Some of it is face value.

Andy Rodenhiser – I agree.

Paul Yorkis – Regarding the comment Mr. Gay shared, technical errors need to be corrected and we will address that. If some of these things start to involve engineers and surveyors and others, it gets expensive. The reason I am here tonight should be obvious to you.

Andy Rodenhiser – I imagine you typed these up.

Paul Yorkis – No, David Faist (engineer) did. I spoke with him this afternoon when I detected an inconsistency, and I tried to correct one and it is my fault

Tom Gay – Clearing those up will make it much cleaner going forward.

Paul Yorkis – I want on behalf of the applicant to the board, to be as clear as I know how to be, so there is no question what did we really mean. Language really means something. I want it to be precise as I can so there is no misunderstanding.

Andy Rodenhiser - So from my perspective the only thing I need to have a reason or an explanation is on the sidewalks.

Paul Yorkis – To the best of my knowledge, we cannot build a sidewalk there on West Street. I will have to check because of the vernal pool.

Andy Rodenhiser – And that becomes a part of the testimony.

Bob Tucker – Along West Street there, how far back is the stone wall from the asphalt?

Paul Yorkis – The stone wall I believe, is the actual edge of layout.

Greg Whelan– That is correct.

Paul Yorkis – In some cases 5-6 feet. The issue isn't just whether there is the physical space. It is also the impact because the sidewalk would be immediately adjacent to the vernal pool.

Bob Tucker – I was just curious.

Paul Yorkis – I will get some kind of small sketch plan or something and attach the info.

Bob Tucker – We don't need a sketch plan, just give us an explanation.

Bob Tucker – Re: 7.10.2 on sloped granite edging. You want a waiver on that.

Paul Yorkis – There is no curbing at all in the subdivision.

Andy Rodenhiser – That is consistent with smart growth principles.

Bob Tucker – I am all in favor of that. Curbing can cause more aggravation than good sometimes.

Paul Yorkis – I think we can do it. We are going to try our best to do it in terms of design and construction.

Bob Tucker – That shows some thinking outside the box when it comes to drainage, and I am glad to finally see that.

Andy Rodenhiser - Any other issues?

Karyl Spiller-Walsh – I have an observation. Building F now has one side load and one front load garage. Is it true that it is inconsistent with the OSRD description?

Gino Carlucci – The side load is okay. The front load has to be 5 feet behind the principal building.

Karyl Spiller-Walsh – It is part of the bylaw, you can't waive it away.

Paul Yorkis – The easiest way is to bring that roof out to the edge of the garage because then it is not relevant anymore.

Andy Rodenhiser – Is it supposed to be set back 5 feet?

Andy Rodenhiser – The garage needs to be offset behind the gable roof by 5 feet.

Karyl Spiller-Walsh – He wants to bring the main building out.

Andy Rodenhiser- He has conceded.

Paul Yorkis – I have not conceded that.

Paul Yorkis – This is about working to the bylaw vs. working to the site. If we bring forward the garage it is part of the main structure.

Andy Rodenhiser – Then there is no offset. Does it require an offset?

Gino Carlucci – Yes.

Greg Whelan– Let's just eliminate Type F. We don't need that floor plan. Just eliminate it.

Tom Gay – What would you put in there instead?

Andy Rodenhiser – Paul, do you want to take a few minutes and confer with Greg?

Susy Affleck-Childs – That is the one floor unit.

Gino Carlucci – Do one F type instead of two.

Paul Yorkis – We will go back and take a look at it. You aren't going to close the hearing tonight, it is obvious.

Bob Tucker – I don't have any other questions. I need to do some homework.

Paul Yorkis – I would like to email the revisions to the waivers so they can be reviewed as soon as possible. Get back to me if more clarification is needed on the waiver list. With respect to the plan for Unit F, I need to talk with David and see what we can do.

Andy Rodenhiser- In the absence of this, just get rid of it. You need to have something in lieu of you can use.

Paul Yorkis – We want to have a one story option. It may be that we eliminate the garage on one side I think.

Karyl Spiller-Walsh – We talked about the tightness of the side loads, and that is why it is going to be tight. We can't waiver this away.

Paul Yorkis – I can understand. The board might want to give more options for design in the bylaw.

Karyl Spiller-Walsh – The reason for including it in the bylaw was to reduce front loads.

Chan Rogers – What was wrong with the original type F building.

Paul Yorkis – It was a front load. F #2 is side load, but there isn't enough room on the lot for both garages to be side loaded. There are many creative solutions. We will come up with something.

Susy Affleck-Childs – We do have a decision you can start to look at. Also Eric Alexander on behalf of the Affordable Housing Committee is here.

Eric Alexander – I will be very brief. Paul Yorkis has already referenced what I want to say. I don't know how far discussions have advanced in terms of unit size for this development. I just want to let you know that the Affordable Housing Committee is of the opinion there is an acute need for 3 bedrooms units in Medway. There is a preponderance of 2 bedroom units in the affordable housing stock. We feel there is some pent up demand. To the extent it is economically feasible and desirable we would like to see 3 bedrooms units for the affordables.

Andy Rodenhiser – For how many?

Eric Alexander – For the 3 affordable units.

Karyl Spiller-Walsh – Is there a way to reduce the square footage if they are providing 3 bedrooms?

Eric Alexander - As long as it is consistent with building health and safety codes we don't have an issue with reducing unit size. We aren't looking to have some onerous burden placed on the

developer when they are building these affordable units, but we want to make sure that 3 bedrooms are acknowledged and included to the extent possible.

Bob Tucker –What was the original plan?

Susy Affleck-Childs – We have not been provided with info on the unit sizes, nor have we asked for it. So far, we just have basic footprints and elevations.

Andy Rodenhiser – Really just boxes at this point.

John Williams – I remember reading the affordable housing bylaw that the afford units have to be in keeping with the regular units.

Karyl Spiller-Walsh – I am having trouble with that.

John Williams – I wondered if that included other units with 3 bedrooms. Should affordable housing have to be the same? What does our bylaw say?

Karyl Spiller-Walsh – At what point does the A unit stop becoming affordable, if they are competing with 2500 square feet?

Eric Alexander – That language could probably stand to be cleared up. The intent is for the affordable units to not be distinguishable on the exterior from the market rate units. The assumption is that there will be some compromise on interior finishes and unit size. We don't want to be egregious on the exterior. There is no expectation to have hard work oak floors in the affordable units.

Karyl Spiller-Walsh – What about the square footage?

Eric Alexander - As long as it is consistent with the building, health and safety codes.

Andy Rodenhiser – Thanks for the testimony. Susy Affleck-Childs has a draft for us. This is something that should just be shared with the board at this point.

Bob Tucker – I would like to take first cut at it.

Andy Rodenhiser – Do we do this during the public hearing phase?

Susy Affleck-Childs – You have to in case there are questions or clarifications or more information needed.

Andy Rodenhiser – Paul, did you hear what Eric said?

Paul Yorkis – Let me answer on a personal level, and then on behalf of my client. This board has heard me speak frequently about the need for affordable housing in Medway. My concern on behalf of the applicant is we need to be in a position to build the most attractive units for the marketplace. My concern is we would like the flexibility to have whatever number of bedrooms we need in the non-affordable market rate units. I don't want to argue against what Eric

Alexander has presented, but I am sensitive to my clients concern, which is the ability to build units that will work in the marketplace. I hope the board understands there is a sensitivity to the topic, but here is reality to being competitive.

Karyl Spiller-Walsh – I don't understand.

Andy Rodenhiser - What I think he is concerned about is their ability to construct the units for the marketplace that exists. When they are built, they need to be saleable.

Paul Yorkis - All the market rates could be 3 bedrooms.

Andy Rodenhiser – They will build what is going to sell.

Susy Affleck-Childs – What I am hearing is that they would prefer not to have any limitations on the market rate units. When we did Pine Ridge, there were limitations.

Paul Yorkis – And we had no affordables there.

Karyl Spiller-Walsh – What difference does it make to us what they do in the market units?

Andy Rodenhiser – We are concerned that it reflects the nature of the surrounding neighborhood or community.

Andy Rodenhiser – At Pine Ridge, we were concerned about propensity about having large families there and number of cars was a huge issue (for the neighborhood). We used some limitations on the # of bedrooms to regulate car traffic through Candlewood.

Susy Affleck-Childs – That was because the traffic had to go thru an established neighborhood. It is very different here.

Andy Rodenhiser – That neighborhood was very militant about the amount of traffic that would be coming into their neighborhood. There was no other outlet.

Karyl Spiller-Walsh – So what was the upshot?

Paul Yorkis – At Pine Ridge, 50% were 2 bedroom units and 50% were 3 bedroom units.

Andy Rodenhiser – This is clearly a different situation. There is not a traffic access issue. To John Williams's point about consistency with surrounding neighborhoods, 3 bedrooms are not inconsistent.

Karyl Spiller-Walsh – I totally agree that it should be driven by the market, except for the affordables. We should have some input into that.

Paul Yorkis – If we can build 2 bedroom units, we will do that.

Andy Rodenhiser - But if the marketplace says 3 bedroom, you don't want to be restricted.

Karyl Spiller-Walsh – Demographics are changing today. People are building a study in a third bedroom.

Paul Yorkis – It is really important when the board says it is 2 bedrooms. The deeds reflect that. How the property is used may be different, but the deed is a legal description. We would prefer to have flexibility.

Karyl Spiller-Walsh – I agree with that.

John Williams – For a general statement when we come to vote, I am looking at the criteria for granting a special permit. I see the plan for the 40B. As to due diligence, could we see what has already been approved, what it looks like, if there was any work done on this to design a conventional subdivision. Were there any plans for a conventional subdivision? What did those plans look like? I want to see if the plan as presented is better or worse, or has more impact than a regular subdivision.

Andy Rodenhiser – I don't know if you can take into consideration stuff from a previous application (40B). You can only consider the info provided in this public hearing.

John Williams – Our charge is to decide whether this OSRD has a less detrimental impact than a conventional subdivision.

Bob Tucker – I know that is how the rules are written. That is not what has been approved for the lot.

John Williams – Do we have a plan?

Susy Affleck-Childs – You have the 40 B decision, but I have not made copies of the plan.

Greg Whelan – I want to make one thing clear. It was approved for 22 units with no sewer, all septic. With West Street getting sewers, we would be looking at 32-36 units if we went back to the 40B option. It is a different animal with sewer availability.

Susy Affleck-Childs – You would need to amend your special permit.

Andy Rodenhiser – It is my understanding that you are willing to forego the 40B approval and give it up essentially if the OSRD is approved.

Greg Whelan – I am not going to commit to that. This is what I want to do.

Andy Rodenhiser – They would have to go to the ZBA. He has an approved project for 22. He would have to redo the permit for 36.

Greg Whelan – In answer to your questions, I would.

Andy Rodenhiser – He needs to make sure that what we approve is something he can market and construct and build and make money. If we load it up with burdensome items or don't grant waivers, then he has got to sell what he can sell.

Karyl Spiller-Walsh – We have come down a lot. It has come down from 18 feet road width. There has been a good communication. Let's keep this crystal clear as to what this thing was . . . we are getting there.

Andy Rodenhiser - All right.

Paul Yorkis - Is the board going to make the decision available so we can review that, and at the next meeting we can be prepared to have an intelligent discussion with the board.

Andy Rodenhiser – At what point do you want to release this draft to the applicant given the circumstances we have faced with another project?

Karyl Spiller-Walsh - After we go over it amongst ourselves.

Andy Rodenhiser – We do that in a meeting, during a public hearing.

Tom Gay – Well, seeing it kind of for the first time, I would like to have some time to read it. I have highlighted a few items already.

John Williams – I need to give it a once over.

Tom Gay – I think we are close. We are not far off here.

Paul Yorkis - The concern I have is the length of time, and I am just trying to figure that out. Is there a mechanism that we can try to obtain a copy of it, and at the next meeting close the hearing and make some progress?

Andy Rodenhiser – What time do we have here now? It is 8:15 and we have the Avellinos here. If you want, we can put this on a side rail for a little bit, talk to the Avellinos, and then come back to this.

Susy Affleck-Childs – We also have 2 ANRs coming in at 8:45.

Bob Tucker – I think we need some time. This is the first time that any of us have seen this.

Andy Rodenhiser – Do you want to read through it on your own and then come back

Bob Tucker – Yes.

Karyl Spiller-Walsh – Yes.

Bob Tucker – I want to make some notes on a few things, highlight some items.

Chan Rogers – Who prepared this?

Andy Rodenhiser- Susy Affleck-Childs and Gino Carlucci.

Bob Tucker – It is not that I have had any major issues, but I would like to be able to read it and know what I am commenting on.

Paul Yorkis – So how should we proceed?

Andy Rodenhiser – When is our next meeting?

Susy Affleck-Childs – The next meeting is Monday, February 23.

Andy Rodenhiser – We don't have a meeting on the 17th. WE are meeting soon with the Economic Development Committee.

Susy Affleck-Childs – That is March 3.

Susy Affleck-Childs – I have a meeting on the 17th to review organic farm proposals, with Bob Tucker as well.

Bob Tucker – I can review and give comments.

Andy Rodenhiser – I want a public meeting to get together and start discussion and then make a decision to release the draft decision.

Tom Gay – If we had a one item agenda, I could do something next week.

John Williams - I am going to be in New Hampshire for the week.

Andy Rodenhiser – Can you review it and give us comments?

Susy Affleck-Childs – NO. He has to be here for the discussion.

Bob Tucker – What about the 16th?

Chan Rogers - There would only be 5 of us.

Tom Gay – I could do the 16th.

Susy Affleck-Childs –That it is a holiday. It is a town holiday. Town hall is closed.

Chan Rogers – We only need 5 of us to vote.

Susy Affleck-Childs – Bob Tucker is out. He can't vote on this because he missed two public hearings.

Susy Affleck-Childs – John, are you out all week?

John Williams- Yes, Sunday to Sunday.

Susy Affleck-Childs - Unless you want to do something later this week. We need 48 hours notice to post a meeting.

Andy Rodenhiser – What about this weekend? Oh, I will be gone.

Karyl Spiller-Walsh – If he reviews the decision, he can give us comments.

Susy Affleck-Childs – He has to be here. You can only get one bye for a public hearing.

Chan Rogers – Why isn't Bob involved?

Bob Tucker – I have missed two (sessions) on this hearing.

John Williams – I could do it Saturday morning.

Susy Affleck-Childs – Andy cannot do it Saturday morning.

Karyl Spiller-Walsh – That would be hard for me, too.

Susy Affleck-Childs – What about Friday (2/13)?

Andy Rodenhiser – I could do Friday night. I could do Thursday night after 8:30 pm. I have a wake to attend that night.

Karyl Spiller-Walsh – How about Friday?

Andy Rodenhiser – I would prefer that.

Susy Affleck-Childs – We have to post 48 hours ahead. So we won't be in a position to post for Thursday. But Friday is okay.

Susy Affleck-Childs – How early?

Andy Rodenhiser – 4 or 5 pm. The earlier the better.

Tom Gay – Earlier would be better.

Andy Rodenhiser – Is 5 okay? This Friday, February 13th.

John Williams – Are we going to be able to take a look at the other plan (40B) before then?

Susy Affleck-Childs - I don't have it electronically.

Tom Gay – Do you have a paper copy?

Susy Affleck-Childs – Yes.

Tom Gay – If you give it to me I will send it out electronically.

AGREED - We will meet here on this on Friday February 13. We will continue the public hearing.

Andy Rodenhiser – We will tape it. For the abutters, we will begin deliberations on the decision on the 13th and then at that point we will make a decision on releasing it as a draft.

Susy Affleck-Childs - The public hearing is continued to Friday, February 13, 2009 at 5 pm in this room. At that time, the Planning Board will make a decision whether to release the draft decision to the applicant.

Discussion re: possible revisions to Commercial District 5 zoning

Joe Avellino, Medway Gardens
Attorney Paul Kenney

Paul Kenney – We are here to discuss changing the zoning in the Commercial V district. The gas stations say the bylaw as is won't work.

Andy Rodenhiser – Do you have anything in writing?

Joe Avellino – Our potential tenants have not given us anything in writing. They cannot live with the way the bylaw is written.

Andy Rodenhiser – Have they ever put that into writing?

Joe Avellino – They have told us verbally. The realtors we have hired have said it. A couple of gas and convenience stores have said it. We haven't heard back from Extra Mart. So, after we did our due diligence, they won't come here. They are not going to put in the time, effort and the money. They might settle for 5 pumps. They want the opportunity to show you what they can do.

Dunkin Donuts has stopped expansion in New England, so having them as sub-tenants is no longer an option. So they just build a store for themselves, a convenience store – 2,400 to 3,500 sq. ft. They have a formula – population, traffic counts etc. When it is busy, they need the opportunity to make the money. They say they can't make money with 4 pumps. They don't want to build it if it is not profitable. They are all afraid of the ledge. That is what we are getting from these people. They are the only people that are expanding. We need a tenant. We have been in business 30 years. We need to increase our parking area and update our facility, and we cannot do it without a tenant on that corner.

Chan Rogers – My question is what is the minimum size station you want to put there?

Joe Avellino – 6 pumps for 12 vehicles – at least to possibly be able to do that.

Chan Rogers – My concern is that there is one in Millis, one on Route 126 in Bellingham and one in Bellingham (Route 140). Never have I ever seen half of the pumps filled. I don't see why they have to be so big.

Joe Avellino – What I have gotten from these people is that it makes a difference to their bottom line. They are full early in the morning and late in the day. They need the availability during peak times. It is amazing how they come up with the figures. They aren't going to show us their formula. It is not one particular client. It is the whole thing. I called Extra Mart last week. He said they can't do anything with that bylaw. That is where we are at. It is not working.

Andy Avellino – They have all expressed they can work with architectural concerns. It is the number of pumps that is the issue.

Joe Avellino – That is an added cost. It has a New England look, and so the canopy has some character to it. What we are saying here is we don't want these guys to build anything we don't want them to build. They need a certain size to make the numbers work to go there. I think we should be strict with them, but give them an opportunity to show us how they can do it. They told me they could squeeze the 6 pumps under an 80' by 30' canopy. It would look like 3 from the street. They said they will do it that way. They would like the opportunity to present such a plan. They would be interested in coming here.

Karyl Spiller-Walsh – I am having trouble with this. The whole point was to allow a gasoline station on that site. 4 pumps seemed a stretch (when we first looked at this). I can't imagine 6 pumps anywhere in Medway. The scale of this is an extremely important issue. I think what you need to do is some kind of simplistic visual as to what you are talking about.

Joe Avellino – The problem I see with a visual, is we could get a picture, but it wouldn't necessarily be what you will end up with. These companies are going to build what they need to build. They need to show you what they want to build. If you look around, there are so many different types. By trying to restrict the bylaw to make them build something that is not profitable, they won't come. We need to let them propose something. This is a special permit. We should let the gas station show us (what they can do). I could go take pictures. It is a catch 22, a very difficult situation. I don't know how to rectify this. We need a tenant. I don't want them to build anything that is hideous. I think by changing the wording here, to allow up to 6 pumps would work.

Tom Gay – There seems to be 3 things you are proposing a change – and one you have not brought up which is the length of the canopy.

Andy Rodenhiser – We didn't want the dinky little ticket booth type. Is there a compromise here?

Karyl Spiller-Walsh – I told them show us what you mean. In their past discussions with the Planning Board and Design Review Committee, we spent a year on designing this site because of scale and relativity to the neighborhood. We thought we had gone to a very good place. This is not the fault of the town of Medway Planning Board.

Joe Avellino – I am not blaming the town. It is a problem of economics. You might as well say no gas stations.

Karyl Spiller-Walsh – What I have said to you is show us what you mean. Give us a proposal and look at the scale.

Joe Avellino – How am I going to get a site plan?

Bob Tucker – I am not at all in favor of having a plan in front of us and writing a bylaw from that.

Karyl Spiller-Walsh – We are not seeing what he is saying.

Joe Avellino – We need to solicit a tenant.

Andy Rodenhiser – When we wrote the text, we didn't have a plan in front of us. I think it is unreasonable for him (landowner) to have to come up with a design.

Joe Avellino – If we think about this, if we try not to prejudice ourselves against gas stations. It is a business where they need something to be profitable.

Karyl Spiller-Walsh – You are asking us to not prejudice ourselves against gas stations?

Joe Avellino – We want this bylaw to protect Medway so a gas station doesn't look bad.

Andy Rodenhiser – Let me stop this debate right now. How does the rest of the board feel? Is it incumbent on them to do a drawing in support of what they are proposing?

Karyl Spiller-Walsh – What is not adequate is just having a footprint shape.

Chan Rogers – All we are asking for is a basic concept. They are asking for 5-6 pumps on the site, our bylaw limits it to 4. What I have drawn illustrates that as a concept, 5-6 pumps can fit.

Karyl Spiller-Walsh – When the convenience store goes down in size from 4,000 square feet it will change the overall scale. What I am saying, we don't exactly know, how it will it all look?

Andy Rodenhiser – Then you deny the permit.

Karyl Spiller-Walsh – Lets see what it looks like on the site.

Chan Rogers – I don't think we need a drawing to (revise the text).

Tom Gay – Conceptually, to look at what we might prefer in a bylaw, specifically on their site, I think what I am hearing, in an informal market analysis, you have heard numbers that are different from the bylaw. And for the business opportunity, they would like to see the numbers change, but for visual impact, we want to leave it alone.

Chan Rogers – This is a small thing compared to the two in Bellingham.

Andy/Joe Avellino – We don't want anything like those.

Karyl Spiller-Walsh – On Route 126 it is a 6 pump.

Chan Rogers – The one in Bellingham is 10-12 pumps.

Joe Avellino – They have 6 in a long row. We would have 6 in two rows.

Tom Gay – In our decision we have discretion on style. They are giving us some leverage by agreeing to keep it at 60’.

Bob Tucker – When we looked at this it (the convenience store) was crafted with a drive through (for donut tenant). I would say doing it as a minimum of 2400 sq. ft would work.

Karyl Spiller-Walsh – With the 4 pumps that were envisioned before, the access lanes were very tight. We need a visual concept. I need it.

Chan Rogers – We don’t need a visual concept for them to get a change. You need it after they make a presentation.

Karyl Spiller-Walsh - I disagree with that. When somebody comes and want to change the bylaw after we put so much effort into that, I want to see something.

Joe Avellino – We have 4 acres of land there. Me putting this on one acre of land and showing you how it would look, they could come in with a 2 acre plan. You have the right to refuse these people when they come in with a site plan. You have control of the whole project.

Karyl Spiller-Walsh – Right now, they don’t have the right to come in with a 6 pump.

Paul Kenney – It is not a by right use, it is a special permit. What we are trying to do is allow an applicant to get before the board to make a presentation.

Andy Rodenhiser – This (change) would apply to the whole district, not just for their site. Parella could come in with a gas station. Maybe Hess decides that the Parella site is better and the Avellino site is no good. The fact is that these guys could come in with a drawing for their site, and then we get an application for a different site (in the district).

Karyl Spiller-Walsh – We aren’t saying they can’t use their land for other uses.

Paul Kenney – We have had no other interest.

Chan Rogers – Very unlikely to get a new gas station proposed with less than 8 pumps. That location is the intersection of two state highways. The opportunity is greater on this site.

Karyl Spiller-Walsh – Does the rest of the board know that?

Chan Rogers – I would like to move that we adjust the bylaw to 6 pumps (12 filling stations).

John Williams – We are saying we would allow up to 6 pumps. I think we have got to let them have at least what the other gas stations in town have.

Andy Avellino – This is two different animals.

Karyl Spiller-Walsh – The Shell has 3 pumps. Norm Green has 2.

Tom Gay – We would change it to allow for 6 pumps (12 filing locations).

Bob Tucker – They are asking for an enablement, not a by right.

Joe Avellino – Let the guys get in the door. Let them show you what they are capable of doing. At least let them show you. Give us that opportunity.

Karyl Spiller-Walsh – It is never a question of whether it will work. It is how it is going to look in our small neighborhood. It is a very important issue. Scale is important.

Andy Rodenhiser – We get the opportunity to weigh in on it.

Karyl Spiller-Walsh – But first you have to get this through town meeting. It was like pulling teeth before.

Joe Avellino – We have more at risk than you.

Tom Gay – I am not afraid to go back with a change. We have done that before.

Bob Tucker – Bylaws are a dynamic set of words that have got to grow and change to accommodate change and progress.

Andy Rodenhiser – We shouldn't be bashful to change things if we make a mistake.

Joe Avellino – I think it was great that you put this in for us in the first place.

Karyl Spiller-Walsh – I think that corporately there is probably a line in the sand, that they won't even look at a site unless it is x number of units.

Chan Rogers's motion to revise the language to allow up to 6 pumps (12 locations) by special permit was seconded by Bob Tucker. The motion was approved - 4 yes (Rodenhiser, Rogers, Tucker and Gay) - 1 no (Spiller-Walsh)

A motion was made by Bob Tucker and seconded by Tom Gay to modify the text so that the minimum size of a convenience store would be changed from 4,000 sq. ft to 2,400 sq. ft. Change convenience store size – motion by Bob Tucker to modify to read a minimum of 2400 sq. ft instead of 4,000 sq. feet. The motion was approved – 4 yes (Rodenhiser, Rogers, Tucker and Gay) – 1 no (Spiller-Walsh).

A motion was made by Tom Gay, seconded by Bob Tucker to modify the text so that the canopy size over the gasoline pump cannot exceed 2,400 sq. ft. The motion was approved – 4 yes (Rodenhiser, Rogers, Tucker and Gay) – 1 no (Spiller-Walsh).

A motion was made by Tom Gay, seconded by Bob Tucker to add language that there be no lighting on the exterior of a canopy. The motion passed unanimously.

It was agreed to remove item d re: above ground storage tanks.

Andy Rodenhiser – They will have to work through the process with the Design Review Committee.

Joe Avellino – We really appreciate the opportunity you are giving us. Thank you tremendously. This is the way the town should work.

Andy Rodenhiser – Do a good job for us.

Karyl Spiller-Walsh – It is not thru town meeting yet, and if it does pass, we'll see you at the DRC.

Bob Tucker – Kudos to Susy Affleck-Childs for getting a place holder in there for this.

ANR – Richard and Margaret Williams for certain Oak Grove parcels

Paul Atwood, Guerriere & Halnon Engineers

Paul Atwood - Basically there are 4 parcels off Alder and West Streets. The Williams bought multiple parcels out there. They want them defined on a plan to present to potential buyers.

Andy Rodenhiser – So this is collapsing the smaller lot lines (from the original Oak Grove layout). They are in the process of working something out with the Board of Selectmen. They need to codify their holdings.

Paul Atwood – This is only a portion of what they own. They have dozens and dozens. These are just some of them that are in the same area.

Andy Rodenhiser – Are you going through the process of doing this to all of them?

Paul Atwood – This is it for now.

NOTE - Review letter from Gino Carlucci.

Andy Rodenhiser – Contiguous nature is what is inside these boundaries

A motion was made by Chan Rogers, seconded by Bob Tucker to endorse the ANR plan for certain Oak Grove parcels owned by Richard and Margaret Williams.

DISCUSSION

John Williams – In the ANR handbook that Gino Carlucci passed out, lots have to have actual frontage on an accepted street. We are kind of ignoring that.

Gino Carlucci – There is a statement on the plan that signing this does not constitute zoning. They are not proposing to create a new lot.

John Williams - Why are they doing this?

Gino Carlucci – Just to formalize and record at the registry of deeds.

Tom Gay – It is a way of legalizing the description.

The motion was approved. The Board signed the ANR plan.

Cassidy ANR plan

Dave Cassidy - The railroad is giving back the property to the people that own it. You can reclaim it, so that is what we did. Dunn McKenzie Engineering, they did some pretty good research. This little shaded area originally was part of our property. It is not 61A property now, but it will be when it comes back to us.

Gino Carlucci - I believe all we need to do is to justify that.

Dave Cassidy – What I am showing you is different from what 37 Broad Street did. Jeff Mushnick – they found it to be something that the town had owned. This little section is viewed differently by Mushnick than by Dunn McKenzie. We think this little right of way of passage is the Town's and that would abut to us. What I had assumed is that who owned this before had a right of way.

Karyl Spiller-Walsh – I remember when Jeff came in – I think that was an oversight

Andy Rodenhiser – I think we should be careful on saying that it was an oversight.

Karyl Spiller-Walsh – If that was a mistake then we are going to have to go back and claim somehow by extracting that out. Be careful when you are absorbing.

Andy Rodenhiser – We are not the arbiters of whether that exists. The land court judge is the only party that can mediate a dispute.

David Cassidy – I just wanted to bring it up and let you know.

Andy Rodenhiser – Re: Gino Carlucci's review letter, we are looking for modifications to the plan.

Gino Carlucci – There is a zoning line that should be shown per our regs. The one that is a big deal is a statement that Planning Board endorsement is not a determination to compliance with zoning. That is all.

John Williams – What is the difference between 61A and 61B

Gino Carlucci – 61A is agricultural and 61B is recreational land.

John Williams – Why go thru the expense?

Susy Affleck-Childs – Get a revised plan back to us for Friday, and we can sign it Friday night (February 13, 2009).

51 Alder Street – Minor site plan modification

Susy Affleck-Childs – They have submitted an application to make a very minor change to the north façade of the building. They want to add an access door to better connect the building to the outdoor storage area. WE have a drawing prepared by Ben Dzikczek who is doing the work for them.

A motion was made by Bob Tucker, seconded by Chan Rogers to approve the change as presented.

FY 10 budget discussion

Susy Affleck-Childs distributed draft –

Andy Rodenhiser – The new town charter provides that Susy Affleck-Childs reports to Town Administrator and authorizes bills to be paid. Question - Are we (Planning Board members) responsible if bills are not paid?

Discussion of Other Matters for May Town Meeting

Design Review Committee Bylaw amendments

Susy Affleck-Childs – This is a revised version based on further discussion with the DRC.

A motion was made by Karyl Spiller-Walsh, seconded by Chan Rogers to approve this change in the DRC bylaw and submit for the 2009 annual town meeting. Unanimously approved.

Infill Housing

Susy Affleck-Childs – We have further revised the text.

John Williams – I think it will be a substantial change.

Andy Rodenhiser – This provides an opportunity for someone to create off site affordable housing units.

John Williams – This is transferring development rights. To satisfy an affordable housing requirement we would allow a developer to build on small lots. We are talking about adding a number of front doors to Medway.

Bob Tucker – I disagree. I don't think this is an extensive change at all. This would not be significant.

Andy Rodenhiser – Just the process alone is going to be somewhat restrictive.

John Williams – How?

Susy Affleck-Childs – It will be a special permit with a mini site plan.

Chan Rogers – Only a small number of these would ever be looked at.

John Williams – Something intrinsically bothers me about loading affordable housing into the AR2 zone. We have made a social responsibility decision to provide affordable housing, and have made a requirement on our developers to come in and supply that. But in a way we are transferring that affordable housing unit into one specific area of town and not having it spread out.

Andy Rodenhiser – We are allowing for it, not requiring it. The idea is to provide options for people to do it on site or off site.

Bob Tucker – enabling

John Williams – Why would we allow it at all?

Bob Tucker – Why not?

John Williams – What is wrong with keeping affordable housing within a development?

Bob Tucker – You could also argue it encourages revitalization of older neighborhoods.

John Williams – That depends on your idea of what revitalization. And this is probably not consistent with keeping Medway that small community with a rural feel. I see this as inconsistent with our general bylaw.

Andy Rodenhiser – I get the sense that you do not want to see anything built.

John Williams – We should understand the impact of our bylaw changes. We can't stop building; we have a responsibility to grow. This opens up a lot of potential building where none existed before.

Andy Rodenhiser – I don't see that at all. Because we put in the affordable component requirement, that may cause people to even reconsider whether they build in Medway at all.

John Williams – I guess I don't see it as extremely restricted.

Andy Rodenhiser – That is what happened in the 80's in terms of our rules and regs.

Andy Rodenhiser – I don't think it our job to be a stopping board, but to provide opportunities in a controlled fashion.

Andy Rodenhiser – This is recommended as a way to keep a development in an area where you have infrastructure without adding new roads, and promoting sprawl.

John Williams – I see this as an addition to what is already developable and therefore speeding up our natural growth. I am uncomfortable with this.

Andy Rodenhiser - Does anybody share this perspective?

John Williams – We do run a risk of making economic development a large part of bylaws, and then when economy turns and breaks and we have hyperexaggerated growth when the economy turns around. As we kind of fiddle with these bylaws and make it more attractive, when the time comes, we will be very busy.

Chan Rogers – Do we have anything else? I want to go, this discussion is very one sided.

Karyl Spiller-Walsh – I share some of his perspectives. There are a lot of issues with this.

Chan Rogers - I think John Williams is greatly exaggerating the potential of this.

Tom Gay – I would like to spend some time reading this to see if the limitations do create a situation where it is not rampant. Do the other rules really control what can be done? I have a piece of land that is not shown on the list of possible parcels.

A motion was made by Chan Rogers, seconded by Bob Tucker to adjourn. The motion passed unanimously.

The meeting was adjourned at 10:24 pm.

Respectfully submitted,

Susan E. Affleck-Childs
Planning Board Assistant