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Town of North Reading
Massachusetts

Community Planning

TOWN CLERK
NORTH READING, MA

MINUTES

Tuesday, February 4, 2020

Mr. Warren Pearce, Chairperson called the Tuesday, February 4, 2020 meeting of the Community Planning Commission to order at 7:30p.m. in Room 14 of the North Reading Town Hall, 235 North Street, North Reading, MA.

MEMBERS

PRESENT:

Warren Pearce, Chairperson
William Bellavance, Vice Chairperson
Ryan Carroll, Clerk
David Rudloff
Christopher Hayden

STAFF

PRESENT:

Danielle McKnight, AICP
Town Planner/Community Planning Administrator
Debra Savarese, Administrative Assistant

Mr. Pearce informed all present that the meeting is being recorded.

Ipswich River Park/15 Central Street (Park Banners)

Mr. Carroll moved, seconded by Mr. Bellavance and voted 5-0:

that the Community Planning Commission vote to approve the placement of two "36 x 96" signs at Ipswich River Park/15 Central Street, special event banners at the entrance of the Ipswich River Park during the period of 5/18/2020 to 5/19/2021.

Master Plan – Adoption Vote

Mrs. McKnight stated in order for the process to be completed the Community Planning Commission has to vote adopt the Master Plan.

Mr. Bellavance stated that he would also like to bring the Master Plan to the Select Board and Town Meeting. He would like to get as much sign off from it as possible and the people will know what's in it.

Mr. Carroll moved, seconded by Mr. Hayden and voted 5-0:

that the Community Planning Commission vote to adopt the community Master Plan for 2020-2030, prepared by the Metropolitan Area Planning Commission and the Community Planning Commission.

55 Concord Street – Discussion

Mr. Luke Roy of LJR Engineering LLC stated that the property is located in the Industrial District with an existing two-story building. Mr. Sergio Coviello, owner is not considering any expansion to the building or change in use. There is a need for parking and they would like to add some additional parking spaces in the front of the building. Existing conditions: There is an entrance and egress on both sides of the building with parking on both sides, along with parking in the rear. There is an 8' wide walkway that connects side to side with a raised sign in the front. The proposal would be to create a one-way driveway that would connect from side to side with an additional 16 parallel parking spaces. It would not interfere with the sign and the walkway would remain. They will also do some enhanced planting, on the street side. The building is basically 40' back from the right-of-way line and there is quite a wide section before the curb line on Concord Street.

Mr. Hayden asked if the right-of-way is 10' into the grass strip, because it looks like a 3rd of the land is in the right-of-way and Concord Street may get wider.

Mr. Roy stated that it's a 60' right-of-way, the building itself to the right-of-way line is approximately 40' to 43' and another is 15'. With the layout that they have the edge of the parking would be 16' from the right-of-way, so there would be around 30' counting.

Mr. Hayden stated that there is about 24' of greenspace and septic system.

Mr. Roy stated to the walkway it's about 30' and would go down to 16'

Mr. Hayden stated that the existing plans show four septic systems in front of the building.

Mr. Roy stated that they are stone and pipe systems that are vented, and therefore, parking and paving over them is allowed. We are not in a situation where we have to lower the grade, so we will not have any interference with the system.

Mr. Bellavance stated that he likes the idea of putting parking in the front. He is aware that they need to vote, but what would be the exception.

Mrs. McKnight stated that if they would do a minor modification to the site plan, if there is positive feedback tonight. She would like to speak to the building inspector, to see if they need to go to the ZBA because it's in the zoning.

Mr. Roy stated that he doesn't believe that a Site Plan was ever done because it was built in the 70s, so it would need to go through Site Plan approval.

Mr. Pearce stated that we should check the files to see if a Site Plan was ever done.

Mr. Hayden asked what type of landscaping will be done.

Mr. Roy stated that he doesn't have any detail for plantings, but that is something that they would be willing to incorporate into the plan, but they cannot plant over the septic systems.

Mr. Bellavance stated that high and low grass would be a good for this site.

Mr. Rudloff stated that he is in agreement that there is not enough parking at this site.

Mr. Pearce stated that they have allowed parking in the setbacks as a solution for the smaller sites on Main Street.

Mr. Carroll stated that he is curious why they didn't put the parking spots up against the building vs. away from the building, on the other side.

Mr. Roy stated that he knows that someone coming in and parking has to cross the driveway to get to the entrances. He would open to feedback on that, if the CPC would prefer to see it a different way.

Mr. Pearce stated that it allows them to decorate the front of the building.

Mr. Roy stated that it is also a little more open this way.

Mr. Hayden asked if there is a sidewalk there.

Mr. Roy stated that right now it is 8' wide, so it's the same as the existing edge and he's leaving 4' for a sidewalk.

Mr. Hayden asked if there is some place for the people to go across the driveway and get in a safe area, so they're not in traffic.

Mr. Roy stated that connecting all of the entrances and a pedestrian walk is needed.

Mr. Pearce asked if there is curbing.

Mr. Roy stated that when he does a detailed design on this it's going to be a little tricky because it's so flat and getting it to drain is difficult. So he is going to have curb reveal, almost to the point that he may have to have a rail or something and then at some point it's going to have to taper down and maybe be flushed and he doesn't know if he's going to have to have some markings or bollards.

Mr. Pearce stated that at the very least markings on the ground to be sure that the people pulling out can see what the limits are to the far left. If it looks like it might be an impact on the actual entrances and exits, a couple of bollards on the either side where there's not enough curb to restrict a vehicle.

Mr. Roy stated that it's a challenge because all of the entrances are at the same exact elevation, but the grade has to change in some way to drain.

86-92 Burroughs Road – ANR

Mrs. McKnight stated that there is an abutter that would like to purchase a piece of town-owned property to make his yard a little bigger. It's very close to a resource area, so the idea was to work with the Conservation Agent, Leah Basbanes, to delineate the edge of the wetlands and the edge of the property would be because they don't want any encroachment into the wetlands and there is no additional space for it to become a buildable lot. The Select Board has already decided that this is something that they want to do.

Mr. Bellavance stated that he knows this abutter (Fernando Bonaventura) and he has been taking care of this portion of the property.

Mr. Carroll moved, seconded by Mr. Bellavance and voted 5-0:

that the Community Planning Commission vote to endorse as "Approval-Not-Required"; the plan entitled "Plan of Land in North Reading, Massachusetts, (Middlesex County)"; dated June 6, 2019; drawn by LJR Engineering, Inc.

1 & 2 Chester Road – Determination of Access – Minor Modification

Mr. Michael O'Neill of O'Neill Associates stated that in 2009 a Determination of Access plan was approved which allowed access to two parcels (Map 9/parcels 52 and 63). An 8" water main hydrant was required to pick up some of the neighboring water services. Since then, map 9/parcel 52 has been deemed unbuildable because they are unable to meet the setback requirements to put in a septic system, so the water main would only serve one lot. They are asking that the requirements for the water main and hydrant be removed from the conditional approval. The buildable lot would be served by a well and a sprinkler system would be incorporated into the plan for fire protection.

Mr. Hayden asked if there was going to be a reserve reservoir for the fire protection.

Mr. O'Neill stated that it hasn't been designed, but they would look into if the minor modification is approved.

Mr. Ed Melanson stated that a 4 or 5 gallon storage tank will be added for the reserve reservoir.

Mr. Hayden asked if there will be back-up power to generate the well if there was a fire.

Mr. O'Neill stated that this will all be worked out and the Fire Department has indicated that this is required for approval.

Mr. Bellavance stated that the back-up generator is also a concern for him.

Mr. Pearce stated that the Water Department's memo dated 2/3/2020 states that they have no concerns with these changes.

Mr. Hayden suggested that the changes be added to the motion.

Mrs. McKnight stated that they could put into the Conditional Approval that they need to have the red-lined edits put in an updated plan.

9 Main Street – SPR/Special Permit – (drive-thru) – cont. P.H. 8:00PM

Mr. Pearce stated that they do want a new plan with the red-lined changes on it because that will be the plan of record. The one that has everything removed and reflects the actual condition.

Mr. Carroll moved, seconded by Mr. Rudloff and voted 5-0:

that the Community Planning Commission vote to approve the minor modification to the approved Unaccepted Street Improvement plan; dated 10/20/2008, revised 1/2/2009 and the original Conditional Approval dated 3/3/2009. The new plan is dated 10/20/2008, revised 2/4/2020. Subject to the terms and conditions of the Conditional Approval dated 2/4/2020 as amended this evening.

Mr. George Delegas of REM Central stated that he made revisions to the plan as requested.

1. Removed the "On the-go" lane, which will become solely by-pass lane.
2. Removed logos and store name from all directional signs, including the clearance bar.
3. Revised the pavement arrows, showing orange ones for the drive-thru lane and white for all others.
4. There are 2 signs at the employee parking area labeled "Employee Parking Only".
5. "Do Not Enter" instead of "One Way" signs.

Mr. Hayden stated that page two on both of these drawings, still shows ground loop pick-up for the "mobile pick-up activation loop" and mobile pick-up merge lane, these need to be removed from the plans.

Mr. Rudloff stated that even though the signage plan shows a revision on Rte. 128, it is the original, with the 10 or 11 parking spaces because it looks really tight at the turn. Directionally it doesn't alter anything, but it sets a precedent if you're using an old plan.

Mr. Delegas stated that he emailed a revised plan to the planning department earlier this evening with the changes.

Mrs. McKnight stated that she didn't know that a revision had been sent. She asked if all three plans are dated 1/28/2020.

Mr. Delegas stated that the civil plan is dated 2/4/2020 and the other two plans are dated 1/28/2020.

Mr. Pearce closed the public hearing.

Mr. Carroll moved, seconded by Mr. Bellavance and voted 4-0: (Mr. Carroll abstained)

that the Community Planning Commission vote to approve the plans entitled, "Site Plan, 9 Main Street, North Reading, Massachusetts"; dated 10/21/2019, last revised 2/4/2020; drawn by LJR Engineering, Inc., "Site Signage plan"; dated 1/28/2020, drawn by REM Central, LLC and "Site Signage & Menu Board Plan"; dated 11/14/2019, last revised 1/28/2020; drawn by REM Central, LLC. Subject to the terms and conditions of the Certificate of Conditional Approval dated 2/4/2020 as amended this evening.

Amber Road – Informal Discussion

Mr. Dale Halchak stated that he has been working with a landscape architect who brought up the idea of an open-space plan. He submitted four proposed plans for the board to review and would like to get their opinion of what they would like to see built on this property. This has been tied up for 28 years and he would like to see it come to a conclusion. The history of the land is: In 1935 Amber Arey conveyed three parcels of land to the Commonwealth of Massachusetts and she stated in the deed that "The grantor reserves the right and assigns the right to use said roads when made in connection with other land of the grantor" which means this parcel. On the plan that the board is looking at, they will see Amber Road and Priscilla Road and because the board may have copies of the other plans, showing earlier clarification because there was a little discrepancy back when the town didn't have it recorded properly, that there was an Amber Road and he doesn't know if the board recognizes that fact, but he did have engineers and attorneys provide the data on it.

Mr. Pearce asked what data is it that he is trying to show them.

Mr. Halchak explained Amber Road and Priscilla Road and how the properties were subdivided in 1935 and then what proceeded after that. In 1960 a portion of land got subdivided by the CPC, so the CPC at that time allowed the subdivision of two house lots, out of the parcel which is shown on his plans. The plans were done by Robert E. Anderson; dated 2/18/1960 and signed by the CPC on 8/4/1966 and again, also, on 2/18/1960. So, basically they took this land and subdivided it back then, planning board rules and regulations were in place, they broke off the land and had frontage on Haverhill Street. One of the house lots had frontage, but the other one didn't have frontage, it had 39'. They proceeded to get building permits and it got clarified that the planning board approved it and Amber Road as access in, as a public road, at that point in time, for the two houses. He thinks it's been either misconstrued or driven home that there's uncertainty, but it exists. There are two houses there and they both use Amber Road as their access. It's a 66' right-of-way, it's never been paved and the rest of the land was left to be purchased and has the same rights as those two properties. Basically, it has never been improved to the standards since the 1960's and he believes in 1960 wasn't it required from the commission that you had to pave roads then.

Mr. Pearce stated that he doesn't know exactly what they did back then, but there have been a number of changes since then, in the way the Subdivision Control Law and everything else is applied, in this town. Both of the lots that Mr. Halchak is talking about have frontage on Haverhill Street. One of them may not have had enough frontage or may have been presumed to have enough frontage, at the time, but either way those two lots that were built had frontage on Haverhill Street and they access on their frontage.

Mr. Halchak stated that they were not subdivided, they were part of a larger parcel, in a plan from the commission, actually an approved plan, one without the frontage on Haverhill Street and one with the frontage on Haverhill Street.

Mr. Pearce stated that they both had frontage on Haverhill Street.

Mr. Halchak stated that 39' within a wetlands is really not adequate to supply a house.

Mr. Pearce stated that they didn't have Mr. Donald Schmidt, Principal Planner of the Department of Housing & Community Development by then and he's sure that Mr. Schmidt would have come up with some kind of idea about what was considered frontage. At that particular point, regardless, it was done. So, he doesn't think that applies to today and he doesn't understand why they are going down this because Mr. Halchak is not showing in any of these scenarios we are not using Amber Road for access.

Mr. Halchak stated that he was just doing the history.

Mr. Pearce stated that half of the board already have a lot of the history. He would like to know if Mr. Halchak has questions about the particular designs that he has right now, and it would have been helpful to have the engineer here that did this design work. He would like to know if Mr. Halchak would like to ask the board their opinion of what he has submitted for a design, or what he would like to get from the board.

Mr. Halchak stated that he would like to clarify with the board that they could make some time with the State of Massachusetts at the commissioner's office at D.C.R. He has talked and known them for a little while. He believes that this would be a pretty reasonable method to take to work on improving the DCR road, Amber and Priscilla, so that there is some access.

Mr. Pearce stated that the plans submitted don't show using any part of Amber Road.

Mr. Halchak stated no, these are options. Investigating with Jeff (his engineer) the CPC's programs for open-space, this might be an idea to say Mr. Developer would you like to do something like this. Maybe we'll make apple orchards on the open-space, maybe we'll make it available for equestrian, so they can go into the park. This is called development, this is called trying to work with the town and make a plan that could be exciting and fun. We've never been

opposed to it, but it's just the fact that we've tried to use the rules of the State and the Town because you've approved two houses here and we still want to make the access here and we can still use that, but this is just another option.

Mr. Pearce stated that it appears that the engineer who drew these plans up has somewhat of an idea that he knows what he's doing, because he's avoided Amber Road completely which has been part of the problem all along.

Mr. Halchak stated that the engineer has done work for them before and he asked him to leave Amber Road out of the plan because according to the CPC comments and the negative aspects there were, he thought this would be a good opportunity to talk to the CPC about another alternative.

Mr. Pearce stated that the only questions would then be on the design he's done now is whether or not you have adequate access, adequate width off of Haverhill Street and off of Charles Street to put those roadways in to create those areas, that is something that you would need to prove with the final plan, but it's not something we need proven right now. He asked Mr. Halchak if the question right now is if the CPC looks at these different scenarios, is there one of them that we prefer over another?

Mr. Halchak stated no, he would be happy to hear what the CPC has to say or what is good for the community. There are other options that they could discuss too: affordable housing or senior housing. It's a nice opportunity using the normal rules and allowing it to be developed without using Amber Road.

Mr. Pearce stated that he thinks this is a wise idea and open-space development is good because you're right next to a State park.

Mr. Hayden stated that he needs to come in with a preliminary plan, so the CPC can figure out how many lots he can get and if he does open-space that may be a bonus.

Mr. Pearce stated that a preliminary plan is not requirement. A preliminary plan is a good idea if you have a difficult situation, but they can go right to a definitive plan.

Mr. Hayden stated that he doesn't want to build the standard subdivision, he wants to do an open-space, but to approve the open-space we have to have what he can actually put on the ground, so that has to be at least a preliminary.

Mr. Pearce stated that he has to show what is available and what could be built with a conventional subdivision to compare to the open space plan.

Mr. Halchak stated that's what the other plan is (conventional) that he submitted. This plan shows 16 lots and keeping the street at 925' deep, coming off of the other property with great visibility, both ways on that access and coming in and if we want to work with the State we can bring it over to them. The idea here is, if you're negative about open-space, that's why these preliminaries were basically done, so we can discuss it.

Mr. Pearce stated that they are positive about the open space and this is the first time Amber Road was excluded.

Mr. Halchak stated that they were trying to help out the State and use land that existed and to provide better access for the two houses that are currently there because the road is not paved and they have no drainage.

Mr. Pearce stated that having received some input from the CPC and if he plans to continue with this project, it might not be a bad idea to bring the CPC a preliminary conventional plan and open-space plan, so the CPC can take a look at them to make sure that the open-space plan reflects what's capable with a conventional plan and something similar to the concept #1 plan. This looks like it would work if you actually have the width of the road at Haverhill Street and Charles Street to put those roads in.

Mr. Halchak stated that the CPC can talk to Mrs. McKnight about any aspects that would be different because basically this is a preliminary plan.

Mr. Pearce stated that there is usually a lot more on a preliminary plan. The CPC would actually like the engineer to produce a preliminary plan.

Mr. Halchak stated yes.

Mr. Bellavance stated that the Town just adopted the ten-year Master Plan and he highly recommends that Mr. Halchak read it because there is housing portion in there that they are working towards and this will show him what the town is looking for, as well.

Mr. Halchak mentioned Mrs. McKnight was part of the committee doing the new open space and recreation plan.

Mrs. McKnight stated that is the Open-space and Recreation plan which is a bit different than what Mr. Bellavance is referring to, which is the Master Plan, but the Open-space and Recreation Plan is in process.

Mr. Halchak stated that they are involved with the State here, but it could open up a better avenue.

Mr. Pearce stated that the way Mr. Halchak's engineer did this by keeping separation from the State road and housing which is a good idea because it does not impact because that State road is open to anybody and should be available to the State.

Mr. Tom Romeo stated that their attorney is here and he would like him to be able to make a few statements for the record.

Attorney James Digiulio stated that he is representing Mrs. Pat Romeo who resides at 253 Haverhill Street. He did review the concept plans that Mr. Halchak presented and there are some legal issues with what he is proposing. He is proposing on both concept plan A & B to interrupt the access on Priscilla Road by a cul-de-sac and as you know this is a land that has come before the board at least on at least two different occasions with subdivision plans that were denied and they were through Amber Road. However, Mr. Halchak opened this meeting/informal discussion with a question "what would this committee like to see with regard to Amber Road." He would like to hope that the town would like to see Mr. Halchak finish the project that he started on Amber Road. In 2012 he cut a road into there, and some trees, with no notice to his client (Mrs. Romeo). Shortly, thereafter, there was litigation and he would like to give some history of that. Mr. Halchak sued Mrs. Romeo and after approximately five years and some very expensive litigation, the court said that he could go ahead and improve Amber Road, subject to: certain requirements and there was a particular plan that was presented to the court and the court said that he could do it as long as it was consistently with this plan. As part of that order the judge also said that he had to grade Mrs. Romeo's driveway, there was a declaratory judgement that Mrs. Romeo had brought an action/counter claim – a declaratory judgement asking that she be able to maintain the driveways and the judge found in her favor on the declaratory judgement and indicated that she could maintain the driveways and Mr. Halchack would have to regrade a part of that portion of the driveway. There are two driveways, one goes to a garage and the other two the house that is pretty steep. He was required to do this and it has not been done and it seems like Amber Road and the project have been abandoned. Mr. Halchak just stated that he was doing the Amber Road to help out the residents. He said that there is no road and no drainage, well, that's right because he didn't finish it and the court addressed the issues of the drainage and was concerned about it. Mr. Halchak told the court "don't worry about it because they are going to do the drainage, pave it and make it much better, but Mr. Halchak abandoned the road. The town should be concerned about having Mr. Halchak go forward on the same land, when he has abandoned a project that he fought in court for many years. The judge's decision said that when he builds Amber Road he can access the three lots that he has and he has that ability.

Mr. Pearce stated that this were a little far field from what Mr. Halchak brought for designs because none of these designs use any part of Amber Road. We clearly understand what has gone on and this is something that you and the courts have worked out and unfortunately your enforcement is going to have to come through that same avenue. Our discussions with DCR, limited as they are, we never got any satisfaction or answers about whether or not we would

get any inspections, but it is the State and we can't tell the State what to do. We can't even get them to respond.

Mr. Tom Romeo stated that Mr. Halchak has legal access, a legal right-of-way, a public way according to the Commonwealth to access his three lots. Why would the town let him build two additional roads, impact many other people to get to the same property, where he has legal right to do it?

Mr. Pearce stated that he's not sure if he can use that road as legal access to a subdivision.

Mr. Romeo stated that the court said he did and it's in the decision.

Attorney Digiulio stated that was not to a subdivision, but to have the three existing lots.

Mr. Pearce stated that is in Mr. Halchak's deeds to the lots, but that doesn't mean that he can subdivide.

Mr. Halchak stated that he is bringing in this informal discussion to see what he can do because some people are not happy with building of Amber Road.

Attorney Digiulio stated that there are two points he wants to make and then he will conclude. Again, the town should be concerned about letting Mr. Halchak go forward with new developments when he did not finish the existing one, clearly having problems. The second point is that there are many legal issues of concern here and he knows that this is an informal discussion. He knows that it will be addressed in time, but on plans A and B he intends to put cul-de-sacs that will block access to the State forest which is one of the findings and representations that Mr. Halchak made to the court that this was going to be a State Road that he was going to develop for access through Priscilla and Amber Road to the State forest, public way and yet he is now proposing that he is going to block access.

Mr. Halchak stated that they are not going to block any access and this will still be contingent to work with the State. The State would work with us together on this, so that's why he suggested they get together with State, on our plan, so we don't exclude someone for this. What has been brought up and the negative aspects that he has received from a neighbor about doing this project, coming in here and changing everything around was kind of upsetting that they gave this project out to another person to attempt to do it and it came down to how much money the Romeos' would get for the property and he would only offer 1.1 million for their consent and their property. He thought that there was a better way to spend their funds and everyone else in the community/town, to make some better alternatives. So, they'll leave Amber Road existing, the State keep the road. We have the right to use that road to still gain access to our land, so were using it as coming in from different approaches, and that's what this is all about, another access. First, it satisfied the fact that the CPC and Mrs. Romeo have

brought up and no one's ever helped to save a life which could happen tomorrow, could be killed. They're going to bring in and institute as much as they can to clear that for the entrance from Amber Road. Well that's a town project and the town/CPC proved that access for them and although there's a hazard that has been brought up, (visibility) you haven't done anything about it and it's gone on for 28 years. Explain to me, why if it was such a hazard to stop them from developing it, okay they'll move on and try to work with you, but the doors been closed. So, they picked up the other property on Charles Street with safe access and see what they can do. They can do an open-space planning and they've done other plans that they can join them. They still have the right from the State to do this and they think its fine, basically it takes off some of the burden if they do decide to do their Amber Road access. They've also talked to the State about making a swap of some land, but the way that this has been challenged, he would like to finish this in his lifetime and get it accomplished.

Mrs. Romeo stated that you're basically listening to someone that can talk off of the back of a medicine wagon. Because she heard somebody talk in court and lie through his teeth. This man sat there in front of the judge and everybody else and said they're hiding their woodsheds in the woods so nobody can see them in back of the trees. The very same man, Mr. Chairman that walked around those woodsheds years before and saw them perfectly fine when the trees hadn't grown up in front of them. So, they were there shortly after they built the house and they were there all along. So, it was ordered that the woodsheds be removed along with the stonewall in front of the house because Mr. Halchak said that they were six inches over her lot line. As soon as the court order came down, her good son got a backhoe and removed the whole stonewall and moved it up towards the house. It's there a pile of rock, a big mess, along with the big oak trees that Mr. Halchak knocked down with no notice. The huge rocks in front of her driveway were also moved which were a foundation for her driveway and destabilized the foot of her foundation. The CPC can view these rocks because they are blocking the entrance to his road, as he likes to call it.

Attorney Digiulio stated that the point Mrs. Romeo is trying to make is that the place was left a mess and they would ask the board to consider this. It's been abandoned and it is a problem up there.

Mrs. Romeo stated that in clearing all the trees (the obliteration) in front of her house and Amber Road which was never wet, is now wet at least 10 months out of the year because of cutting into the banking at Haverhill Street, to her house.

Tom Romeo stated that they actually called the water department because they thought that there was a break, but there wasn't.

Jean Harty of 247 Haverhill Street stated that they recently obtained these plans and it was interesting to them that their property was part of this development. She is also concerned

with this section of Haverhill Street, in the last few years there have been a number of serious accidents between Haverhill and North Streets, so she is curious as to how much safety planning has gone into or looked at of Haverhill Street, of adding possibly 40 more cars into that section and how it will happen.

Mr. Pearce stated that at this time they don't really have anything of any consequence to alpine on. Basically, this is an informal discussion about four concepts that were presented to them and this is why he feels that they are getting a little far field. None of them include the use of Amber Road as an access and again there was plenty of discussion about the fact that that access was extremely dangerous because of the corner of North Street. He would say that without a formal application the board is not in a position to make any recommendation or do anything. At the very least a preliminary application would be needed and then a referral to Town Counsel for an opinion, as to whether this and that particular application will work together.

Mrs. Romeo stated that she would like to see that land preserved, as much as possible as open-space and low-density to preserve the wildlife.

Mr. Pearce stated that the project that was approved by DCR, was under the jurisdiction of DCR not this board or town.

Mrs. Romeo stated that she would expect that no matter what is done, that the remedial work to what damage has been done on Amber Road, be corrected.

Mr. Pearce ended the discussion until there is something more formal presented.

Mr. Halchak asked if it is his understanding that the board is in favor of seeing Amber Road built out, according to the plan that's been submitted and approved by the State.

Attorney Digiulio stated that is what Mr. Halchak fought for in court. We have a court decision in terms of each other's rights and we would like him to finish the road and correct the mess that's up there.

Mr. Halchak stated that the abutter's also have the right to do the road, to pave the road and maintain the access. The situation is if we got approval from them to do the road, now they would be doing the road and building the road, but as far as the situation that you bring up as to the visibility, they're not going to take responsibility for that, that's going to be a State issue or a town issue, to have to improve it.

Mr. Pearce stated that he thinks not. If you bring a subdivision in using Amber Road as your access the sight distances will be a part of the responsibility to cure a sight distance problem.

Mr. Halchak stated that would require eminent domain and he believes that the town would have to do that.

Mr. Pearce stated that the town is not in the business of trying to make it possible for someone to develop a piece of property.

Mr. Halchak stated that they work with the State because this is State land and they're the ones that will be satisfied and they'll restore the area in front of the two homes, the way it was, this can be done easily, and it was dirt.

Mr. Pearce stated that if Mr. Halchak does bring in a proposal with the use of Amber Road that requirement would exist to repair it.

Attorney Digiulio stated that Priscilla Road is an off-shoot of Amber Road.

Mr. Pearce asked if the State owns Priscilla Road.

Attorney Digiulio stated that it is owned by the State and is in the original 1935 deed that Mr. Halchak had referred to.

Mrs. McKnight stated that she didn't know this because the way the town records show it, the DCR parcel goes straight up Amber, it does not go up Priscilla.

Mr. Halchak stated that the Assessors map has not been updated. They have told them for 25 years and recorded an ANR plan; dated 6/3/2008.

Mrs. McKnight stated that she has seen that plan, but she just thought that it was a roadway that belonged to the property.

Zoning Board of Appeals

3 Acorn Knoll Drive – On the petition of Scott Bradly for a home occupation special permit for an online retail/commerce business.

The CPC does not have any objections to the proposal as long as the Home Occupation regulations in the Zoning Bylaw are adhered to and recommend a one year permit be given.

15 Shore Road – On the petition Warren Herrera for a home occupation special permit for a general contractor business.

The CPC does not have any objections to the proposal as long as the Home Occupation regulations in the Zoning Bylaw are adhered to.

Procedure for Improving Private Ways

Mrs. McKnight stated that the Select Board is reviewing a draft policy for improving private streets. The assumption has always been that our unaccepted bylaw applies only to constructed, but unaccepted ways. This is especially for streets, such as, Swan Pond Road which are not reported, they don't have a layout.

Mr. Pearce stated that this does not work for Swan Pond Road, at all.

Mrs. McKnight stated that she believes that this is the reason their doing it.

Mr. Rudloff asked if it means that it should be considered as an unaccepted street.

Mrs. McKnight stated that the confusion for her is that we have always worked under the assumption that there are private ways and unaccepted ways and there really the same thing. It could be a subdivision way, but all the ways have a layout, but for these access/driveways we don't have anything that governs them. One of her comments is: Are we working under an incorrect definition of what a private way and unaccepted way is, because to her they are the same thing.

Mr. Pearce stated it depends whether you're talking existing or what's being created. If an unaccepted street is there and has not been accepted it may not be acceptable, in any way. A private way is usually when they say that they are going to build the road, so they can put a house in there and we tell them that the town is not going to maintain it and we make it a private way.

Mr. Hayden stated that they can build the private way wide enough, but can reduce the conditions on it.

Mrs. McKnight asked if an unaccepted way has a layout.

Mr. Pearce stated yes.

Mrs. McKnight stated that a private way also has a layout.

Mr. Pearce stated that there are two kinds of unaccepted streets. There are unaccepted streets that were laid out many years ago when someone did a subdivision and there is an actual layout. The other is an unaccepted street that is there and being used, but the land owners actually own to the middle of the street, it is not a defined layout.

Mr. Bellavance stated such as, Swan Pond Road.

Mr. Pearce stated that Swan Pond Road is different because the road crosses over privately owned property. If they take Swan Pond Road out of the equation they could probably come up with a bylaw that will deal with these other roads.

Mrs. McKnight stated that Swan Pond Road is the reason that the Select Board is doing this.

Mr. Bellavance stated that basically what they're saying is that the town is going to invest money onto private properties. So, he could potentially, based on what he has read, could go and request my driveway be repaved and the town will invest 50% of it.

Mr. Pearce stated that the way may have to serve more than one person.

Mr. Bellavance stated that to him it is still private property.

Mr. Hayden stated that we don't really have common driveways, prior to 20 years ago.

Mr. Bellavance stated that he will never vote to use town money on private properties.

Mr. Pearce stated that a few years ago the former town engineer asked residents of unaccepted street to pay half and the town would pay the other half to have the road accepted and the town would be able to put these roads on the Chapter 90 list and receive State funds.

Mr. Bellavance asked why the town is maintaining private property.

Mr. Pearce stated that it is for safety. The town cannot deny safe and adequate access to someone.

Mrs. McKnight stated that the process that Mr. Pearce is describing is previously what we used our old unaccepted ways bylaw for, but the definition of private streets from the Select Board is: "are streets that do not appear on a plan and have not been accepted by town meeting", So, they haven't been accepted by town meeting, but all of the streets that we consider private ways are all on a plan.

Mr. Pearce stated that this does need to be fixed. Are they asking us to fix it?

Mrs. McKnight stated that they are asking for the CPC's opinion.

Mr. Hayden stated that this opens up all private ways to becoming an unaccepted way and getting public money.

Mr. Carroll stated that this should be written so that the town doesn't have to pay for private ways.

Mr. Pearce stated that the idea behind the concept is to provide safe and adequate access, at only half the costs and to eliminate the costs for the town to keep maintaining them.

Mr. Hayden stated that in some cases these unaccepted streets have been on the ground prior to zoning, so they are grandfathered. We can't accept them as a town public way because of its width, but we can make them safer because the public does drive down them. That's what we're expending money on a private way, but were only doing it on 50%, to pave it and saving a lot of money to grade it once or twice a year.

Mrs. McKnight stated what is really throwing her off is: "this policy shall apply only to improvements to private streets, sidewalks and storm drains and not to unaccepted streets, sidewalks and storm drains."

Mr. Hayden stated that is bad.

Mr. Rudloff stated isn't it unaccepted post-facto, meaning it has the improvements and the minimums per appendix.

Mr. Pearce stated no, it is totally different between private and unaccepted. These are roads that the town is already maintaining. When we create a private road, we create a requirement that in the deeds, for the people that are on that private way, to maintain them. There are many of them that someone calls the town and says that it wasn't plowed and we go and plow it and then it is plowed from then on. It happens because people expect services from the community that their paying these kind of taxes for.

Mr. Hayden stated that the Select Board has it backwards in their proposed policy.

Mr. Pearce stated that unaccepted streets could be a dirt road through the woods.

Mrs. McKnight asked what kind of road does the unaccepted street bylaw not apply to, that this does. Wouldn't that include Swan Pond Road or any driveway?

Mr. Pearce stated that Swan Pond Road is never going to fit in this box. If someone has property on an unaccepted street and they want to build on that property, they have to come to the CPC and go through the Unaccepted Street policy and they have to build that street to some standard, but we don't take it, but they do have to build to the property to create frontage.

Mrs. McKnight asked if they could do that with any kind of way, if already on the ground. Does it need to have a layout?

Mr. Pearce stated pretty much. If there's no layout, then generally the abutter's need to side own to the middle of the road.

Mrs. McKnight asked if we can allow street improvements in accordance with our Unaccepted Street bylaw.

Mr. Pearce stated yes, with the permission of the land owners

Mr. Hayden stated that that dirt road/access existed in some standard. Mrs. McKnight is asking if there is a dirt road and someone tries to build off of it, there's no real dirt road there.

Mr. Pearce stated if there is a dirt road they come to the CPC to get approval to build it to some standard.

Mr. Carroll stated that he has the same concerns as Mr. Bellavance. If you live on a dirt road and bought a house on an unpaved road and then pay 50% of the cost to pave it, it increases the value of that home, on the town's dime.

Mr. Pearce stated that is correct, but their taxes also go up and the town gets more money and we stop spending money for DPW to grade it every year.

Mr. Bellavance stated that he called a bunch of different States and asked if they plow or grade these dirt roads that are owned by people and they don't.

Mrs. McKnight stated that she thinks the understanding, and maybe this is a misunderstanding, but the understanding has been that we could not use our Unaccepted Street bylaw on a road like Swan Pond Road because even if it existed on the ground if it didn't have a layout it wasn't really a road. Is that incorrect?

Mr. Pearce stated that Swan Pond Road doesn't have a layout and bisects property, so that one lot becomes two lots and then the question is what happens to the rights of those two lots. Does this landowner now have two lots, even if it is undersized because the town created it?

Mrs. McKnight stated that is what happens when you accept the way, not when you pave the way. She has always been under the understanding that if you use the Unaccepted Street bylaw and do a street improvement project you have to have a layout and if you don't have a layout, you need to file for subdivision.

Mr. Pearce stated that it has to have a layout. The new bylaw has nothing to do with unaccepted or accepted streets, it is the methodology for getting those unaccepted streets paved that people live on.

Mrs. McKnight stated that she is still not clear of what the difference should be.

Mr. Hayden stated that they are trying to get justification to pave Swan Pond Road.

Mr. Pearce stated that the only excuse for doing it is that you fear for the safety of the people living out there.

Mr. Hayden suggested the Select Board meet with the CPC to discuss this.

Mr. Pearce stated that the response should be that this bylaw needs a lot of work, there are many questions that would need to be answered and ask the basic question about the justification of public funds on private roads. The liaison should meet with the CPC to discuss this.

12 & 14 Concord Street - Discussion

Mrs. McKnight stated that she has been asked by the town administrator to get a “scope & quote” from Design Consultants to do a small basic assessment to go over the development ability of the land and Weston & Sampson is going to do a 21E.

Mr. Pearce asked Mr. Sergio Coviello if he put in an offer to buy 12 Concord Street.

Mr. Coviello stated that he should not be answering any questions. He is only at the meeting to hear what the CPC has to say about this.

Mr. Pearce stated that he is trying to figure out why this has been given to the CPC.

Mrs. McKnight stated that whenever the Select Board is considering purchasing or disposing of land they like to get input from other boards.

Mr. Hayden stated that they are only giving input on 14 Concord Street.

Attorney Digiulio stated that the town would like to buy it as a package.

Mr. Hayden stated that it would be a good piece of land to use as affordable housing or lift-station.

Mr. Pearce stated that he agrees with Mr. Hayden and would suggest that it be used for housing stock or a possible use for a lift-station.

Planning Administrator Updates

Town-Owned Land

Mrs. McKnight stated that these are properties that we have seen before and the Select Board is continuing to discuss the possibility of selling all of these properties. Most of the properties are located around Audubon Road, Burroughs Road and Old Andover Road. The CPC has previously marked them as “no interest”, in the past, but there are a couple on the list that she wanted to ask about. 1 Bear Road had once been marked for “street widening”. Is that still

something that the CPC would want to comment that if the property is developed they would like to reserve a portion for street widening.

Mr. Pearce stated yes a portion should be reserved.

13 Edgewood Terrace is part of the Affordable Housing Overlay District. There is one property that has frontage on the street and then behind it, three properties and a paper street. The abutter to stand-alone property on Edgewood Terrace is interested in purchasing it because most of their driveway is on the property.

Mr. Pearce stated that if they buy it, will they block off the back.

Mrs. McKnight stated that the problem is that she was trying to figure out where the frontage would be because there is only 40' across and even in the affordable housing overlay you have to have at least a 100' of frontage to develop property and you can only get 100' on the other side, but you would have to build out the paper street. So, she doesn't really know whether the intent was to hang onto it.

Mr. Pearce stated that the paper street has a layout of 20'. Years ago the CPC made the minimum street width 21', so that nobody could build these 20' layouts. The town has the ability to do whatever they want back there especially with affordable housing. We need to have access to the back lots without building a road.

Mr. Bellavance stated that we could group them all together and put out an RFP to develop it.

Mrs. McKnight stated that we could, but it would either need to be a 40B or something to do with the zoning, such as, a variance.

Mr. Bellavance stated that he is not into the town developing, but he's into the town coming up with an idea putting out an RFP.

Mr. Pearce stated that we would need to give some serious variances for access.

Mr. Hayden stated that if we have the property have someone else come in and build on it, for free.

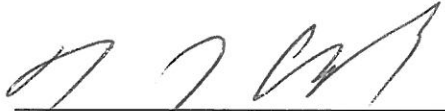
The consensus of the CPC is to keep this lot for access.

Carpenter Drive -

Mrs. McKnight stated that the town received a \$25,000.00 grant to hire consultants to do soil testing, a feasibility analysis and prepare an RFP on Carpenter Drive.

Adjournment at 10:10PM

Respectfully submitted,



Ryan Carroll, Clerk