

**BOARD OF SELECTMEN  
APRIL 20, 2004  
WORK SESSION MINUTES  
"APPROVED"**

The meeting was called to order at 9:00 a.m.

Present: Thomas D. Hartnett, Chair; George F. Dillon, Jr., Vice Chair; Peter S. Cunningham, Member; Administrative Officer Jean E. Kitchen and Maria Casey, Administrative Secretary.

Absent: John L. Saball\*\* and Virginia C. Wood, Member.

**Mill Street Relocation/Discontinuance**

In attendance for this meeting in addition to the above, were Planning Administrator Michelle Collette, Police Chief Mulhern, Highway Surveyor Tom Delaney, Attorney Mark Bobrowski, Planning Board Member Josh Degen, Zoning Board of Appeals Chair Stuart Schulman.

Attorney Bobrowski stated that he had sent the Draft Agreement and heard back from Attorney Douglas Deschenes, who represents Mr. Walker, Ryan Development, and Groton Residential Gardens (40B Project); and Attorney Deschenes had no problem with the Memorandum of Understanding a/k/a the Agreement and had only minor comments/changes.

Attorney Bobrowski stated that the Board of Selectmen, with Town Meeting Authorization, is the proper venue to layout and discontinue Mill Street. Attorney Bobrowski stated, however, that Attorney Deschenes did not say that they would not sign the Agreement.

Attorney Bobrowski stated that the few items to address are Ownership (if this has not been done) and he awaiting a detailed exhibit/configuration from the Sewer Commission and then he can plug in the appropriate figure. Regarding ownership, if Mr. Walker controls it, he cannot put on a restriction. Attorney Bobrowski stated that there are questions whether or not the parcel is in the Sewer District or not. He is awaiting an opinion from Kopelman & Paige regarding the same.

Mr. Hartnett stated that the road configuration would have been better to match NEBS main driveway, however, conversely it matches the development.

Ms. Kitchen stated that the Engineer, Gary Hebert, from Fay, Spofford & Thorndike, who attended the first meeting with Margot Hammer of the Zoning Board of Appeals and Planning Administrator Michelle Collette stated that the location of the light was suitable in either location.

Michelle Collette stated that this road is not safe and that the improvements of the road are critical for safe intersection and the Town should take advantage of it.

Mr. Dillon concurred with Michelle Collette that getting this road changed to a safer improvement and have it being paid for by someone other than the Town that either location would be appropriate; however, that the Plan shows the relocation which is preferable to the developer.

Chief Mulhern stated that this plan adequately covers the safety needs. He added further that approximately 18,000 to 20,000 cars go through Route 119 at this point daily per the Warrant counts.

Mr. Cunningham stated that he also supports the correction of Mill Street.

Mr. Dillon questioned if there was money in the agreement for the traffic light.

Attorney Bobrowski stated that there is \$100,000 in the Agreement for the traffic light and there will be \$10,000 allocated for the design relocation of the NEBS sub-driveway, which is not the main entrance to NEBS, rather it is the driveway to the Old Cleary House.

Tom Delaney stated that the traffic signal money is for engineering only. \$100,000 is not enough money to pay for the traffic light. He hopes the State will pay for the traffic light.

Josh Degen stated this currently does not meet the warrants for a traffic light. Eight warrants were performed. The study only met 6 of the warrants.

Tom Delaney stated that he would rather have Mr. Walker do the roadwork.

Michelle Collette stated that there is a Definitive Plan before the Planning Board however the Board of Selectmen, not the Planning Board, is responsible for the layout of a public way. She further stated that it is important to make developer do the required work - MEPA approval and Notice of Project Change approvals. The Planning Board has not seen the curb cuts from Mass Highway and she believes the Developer should be "on the hook" with Mass Highway for requisite approvals and responsibility of compliance for these approvals. She requests that Mr. Walker provide a copy of the permits for her files.

Mr. Dillon questioned how we can have the assurances?

Josh Degen stated that there is a Definitive Plan for the commercial project in front of the Planning Board with waivers for curbing, drainage, etc. Mr. Degen stated that draining of Mill Run Place will drain into the detention and retention areas on the 40B parcel. He questioned who's going to meet the guidelines for approval?

Attorney Bobrowski stated that we may be walking a fine line with the Agreement between the Town and Mr. Walker. Mr. Walker has already agreed to commit to certain conditions, and there are conditions that can be incorporated into the ZBA approval for the 40B project.

Josh Degen further questioned if prior to issuance, the Agreement could contain a condition that would have verbiage that would include "the work will be done in a manner which is approved by the Mass Highway, Town Highway Department, the Board's Engineers and not in advance of the Water and Sewer approvals.

Attorney Bobrowski stated that this is predicated on ZBA approval and conditions in the 40B process.

Mr. Dillon stated that he would feel better having these assurances.

\*Mr. Saball arrived at 9:25 a.m.

Ms. Barbara Rich, resident of Mill Street inquired why Mill Street is so wide on the plan? Attorney Bobrowski stated that the pavement would be 22 to 24 feet wide to comply with subdivision regulations and that different streets are built to different widths.

Ms. Connie Sartini, 38 Mill Street inquired why these projects are coupled together and not a presentation in front of the Planning Board for approval.

Mr. Hartnett affirmed that "the Town does not have to pay for it (these road improvements)."

Attorney Ray Lyons was in attendance stating that his interest is he is purchasing a condo for his office space.

Michelle Collette stated that it is very important for BOS to request that the applicant have representation at Thursday's hearing because the design engineer can answer questions, and Mass Highway dictates intersection standards and requirements in order to get the curb cut and their intersection standards and permits and to answer construction relation questions, such as turning lanes, etc.

Mr. Dillon stated that there was discussion that a plan was approved 2/13/03 as discussed at a prior meeting in April. Mr. Walker withdrew the application and we don't know why and then pursued the 40B project.

Josh Degen replied that this project had requested numerous waivers from subdivision standards. He added further that the 40B is not in front of Zoning Board of Appeals (ZBA). That plan was withdrawn without prejudice.

Chief Mulhern noted that the size of road, as approved by the traffic engineers and Mass Highway state that the entry and exit lanes must be single. This plan meets the requirements.

Mr. Cunningham stated that the project makes sense to do it in concert with the 40B and ZBA conditions that can be governed and authority over the way the road is relocated.

Josh Degen requested that the BOS have the applicant come before the Planning Board formally, not as an advisory. The Planning Board, not the ZBA, has the authority and fund to do an engineering study that would show any deficiencies.

Michelle Collette stated that she has a tremendous amount of documentation back from Fay, Spofford & Thorndike and Judith Nitsche Engineering and others which she will submit for the Board's review. She has also submitted this to the ZBA for their approval.

Water Superintendent Tom Orcutt stated that there is a water main existing on that portion of Mill Street and the applicant will create utility easement as confirmed in the "Agreement."

Mr. Saball stated that he has heard from numerous residents with numerous concerns such as truck traffic on Mill Street. The trucks have found an easy access on Mill Street via the detours that the Town has had to use in the past. The change in pattern concerns the resident as the trucks stop and start and the S turn is difficult. Mr. Saball agrees with that the T intersection is safer; however he would like to discourage the truck traffic on Mill Street.

Mr. Degen recommended we not stay stuck on traffic issues; however, he'd like to see

- 1) Reduction on the 40B from 48 to 44.
- 2) Planning Board an opportunity to review as opposed to Advisory.

Attorney Bobrowski stated both of these are under the purview of the ZBA.

Michelle Collette stated that the development is a Level 2 and reiterated that the worst outcome would be to allow Mill Street to remain the same if the Agreement doesn't get signed. Mr. Walker will still be able to build his commercial site and the 40B will go forward. She stated it would be irresponsible of the Town for this project to go forward without the Relocation/ Discontinuance.

Tom Delaney replied that we can't build anything to keep people out. The Town could be liable. He further stated that some trucks cannot get under the Railroad Bridge due to height restrictions.

Attorney Bobrowski summarized the following modifications for the Draft Agreement:

- 1) Ownership needs to be addressed. Road needs to be brought up to collector road standards
- 2) Sewer Figure
- 3) Water Easement
- 4) Consideration of Planning Board review versus Planning Board Advisory.

Ms. Kitchen noted that the final approval is the layout being recorded at the Registry of Deeds, which the Board of Selectmen can hold in abeyance should the Agreement not be adhered to.

It was noted that the ZBA will not be closing the hearing on April 22<sup>nd</sup> and they have not received the financial documents necessary and thus cannot close the hearing.

*Mr. Cunningham moved to adjourn at 10:08 a.m. Seconded by Mr. Dillon. Unanimous vote.*

Approved: \_\_\_\_\_  
John L. Saball, Clerk

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*Respectfully submitted,*  
Maria Casey,  
Administrative Secretary

Date Approved: May 3, 2004