

**SEEKONK PLANNING BOARD
REGULAR MEETING**

**MINUTES
August 24, 2010**

Present: Ch. Abelson, W. Rice, R. Bennett, S. Foulkes, T. Clancy, L. Dunn

J. Hansen, Town Planner

Absent: M. Bourque (with cause)

7:00 pm Ch. Abelson called the meeting to order.

**Preliminary Subdivision: Orchard Estates Continued from 8/10/10 Applicant: S. Najas
Engineer: Insite**

P. Carlson Insite Engineering. The Board requested sidewalks we added 5-foot sidewalks along the south side of the roadway. This conservation subdivision provides for a total of 8 parcels of land and it provides over 9 acres of open space. We modified the lot lines for the 3 ANR lots, 1 for the existing house and 2 along the street. Last meeting archeological concerns were brought up about the site. Archeological digs were done on the Read property in the 70s and 80s it was a large area that included the industrial park to the north and the area fronting on Fall River Ave. Based on a report items were found along the south side of Leavitt St. Understanding the concerns of this board the developer Mr. Najas contacted Ms. Duranleau from Milner Associates. She is an Archeologist and the firm specializes in this type of thing. She will talk to the board and if you have any questions.

Deena Duranleau Good evening I am from John Milner and Associates and I would like to talk about cultural resources that might be present at the Read Farm. I have read through Tom Mahlstedt's report from 1983 where they examined articles found by the Read Family in the 1920s 30s and 40s. It is an extensive collection. I have walked around that project area and decided that we should put a proposal together to do some archeological testing which would involve subsurface testing to see if there is anything left. It was a farm then an orchard and then was bulldozed out. There has been a lot of sub-surface disturbance preliminary to this proposed project. We would like to do an intensive survey under the Mass Historical Commission. Everything we do is under permit with the MHC, they have to approve it, make sure professionals are conducting the archeological investigation and that a report is provided with our results. That would be completed before any definitive plans are put into place this is just to get the

preliminary proposal on board, that is my understanding. Are there any questions about the collection or the Read Farm?

- L. Dunn In 1984 a Professor Barnes over saw a dig and recovered over 8,000 artifacts some of which have gone to the Peabody Museum and some are at the Seekonk library. Both pieces of literature one from the Journal and one from Professor Barnes indicate that most artifacts were found to the west of the existing house which is where the cul-de-sac is proposed to go.
- D. Duranleau It also mentioned that there was some disturbance to that area in his 1984 report because of the orchard and then the orchard being bull-dozed down. Our job is to assess how much disturbance is already there and come up with a plan so that we can test the area sufficiently to ensure that if there is anything there we can identify them. To do that we would do sub-surface testing. Every 24 ft we would have a test pit, look for material and identify anything found.
- W. Rice Because of public uproar it was a traditional dig. I would hope it would be more than a few random pits and would require a satisfactory review in my opinion.
- D. Duranleau There would not be random pits.
- J. Hansen What happens if you find something?
- D. Duranleau We write up a report of our findings and make an assessment on what we think is significant enough to warrant further investigation or if we decide that we haven't found anything significant, then we send those findings to the MHC if significant we would have to do more intensive testing. Everything is under the MHC permit we can't put a shovel in the ground unless we have their permission and they know what we are doing.
- W. Rice Do they come on site?
- D. Duranleau They definitely do.
- Ch. Abelson If significant what then? Does the developer change plans?
- D. Duranleau That is why it is so good to be in right at the beginning because plans can be modified this is an ideal situation to be in.
- B. Rice What concerns me once it is a developed site in 2010 what happens in the future?
- Ch. Abelson There can be deed restrictions.
- S. Foulkes Does the MHC allow you to decide how many holes you dig?

D. Duranleau We would come up with a number and send it to them with all the information we have on the area and they could come back and say no you need to double amount of holes before we give he permit. They make the final decision on the amount of test holes.

Ch. Abelson At this point in time do you discuss possibly having to restructure the subdivision? Do you think that might be premature? You now have this plan accepted until you find the criteria because if they have to move everything around we would be starting all over again.

D. Duranleau It is incredibly helpful for us to have a plan like this.

Ch. Abelson I am sure we are in favor of going with a conservation development like this and the applicant did answer to the criteria we asked them. I wouldn't want them to proceed to a definitive plan and I know you said that would not happen.

D. Duranleau That is not going to happen

Ch. Abelson That would be foolish on their part.

J. Hansen Typically how long is the investigation?

D. Duranleau Depends on how quickly we can get a permit application into the MHC. It can take a couple of months.

J. Hansen I would assume you would hope to have it done prior to the winter.

D. Duranleau I hope so.

J. Hansen But you feel confident that would be done prior to the winter.

D. Duranleau Yes.

P. Carlson As far as the subdivision goes I can answer any questions but at this point we are looking for a preliminary approval to get this done understanding that would give us direction as to the area that they would concentrate their efforts on and also on the understanding that no definitive would be moved forward until that process is done. So we are asking at this point is a preliminary approval so we can move forward.

W. Rice Mr. Chairman have there been any discussions in these conservation developments about using permeable pavement for driveways, streets and sidewalks?

Ch. Abelson No that is not in our regulations for the road construction. On the driveways that is a possibility.

- L. Dunn How much impervious pavement is there?
- P. Carlson 18, 000 sq. feet however we haven't gotten into the definitive design yet.
- W. Rice Where is the run off going?
- P. Carlson Under existing conditions it is draining toward the pond area and it would overflow into the yard here. The same situation would happen under this condition and what we are proposing is a means of bio-detention swales, infiltration units prior to entering into the pond.
- B. Rice When it overflows does it overflow into the Running River?
- P. Carlson It overflows to the north which is between the industrial park and this property. It discharges to Leavitt where the ultimate discharge is we have not uncovered. We have asked DPW for assistance but have not yet heard from them. My educated guess is that it runs down to the Running River.
- L. Dunn What is the elevation of the pond?
- P. Carlson Approximately 17.
- J. Hansen The applicant is looking for preliminary approval. Approving it won't let them go any further than what they have already done but since they are doing the review anyway and I don't see what the point is, or what the harm is.
- Ch. Abelson Our big concern was that they contact MHC and they have.
- P. Carlson State curb cut cannot take place until the definitive design is approved.
- L. Dunn I would like to ask the Chairman, there are a lot of people here perhaps some people have some information
- Ch. Abelson This is not a public hearing but I did say at the last meeting people could speak so is there anyone in the audience who would like to make a brief statement?
- Jim Badger 17 Apple Orchard LN. I really appreciate the board's consideration on these concerns. I am concerned about the pond area and the run off into it. We know there are turtles that go to the pond they go across Leavitt St. to lay their eggs. There are people who monitor the laying of eggs annually. There are a number of deer, turkeys; there is a lot of wildlife that will be impacted by this development. My major concern speaking for myself is you put in all these new lawns and then you have the chemicals that go on the lawns and it will drain into the pond what are we doing to help protect the wildlife that use the pond?

- Ch. Abelson The applicant still has to go to the conservation commission with the design so that will be addressed with them. The planning board is more involved with the design portion of it where the drainage has to go. The conservation commission makes decisions on order of conditions. It is a step process this is the first step trying to get the preliminary approved then it goes to the review to see what kind of a dig will be done out there and then they have to come back to us with a definitive plan in a public hearing format.
- Linwood Straight 38 Apple Orchard LN. My major concern is about the traffic impact right now the School street is very busy and now we are going to produce 8 more house lots what kind of impact will that have on the existing neighborhood?
- J. Hansen If the applicants engineer wants to address that, typically the types of impact you would see from a 10 lot subdivision probably wouldn't warrant a full blown traffic study.
- L. Straight What would be the game plan if this at some point in the future this gets approved what type of time frame and noise are we looking at?
- Ch. Abelson It depends on how quickly they sell lots we don't set a time limit on it. If it goes through they won't do any building before next summer.
- George Jennings Chief of the Seekonk Wampanoag tribe. I would like to be invited when they start doing the testing.
- D. Duranleau Of course you would be notified.
- R. Bennett Does the clock stop because of the dig?
- J. Hansen It is 45-day clock that we need to make a decision by when they submitted the application. I would venture to guess that this is the meeting the board needs to take action by it may takes us to Sept. 14 but I don't think we are missing any information we would need to continue so it is either approve or deny at this point.
- R. Bennett Or do we have the option to just table it?
- J. Hansen Again the way the regulation reads action has to be taken within 45 days. Getting a preliminary approval does not guarantee anybody anything. It doesn't have legal weight there are no appeals for preliminary the only thing it affects is the time frame for the definitive plan. If someone doesn't submit a preliminary the board has 135 days to decide on the definitive. If they submitted a preliminary it is 90 days to take action. There is no harm if the board wants to approve the preliminary plan subject to doing the archeological dig or we not issue the approval because we want to see the dig done. The preliminary plan is not giving

them anything the plan before us tonight is enough for the applicant to use to determine where the dig might go. So it is up to the board.

Ch. Abelson I think by approving the preliminary plan it would show the State that this is what we are willing to accept and that is what is going to go there. Whereas if we don't approve it is vague I think it is stronger that we show them a plan that we are in favor of.

W. Rice I don't follow that logic.

L. Dunn I don't either

S. Foulkes Are you saying that if we don't make a positive decision tonight that the State would make the decision for us?

Ch. Abelson No, just that the State would have the approved plan to use for the MHC so that the areas that have might be impacted would be shown.

S. Foulkes Why can't they show this plan and say we haven't gotten approval yet?

J. Hansen Again there is no harm either way. Just giving them a solid direction you can change your minds.

S. Foulkes When does conservation get involved?

J. Hansen They are still working on the delineation of the resource areas.

S. Foulkes Conservation is not on the clock like we are. If we table it what happens?

J. Hansen Again, it says action has to be taken by 45 days but there is no legal weight to preliminary plans. We have gotten opinions before that said there is no appeal period for preliminary plans, there is nothing that says that a denial or approval is granting them anything other than giving them a solid direction as to where this board is willing to go.

S. Foulkes So if we table it and it took 2 months to get the review then where does that go calendar wise?

J. Hansen That is the point of this discussion and I think we got what we wanted out of it and that was a review. It is up to the board whether you issue an approval or not.

L. Dunn I think we should be clear on how many house lots we have. All together 10 new houses proposed.

J. Hansen We don't determine buildability of the lots. 10 lot subdivisions happen all the time. Subdivisions are allowed by right. It is something that is allowed to be done.

R. Bennett This meets all criteria of a preliminary.

W. Rice. That is why we have a 7-member board.

R. Bennett made a motion to accept the preliminary plan for the subdivision Orchard Estates.

No second

S. Foulkes made a motion to table until review is completed. Seconded by L. Dunn and so voted: Aye - S. Foulkes, L. Dunn, B. Rice. Nay - R. Bennett and Ch. Abelson

Vote: (3 -2) approved

Surety Release: Brigham Farm

**Applicant: Paul Bowen
Engineer: Caputo & Wick**

D. Bray My name is David Bray from Caputo & Wick and I am here representing Triple Eagle Enterprises. I am here before you requesting a release of surety. The final pavement has been installed all catch basins and drainage manhole covers have been brought up to grade and the swale has been corrected. Items remaining to be done are; planting of street trees, installation of fire alarms and granite monuments and preparation of the record drawings for Board.

Concerning street trees Little Tree Nursery did some planting on the island, which was in lieu of planting some of the trees in an arrangement with Triple Eagle and the board I believe. Attached is a copy of that invoice to have it credited toward the amount allocated toward the trees and then we have the offer from Little Tree Nursery to plant the remaining trees which were originally 128 trees but with the \$7,000 credit for a landscaped island that would bring it down to 91 trees. Little Tree has quoted \$179 per tree at a cost of about \$17,000 for trees. So what we are asking to do is to have that remaining amount of money remain in the pass book account for: street trees, cleaning of the drainage systems, installation of the granite monuments and preparation of roadway, fire alarm box and \$3,000 in case Weston & Sampson has any other outstanding invoices or inspections for of \$36,987.00 and a 10% contingency and a 5% engineering fee on top of that for a grand total of \$ 49,722.55 with that I request that surety be reduced to that amount.

S. Foulkes So items to be done can be done with \$ 49,722.55.

Ch. Abelson Yes.

W. Rice I have questions about the landscaping referred to by applicant. The island contains about 15 winterberry bushes that are 5 feet high the rest is weeds, also the water quality swale that is over grown not up to specs as indicated on the plan. I don't see where 15 or so shrubs are worth a \$7000 credit on trees.

D. Bray I walked the property with Bob Lamoureux and John Hansen a week ago. Bob did discuss concern over bottom of swale needing to be re-seeded we did retain \$1,000 to do that. Also one of the detention ponds needs loom and re-seeding. We put \$2,000 in budget to do that work as well. That work should be done by next meeting so that we can come in and have those items released as well.

B. Rice I walked that road today and the loom has been applied to the berm but no grass seed yet.

J. Hansen Bob Lamoureux indicated to me that he wants to be on site when Little Tree Nursery determines amount and location of trees to be planted.

D. Bray Drainage swales are supposed to be cut twice a year.

S. Foulkes Who would be the official person to have this corrected?

J. Hansen B. Lamoureux in the future.

D. Bray Triple Eagle now.

J. Hansen It is not our land it is the applicant's.

Ch. Abelson I would like to entertain a motion to authorize the Town Treasurer to reduce the surety of Brigham Farm Phase II to \$49,722.55 with an expiration date of November 15, 2010 with the condition that the bottom swale and detention area be mowed and cut.

W. Rice And the other conditions the applicant mentioned in his opening remarks.

J. Hansen You should state all the items so we are clear.

D. Bray Basically all the items that are outlined that still remain to be completed in the summary on my cover letter.

W. Rice Do you want to make that motion again?

- S. Foulkes If you want to be specific.
- Ch. Abelson And then to use the remaining surety that is left to complete the cost estimate that we have gotten from Triple Eagle Enterprises LLC. You need anymore?
- W. Rice You have to or it is not a motion.
- Ch. Abelson It is not a condition you are reducing the surety you don't have to read that into the minutes. It is not necessary.
- J. Hansen I thought Bill said there were other conditions other than what the applicant is proposing that he wanted attached to this. No?
- W. Rice Just the condition about mowing the swale.
- Ch. Abelson I said that. I thought there was something else David had said at the beginning it was just the estimate he was doing to show what the reduction was paying for but that is not necessary to put that in there.
- J. Hansen You are making the motion to reduce the surety as suggested \$ 49,722.55 subject to the mowing of the swale and detention basins right?
- Ch. Abelson Right.
- W. Rice And any other conditions.
- S. Foulkes But is this too nebulous if they are not spelled out? You are saying you are approving this with the conditions that were spelled out but í
- Ch. Abelson It is not a condition it is just the remaining work.
- S. Foulkes So should we say that?
- Ch. Abelson We don't need to say that because it is documented with the Form P. We have to get that signed and have it all reviewed through B. Lamoureux and possibly engineers.
- S. Foulkes Alright so we bring in Caputo & Wicks August 10, 2010 letter so we have something to refer to.
- Ch. Abelson As per Caputo & Wicks letter revised August 17, 2010.

Ch. Abelson I would like to entertain a motion to reduce the surety on Brigham Farm Phase II to \$49,722.55 as per calculated on the cost estimate from Triple Eagle Enterprises

LLC and the revised letter from Caputo & Wick dated August 17, 2010 with the condition that the bottom of the swale and detention area be mowed with an expiration date of November 15, 2010.

L Dunn moved the motion. Seconded by R. Bennett and so voted by: Ch. Abelson, L. Dunn S. Foulkes, W. Rice, R. Bennett

Vote: (5-0) Approved

Discussion: Applicability of Site Plan Review for 1045 Fall River Ave. – Steve’s Sunoco to be a Stop & Shop fuel facility.

Russell Rodel I am from Stop Shop and we have before you this evening a proposed Stop & Shop fuel facility it is an existing Sunoco site now. The plan was prepared by Connor Nagel and he can take any questions from the board. The major changes are the elimination of convenience store and selling cars. We have in place a lease with the owner which gives us control over the parking spots. We had the opportunity to review this plan with the town planner and the building inspector to answer any questions they had on the site.

Connor Nagel This is what I would call a face-lift. There are 6 pumps operating now we are proposing to remove the 2 diesel tanks and have 1 new storage tank for gasoline. The convenience store would become a storage room. The canopy will now say Stop & Shop. We are proposing to reduce the parking spaces from 8 to 2.

Ch. Abelson Would there still be automotive repair?

C. Nagel Yes repair and inspection stickers.

Walter Steincross From Stop & Shop. We gave Steve the ability to keep a certain number of cars up here but only the cars to be serviced and he is to move them in a systematic way. We gave him the right to park 2 cars near the service doors and we gave several spots for employees.

L. Dunn I don’t know if it is in our purview or not but two things come to mind; drainage features within the area do you have oil water separators?

C. Nagel We are not altering anything on the site. There is a catch basin in this corner but we are not making any modifications to the site.

L. Dunn Are there restrooms?

C. Nagel There is a restroom for the attendance use and one in the service area.

L. Dunn Why is there not an oil water separator on the premise and who responsibility is it to have one put in?

Ch. Abelson It would be the boards if it were a new parking lot it is the same business not a change of use it doesn't preclude us from asking if they would.

L. Dunn Would you?

C. Nagel We are proposing to repave but not dig up and do major construction.

L. Dunn You are digging up anyway.

Ch. Abelson We have no right to enforce that.

L. Dunn I was just asking.

W. Steincross It's not in our plan or in the budget but if for some reason we are doing the work and we think we could do something and it is affordable then we will do it for you but I can't make any promises.

L. Dunn Thank you.

J. Hansen Doesn't meet the criteria for a site plan review but as I said in my memo I wanted the board to officially make that decision knowing the site's history. I am asking the board to agree with my recommendation that a site plan review is not required.

**R. Bennett made a motion that a site plan review is not required for 1045 Fall River Ave. seconded by S. Foulkes and so voted. Aye -Ch. Abelson, R. Bennett, S. Foulkes
Nay – W. Rice
Abstained – L. Dunn**

VOTE (3-1-1) approved

Public Hearing: Zoning Bylaw Amendment: Drive-thru facilities (cont. until 9/28)

Ch. Abelson asked to wave the reading of the public notice.

**R. Bennett made a motion to wave the reading of the public notice. Seconded by S. Foulkes and so voted unanimously by: Ch. Abelson, W. Rice, L. Dunn, S. Foulkes, R. Bennett
Vote (5-0) approved**

Introduction of Board members: Ron Bennett, Bill Rice, John Hansen Town Planner, Neil Abelson, Phoebe Lee Dunn, Sandy Foulkes.

Ch. Abelson We are going to continue this hearing until September 28, 2010.

J. Hansen In order to officially here this the Board of Selectman needs to refer this to us they will be meeting tomorrow night and then we can have our public hearing.

W. Rice made a motion to continue this public hearing until September 28, 2010. Seconded by R. Bennett and so voted unanimously by: Ch. Abelson, W. Rice, L. Dunn, S. Foulkes, R. Bennett

Vote (5-0) approved

Public Hearing: Zoning Bylaw Amendment: Neighborhood-style Retail (cont. until 9/28)

Ch. Abelson asked to wave the reading of the public notice.

L. Dunn made a motion to wave the reading of the public notice. Seconded by R. Bennett and so voted unanimously by: Ch. Abelson, W. Rice, L. Dunn, S. Foulkes, R. Bennett

Vote (5-0) approved

Introduction of Board members: Ron Bennett, Bill Rice, John Hansen Town Planner, Neil Abelson, Phoebe Lee Dunn, Sandy Foulkes.

Ch. Abelson We are going to continue this hearing until September 28, 2010.

L. Dunn made a motion to continue this public hearing until September 28, 2010. Seconded by W. Rice and so voted unanimously by: Ch. Abelson, W. Rice, L. Dunn, S. Foulkes, R. Bennett

Vote (5-0) approved

Public Hearing: General Bylaw Amendment: Scenic Roads Bylaw – Prospect St.

Ch. Abelson asked to wave the reading of the public notice.

R. Bennett made a motion to wave the reading of the public notice. Seconded by L. Dunn and so voted unanimously by: Ch. Abelson, W. Rice, L. Dunn, S. Foulkes, R. Bennett

Vote (5-0) approved

Introduction of Board members: Ron Bennett, Bill Rice, John Hansen Town Planner, Neil Abelson, Phoebe Lee Dunn, Sandy Foulkes.

- J. Hansen This public hearing is for the adoption of Prospect St. as the candidate road for the scenic roads bylaw. This general bylaw will be put forth this fall at town meeting. The purpose of the scenic roads bylaw is to designate scenic roads such as Prospect St. Within the right of ways on scenic roads the preservation of trees and stonewalls would be the goal. In order to do anything in that right of way any member of the public would require notification and approval from this board. There are residents here tonight who would like to speak on this. I would like to state for the record again that this is within the right of the way of the town. We are not infringing upon anyone's private property rights. Prospect Street is 50 feet wide and has been that way since the early 1950's when the street was laid out and accepted by the town we are not changing that. There is typically an 18 foot wide pavement on Prospect St. it runs down the center which is good but it can meander, certainly there have not been any surveys of this but if it does that would allow a 16 foot section on each side of the street to be within the town's right of way. So any stonewalls or trees that fall within that zone would be protected. Being that it is a general bylaw it will require a simple majority to have it passed at town meeting.
- Art DeBlois 404 Prospect St. Why did you decide that Prospect St. was going to be the guinea pig for this?
- Ch. Abelson Because it's one of the nicest streets in town. It has full grown trees and stonewalls all the way down the street.
- A. DeBlois There has been no attempt by anyone to cut those down to my knowledge. I can't understand why it needs protection.
- Ch. Abelson You could some day get someone with a bulldozer and take it out thinking they own it. After it is done you can't get it back. It also gives an avenue for people to come to the town to be able to ask to do work in that area otherwise you would be in violation of the law if you were to cut down town trees or remove stonewalls.
- A. DeBlois What this is saying is the right of way is 50 feet from center give or take 25 feet on each side. So my stone wall is 14 feet from the edge of the road and within the 16 feet there is a large tree that is rotting, is it at the town's cost that the tree be taken down and replaced under the proposed bylaw?
- J. Hansen That is the way it is now if the tree is in the town's right of way the town is responsible to take it down.
- A. DeBlois So theoretically if my stonewall lies within my survey bounds even under this rule I can do whatever I want as long as it is within my survey.
- Ch. Abelson Right.

- A. DeBlois And my driveway if I wanted to put pavers at the end of the driveway because it needed to be redone I need to come here to get permission in order to do that?
- Ch. Abelson No you already have a cut for your driveway that is an existing feature so you would not have to come here for permission.
If you wanted to widen it to 30 feet then yes, or if you were changing drainage to make more water flow onto the street then you would have to talk to DPW dept.
- A. DeBlois The trees that are within that 16 foot area that get taken down get replanted by the town unless they are within my lot line and then I get to take them down.
- J. Hansen Right but if you took down a tree within the right of way then this bylaw says you are responsible for planting a new tree.
- A. DeBlois If the stonewall abutting my property is within that 16 feet theoretically the town owns that stonewall?
- J. Hansen If it is within the right of way, typically the stonewalls were laid out to mark the boundaries of properties and I don't know if that is the case on your property but sometimes if you read deeds it will say to the center of the stonewall.
- A. DeBlois I have a survey so anything within the survey lines this bylaw does not affect if it is outside the survey lines it is affected and is in fact maintained at the town's cost as opposed to mine as long as I don't go in and take it out.
- Ch. Abelson Say you wanted a perfectly healthy tree cut town you could come to us and ask.
- A. DeBlois Today how is that policed? Can people just cut them down?
- J. Hansen I think the DPW director if notified he might come out or send a letter and say you cut down a healthy tree because the DPW director is also the tree warden in town which has other duties under Mass General law he has to adhere to.
- A. DeBlois I read that but I just didn't realize that within the town's right of way you all have to take care of things I was under the impression I had to do that. Thank you.
- G. Sagar 30 Elaine Lane my comments are personal and not as any member of any regulatory board. Why is the planning board holding a public hearing on a general bylaw? I believe that should go to the board of selectman unless you are acting as their agent.
- J. Hansen The State law requires that the planning board, conservation commission or the historical commission hold a public hearing on the adoption of any scenic road. This is not a public hearing for the adoption of the bylaw. This is just to designate Prospect St. which is part of the bylaw that is why we are discussing the bylaw.

- G.Sagar I don't understand why anybody along that street if they wanted to cut down a tree on town property why they would come to the planning board they should be going to the board of selectman because they are by statute the highway commission.
- J. Hansen The State law that dictates scenic roads and gives the authority to towns to adopt scenic roads bylaws gives that authority to planning boards, historical commission or conservation commissions. I have spoken to the conservation commission and they support this and said if we want to regulate it they don't have an issue with it. They do not want to co-regulate it with us.
- G. Sagar If it in anyway infringes upon anyone's property rights I would be against it. My problem with this is once it starts on one street it just grows and grows.
- Ch. Abelson This is something that is very selective this is one of the few streets in town that has it all.
- G. Sagar Thank you
- Lynn Neves 115 Prospect I had my property surveyed and I have corner markers that are right in front of my stonewall on the street side. My confusion was the 16-foot thing you would not be coming beyond my corner markers?
- J. Hansen Wherever your survey shows your property boundary.
- L. Neves So if it goes in the other direction it probably has to cross the street farther.
- J. Hansen Prospect St. might not be in the center of that 50 feet in front of your house.
- L. Neves I would be against this if it affected my personal trees because it would be a burden to replace the dead trees that are there.
- Art Foulkes Arcade Ave. I looked at this situation out at Prospect St and some of the walls are close to the highway and others are back 12 -14 feet and then I looked at the big trees and for stumps and there are none. My point is if it ain't broke I don't think anyone is going to tear their property apart because it has the aesthetic value. The reality is intrusiveness of government we all have experienced on a federal level this is the same situation. I see no purpose for this because I don't see any problem there now. I have been here 44 years and I haven't seen a problem in 44 years.
- Ch. Abelson Well we had the golf course Firefly built and nobody thought that would be a problem back then and then it became a problem for some people.
- A. Foulkes This is a street in a town that has no, it's zoned, I just think these people here need to understand they need to show up at town meeting because my statement is

very simply, vote this kind of stuff down. It is unnecessary it was on the master plan it was probably put there years and years ago by people who knows when it was done.

Ch. Abelson 10 years ago, that's not that long ago.

A. Foulkes That's what I mean its ancient history and you know the next move is we have to get another street that really looks good and before you know it we are all sitting here. We almost had this lawn Nazi situation if you recall at town meeting somebody had a bad yard that didn't look good so they put an article out that everyone's front yard should be trimmed. This is the same kind of situation so you guys can support it if you want. I do a cable program on the 8th and I am going to make clear that this is going on, so we will see.

W. Rice What exactly is going on here Mr. Foulkes?

A. Foulkes Because there is no need for it Mr. Rice I don't know why you are wasting your time doing this that's my point.

W. Rice It is town property.

J. Hansen Can I respond? When I looked at this road before it was laid out in 1951 and looked at the historic layout of several roads in town that we have investigated like Lincoln St., County St., Chestnut St., Elm St., every single one of those roads on the plans showed stonewalls lining the those roads and when you ride down anyone of those streets today you don't see a continual line of stonewalls on any of those streets so obviously stonewalls have been removed over the years from town property. So I think it demonstrated a need, if we had a scenic road bylaw in place years ago we might have more scenic roads in town today.

Steven Zipin 340 Prospect St. I think this is all very arbitrary how you decided on Prospect St. I can see that the town is concerned about the safety and health and welfare of the people who live on that street but we are talking now about something that just looks nice and someone says Prospect St. looks nice let's chose that street. Well you have to have some type of qualifications I would like to see if there is something in the State law that says if you have 10 stonewalls on that street then that is an acceptable street. I think it is very arbitrary. I don't even know what a scenic road means are they going to put a big plaque up, are we going to charge a toll to come down the street. I don't understand the purpose of all this. I am concerned when you were talking about driveways because when I look at this bylaw it looks like anything I want to do with my pavement I have to get permission. If I have cobblestones on my pavement and then I decide that they are a pain do I have to go to the town to ask permission to change it?

Ch. Abelson That is not the case.

S. Zipin Well take a look that doesn't say that, it talks about pavement and it is very generalized. I don't see any purpose for this I have been living here since 1978 and I haven't seen anyone do any major destruction to his or her property. I think everyone has been thoughtful with the trees and stone walls. My stone wall, is probably owned half by the town and we have been maintaining the stone wall I haven't asked the town to maintain them because I could probably rot in hell before they would come and do something like that. I have been maintaining those stone walls and now I will have someone coming to me and saying that I can't take down a few feet of the stone wall what happens if there is a car accident and someone smashes into the stone wall and that person doesn't have insurance and the town comes to me and says you have 3 months to fix that stone wall or it's a \$300 dollars day fine.

Ch. Abelson It's not on your property they would never ask you to fix it.

S. Zipin I would expect the town to fix the stone wall?

Ch. Abelson They should

S. Zipin Well they don't mow the lawn in front that is what I have been taking care of all these years should I send a bill to town for this. This may sound very silly to you right now but I think Mr. Foulkes has a point this is the government trying to intrude little by little. You may have the right of way but if you see if something gross is happening that is one thing but we are talking about taking down a couple limbs because they may have broken.

Ch. Abelson Sometimes after you see something gross it might be too late to stop it that is the idea.

S. Zipin That is the point what may be gross to you might not be gross to another. The planning board is going to decide whether 3 limbs can be taken down or whether 4 limbs can be taken down.

L. Dunn No the town voters.

S. Zipin So we have to wait till the town votes whether I can take down a limb of a tree.

L. Dunn That is not our decision.

Ch. Abelson We are not going to decide tonight whether this is going in this goes to town meeting.

S. Zipin Right I understand so this goes to town meeting and it gets approved so what happens now the whole town is going to vote whether limbs come down.

- Ch. Abelson No you would be coming back to us for that.
- S. Zipin I can see what will happen it will go on for a years. Right now it works fine I don't know why you want to change anything. How did this whole thing get started?
- J. Hansen In 2000 the town did a Master Plan, which they have done every 10 years since late 50's. In 2000 a vision statement of that master plan, which was voted upon by the planning board at that time, stated they wanted to protect the character of the town. In that master plan we have about 8 chapters, land use, economic development, transportation, etc. Transportation is what this bylaw falls under and in this section the goal was, how can we preserve the character of the town, and in that section a recommendation was made that we look to adopt a scenic roads bylaw. This has been done in hundreds of other communities in the commonwealth. When we started to look at ways to update our master plan we looked to see how many recommendations have been acted on over the years and we realized unfortunately due to staffing and due to the state of the economy not a lot was acted on. So this board took it upon themselves to recommend some of these items be checked off. Prospect St. was chosen not in an arbitrary manor I would argue that we looked at several streets.
- S. Zipin No matter what it is still arbitrary it's what you people decided and this limb can't be cut down because you don't want it to be cut down.
- J. Hansen The word arbitrary again, I will argue with you because the criteria we looked at was stonewalls mature trees for the length of the street.
- S. Zipin I still don't know why any of this has to be done.
- Ch. Abelson Someone could buy where the blueberry farm is and they could take the whole stonewall down. You never know what's going to happen and after it's done how do you get it back. That is what this is here for and we are not doing this to hurt people.
- S. Zipin Take a look at the first page and the first page says you have all your rights and you read every other line in that thing and everything is a punishment intended for the owner. I don't see the town working with us all I see is the town telling you what to do so don't tell me we haven't lost our property rights we have lost our property rights.
- Ch. Abelson I think you are missing the point it is not about control it's about trying to maintain a nice road and keeping it look as it is.
- Mary Suher 360 Prospect We have dead trees on our property inside the stonewall that could be covered by the town. I think if you are going to call this a scenic road how do

we slow the traffic down on it? There is a 40-mile an hour and a 30-mile an hour sign on the road. The other thing about maintaining the stonewalls I find difficult is walking along and having to get out of the way of a speeding car and stepping into poison ivy it is a real issue.

- B. Rice If I lived there and the town was not taking care of the right of way I would get in the town's face. This could be a benefit to get the town to take better care of the right of way.
- J. Hansen The State actually sets the speed limit.
- Rob Emlen 350 Prospect St. everyone likes the road the way it looks. Who owns the land 50 feet in?
- Ch. Abelson The town does.
- R. Emlen The town owns everything that is within the 50 feet of the centerline. So theoretically none of the landowners along the road have the right to take down a wall or cut down a tree now, so it is unclear to me what this would change.
- B. Rice The opportunity for the town to redress when it occurs.
- R. Emlen So if I tore down town property the town doesn't redress now?
- W. Rice No
- Ch. Abelson Not unless it is in a lawsuit the intent of this is to maintain the look of the road.
- R. Emlen Is this going to protect us from the road being widened?
- J. Hansen Yes it would because the government is not exempt from their own regulations.
- Ch. Abelson We are not going to be ridiculous if there is a tree that is creating a hardship we would be more than happy to listen we are sensible people.
- R. Emlen I have heard several neighbors here tonight talk about loss of property rights but I think that is not what you are discussing here. The town already owns the right of way and everything that is on it and so anything the town does there it cannot result in a loss of my property, it's not my property.
- J. Hansen This board is constantly being told, this town is losing its character it is being subdivided and then they ask what are we doing about it. You can't prevent someone from subdividing if they have the proper area it is their right to do it. Anybody who lives on Prospect St. it is your right if you have the frontage you can develop a lot. There are vacant lots on Prospect St. today guarantee there will be more houses on Prospect St. in the future and that is allowed under zoning. So

to answer the question what are we doing to protect the character of the town this is one way to do it plain and simple.

Andrew Jencks 80 Walnut St. To me it is a benefit that the road would be prevented from being widened is there any statute by the State that would make the burden doing that higher than it is now, by designating it a scenic way?

J. Hansen They don't give specifics as to how many feet wide a road should be.

A. Jencks So the State doesn't say by virtue of this being a scenic roadway the burden is

J. Hansen But certainly widening a road would not only make a road less scenic it would also increase the speed.

Allan Grocott 410 Prospect St. I believe the purpose of this bylaw 10 years ago was because the town administrator was trying to elevate traffic on Newman Ave. and a study was done to move the traffic from north and south and the purpose of this bylaw was to slow that down.

Frank Diciara 240 Prospect St. I think what you have to say and the spirit of it sounds good I have a question with regards to who owns the trees in the right of way.

Ch. Abelson The town

F. Diciara So is it the town's responsibility to maintain those trees?

Ch. Abelson Yes

F. Diciara Who should we be calling to maintain those trees?

W. Rice It is a public works responsibility.

Beth Zipin 340 Prospect St. I did take a portion down of the stonewall it took me some time to get someone to come to fix it. I am allowing some plants and trees to grow and I'm waiting with the idea that in 10 or 15 years these might not be look well so if I wanted to have them taken down I would have to come to this board for approval?

Ch. Abelson yes.

Beth Zipin Who is going to be watching to see that I don't do anything? Who will report me?

J. Hansen I would say anybody who likes stonewalls and trees.

Further discussion by the board

G. Sagar I would suggest to this board to continue this and meet with the people most affected and work out the language.

R. Bennett I think we need to clarify that this doesn't affect private property.

B. Rice Have people of Prospect St. email our office and say what their concerns are.

**B. Rice made a motion to continue this until the Sept. 28th meeting seconded by L. Dunn and so voted unanimously by Ch. Abelson, W. Rice, L. Dunn, S. Foulkes, R. Bennett
Vote (5-0) approved**

Public Hearing: Subdivision Rules & Regulations Amendments

Ch. Abelson asked to wave the reading of the public notice.

**L. Dunn made a motion to wave the reading of the public notice. Seconded by R. Bennett and so voted unanimously by: Ch. Abelson, W. Rice, L. Dunn, S. Foulkes, R. Bennett
Vote (5-0) approved**

Introduction of Board members: Ron Bennett, Bill Rice, John Hansen Town Planner, Neil Abelson, Phoebe Lee Dunn, Sandy Foulkes.

J. Hansen We have some Subdivision rules & regulation amendments, which I will go over briefly. Section 1: Plan Submission this is to better organize that section from paragraph form to checklist form. Item 2: Recording/courier fees; this is to codify what is the existing practice. The board updated the section for ANR plans last year and I am doing that to this to be consistent with the definitive plans and surety releases. Item 3: Bus stops brought forth by the school transportation director Item 4: Drainage easements it was a suggestion from the conservation agent if possible have these placed on common land. Item 5: Fire protection there are currently no specs for how subdivisions handle fire protection when water isn't available. Item 6: Last item referring to street. Trees what standards we use when installing.

G. Sagar 30 Elaine Lane my comments are personal and not as any member of any regulatory board. I object to most of these on practical and legal issues. 5. 1 on the review fees correct me if I am wrong but currently if the planning board needs a peer review on an item you have a list of 3 consultants and that is forwarded an estimate is received I think that is a good process. I would like to see the process that you use incorporated into your regulations. Second item I disagree with the courier fee if I come in with a plan those plans are my personal property there is no statute of limitations on when it has to be recorded it is my responsibility. Paying a fee I would strongly disagree with it is not valid until it is recorded.

J. Hansen In 1977 this board changed its subdivision rules and regulations to say that the board will do the recording. In 2009 the board changed the regulation to

supplement that to say that a courier would do the recording for the town. Reason being the board decided that it was not prudent to have the town planner's time wasted running back and forth to the registry of deeds. Also other comments I have heard, plans can be changed from the time this board endorsed them.

G. Sagar Since 1977 I have done several subdivisions and I have recorded them myself.

D. Bray In every other town I make my own recordings at the registry of deeds.

W. Rice Is the town at risk leaving this responsibility to the applicant.

J. Hansen Other than the issue about plans being switched if we aren't given the plans back than the assessor doesn't have the ability to change the lot lines and tax appropriately, which has happened.

W. Rice How do you get over the assessor being made aware of the property lines?

G. Sagar No issue if is not recorded it is not a valid plan.

Ch. Abelson When it is recorded and she doesn't get a copy.

W. Rice We are talking about making things work right. John how is the current process working?

J. Hansen The current process is working fine with the \$35.00 courier fee. The plan goes directly with the courier who takes it up to Attleboro gets it recorded and our files can be closed out promptly to all correct offices.

G. Sagar You are the only town doing it this way.

S. Foulkes I think it should be convenient for the town.

G. Sagar Fire protection. Seekonk as a community decided years ago to take out the fire alarm boxes. Obviously they are not needed any more so now we are starting to selectively put them back. I think it is a waste of time and money.

Ch. Abelson It has to do with the Fire department and their recommendation to the planning board. If they felt it was necessary for public safety we are not ones to say it's not we don't do the research on it.

G. Sagar 8.3.2 Individual sprinkler systems take that right out. Tanker truck I would strongly suggest pulling that out, best way to do it is a sub-surface water storage where necessary. Curbing requirements best is Cape Cod berm.

G. Sagar 8.4.1 Existing trees. I think the best time to do the landscaping is at the end of the project.

- J. Hansen In the section where it says that new trees shall be before the binder course application the reason for that is the check list that we use the Form K. We all agree that Rolling Meadows was one of the better subdivisions in town because the street trees were all in before the lots got sold. We also know that once the binder course goes in the board issues a letter of safe passage to the building official, which means lots will start getting built. Once the lots get built we will have the issue which Bill has brought up in which homeowners will say they don't want the trees. So the point of this regulation is to have the trees going in before the owners.
- B. Drohan I understand there are pros and cons to that but there are many issues water lines, underground wiring etc. so depending on the location of the house you might have to have the trees taken out and replanted. My argument is to finish it at the end when the DPW walks around and makes sure all the trees meet the regulations.
- Ch. Abelson A lot of construction does go on I do think there should be some type of time frame.
- G. Sagar I just think because of the way that plans change and all the utilities having to be underground it's in the best interest to plant the tree after.
- One more thing as a point of interest. Recently the legislature approved and the Governor signed economic development reorganization. It covers all real estate development permits except federal and affordable and 40b. Permits must have been issued between August 15 2008 and August 15, 2010.
- J. Hansen I think Ricard St. is the only one that would fall under that.
- G. Sagar There seems to be some agreement to incorporate into your regulations the process.
- J. Hansen Yes I just put together something for the boards review and if you want to incorporate it on the top of page 2, I would recommend if you are in agreement with what Mr. Sagar had said we include the following: The boards may have several consultants used on a rotating bases who are responsible for providing the quote for said review. The applicant will provide funds equal to said quote so the review can begin.
- B. Rice made a motion to close the public hearing seconded by L. Dunn
- Roll call vote: R. Bennett, W. Rice, Ch. Abelson, L. Dunn, S. Foulkes VOTE all ayes.
- B. Rice I suggest we incorporate changes brought forward tonight. I think we have received enough comments from the public on this and we might consider making

changes on the wording of some of these and consider those changes before voting on them tonight. John what do you think?

J. Hansen I think the paragraph I just read into the record is appropriate the recording/courier fees that's up to the board.

Ch. Abelson I am in favor of keeping it the way it is.

S. Foulkes I think our first priority should be the town.

J. Hansen I feel like we should keep it in about the fireboxes. Take out the statement about when they have to plant the trees. And take it out of the form remove that statement on page 5.

S. Foulkes made a motion to approve the revision on 8.12.1 regarding the planting of new trees as to when they will be planted and eliminate that sentence. Add into the record the paragraph John Hansen added as an amendment to this section. Seconded by L. Dunn

Discussion

S. Foulkes In regards to the forms we need to put dates and page numbers.

J. Hansen We will do that.

Motion voted on by: Ch. Abelson, W. Rice, R. Bennett, S. Foulkes, L. Dunn

Vote: (5-0) approved

Ron Bennett made a motion to approve the July 13, 2010 minutes seconded by W. Rice and so voted unanimously by: Ch. Abelson, W. Rice, R. Bennett, S. Foulkes, L. Dunn

Vote: (5-0) approved

Adjournment

R. Bennett made a motion to adjourn, seconded by L. Dunn and so voted unanimously by: Ch. Abelson, W. Rice, R. Bennett, S. Foulkes, L. Dunn

Vote: (5-0) approved

The meeting adjourned at 11:00 pm

Respectfully Submitted by:

Florice Craig, Secretary