

Leicester Planning Board Meeting Minutes
May 15, 2007

MEMBERS PRESENT: Debra Friedman, Sharon Nist, Bill Wright, John McNaboe and Jason Grimshaw

ASSOCIATE MEMBERS: Scott Broskey arriving at 8:00PM

MEMBERS ABSENT:

IN ATTENDANCE: Michelle Buck, Town Planner and Barbara Knox, Board Secretary

MEETING DATE: May 15, 2007

MEETING TIME: 7:00 pm

AGENDA:

- 7:00 PM Continued Discussion:
Site Plan Review Application, Expansion of Parking Lot (Kindred)
- 7:30 PM Public Hearing:
Special Permit Application, Route 9 Fitness (Paul Gleason)
- 8:00 PM Public Hearing:
Special Permit Application for Water Tank on Blueberry Lane, LWSD (Frank Lyon)
- 8:15PM Correspondence:
Town Counsel's Opinion, Parker Street
- 8:30PM Public Applications:
A. ANR Plan, Parker Street (David Lekstrom)
B. Preliminary Subdivision Plan Submission, Hytimber Shores
C. Extension Request, Brookside Estates
D. Lot Release Request, Whittemore Estate (Fred LaFlash)
E. Request for Reduction in Surety Amount, Oakridge Estates (Vartan Development)
F. Amendment to Performance Agreement, Wal-Mart
G. Endorsement of Approved Plans, Twelve Oakes/Stafford Hill Estates
- 10:00PM Approval of Minutes
3/20/07
4/3/07
4/24/07
- 10:15PM Town Planner Report
A. Associate Member
B. April Monthly Report

Deb Friedman, Chairman opened the meeting at 7:00 pm

Continued Discussion:

Site Plan Review Application, Expansion of Parking Lot (Kindred)

Ms. Friedman opened discussion at 7:00pm. In attendance; Mr. Robert Murphy.

Mr. Murphy said at the Board's request, he made some revisions to the Site Plan and has submitted those revisions to Quinn Engineering for their review. He received Kevin Quinn's comments too late for him to address before the meeting.

Mr. Murphy said he did speak with Mr. Quinn and there seems to be some confusion regarding the pole lighting and there was also a question about pavement. A previous letter from Mr. Quinn, dated February 2nd, stated those issues were taken care and in the recent comments received, states that the lighting package didn't follow the Board's requirement.

He did speak with Mr. Quinn about that and there must have been a switch up in details, because the lighting package had been approved and the lighting will be a cobra light.

The conflict in the pavement, is that the plan shows 3 inches instead of 3 ½ inches, but they do plan on using 3 ½ inches of pavement for this commercial parking lot.

Mr. Murphy said Mr. Quinn wasn't sure where the Board stood relative to the issues requested for the landscape buffers and waivers. It was Mr. Murphy's recollection that at the last meeting, the Board agreed to approve those waivers.

Ms. Friedman said the largest outstanding issue is with the stormwater management. Mr. Murphy said he did talk with Mr. Quinn about that and believes there was some confusion as to how Mr. Quinn interpreted his report.

If you look at the area adjacent to this lot, it's an area referred as, "Land subject to Flooding". Within the regulations, it talks about raising the elevation of the land subject to flooding. In his report, he shows the different storms; 2, 10 and 100 year storms; the elevation of the flooding prior to any development and the elevation the water would reach. They excavated a substantial portion of the Cooper Property to allow for additional volume and then when they do an analysis on a 2-year storm, the elevation of the water flow will be 99.3 and proposed development is 99.36. A ten year storm, the elevation is 100.03 and proposed is 100.16; it would increase 1 ½ inches every ten years projected.

Mr. Murphy said even though he is increasing his flow into this property, there is no outflow; it's a depression area, so all of the water eventually goes into the ground with no runoff at all. The low spot is shared right at the stonewall between the two properties, so you have a low spot that causes flooding in that area. The water goes into this pooling area and doesn't go anywhere and settles out quit quickly. They also took a look at the soil and found it to be very sandy, so even though this area floods, it's only temporary, because it absorbs into the ground quickly.

Ms. Nist asked what he meant by quickly, hours or days. Mr. Murphy said within 24-hours, which is the criteria he used on the design of detention basins. When you design a detention basin, regulations allow you 48-hours and if it's standing more than 48-hours, there are problems with sedimentation and it needs to be clean.

Mr. McNaboe said part of Mr. Quinn's issue is that this area is on property adjacent to it. Mr. Murphy said the water is already going there now, it's an existing situation and it's flooding now.

Mr. McNaboe asked if this property is owned by the Cooper's. Mr. Murphy said no, it's owned by the property adjacent to where this low spot is. About two thirds of the low spot is on the adjacent property and a third is on Cooper's. He said Mr. Quinn's concern was what if the adjacent property owner wants to sell it and fill it in; they can't sell it because it's a land subject to flooding. Any area within a wetland and there's a 10-year storm, you have to use the elevation to which it floods. If there is a depressed area and you show on a 10 year storm where the water goes, then that is the actual edge of a protected area. This is already a protected area, even though it's not a wetland, per say, but it's an area subject to flooding and that is what makes it protected, because it's adjacent to a wetland.

Ms. Nist asked if this area is designated on maps. Mr. Murphy said no, there are a lot of areas that are not designated. This is an isolated area subject to flooding and wouldn't be found on any maps.

Ms. Nist said who's to prevent the new owners of the adjacent property to fill it in. Mr. Murphy said because it is a wetland, there is a low wetland area in it, the elevation of a protected wetland; it's higher than the actual wetland.

Mr. Murphy said he and Mr. Quinn did discuss how the rates of flow will discharge onto someone else's land. They found that with a 2 year storm the rate of flow onto the land is .94cfs and the post develop rate of flow was 1.35, which is an increase. If you look strictly at the numbers of the flow onto the adjacent property, it will be increased.

They are not increasing the elevation of the land subject to flooding and Mr. Quinn agreed to that and agreed that it is doing a good job. However, in a 100-year storm, at the peak of the storm, the rate of flow is 4.9cfs on the pre-developed and it goes up to 6.17cfs on the post-developed. This was calculated for a short period on a 100-year storm, when the peak flow is flowing, roughly at 2-hours every 100 years and is a 1.27 cubic feet per second increase of flow. The DEP accepts 1cfs increase as acceptable on a 100 year storm, this is a little bit over and did speak to Mr. Quinn about it and he advised discussing it with the Board.

Ms. Buck said when she has spoken with Mr. Quinn and his concerns related to Storm Water were significant and not minor issues. She would not feel comfortable recommending the Board to act tonight, based on that report. This should be continued to a future meeting and maybe have Mr. Quinn attend that meeting if there are still any questions pending.

Mr. Murphy said the numbers issue can be resolved, by increasing the size of the detention basin that will lower the flow, lower the height of the water and make it less than it is now, when it floods. His main concern to the Board was that he received Mr. Quinn's comments an hour before this meeting tonight and did not have enough time to respond to it. He has no problem with continuing this meeting and will get the information needed, but does have a concern, because he would need more than a day to respond to any issues.

Ms. Buck said Mr. Quinn had a number of items for tonight's agenda he needed to complete, but even if the resolved the issues with the Stormwater, the Board likely would not have been able to act tonight for a number of reasons. The revised plan that was submitted to the Planning Office last week had changes since the last revision. The extra landscaping the Board asked for that was shown on the plans submitted in January, had been removed.

Mr. Murphy said the wrong drawings in the file got put in by the computer. Ms. Buck said sometimes if it was one little missing detail, sometimes a note can be put into the decision, but this is a significant omission. All of the landscaping that was specifically requested by the Board was removed and it had been on the plan that was received on January 29th.

In relation to the waivers, the Board didn't actually vote on the waivers, but it was discussed and she was going to recommend approving the waivers. But when she reviewed the revised plans, the additional landscaping the Board had asked for, which would justify the waivers, no longer was shown on the plan.

Ms. Friedman asked when the revised plans were submitted to Quinn Engineering. Ms. Buck said they were submitted last week to Mr. Quinn.

Ms. Friedman asked when this was last before the Board. Ms. Buck said April 24th.

Mr. Murphy said part of the reason it took a while to get the plans to Mr. Quinn was because they had gone out and did some soil testing. Once they had that soil information, then they were able to design a portion of the recharge basin.

He was unaware that the landscaping was not shown on the revised plan and because of the result of this meeting, he would like to go back and review the files.

Ms. Buck said the plans received in January it was dated July 6, 2004, with revision dates of November 28, 2006 and January 22, 2007. The previous copy of the plan labeled the zoning district line, the line is still shown on this, but it doesn't say what the districts are.

Mr. Murphy asked if the previous plan showed the zoning district boundary. Ms. Buck said it was hand written on a plan submitted earlier in January, but it is not on at all on the revised plan.

Ms. Buck said she also noticed that the water district had requested changes to the notes on the detailed sheet and the changes are not there.

Ms. Friedman said this discussion will be continued to Tuesday, June 5th at 7:30PM.

Public Hearing:

Special Permit Application, Route 9 Fitness (Paul Gleason)

In Attendance: Mr. Rob McNeil of McNeil Engineering and Mr. Paul Gleason, owner of Route 9 Fitness.

Ms. Friedman opened the hearing at 7:30PM and read the Public Hearing Notice into the record.

Mr. Grimshaw informed the Board that he can not participate on this application because he is a current member of Route 9 Fitness. Mr. McNaboe also informed the Board that he was a past member of Route 9 Fitness, but not currently a member. Ms. Buck said she will check with the Ethics Commission regarding this matter.

Submitted into Evidence: the Return Receipts on the Certified Mailing and revised plans (revised 5/15/07).

Mr. McNeil said the property is located at 21 Main Street and known as Route 9 Muscle and Fitness. Route 9 Muscle and Fitness has been in operation since October of 2006 and shortly thereafter, received a notification from the Building Inspector stating that Mr. Gleason needed to file with the Planning Board for a Special Permit. The location of this operation is in the old mill building in Cherry Valley at Smith Pond near the Worcester/Leicester Town Line. The overall building is over 100,000-square feet and it has multiple businesses within the complex that have access off McCarthy Ave. and on Gerald Court.

Route 9 Muscle and Fitness occupies approximately 4,700-square feet and currently the main access is through Gerald Court. There are existing parking spaces for 16 vehicles and the existing lighting is a pole mounted light along Gerald Court and there are two building mounted lights over the door and over the Route 9 Muscle and Fitness sign on the side of the building.

The existing landscaping includes a grass slope with some plantings along the edge, with a mixture of trees along the property line and a 6-foot high stockade fence. Mr. McNeil submitted pictures of the site for the Board's review, to get a better understanding of what is there and to show some of the current parking configurations and landscaping.

Ms. Buck gave the Board copies of the Special Permit approval criteria in this district.

Mr. McNeil said he did receive several comment letters back from various town departments, as well as Quinn Engineering and will review each comment with the Board.

Mr. McNeil said as part of the Special Permit Application, he asked Mr. Gleason to conduct a parking study in order to get a handle on what he has for parking use at this location. Mr. Gleason gathered a full week of data on the parking operation. The plan shows there are several different locations available to park. Route 9 Muscle and Fitness is currently the only business that accesses the main building through the rear area. The large parking lot in the rear shares with several different businesses, but there is enough of asphalt and gravel back there for the overflow parking. The study data showed that parking in the rear was unnecessary, because of the available parking on the side. On average there were 10 members that would use the facility during the week with a range low of 2 up to a high of 20. On an average there are 10 people and the plan shows 16 spaces.

Ms. Friedman asked if there were 20 people, where do the other 4 park, unless they are coming together. Mr. McNeil said there are additional spots, which are shared with Lincare and if there are spaces available, they will be used. The study showed, at the peak time, some people did park in back.

Mr. McNaboe asked if Lincare was a 9 to 5 business. Mr. McNeil said yes.

Mr. McNaboe said usually after work is when most people come to work out. Mr. McNeil said their chart shows peak being right after lunch, between 1PM to 3PM.

Mr. McNaboe asked if data was collected on how much time a person takes to work out. Mr. McNeil said generally on an average it's about an hour, but turn over is pretty quick.

Ms. Nist asked what the hours of operation were. Mr. Gleason said 5AM to 11PM, Monday through Wednesday; Thursday and Friday, 5AM to 10PM; Saturday and Sunday, 8AM to 6PM.

Mr. McNeil said a lot of people show up at 5AM; regularly around 6 people.

Ms. Friedman asked how many staff personnel is there at any one given time and where does the staff park. Mr. Gleason said there is one person on at any one given time, along with himself at times and they park on the side. Mr. McNeil said Mr. Gleason does have another facility in North Oxford, North End Muscle and Fitness, and does split his time between each location, so basically there is only one staff person on at a time.

Ms. Friedman asked if there were any plans on increasing the staff, given the amount of hours opened. Mr. Gleason said there are no current plans.

Ms. Friedman asked if there are any plans on growing the business. Because there have been some questions as to whether or not this business is allowed there, there hasn't been a lot of promotion on growing the business at this point, but she assumes that it is being looked at to grow the business. Mr. Gleason said they do advertise.

Ms. Friedman asked where the parking would go if the business grows. Mr. Gleason said parking up to this point has not been an issue, because most people are there for only about an hour.

Ms. Friedman asked how many people can be in the gym at one time. Mr. McNeil said generally January is the time the gym could get crowded. People, who do show up and see how crowded it

can get, will probably spend less time, so it varies. The business next door, Lincare, occupies very little space.

Mr. McNeil stated that Quinn Engineering's review scaled the parking on a building of 19,000-square feet and Route 9 Muscle and Fitness occupy 4,700-square feet. Mr. Quinn applied the City of Worcester's ordinance that requires enough parking spaces for every 350-square feet and based on that, Route 9 Muscle calculates out to 14-spaces at 4,700-square feet, so the 16-spaces they show, should be adequate.

Mr. McNaboe asked how many current members are there. Mr. Gleason said 250 members. The hours this is opened, the parking is pretty spaced and there has never been a complaint that someone can't find a parking space.

Ms. Friedman asked what the potential growth of membership is. Is there a maximum number to the membership? Mr. Gleason said he hasn't thought about expanding and currently does not have a maximum number to cap out at. There are members who don't go every day either and there are people who only come at certain times.

Mr. McNaboe asked if he knows of people who carpool. Mr. Gleason said yes, many do.

Ms. Friedman asked how many members are at the Oxford gym. Mr. Gleason said around 440 members.

Ms. Buck asked about availability of parking at that facility. Mr. Gleason said that facility has a different configuration, with maybe around 20-spaces, which are shared with other businesses.

Ms. Friedman said her concern is at the point in the year when this is maximizing the amount of patronage, is also the point there will be reduced parking area because of snow.

Mr. McNeil said there is a steep embankment along the edge where some of the landscaping is and there is a loading dock in that area, which needs to be accessible, so there is plenty of snow storage over the edge of the retaining wall. There has never been an issue of snow removal in this area.

Ms. Friedman asked if there is parking along Gerald Court. Ms. McNeil said no, not on the street, just on the off-street section.

Ms. Buck said the lower parking lot was mentioned as the overflow parking, access to the lower lot does not meet the building code and understands that is referring to the staircase; are there plans for the owner to correct that deficiency.

Mr. McNeil said under the current scenario the upper area parking is more than adequate and exceeds the 14 spaces required. The Special Permit can be conditioned that if this business reaches a certain membership cap, to have a supplemental plan resubmitted on the overflow parking in the lower lot and at that time, include upgrading the stair access from that area.

Mr. McNaboe asked if the staircase is owned by the landlord or the gym. Mr. McNeil said the building itself is owned by the landlord, which includes the staircase.

Ms. Nist asked if there were handicapped spaces available. Mr. McNeil said yes, the closest spot is directly in front of the entrance, but not marked, because they wanted to have an approved plan before putting up any signage. The building owner is working closely with the fire department and the building inspector to work through a lot of the building issues and will be addressed, such as signage and egress lighting.

Ms. Friedman said the pictures submitted shows an opened dumpster and trash is all over the place, how will this be addressed. Mr. Gleason said the dumpster belongs to Lincare.

Ms. Friedman asked if there is trash with his business at all. Mr. Gleason said the trash from his facility is taken off site and brought to the Oxford gym.

Mr. McNeil said as far as the Special Permit goes, he can speak to the owner and try to get Lincare to clean up the area.

Ms. Friedman said basically because the dumpster is actually right by your entrance. Mr. McNeil said the dumpster is back about 30-feet from the front corner and is noticeable.

Ms. Nist asked if there any outside trash cans placed anywhere. Mr. Gleason said it's all inside.

Mr. McNaboe asked where the staircase on the side leads. Mr. McNeil said it leads down to the Lincare dock.

Ms. Nist asked how people get to the lower parking lot. Mr. McNeil said they will walk down Gerald Court and around to the lot.

Mr. McNeil said the Building Inspector indicated that there were no measurements for the rear parking lot to the property line and they added that to the revised plan submitted. The spot from the rear line measures at 5.8-feet and there is approximately another 5-foot to the stockade fence. Parking space size was not indicated and they noted the size on the revised plan of 10 x 20.

Ms. Friedman asked if the spaces would be marked. Mr. McNeil said currently they is nothing marked throughout the site and can address that if the Board wants to, but there are no plans to stripe. The handicapped spots will be specifically marked with signs.

Ms. Friedman asked if that area is graded and meets ADA Standards. Mr. McNeil said further back it does, but not directly adjacent. Mr. McNeil said access from the lower lot does not meet building code and as shown on the revised plan, the customers will not need to use the lower lot at this time. If membership should increase, to an agreed upon number with the Board, at that time the lot and staircase be upgraded to locate the additional parking.

Under the original plan the upper parking lot showed it difficult to maneuver and showed parking spaces blocked by others. The revised planned showed the spot has been removed and the area initially intended as an employee parking area, but was removed based on the building inspector's comment.

The Conservation Commission gave their okay and indicated to file a Notice of Intent; at this time they have not intension of any site improvements and will send a letter to Conservation indicating that.

The Board of Health's commented that if the business intends on selling any food items they must apply for appropriate permits. They have applied for a retail pre-packaged food permit, for items such as bottled water, power energy bars and Gatorade.

Ms. Nist asked if there will be vending machines. Mr. McNeil said no, it will be over the counter sales.

Mr. Scott Broskey arriving at 8:00PM

The Highway Department checked approval.

Quinn Engineering comments regard the plan should address flood plain status and they propose to do that. The second comment was parking analysis should account for the entire building, the parking associated with Route 9 Muscle and Fitness extends onto the lower lot and they feel that has been adequately addressed. For number membership they have, the parking is adequate, but if the membership expands significantly, they will upgrade the lower lot and staircase.

The third comment regards the number of parking spaces based on 19,000 square feet of area at an amount of 48-spaces and Route 9 Muscle and Fitness occupies 4,700 square feet of area, which would correct that to 16-spaces.

Pertaining to Site Development Standards, Mr. Quinn states, the plan did not address illumination; paved parking and landscaping and screening requirements. Illumination is shown on the revised plan at three locations; the paved parking is located in the upper lot and the landscaping and screening has been added to the revised plan showing the existing landscaping areas and the existing screen to the residential area.

Ms. Friedman asked if there was any lighting on the stairway to the lower level. Mr. Gleason said there is lighting on the building that shines onto the stairway.

Ms. Buck asked if the 9 spaces shown on the plan are the only spaces available for Lincare. Mr. McNeil said Lincare has the ability to park right up to Main Street.

Ms. Nist asked if Lincare has vehicles parked there overnight. Mr. McNeil said they have some sale vehicles that park there.

Ms. Buck asked if those 9-spaces are shared with Lincare. Mr. McNeil said there is no exclusive right to the spaces anywhere on the entire property.

Ms. Buck asked the Board Members who are or were members of this facility have ever found any problems with parking. Mr. McNaboe and Mr. Grimshaw both said no, not when they have been there.

Ms. Buck said she has a concern because the survey does show a peak of 20 and where will the overflow go. Ms. Friedman agreed and said that is without any growth. If this business doubles and there is a peak of 20, you are now up to 40. Mr. McNeil said based on that date, it happened for 1 hour through the entire week and the owner has not received complaints regarding parking issues.

Ms. Friedman asked how long the Oxford Gym has been opened. Mr. Gleason said approximately 9-years and he purchased it around 4-years ago.

Ms. Friedman asked what the membership at the time he purchased the business. Mr. Gleason said about 300 at that time. Ms. Friedman said it's gone up about a third within that time.

Mr. McNaboe asked at what number we say to have him come back in before the Board.

Mr. Wright said it should be up to the owner, because if people can't park, they won't go.

Ms. Buck said her biggest concern with the overflow parking area is the staircase and not having safe access. Mr. McNeil said the owner is working with the building department, an architect and the fire department to address the code violations around the building.

Ms. Friedman recessed this hearing on Route 9 Muscle & Fitness at 8:10PM to reopen the Special Permit Application for the LWSD.

Public hearing:

Special Permit Application Water Tank on Blueberry Lane, LWSD (Frank Lyon)

Ms. Friedman opened the continued hearing at 8:10PM.

Ms. Buck said she has received a letter on May 11th from LWSD and the Commissioners of the Leicester Water Supply District are requesting their application for Special Permit be withdrawn at this time. Ms. Buck suggested the Board accept this request to withdraw with prejudice.

MOTION: Mr. McNaboe – moved to accept the request of the Leicester Water Supply District to withdraw their application for Special Permit without prejudice.

SECONDED: Ms. Nist – Discussion: None

Vote: UNANIMOUS

Hearing closed at 8:13PM

Public Hearing Reconvened: Route 9 Fitness

Ms. Friedman reconvened hearing at 8:14PM.

Mr. McNeil said if membership increases significantly and causes a parking burden, they will need to seek the additional parking on the lower level and will ensure safe access.

Ms. Friedman said in regards to working with the building inspector, what are the types of things that will be addressed. Ms. McNeil said mainly safety issues regarding egress directly from the building, the lighting and emergency lighting; also safety egress plans throughout the building, so fire fighters can get into the building and get themselves and anybody else out of the building.

Ms. Buck asked if the safety issues talked about related to this portion of the building or the other portion. Mr. McNeil said for the gym issues, initially there were some issues with adequate egress lighting at the exit doors and that has been addressed.

Mr. Gleason said there were no problems noted in his area, because it was different from the rest of the building and that is why they didn't have to shut down.

Ms. Buck said it is not unreasonable for Mr. Gleason to ask the owner to fix the staircase and bring it to code.

Mr. McNeil said the owner is working with the Town to develop a list of issues he needs to fix.

Ms. Friedman said her main concern is with the stairs and the exterior lighting. Given the hours of operation and knowing some are at night, with the overflow parking located down a set of stairs with no lighting along with no lighting in the lower parking lot is huge a concern.

Ms. Buck said felt that a vote and conditions of approval cannot be prepared this evening. If the applicant isn't submitting any additional information, she recommended that the Board close the hearing and vote at the next meeting.

Mr. Grimshaw asked if the Board is allowing the existing parking without the overflow as a separate issue or is it an issue not adequate and include the overflow parking and to fix the stairs. Mr. Buck said her recommendation to the Board is to require overflow parking and in the written Decision have a condition related to the stairs being fixed and lighting be put in.

Once this hearing is closed, the Board has time to deliberate on a written Decision. A draft decision will be provided to the applicant and the Board for review prior to the next meeting; this is not something that would need a whole new set of plans to address.

Ms. Friedman asked if there were any further comments, concerns or questions; hearing none recommended closing the hearing. Discussion of the Decision was scheduled for June 5th at 7:00PM

MOTON: Mr. McNaboe- moved to close this hearing and discuss the Decision on June 5th at 7:00PM

SECONDED: Ms. Nist – Discussion: None

Vote: UNANIMOUS

Correspondence:

Town Counsel's Opinion, Parker Street

Ms. Buck said she has spoken with Attorney Cove and he gave a verbal opinion that the Board should not discuss matters for which there is not an application before the Board and advises against review of various hypothetical options.

Attorney Cove restated that opinion in a letter dated May 3, 2007, which copies were submitted to the Board and the Scholds.

Mr. McNaboe said the Board should not try and second guess the Town's Attorney. There is not much in the way of an argument.

Mr. Wright said isn't there currently a review before another board. Ms. Buck said there is currently an appeal before the Zoning Board of Appeals; it's an appeal of a building permit denial and that hearing is continued to June 11th. Although the fact that there is an appeal before that board wasn't directly an issue in Attorney Cove's opinion, it does make it a little more complicated.

Ms. Friedman said even if they didn't have an appeal before the Zoning Board or withdrew that appeal, Attorney Cove feels that the Planning Board should not discuss it and his opinion would remain the same. Ms. Buck said yes and seeing that the Schold's are here, one of the things that can be done is discussion with Town Officials, i.e. Town Planner, Highway Superintendent and Fire Department, who can make recommendations to the Planning Board.

Ms. Friedman asked if Attorney Cove would mind if the Schold's went to those departments to discuss proposed plans. Ms. Buck said no, Attorney Cove would not mind.

Mr. Paul Schold said they are currently before the Zoning Board of Appeals and they didn't feel that will be the solution to this issue and they are looking to come back before the Planning Board. Attorney Cove's opinion is his opinion in which he is entitled to and they do not feel it is necessarily true. But what they would like to do is present a plan at the next Board meeting as a Preliminary Plan and to present their concept, have it sent to the town departments so that they can submit their comments.

Ms. Buck asked if it will be a subdivision plan. Mr. Schold said no, it's not a subdivision, it's for one lot. They can't build unless they put a road in.

Ms. Friedman said if you put in a road, it's actually considered a subdivision plan, even if it's for one house subdivision, it is still considered a subdivision. Anytime it involves construction of a road, it is considered a subdivision.

Mr. Schold said if time and energy is spent to build a road and to show subdividing lots, he wants a guarantee from the Board that no matter what happens with zoning in the future, those lots are legal lots from now until the end of time.

Ms. Buck said the Planning Board has no control over State Law and grandfathering lots. The Board would never be able to guarantee zoning protection.

If a shorter road is being thought about than previously proposed, we are not talking about the same number of lots that was submitted previously. There was a previous application that was before the Board that showed a road extending a half of a mile. Mr. Schold said that was direction they were sent in.

He just wants to get to their 10-acre property and would need 1,500-feet of road. They would like to look ahead and see what direction to go.

Ms. Friedman asked if they are discussing building a road, not just a driveway. Mr. Schold said they are looking for the best direction to go. They want to keep at a country setting and not put a 24-foot roadway in where it will become a speedway.

Ms. Friedman asked if his concept has been discussed with the Highway, Fire and Police Departments. Mr. Schold said in the past when they contacted these departments, they were told they needed to start with this Board.

Mr. McNaboe asked if it is possible to have a conceptual meeting between Highway, Police, Fire and Town Planner and discuss what would be a good way to go. Ms. Friedman agreed that would be a good way to go at this point.

Public Applications:

Preliminary Subdivision Plan Submission, Hytimber Shores

In Attendance: Mr. Bill Coyle of Coyle Engineering; Mr. Joseph and Mr. Robert Hyland

Mr. Coyle said he is representing Joe & Bob Hyland. This project and land has been around for a long time, previously known as Camelot Shores/Tanglewood Shores.

Camelot Shores was a half mile of dead end road that was originally submitted and approved in 1989. At that time there were approximately 18 lots; it came back before the Board a couple of years ago with a smaller proposal of 3 lot subdivision. The problems with that was ledge, which affected the feasibility of the project.

They are now faced with having land on the water side with no frontage. One way was to build a 500-foot road and possibly get 5-lots, but because there is no frontage on the water side and in order for them to get 5-lots the road would need to be in excess of the 500-feet.

In order to justify lengthening the roadway, they end up with 2 more lots over what you would get with a conventional 5 lot subdivision. Even though the length of the road is greater than the 570-feet, the number of houses being served is not much greater, being 7 houses versus 5. The total length of road to get to this point is 1,450 feet of road, with each lot being approximately 3.6-acres, 3-acres, 2 ½ acres, with only one being at the minimum required.

The biggest request they will be making will be a waiver for the length of the roadway and he stressed the number of lots being served, being 7 lots, where normally this length of road there could be 14 lots. This will be a boulevard style roadway.

Ms. Friedman said the issue when this came up in 1989 was the pumping station and how will that be handled. Mr. Coyle said they will be moving forward with septic systems and private wells.

Ms. Friedman asked if there would be problems with the ledge. Mr. Coyle said Title 5 has been changed and sub soil layers can now be used. So when they get down 5-feet, it's o.k.

Discussion of this application was scheduled for June 19th at 7:30PM.

Extension Request Brookside Estates

In Attendance: Mr. Michael Konan of Dream Home Builders.

Mr. Konan said they are requesting an extension until October 31st of this year. They will submit the planned work schedule this week and one of the first items scheduled is the Trees and getting prices.

He said he needs to discuss with Mr. Quinn regarding the amount of trees for planting. There is 700 linear feet of land and the trees are suppose to be placed no more than 25-feet apart, which would be 28-trees and Mr. Quinn has 47-trees.

Another item scheduled is the two streetlights. The electric company approved a plan for one streetlight, because there was already an existing street light at the entrance. Ms. Friedman said there needs to be a streetlight at the other end as well.

Mr. Konan said the last two items that will be done before October 31st is the Cape Code Berm and the top coat.

Mr. McNaboe asked about the hole, which is causing some concern. Mr. Konan said it will be taken care of.

Mr. McNaboe said there was also some concern regarding the retaining walls. Ms. Buck said she will ask Quinn Engineering to address the retaining wall during the review of the amount of surety.

Mr. Grimshaw said he is an abutter to this project, therefore is in conflict and unable to participate in the vote.

Mr. McNaboe asked if the Board already approved an extension for this project. Ms. Buck said at the last meeting the Board decided not to extend and that is why Mr. Konan is here tonight to ask for that extension.

Ms. Buck asked if the revised construction schedule will be submitted ASAP. Mr. Konan said yes, he will have it to the Planning Office by Monday.

Ms. Friedman said her only concern is the adequacy of the surety. Ms. Buck said that will have to be reviewed and re-evaluated.

Ms. Buck asked if a Supplemental Review Fee will be submitted. Mr. Konan said yes, he will submit the \$1,000.00 Review Fee along with the construction schedule on Monday.

Ms. Friedman said once the Supplemental Review Fee is submitted, Quinn Engineering will then go out and determine what surety should be.

Ms. Buck said she will send Mr. Quinn the construction schedule, once it is received and then asked Mr. Konan to include the verbal comments he made tonight regarding the trees in the construction schedule letter.

Mr. Konan said they will be putting in thorny shrubbery around the detention basin, which he believed was agreed upon.

Ms. Buck recommended putting this on the next agenda for Tuesday, June 5th at 8:00PM

Request for Reduction in Surety Amount, Oakridge Estates (Vartan Development)

In Attendance: Mr. Bruce Vartanian

Ms. Buck said Mr. Vartanian is asking for a reduction in the surety amount.

It was explained to the applicant that the Board would not be able to finalize this request tonight, because a new Letter of Credit is needed and the Board will have to sign a new Performance Agreement.

Mr. Vartanian asked if the Letter of Credit is needed ahead of time before reduction.

Ms. Buck said what can be done tonight, is to decide on the *amount* and at the next meeting the Board will sign the legal documents to formalize it.

The current amount of the Letter of Credit, which is for Phase one only, is \$345,000 and Mr. Quinn has reviewed their numbers and adjusted them to the revised total of \$164,104.64

Ms. Buck said Mr. Quinn deleted the cost of streets at the applicant's request and it was indicated that Mass Electric will put in the street lights.

Mr. Vartanian said Mass Electric said they would install the street lights. Ms. Buck asked if there was a signed agreement. Mr. Vartanian said yes, he had brought in a copy a while back and that Mass Electric has the bases in place.

Ms. Buck recommended the Board vote to reduce the surety amount from \$345,000 to \$164,200, contingent on conformation of the street lights.

MOTION: Mr. McNaboe – moved to reduce the required amount of surety from \$345,000 down to \$164,200 contingent on confirmation of street lights.

SECONDED: Ms. Nist – Discussion: None

Vote: UNANIMOUS

Ms. Buck said this will be put on the next meeting agenda for June 5th at 8:15PM (for signing the required paperwork).

Lot Release Request, Whittemore Estates (Fred LaFlash)

Ms. Buck said Mr. LaFlash has a couple of issues going on and his request is not ready for approval.

Mr. LaFlash did submit a project status, which was due on May 4th.

He put in a request to release 3 lots on April 26th, but then on May 4th when he submitted a revised surety estimate for the project, it showed that he is \$100,000 short on his own surety.

His current surety estimate shows almost \$300,000 and the Board is only holding \$187,000 and the reason for this is because there are problems with the paving and some of the pavement has to be torn up and redone. Also, the price of asphalt has increased significantly.

There were also some communication problems between Kevin Quinn and Joe Sullivan and they were not able to get a final amount agreed upon before tonight. Hopefully, the final documents will be completed by the next Board meeting.

Amendment to Performance Agreement, Wal-Mart

Ms. Buck said she has not heard back from Town Counsel or the Wal-Mart Representatives on this issue and the matter will be postponed again.

Ms. Friedman asked if the repaving work that is currently being done at the Wal-Mart site is being inspected. Her concern is that there is not an adequate amount of gravel being put down before paving or is it just patch work being done

Ms. Buck said Wal-Mart should be contacting the Town Engineer and asking him to review this work. She will contact Mr. Quinn and have him go out and check this work.

Ms. Nist noted that the landscaping trees are all dying. Ms. Buck said the trees will have to be replaced.

Cumberland Farms Update

Ms. Buck said the Board is holding an amount of surety to cover the remaining landscaping, the final coast of paving, the fence, pavers and a drainage system in the back. She has been told that work has been completed and will be doing an inspection on that work with Kevin Quinn.

Ms. Buck said that Cumberland Farms, just to be cautious, has requested a two week extension on the deadline to complete the work. This would give them time to correct any deficiencies that she and Mr. Quinn might find.

The current deadline is to May 21st; Ms. Buck suggests an extension to the next Planning Board meeting date of June 5th.

MOTION: Mr. Wright – moved to extend the deadline to complete work for Cumberland Farms from May 21st to June 5th.

SECONDED: Ms. Nist –Discussion: None

Vote: UNANIMOUS

Mr. Wright said the abutters on the left hand side, who were concerned with the fencing, told him that they are very pleased with what has been put up.

Endorsement of Approved Plans, Twelve Oakes/Stafford Hill Estates

Ms. Buck said the Covenant was not submitted and they were notified it needed to be submitted one week prior to this meeting; therefore, the Board can not act on this issue at this time.

ANR Plan, Parker Street (David Lekstrom)

Ms. Buck said this is two existing lots and all they want to do is transfer a sliver in the middle from one lot to the other.

MOTION: Mr. McNaboe – moved to approve the ANR Plan on Parker Street for David Lekstrom.

SECONDED: Ms. Nist – Discussion: None

Vote: UNANIMOUS

Approval of Minutes

3/20/07

MOTION: Ms. Nist – moved to approve the minutes of March 20, 2007

SECONDED: Mr. Wright – Discussion: None

Vote: 4 in favor / one abstained

4/3/07

MOTION: Ms. Nist – moved to approve the minutes of April 3, 2007

SECONDED: Mr. Wright – Discussion: None

Vote: 3 in favor / two abstained

4/24/07

MOTION: Mr. McNaboe – moved to approve the minutes of April 24, 2007

SECONDED: Ms. Nist – Discussion: None

Vote: UNANIMOUS

Town Planner Report

Associate Member

Scott Broskey will seek re-appointment, therefore re-advertising will not be needed.

April Monthly Report

Ms. Buck submitted copies to Board for their review.

MOTION: Mr. Wright – moved to adjourn

SECONDED: Ms. Nist – Discussion: None

Vote: UNANIMOUS

Meeting adjourned at 9:30PM

Respectfully submitted:

Barbara Knox