

BEDFORD PLANNING BOARD
Selectmen’s Meeting Room
Public Hearing Minutes
May 5, 2015

MEMBERS PRESENT: Jeff Cohen, Shawn Hanegan; Amy Lloyd, Chair; Sandra Hackman, Clerk; Lisa Mustapich.

STAFF PRESENT: Glenn Garber, Planning Director; Catherine Perry, Assistant Planner; Kim Siebert, Acting Recording Secretary

STAFF ABSENT: Cathy Silvestrone, Planning Administrative Assistant

OTHERS PRESENT: Ted Bard, 5 Patriot Circle; Pamela Brown, Brown and Brown, PC; Patty Carluccio, 16 Washington St; Phil Fridan, 32 Washington St; Michael Harrington, 9 Patriot Circle; Andrew Jeffrey, 11 Patriot Circle; Roy Kring, 26 Washington St; Shirley Kring, 26 Washington St; Caroline Larson, 79 Pine Hill Road; Ken Larson, 79 Pine Hill Road; Phil Lombardo, 41 North Road, attorney representing abutters/neighbors of 57 & 75 Hartwell Rd; Meredith McCulloch, The Bedford Citizen; Daniel Sabbag, 7 Patriot Circle; Rosetta Sabbag, 7 Patriot Circle; James Shea, Depot Park Advisory Committee; Mark Siegenthaler, Selectmen (Chair); Karlis Skulte, PE, EBI Consulting, Burlington, MA., engineer for 57 & 75 Hartwell Road subdivision; John Stella, 20 Washington St; Boo Topeka, 28 Washington St; Anna Trout, 35 Riverside Ave; Andy Truman, 20 Main St, Framingham, Samiotes Consulting/Site Plan Engineer for 111 South Road; Bonus Varghese, 57 Hartwell Ave.

Ms. Lloyd called the meeting to order at 7:30 PM.

The Emergency Evacuation notice read by Ms. Hackman, Clerk.

Note: All meeting submittals are available for review in the Planning Office.

DEVELOPMENT PERMITTING #1: Special Permit Public Hearing: Bikeway café/retail, 111 South Road—Depot Area Mixed Use

Ms. Lloyd called the first public hearing to order.

Documents in hand:

1) Memo from Assistant Planner Catherine Perry dated May 4, 2015. Subject: Application for special permit under Depot Area Mixed Use Overlay District (Section 18) for café or retail use in conjunction with existing retail use at 111 South Road

1a) Public Hearing Legal Notice, stamped by Town Clerk on April 19, 2015

1b) Letter from Larson Properties to Town of Bedford, Planning Board dated April 2, 2015; Special Permit Application date 4-1-15; Gatehouse Media New England Authorization to Bill Applicant Form dated 4-1-15; Board of Assessors Abutters List Request dated APR 01 2015; Maps Online parcel map indicating abutters area/scope shown in red; list of abutters, parcel #s, addresses.

1c) Submitted plan set (5 sheets) prepared by Samiotes Consulting, for 111 South Road site stamped as received APR 01 2015

1d) Easement Plan of Land in Bedford Massachusetts prepared by Vanasse Hangen Brustin, Inc. dated August, 27 1998, revised April 9, 1999

1e) Email exchange between Town Manager Rick Reed and Assistant Planner Catherine Perry dated April 14, 2015. Subject: 111 South Road Special Permit Review

1f) Email exchange between Charles Stone, Bedford Fire and Assistant Planner Catherine Perry dated April 22, 2015. Subject: 111 South Road Special Permit—Fire Comments

1g) Email message from Kristin Dowdy, DPW Civil / Environmental Engineer, stating that DPW does not have any comments on the application

1h) Email exchange between Assistant Planner Catherine Perry and applicant Ken Larson dated April 17/16. Subject: 111 South Road Special Permit—BOH Comments-KLarson and CPerry replies

1i) Email exchange between Assistant Planner Catherine Perry and Code Enforcement Officer Christopher Laskey dated April 29, 2015 Subject: RE 111 South Road—café or retail, in rear of bike shop building

Unnumbered: Email exchange between Assistant Planner Perry and applicant Ken Larson including dates May 1, 2015 and May 4, 2015. Subject: 111 South Road—overall mix of uses—additional info from K. Larson

In reference to Ken Larson’s Special Permit application, Ms. Lloyd stated that it falls under the provisions of Section 18 of the Bedford Zoning Bylaw and the Depot Area Overlay Mixed Use District (DAMOUD). “This project involves converting a portion of the existing building, that also contains a bicycle shop, to restaurant or retail use with associated site changes, including the installation of a parklet with seating and bicycle parking,” Ms. Lloyd explained.

Mr. Larson said, “I am the owner of Larson Properties LLC and, by that, the owner of 111 South Road. I am here to request the issuance of a special permit for food service under the zoning overlay district. Many of you have been supportive and have said you would like to see a coffee shop in that location. There have been a lot of other people in town for the over-twenty years I’ve owned the building that have said the same thing.”

Mr. Larson said that the building is now complete and ready to be shown to prospective tenants. Once a tenant is identified, he/she will make interior changes specific to use.

Mr. Larson said he’d “like to entertain two things. One is the special permit for the food service and, along with it, I’ve prepared a design for a parklet with bike parking to be considered at the same time, although they are separate issues.”

Although current parking regulations for commercial development require bike accommodations, Mr. Larson said when the parking lot was built, there was no requirement. “My aim is to make the parking

area itself a safer place for pedestrians and bicyclists, as well as to give cues to drivers going in and out of that facility that they have to [navigate] cautiously.”

Mr. Larson explained that the philosophies behind the property improvements were influenced by Fred Kent’s “Project for Public Spaces” (“If you plan cities for cars and traffic, you get cars and traffic; if you plan for people and places, you get people and places”) and by his admiration for the work of Jane Jacobs. “A coffee shop with the amenities of neighborly use indoors and outdoors—and no drive-thru—helps to create the ‘human space’ that Jacobs tells us is necessary for a safe and sane community. The Depot area needs to take claim of its space for people. If we do that, it will make a place that drivers have to pass through respectfully, without an attitude of privilege or entitlement, which—if you’ve gone through there on bike or on foot— you know exists.”

Assistant Planner Perry summarized her comments as submitted to the Board via memo, saying she reviewed Mr. Larson’s proposal against the bylaws and concluded that it’s “very much in line with what the Planning Board is trying to encourage in this area....The approach is very positive.”

In terms of parking, Ms. Perry said although the adjacent parking lot is set up for public use and ownership of the parking lot land is complicated, Mr. Larson owns enough of the land to provide adequate parking for the proposed café or retail business. As the proposed parklet would remove 3 spaces, Ms. Perry advised Mr. Larson to approach the Selectmen regarding revision of the current easement.

Ms. Perry added that the Board of Health’s query about outdoor food service has been answered: seating will be available for patrons on a self-serve basis.

Ms. Perry said the bylaw is generally favorable to Mr. Larson’s proposal as submitted, but there is a question to be addressed concerning the existing storage/warehouse uses on the site as they are not strictly allowed under the DAMUOD. She added that she considers it reasonable in the circumstances for the Board to include an allowance in the special permit to continue storage/warehousing on the property.

Questions/ Comments: Ms. Hackman said she thinks the building looks great and applauds the outside seating concept. “We just approved outdoor at Ken’s Deli and we’re seeing people actually hanging out in the center of town [because of it.]

However, Ms. Hackman asked if Mr. Larson would consider relocating the seating to the opposite end of the building, closer to Depot Park. “I admit it would be farther away from the café but it seems to lend itself to being in a more central location...more visible from the street.”

Mr. Larson responded that he considered that, but putting the seating further away doesn’t help the café. “Part of my aim is to help the café.”

Ms. Hackman asked about street trees to create shade for the parklet. Mr. Larson said planting would be difficult but suggested the café might add umbrellas for the tables. The two existing trees at the site entrance will be kept.

Mr. Hanegan agreed with Ms. Hackman about the outdoor seating, commending the building’s look and calling the café “a huge amenity for the town”. He added that he knows many people who are similarly excited to see Mr. Larson’s idea come to fruition.

He then asked about trash receptacles near the parklet. Mr. Larson said he is willing to put some in, and suggested discussing it when he has a tenant.

Mr. Hanegan asked about the hours of operation. Mr. Larson replied that the hours would depend on what the space is ultimately used for. Understanding the dilemma, Mr. Hanegan recommended stating hours of operation in broad terms to cover different scenarios. There are no abutting residents to be disturbed, in any case.

Ms. Mustapich said she, too, is excited to see the project in the final stages. She noted there was mention of an unrelated fire permit concern-- the nature of which remains unclear— that Fire Department comments indicate needs closure. Mr. Larson said he would talk to the Fire department to gain better understanding, adding, “The building has a very nice, very expensive dry fire suppression system in it.”

Mr. Cohen said he is also happy with the project’s progress and added that he’s fine with the seating near the café. Site lighting was a concern, however, as identified in Ms. Perry’s memo. The building has outdoor lighting but the parking lot, at large, is not well-lit.

Ms. Lloyd posed a question to Ms. Perry about handicap accessible parking. “There was discussion of there only being 3 handicapped spaces and between 76 and 100 spaces require 4. But, what will the number of spaces be if the three [non-handicapped spaces] are removed? Will the number be kicked down and the requirement for 4 spaces be moot?”

Ms. Perry said that the provision of accessible spaces is usually related to buildings and other destinations, and the parking lot doesn’t only serve this building. “It makes sense to discuss it with the engineers and work out how many spaces are needed, and the best locations.”

Mr. Larson said he has had a 40 year-long career selling equipment for use by handicapped people and has no desire to stint on the number of spaces designated for handicapped use. “There are currently two on site; we just want to move them. The parking has been rearranged [by the project engineer.]”

Ms. Lloyd spoke of the complexity of this parking lot’s ownership as being a factor. She said there was a similar question in relation to bike racks.

Ms. Lloyd opened the floor to comments from the audience. James Shea spoke on behalf of the chair of the Depot Park Advisory Committee, Joe Piantedosi, who could not be present. On the subject of parking, Mr. Shea said that the parking lot was developed with Federal and State funding to support the Minuteman Bikeway. “The Committee’s interest would be in any number of spaces that would be removed from general use and allocated to the property owner... Secondly, would the Planning Board’s Special Permit include granting permission to reconfigure the parking at Railroad Avenue? The reason I ask is that I believe this to be under the decision-making of the Selectmen since it’s an easement granted by the property owner to the Selectmen to develop that property.”

Ms. Lloyd said she understands Mr. Larson still has the number of parking spaces needed on his land to satisfy the parking requirement for the new use.

Ms. Perry replied that Town Manager Reed has indicated the easement agreement between the Town and Mr. Larson would need to be amended to reflect the removal of spaces from the total of spaces generally

available. Mr. Larson, under the agreement, “has the right to use the parking lot [as owner] in common with others but it might be going a little bit beyond that to take some of those spaces out of use. It needs to be addressed by the Selectmen.”

Mr. Larson, quoting from the language of the easement between himself and the Town, said that the easement was granted for the Town “to construct and maintain a parking facility and structure appurtenant thereto. The parklet would be an appurtenant structure. Parklets don’t exist outside of parking facilities.

“As far as taking away 3 automobile parking spaces and adding 10-14 bicycle spaces, I don’t see that it’s any hardship for the Depot area to lose 3 automobiles full of people when we’re providing bicycle parking for many more...I know that Mr. Reed is of the opinion that the language of the easement needs to be changed. I have opinion from one expert that the statement of ‘structures appurtenant to’ covers parklets and bicycle parking because they do exist in parking ... I will discuss it with [Mr. Reed], although I don’t think I have to.”

Ms. Perry said she has included amending the easement as one of the suggested conditions listed in her memo.

Ms. Hackman said the Planning Board would be granting a Special Permit that includes the change to the parking. “I think that’s why you would need to renegotiate the easement... But the agreement clearly says that you have the right to have parking for the uses in your building.”

She added that she would like to see the Town take responsibility for adding lighting in the parking lot. “Maybe one streetlight—or however many— because I think it’s going to be necessary when you expand that business. If there needs to be another handicapped space, I think it’s the Town’s responsibility because it’s their parking. One thing to clarify is that we’re not going to designate spaces for the use of your tenants. That’s critical.”

Mr. Larson said that was correct and also asserted that a parklet, by definition, is public space. “It’s not something that’s put up for the use of the business owner that abuts it. People can use it whether they’re patrons of that store or not.”

Ms. Lloyd said she loves the plan in general and loves the concept. “This is square, down the middle in what we envision for the Depot area and your quotes from Jane Jacobs, in particular, are spot on.”

However, Ms. Lloyd said she does have one concern, although she emphasized that she does not want it to block progress, nor does she want Mr. Larson to incur additional cost. “I don’t like the handicapped parking next to where all the people are going to be congregating. I would be in favor of swinging that handicapped parking around to the south side of the building and capturing more space by actually taking away that whole row of parking spots. That would allow a planter to be put in, more bicycle parking isolated from the tables, and would allow a tree to be put in to bookmark the existing street tree and shade from the south side which bakes in the summer sun. The tree would also be a signifier visible from the bikeway that it isn’t just a trucking zone down this way.”

Ms. Lloyd then distributed a drawing of her concept to the Board, Mr. Larson and Mr. Truman, the project engineer. Mr. Larson said, “On first blush, it looks cool but whether or not it’s feasible... This is

certainly something that requires the Selectmen's input because it does change the parking even more than what I was talking about."

Ms. Lloyd replied that, because her suggestion would require discussion, the Special Permit public hearing would have to be continued, resulting in the undesired outcome of postponing progress.

Mr. Larson circled back to his opening statement and repeated that there are actually two issues at stake. If Special Permit for food service is passed now, but "the question of the parklet is continued, I'm not thrilled but my initial reason for being here is for the Special Permit for food service and retail. Without those, I can't go ahead with spending more money on engineering for electricity and heating and air conditioning. I'm at a juncture now where I need to be able to do those things."

Ms. Mustapich asked Ms. Perry how full the May 19th agenda is to see whether the parklet portion of the Special Permit could be continued to that date.

Ms. Hackman suggested it might be in the project's best interest for Mr. Larson to go before the Selectmen in the meantime so the question of easement amendment could also be settled by May 19. "This does take away more parking spaces and it might not be something that would [gain approval.]"

Conferring with Mr. Truman, Mr. Larson said at one point, a design similar to Ms. Lloyd's was at one point floated by Town Manager Reed. "The section of land that abuts the building is under a license under the Massachusetts Bay Transit Authority (MBTA) to the Town of Bedford. Rick was [understandably] reluctant to try to make any changes on that... Is this something the MBTA would allow? I'll never live long enough to get that to happen." Ms. Lloyd conceded that the different ownerships might present an obstacle to implementing her suggestion.

Ms. Hackman asked Selectman Siegenthaler (in the audience) how the Selectmen would view the parking changes. Mr. Siegenthaler replied that although he is aware of the project conceptually, the Selectmen have not yet reviewed any of the material; he is unable to comment at this time.

MOTION: Ms. Mustapich moved that the Planning Board approve Mr. Larson's Special Permit with all of the conditions outlined in the staff memo date May 4, 2015, adding maximum operating hours from 6am to 11pm.

Mr. Hanegan seconded. The motion passed unanimously, 5-0-0.

MOTION: Ms. Mustapich moved to close the public hearing. Mr. Hanegan seconded. The motion passed unanimously, 5-0-0.

DEVELOPMENT PERMITTING #2: Public Hearing: 57 & 75 Hartwell Road 3-lot Definitive Subdivision:

Documents in hand:

2) Memo from Assistant Planner Catherine Perry to Planning Board date April 30, 2105. Subject: Application for definitive subdivision plan approval, 57 & 75 Hartwell Road (Proposed new street name Alphonsa Avenue) Applicant/Owner: Bonus Varghese and Reena Thopurathu, represented by Pamela J.

Brown. Includes photos of 75 Hartwell, 11 and 9 Patriot Circle, 9 and 7 Patriot Circle, 7 and 5 Patriot Circle.

2a) Public Hearing Legal Notice, date stamped by Town Clerk on April 13, 2015

2b) Letter from Brown & Brown, PC to Mr. (sic) Amy Lloyd dated April 10, 2015 RE: 57 & 75 Hartwell Road—Alphonsa Avenue 3 Lot Definitive Subdivision Plan. Includes Form C--Application for Definitive Plan dated April 10, 2015; Form K— Street Name; copy of signed ANR plan with Parcel A outlined; Memorandum of Supporting Data by EBI Consulting, dated April 10, 2015 with plans of existing and proposed drainage areas.

2c) Plan set for Alphonsa Avenue Definitive Subdivision, dated April 10, 2015, prepared by EBI Consulting, Karlis Skulte PE (Sheets C-1 through C-7 and Existing Conditions sheet).

2d) Memo from DPW staff Adrienne St. John, Public Works Engineer and Kristin Dowdy, Civil/Environmental Engineer to Glenn Garber, Planning Director, dated April 27, 2015 offering comments on the proposed subdivision.

2e) Email from Lorrie Dunham, Historic Preservation Commission, dated April 21, 2015, regarding HPC preferred street names for the proposed subdivision.

2f) Email from Board of Health Director Heidi Porter to Planning staff dated April 14, 2015. Subject: 57 and 75 Hartwell Road Subdivision Review –BOH comments

2g) Email from Marc Saucier, Traffic Enforcement Officer dated April 27, 2015, stating that the Police Department does not have any issues with the development.

2h) Email correspondence between from Charles Stone, Bedford Fire Department and Catherine Perry dated April 15/14, 2015. Subject: 57 and 75 Hartwell Rd. Subdiv. Fire Code reg—Fire Dept. Comments

2i) Email from Elizabeth Bagdonas, Conservation Director to Cathy Silvestrone dated April 27, 2015. Subject: RE: 57 and 75 Hartwell Road Definitive Subdivision Plan Review/3 lot residential development—Conservation Comments

2j) Letter from John Stella, PO Box 543, Bedford Ma 01730 to Mr. Richard Reed, Town Manager, dated April 19, 2015.

2k) Email exchange between Catherine Perry and resident John Stella, dated April 15, 2015. Subject: Re: Concern New Proposed Plan.

PLUS: Two exhibits distributed at the meeting by Attorney Brown: Plan of Hartwell, Patriot, Washington Neighborhood with Approx. House Locations marked in orange; Fire Truck Turning Movements drawing prepared by EBI Consulting.

Ms. Lloyd opened the public hearing at 8:10 PM.

Attorney Pamela Brown introduced Karlis Skulte, engineer for the project from EBI Consulting, Burlington, MA.

Starting with a brief overview of the 3 lot subdivision, Ms. Brown said “What we have done is take a significant portion of 75 and 57 Hartwell that weren’t the parts included in the reconfigured ANR [approval not required] lot that would allow us to keep the house at 57 Hartwell. That lot is separate. It does have frontage on both Hartwell and on the new, proposed street which we propose to be called ‘Alphonsa Ave.’ The 3 lots would replace the existing house at 75 Hartwell which would be razed.

“There are a couple of common themes we’ve heard from abutters to date: first and foremost is drainage and second is probably buffers. We’re supplying additional buffers between the road and the new houses because they’ll back up to the cluster subdivision of Patriot Circle as well as Washington Street, although wetlands separate the proposed development area from Washington Street so it will be much further distant.”

Ms. Brown continued, saying she has requested a number of waivers based on 1) recommendations from the Department of Public Works; 2) reduction of pavement wherever possible; and/or 3) making street width consistent with a small-scale neighborhood.

The requested waivers are:

- 3.3.1.3: Staking of the proposed roadway center line
- 5.2.1.7: Curb radius to turn right out of the new street
- 6.3.2.3: Catch basins
- 3.3.2.7: Stone bounds
- 5.2.2: Street width 22 ft. rather than 24 ft.
- 5.5.4.2: Install a “T” turn around for emergency vehicles rather than a full, 100 ft. diameter cul-de-sac
- 6.4: Sidewalk elimination, given the small scale and dead end design
- 6.6: Existing street trees permitted to be counted in lieu of newly-installed trees
- 6.8: Streetlights (although a streetlight is included on the plan. Abutters have requested no streetlights although Ms. Brown says it is her “firm understanding” that the Town will require a streetlight in order to consider the new street as a public way

Ms. Brown said there had been a neighborhood meeting the previous week during which a discussion took place about “trying to improve an existing drainage problem at the rear of the site” and “an increased buffer along the Sabbag and Mike Harrington’s properties [with attention to Lot 3] where the house would be a little bit closer to Patriot Circle. I’ve drafted a restrictive easement that would make that a ‘no house’ zone for 25 feet to widen that buffer a little bit.”

Mr. Skulte then spoke about landscape buffers and the changed road location. “We shifted the road approximately 5 feet to the east and the right of way also got a little bit wider so the resulting greenspace between the roadway and the abutting properties varies from about 20 to 24 feet. We added some new trees to be more in line with the Town’s tree spacing ordinance and we also were then able to reduce the slopes down from the roadway to the swale that we have running parallel to the properties; now we have a little more space to make the slope more gradual...

“We’ve also increased the drainage, based on previous DPW comments so now we’re holding/detaining [a greater amount of water]. The only time there’d be any run off from the subsurface chambers would be

in case of an excessive storm, above and beyond a 100-year storm event, which is highly unlikely. It would just be an emergency overflow. We also took the single, underground detention system and split the drainage areas so now we have two separate systems: the smaller one goes for Hartwell Road where approximately 1/3 of the roadway drains to, and then there's the larger one which is in roughly the same location as the one previously proposed, closer to Lot 3.

"Also, we had five test five pits dug for the site, which was coordinated with DPW engineering, just to confirm that that met with their requirements. The [DPW] director of engineering came out and inspected the test pits. We were able to determine the seasonal high groundwater and set the underground infiltration chambers to be 2 feet above that seasonal high groundwater, which happens to coincide approximately with the elevation of the wetland border...As a result of these changes, we'll see less storm water discharging to the surface in the proposed condition than we see right now in the undeveloped, existing condition."

Ms. Perry said the developers have done what was requested of them by the DPW with regard to changes to the drainage systems. The remaining two major issues are the form of the turnaround and whether to grant a waiver for a sidewalk.

Emergency turnaround: Ms. Perry said the Fire Chief prefers full turning circles but she acknowledged a full circle in this subdivision would take a lot of space. If a T turn-around is allowed, Fire prefers one that is "straight-on" like a capital T.

Ms. Brown distributed a handout detailing the proposed emergency vehicle turning maneuvers, saying, "The Fire Department often asks us to show that they can make the turn." Mr. Skulte added, "They'd turn in straight to the dead end, back up into the L or the T and out again to make the turn." Ms. Brown said she would submit the plan for Fire to review and ultimately "do what the Fire Department requires."

Mr. Hanegan asked how the seasonal high groundwater figure was determined.

Mr. Skulte said they had contracted a professional soil evaluator who dug the test pits and, through visual observation, examined evidence of high water saturation, measuring the distance between the surface of the natural ground and the saturation line. The measure provided in the soil report is for "any given year. I'm not sure if it's a worst case scenario over the course of a century."

Mr. Hanegan said this is what he questioned. "If we take the number that you presented as the normal, seasonal high groundwater...Let's say you have a hundred-year flood condition like we had [a couple of years ago], where would that number rise up to under those conditions? Would it come up to the infiltration system?"

Mr. Skulte said it would not because the infiltration system is set 2 feet above that seasonal high groundwater elevation. He confirmed he is confident that, even in the 100-year flood condition, the level of water would not exceed the normal amount by 2 feet. Further, Mr. Skulte reiterated that the developed condition of the property would have better drainage than it does in its current, undeveloped state. "Our project will not exacerbate [the current, periodic flooding condition] and we'll actually reduce the surface runoff."

Mr. Hanegan asked what kind of maintenance the drainage system would require. Mr. Skulte said the DPW wants the development team to evaluate the performance of the drainage system for the first two years after installation. “The first year, we’ll inspect it four times, clean it out as necessary, and once we’ve established a baseline for how much sediment accumulates in it, adjust the maintenance schedule.”

Mr. Hanegan asked what would happen if some of the predicted measures or functions turned out to be inaccurate. Mr. Skulte said the numbers used to formulate the drainage design were based on excepted statewide standards. Mr. Hanegan said this particular property might not follow standard numbers. “Would there be the potential to revisit the system? Would it be a matter of more maintenance?” Mr. Skulte replied if there was a system failure, the system would have to be corrected.

Mr. Hanegan asked about the background for the chosen street name, Alphonsa Avenue. Property owner Bonus Varghese replied that “Alphonsa” is the name of a recently canonized saint in the Catholic Church, the first from India.

Mr. Cohen asked how the locations of the storm water detention chambers were determined. “Is it better to have them under the road? Should they be under unpaved surfaces?” Mr. Skulte said the locations were based on topography but added that outlet overflow would only occur in the case of a rain event larger than a 100 year storm. The surface material above the chambers has been designed in accordance with manufacturers’ specification so that it can withstand heavy traffic above.

Mr. Cohen asked whether trees and tree roots would present a problem. Mr. Skulte said that historically he has not seen a problem with roots and the performance of the chambers.

Mr. Cohen asked how requiring the sidewalk would affect the positioning of the road. Ms. Brown said the road right of way has been widened and the pavement shifted to the edge of the right of way to the east. “To add a sidewalk—I don’t think we could fit it on the east side and it wouldn’t make sense on the west side because the houses are on the east side. It would require a much bigger right of way or shifting the road closer to the neighbors on Patriot.”

Mr. Cohen asked about the streetlight, saying that if it was the same design as ones on other streets in Bedford, it would be very bright in such a small neighborhood. “If it’s these LED lights, it’s like being on Broadway when you’re underneath them. I respect the fact that you’re saying it’s dark-sky friendly and full cutoff, but when you’re standing in your backyard, looking up at it...”

Ms. Brown said she would be happy not to have a streetlight there and rely, instead, on post lamps in front yards of the new houses. “But DPW has consistently asked for streetlights.”

Mr. Cohen said he was not a fan of putting a streetlight in that location. Ms. Mustapich concurred, adding that bright lights eliminate natural habitats for species such as fireflies. “For a light that’s going to essentially serve two homes, I’d rather see post lamps,” she stated.

Ms. Hackman asked Ms. Perry for her opinion on the elimination or inclusion of a sidewalk. Ms. Perry said the Board of Health would prefer to have a sidewalk and that, when it comes to children who might live in the development, it would be good to train them to use sidewalks. She believes it would be more useful to put one in on the east side than on the west side.

Ms. Hackman referred to a letter from the Historic Preservation Commission (HPC) stating its long standing advocacy of naming new streets to honor historically significant citizens. To that end, the HPC recommends “Merriam” or “Mead” instead of “Alphonsa”. Ms. Brown wondered why this recommendation has come so late in the process. “We did this whole name thing last summer and they rejected the name [we wanted at the time]. We actually went to the DPW with five names and [decided on] this one. We went through the process to make sure we didn’t have a name that was conflicting.”

Ms. Lloyd said there are different entities looking at street naming from two different perspectives: DPW [or the Fire and Police departments], in terms of public safety, and HPC, in terms of history.

Ms. Brown said she understood the two roles but remained perplexed why the HPC didn’t weigh in earlier. “I’ll defer to Bonus (the property owner) but I think we should give some credibility to the request of the owner who’s going to live on the street that he’d like to have the name he’s proposed.”

Ms. Hackman said she appreciates both points of view but recommended that, if Alphonsa is used, something other than “Avenue” should be appended, given the street’s diminutive dimensions.

Ms. Hackman asked what the plan for the green buffer is between the road and houses on Patriot Circle. “Are those existing trees you’re indicating [on the plan]? Are you no longer proposing to put a fence in?”

Ms. Brown said the buffer includes a mixture of existing trees and new plantings. On the plan, existing trees to be preserved have been circled. As for the fence, Ms. Brown said they have agreed to replace fences in disrepair near the property line for homeowners at #5 and #7 Patriot Circle. The DPW wants the fences to be out of the right of way, directly on the property line. Additionally, she said “There’s a fence already that runs from Hartwell Road, along the property line, all the way down to the beginning of Lot 3 and then it skips—there’s a stone wall—and then there’s more down on the Harrington property.” Mr. Skulte said they would not cut trees down in order to put a fence in.

Ms. Brown added that the abutters have asked for additional evergreen planting but she is unsure how DPW will react to that because it would be in the right of way. For groundcover, the intent is to add loam and seed over the area, using, Mr. Skulte said, “perhaps a low-maintenance wildflower mix.”

Ms. Hackman questioned the turning radius going right out of the new road, also noted in the DPW comments. Drivers won’t necessarily make the turn from a complete stop nor would landscaping trailers be able to make the turn without climbing over the curb. Mr. Skulte said they have looked at the turn under normal circumstances but not with respect to landscaping trailers. “The radius is intended not to encroach into the frontage of the abutting property to the west on Hartwell Road. We hope not to create a situation in which that curb is essentially hugging right on the right of way line there.” Ms. Brown added that increasing the turning leeway would mean losing another tree.

Mr. Cohen said the road profile looked as though it would be raised two feet. Mr. Skulte confirmed this, saying the road had to be “higher than existing conditions which is a function of the groundwater and the detention/infiltration systems. We want to make sure there’s enough cover there and the road has to be high enough above the chambers to be able to provide that stability. We are grading down to a swale that will run parallel to the property line and creating [a pitch toward the wetlands].”

[Ms. Brown distributed the Hartwell, Patriot, Washington Neighborhood plan.]

Ms. Lloyd asked whether the DPW would allow street lights that are not the standard type. Ms. Brown said they are allowed but the DPW would not maintain them.

About the emergency vehicle turning issue, Ms. Lloyd asked how it would affect the lot configuration if the design was a circle or a full T? Ms. Brown said it would not eliminate one of the lots but it would make the lot dimensions “funkier.”

“I’d love to show Fire this,” Ms. Brown said, referring to the drawing just distributed, “because I think they’re imagining what they’ve seen. I know they’ve worked with stuff like this before. I would understand if we were creating a situation where they’d have to do multiple turns.”

Ms. Mustapich recommended that showing the turning maneuvers drawing to the Fire Department be part of the developer’s “homework” before the next public hearing session.

On the subject of a sidewalk, Ms. Lloyd said she is also unwilling to counteract the Health Department and Healthy Bedford recommendations. “Could there just be a pedestrian easement on the front yard outside the right of way? Because it’s a small street, perhaps it doesn’t have to be a full 5 foot sidewalk—maybe a 3 foot sidewalk.”

Mr. Cohen said if it’s called a sidewalk, it needs to meet certain standards, particularly those of the Americans with Disabilities Act (ADA).

The Board and Ms. Brown briefly debated the necessity of a sidewalk. Ms. Brown said she believes everyone embraces the goals of Healthy Bedford but added, “We desperately need sidewalks in Bedford but mostly we’re talking about sidewalks that make connections.”

Comments/Questions from the audience:

Phil Lombardo, 41 North Road, attorney representing several Patriot Circle neighbors: “I have had some productive discussions with Ms. Brown, the engineer, and the client. We would respectfully request we continue these discussions while we firm up some of the details that we’ve discussed. We have talked about the buffer between Lot 3 and the neighbors on Patriot Circle. What’s been proposed is a 25 foot, “no-building” buffer. We’re still talking about that; it still seems rather thin.

“We’re talking about screening and we very much appreciate the offer to replace the fences that are in disrepair.

“We would very much like this board and the DPW to be flexible on the issue of allowing some additional trees, in particular year-round, arborvitae type trees to provide more screening.

“We would greatly appreciate some flexibility on the issue of lighting. We agree that light pollution is an issue and street posts seem perfectly adequate for a three lot subdivision.

“We talked about some easements for extensions of drainage overflow but we haven’t seen detail on that yet. And the ability to provide a swale connecting the detention pond on Patriot Circle, which we think will alleviate a lot of current drainage issues for Patriot Circle, this new project and perhaps for the people on Washington Street as well. Some detail on that would be very helpful.”

Mr. Lombardo asked a question about maintenance of the infiltration system, particularly during winter months when it might be clogged with ice and snow.

Ms. Lloyd asked if the neighbors had consulted an engineer about connecting the swale to the Patriot Circle detention pond. Mr. Lombardo replied that this had been part of the discussions with the development team.

Ms. Brown said she had contacted DPW on this subject. Although the original provenance of the information given to Ms. Brown is unclear—Planning, Conservation, DPW—the suggestion has been made to open up the back corner 75 Hartwell “because, essentially, there had been a berm created that was blocking the wetland area on the locus site from Patriot Circle side.” She added one homeowner on Washington has said this plan is problematic because “the swale there is already plugged but I think there’s a swale in addition to a detention basin. It does need to be looked at. My hope is the Town would participate because this also involves Town-owned land as well as [Patriot Circle abutter] Mr. Jeffrey’s land and the locus property. I know Mr. Jeffrey is willing to participate in whatever’s needed to get the work done.”

Phil Fridan, 32 Washington St: “I have serious concerns about whether this detention system will function and [the Board has] asked some very good questions. You throw around this term ‘100-year flood’ but I’ve been in Bedford 25-odd years and we’ve had 4 or 5 100-year floods in that time. I’m concerned about using that definition since they seem to come much more frequently. I’ve had water 4 or 5 feet in my backyard. My house is above grade so there’s no part of my house below ground, [and yet] I’ve had water in every room on the main floor from multiple floods. I’m just very concerned this is going to make the situation worse...I assume once it’s in and it doesn’t function correctly, we have no recourse.”

Mr. Hanegan asked if an escrow account could be set up in case the system doesn’t work as intended. Mr. Garber said this is not something for which a performance bond can be required. “You can’t guarantee the engineering performance; it’s just about the infrastructure that’s installed.”

Mr. Cohen asked who would maintain the system. Ms. Brown said, if it’s a Town street, the Town maintains it. If it’s not, the homeowners are responsible. “Typically, what happens—and would probably happen through Conservation as well—is a stormwater management plan is created and, if it’s Conservation, they require you to attach it to a declaration of restrictive covenants so it’s on record separate from the [other] conditions...This Board could require...as we did for Athena [Way]... a stormwater Operation and Maintenance plan. It’s on record with the registry of deeds, if it comes to enforcement. You buy a house and you understand this is part of what you’re buying.”

Mr. Fridan described his property as being behind the existing detention pond with a swale running along the back of his lot. He added that in the time he’s lived there, the Town has only once maintained the area. “It’s all overgrown again and nothing’s been done with it. There’s a huge willow tree growing in the middle of it right now and a little area where the water can flow from and I do keep that running but there’s a big root right through there that basically backs up the water. I’m tempted to go out with a chain saw and cut the root but I don’t feel I should be doing that. I’d be happy if the Town would take the tree down to allow flow to go through there so the wetland doesn’t back up, but nothing’s been done with it...The other thing is, we don’t get flooding from Elm Brook. The water comes from the back of our property, flows past our house and out into Washington Street.”

Roy Kring, 26 Washington Street, abutter to the Lot 3: Mr. Kring concurred with Mr. Fridan, saying that the back end of Lot 3 turns into a lake with “only an inch or two of rainfall.” “That area does not connect to the detention pond and it doesn’t even really connect to that swale—it’s just a breeding ground for mosquitoes. Our concern is that any swale you’d put into that area would just contribute more to the flooding nature of the back Lot 3 that overflows into our yards.”

Ms. Brown said it should be remembered that the development would not be adding any water to the area. “We would be holding a large amount of it back, depending on the storm amount. Even if it gets there, it gets there at a slower rate and, hopefully, the water’s infiltrating the ground by the time our water gets there.”

Mr. Skulte said the proposed swale would run between the roadway and the Patriot Circle properties to the wetland. “We evaluated the wetland as one design point...the proposed condition would have less surface runoff than in existing conditions.”

Mr. Fridan commented on Ms. Brown’s statement that the project would not be adding water, saying that although that it technically correct, the development would add impervious surfaces. “And I was shocked to hear that you’re actually going to allow them to raise the grade of the property because, again, water is going to run off the property and push that ponding back toward Washington Street. Are these houses going to have basements? I find it hard to fathom that they won’t have flooding issues with their basements. I have no basement and I still have flooding in a house that’s above grade...We’ve invested a lot in our houses and properties and it’s just very frustrating.”

Ms. Lloyd asked about the elevation change intended for the development. Mr. Skulte said that the road profile, in most locations, would be one foot higher than existing grade and in some areas, it would be approximately two feet higher.

Mr. Hanegan asked if the development team had considered using permeable asphalt. Mr. Skulte said they had not considered it due to maintenance issues: if the surface is not maintained properly, it quickly becomes impermeable. He is not sure the DPW would favor such a plan.

Boo Topeka, 28 Washington Street: “My house is actually below grade, between two at-grade properties on Washington. My house consistently floods from the swale. I can attest that there is consistent flow from what we would call Lot 3 of the proposed building area that flows underground into the swale. It’s not a dry bed. It’s referred to as ‘intermittent stream’ because in the middle of summer, it might be dry. Additionally, from the DPW perspective, that swale takes back-up from Elm Brook. My first thought about this building project was about the drainage and wondering if they would try to drain it to Elm Brook... However, the entire drainage system currently managed by DPW— and effected by any additional building— is based on how Elm Brook performs. I believe that this project would not effect that in a positive fashion. I would like to believe that an infiltration system would perhaps slow any ground water or surface runoff damage but in the 29 years that I’ve lived there, I haven’t seen that.”

Ms. Topeka then concurred with Mr. Fridan’s view that a raised elevation in the proposed development would result in worse conditions for Washington Street residences.

Ms. Brown said she does not deny any of the flooding problems expressed by the neighbors. “But it looks like from the topographical survey that those properties are about ten feet lower than our upland area that

we intend to develop. The wetland is there. We're complying with the rules for setbacks and so forth and we will be going through a Conservation process for a house on Lot 3."

Board Comments: Ms. Mustapich said she appreciated the abutters' and neighbors' concerns and understood that nearby development "can be daunting." However, at the same time, she recognizes the property owner's right to develop the land, within limitations.

Additionally:

- "No mounding of the property; and particularly on the backs of Lots 1,2,3 a 'no-cut zone' and instead of clearing the trees wholesale, leaving as many as possible—and perhaps along the side of Lot 3";
- The sidewalk: "I think we need to balance rigidity with common sense. I understand the importance of sidewalks on major roads but a sidewalk to serve two homes seems like overkill";
- Streetlight: lampposts are preferable in this situation.
- Street name: "I'm OK with the name Alphonsa, although 'avenue' is a little bit much."
- "Make sure there is something like a home owners' agreement for maintenance of the drainage if we're going to do things that the DPW disagrees with."
- Limit the amount of pavement on the property. "I don't want to see the road get wider and I'd love to see [the emergency turnaround] remain a 'T'. I'm not sure there's any benefit to a capital T versus a little t."

Ms. Hackman said:

- The limits on tree cutting are important because that will help with the flooding;
- There are still some issues to work out between the DPW and the applicant to respond to some of the suggestions/concerns;
- Some of the existing stormwater controls in the area are not working and not being maintained; this is going to be adding another system that the Town is going to be maintaining if this goes forward. Some neighbors or representatives of the neighbors should sit down with the applicant and the DPW and figure it out.
- Street trees: "Not sure if arbor vitae is the best choice because deer eat them and they tip with the least amount of snow, although a barrier there is definitely needed. The existing trees look great so we need to keep those."
- Great that the roof runoff is going to be re-charged because that doesn't happen in every development; it can help a little bit with the run off problem.
- There should be an easement taken for a sidewalk. "I'd like to respond to the Dept. of Health's concerns and where do we draw the line with making exceptions?"
- One more round of interaction on the remaining unresolved issues is needed.

Mr. Hanegan thanked the neighbors for coming and assured them that their concerns have been heard. His comments included:

- There are still questions so the hearing is likely to be continued;
- Opposed to a sidewalk in order to limit impervious surface; would like to engage with the DPW to discuss using pervious surface for the roadway itself;

- Alphonsa Ave is fine, despite the historical interest in other names. The owner’s name choice should be considered as long as it doesn’t pose a public safety issue by sounding similar to another street name.
- Agree with the other Board members that post lamps are better than a big streetlight.
- By the next time the development comes before the Board, more of the drainage concerns should be addressed. It’s good that there has been fruitful discussion between the neighbors and the developer but there’s “still a ways to go.”

Mr. Cohen said:

- Drainage is the biggest concern. He disagreed with Mr. Hanegan on the subject of using pervious road pavement, unless the Town intended to maintain it with the proper equipment for the surface;
- No need for a sidewalk for such a small road;
- More discussion needs to be done with DPW and Fire;
- In favor of seeing if the storm water detention basin can be shifted even further away from the abutters’ properties;
- Street name Alphonsa is fine; agree that ‘lane’ suits the street scale better than ‘avenue;’
- In the plan, it looks like some of the runoff will slope toward Hartwell Road instead of toward the wetland; agree with Ms. Mustapich that there should be no mounding of the site;
- Further work on the drainage issues to get to the root of the problem in the area is key.

Ms. Lloyd commented:

- The turn radius onto Hartwell Road is a concern. Ms. Lloyd would like to see what the maximum radius could be without impingement. “If million dollar homes are going in, there will undoubtedly be landscape trailers coming in and out that need generous turning room.”
- Agrees there should be no elevation changes ie: no mounding.
- Uncomfortable that there is no landscaping plan and would like to see specific trees listed and a specific plan for the buffer zone that is so important to the neighbors. The increase to a 25 foot buffer is a positive change.
- Drainage is a concern and complex because “the property owner cannot be held responsible for the whole neighborhood and yet there is a holistic issue because everything runs together.” The applicant should reach out to the DPW, find the area’s previously done study report, find out what the DPW plan for maintenance of the current system is, talk to Conservation about removing blockages to drainage.
- Hesitant to give up the sidewalk but suggested a compromise position to build in an easement in the front of the lots for an eventual sidewalk.

Mr. Cohen added that such an easement should also be built into the 57 Hartwell lot.

MOTION: Mr. Hanegan made a motion to continue the public hearing until May 19th. Ms. Mustapich seconded. The motion passed unanimously, 5-0-0.

DEVELOPMENT PERMITTING #3: Approval Not Required (ANR) Form A Plan for endorsement—lot line change, 35 Riverside Avenue

Documents in hand:

3) Memo from Director Glenn Garber to the Planning Board dated April 24, 2015. Subject: RE: Approval Not Required Form A Lot Line Change, 35 Riverside Avenue

3a) Form A: Application For Determination Of Planning Board Jurisdiction dated 23 March, 2015; three plans detailing the lot lines and topography of the property in question from Perley Engineering LLC, one dated April 3, 2013 and two dated March 19, 2013

3b) Document titled “A Quick Refresher on the Approval Not Required Process” by Glenn Garber.

Mr. Garber reported that the applicant’s engineering firm has not yet delivered the Mylar plans to be signed but the Board can sign them after the ANR endorsement has been voted on.

Anna Trout, the applicant, spoke about her request, saying she has lived at 35 Riverside all her life. The space to build a garage—made possible by this lot line change—is something her husband has desired for a long time.

Mr. Garber, explained the surprising complexities of this ANR: “The paving the Town had done is only tangential to their lot. It covers the tangent of the curve, where Riverside curves into Oakland which curves into Bonaire. It’s a perfectly passable street, there’s just not that much paved frontage. There’s enough to get to their existing driveway and to cover what clearly has to be the path of their new driveway, which would extend to the garage...This presented a little bit of a challenge legally because beyond that, it’s impassable frontage and doesn’t meet the standard. However, I looked at case law and what really raised my comfort level [is] this is whole end of the neighborhood is in the 150-year wetlands resource buffer lines. Just west of Trout’s lot is the actual vegetative resource area. Roughly 2/3 of their lot lies within the 1% storm elevation. This is a very wet area. Effectively, no house is going to go in beyond the Trout’s—even if you extended the imaginary, on-paper street of Riverside Avenue.

“That really brought it down to one question: Do they have vital access? I think the answer is ‘yes’. The only other criterion for an ANR is frontage. They are just one foot shy of the required frontage but talking to the Code Enforcement Officer, he agreed that there was sufficient width to meet the exception. It seems quite endorsable even though we had to go through a lot of extra analysis to get there.”

Ms. Hackman pointed out that one of the plans submitted has the Trout’s address listed as “Concord.”

Mr. Garber said the plan should show where the lot frontage is and recommended it show –with shading and notation—where the Town paved Riverside and where it curves around to Oakland. “They should [also] put in some kind of a dimension across the width of the lot, to show that it’s more than 92 feet.”

Mr. Garber agreed with Ms. Lloyd’s suggestion to sketch in the new driveway to “reinforce that they have practical access.”

He continued, “The key to the ANR is there needs to be a signature block that [the Board members] will sign in two weeks [when they meet again.] It needs to be on there so there needs to be a plan that shows frontage, paving, lot width, a signature block and maybe the future driveway or at least the curb cut.”

MOTION: Ms. Hackman moved to endorse the ANR plan because it meets frontage requirements in terms of the width of the lot and because it also has access. Mr. Cohen seconded. The motion carried unanimously, 5-0-0.

OLD BUSINESS: Legal opinion on vested rights statute and tear down houses.

Documents in hand:

4) Letter from Town Counsel Murphy, Hesse, Toomey & Lehane, LLP Attorneys at Law dated April 27, 2015 to Richard T. Reed, Town Manager Re: Reconstruction of Nonconforming One and Two-Family Dwellings.

4a) Memorandum to Planning Board from Glenn Garber, Planning Director Re: Follow-up memo to legal counsel opinion of 4-17-15 on statutory non-conformity in relation to replacement house trend in Bedford, dated May 4. 2015

Mr. Cohen began by saying how the regulatory oversight of teardowns has changed over time:

“This goes way back. Originally, Code Enforcement would send teardown [applications] to the Zoning Board [ZBA] for their review. The Zoning Board, if they determined that setbacks and height were being complied, there was really nothing they could say. As time evolved, Code Enforcement said to the board, “If you’re going to approve these [based on the two criteria points], I can make that determination myself.” And that’s how the Town has been proceeding for several years now.

“We’ve seen the proliferation of teardowns and mansionization increasing, with concern around town increasing. The opinion of counsel, at a recent workshop I attended on vested rights and non-conforming uses, was that the Zoning Board should be reviewing these [teardown applications]. We brought this to staff attention who reached out to Town Counsel for an opinion. I thought the opinion didn’t answer the questions I was hoping it would answer but Glenn’s memo certainly raises all the complicated matters that the Zoning Board would have to deal with. I’m not so sure this is something that can be easily tackled at this time to try to give the Zoning Board clear guidance in how they should be evaluating –or under what circumstances—how they could find things to be detrimental. It’s a very difficult undertaking. I’m concerned there could be inconsistent application of evaluation criteria. There are many other things on our plate that we’re dealing with [right now]. It could be something we pass off to Zoning and Code Enforcement but I’m not sure we should do that.”

Mr. Hanegan agreed with Mr. Cohen. “We have to be concerned with ZBA’s workload but we also have to give them some guidelines or you run the risk of getting inconsistent application. You don’t necessarily set a precedent but nevertheless it’s still bad practice to be inconsistent.”

Mr. Hanegan also wondered about the trend. According to Director Garber there have been 53 teardowns in the last two years and hundreds in the last decade. Mr. Garber said there’s no hard data because “the building official has no incentive to collect data on how many involved a definite non-conformity that pre-existed and involved the extension or expansion thereof. So, some of them might have been conforming.”

Mr. Hanegan said that, lately, the purchase price for what constitutes a teardown has been about \$450,000, although it fluctuates. “If that number keeps rising, we’re going to see more and more

teardowns. And maybe it will rise because the real estate values are rising in Bedford. Or maybe it's a case that the number will taper down. Is there any way of getting some insight on that?"

Mr. Garber said data would have to be collected and analyzed; other towns' data should be looked at to provide context. Ms. Perry said that Code Enforcement Office Laskey reports a recent increase in teardowns, but it could be a result of pent up demand following the recession.

Collecting data—such as counting how many involve non-conformity and graphing the trajectory— is a means of getting to facts, Mr. Garber said. It's true that teardowns increased once the recession eased but they occurred at a slower pace, even during the recession. "When we did the Comprehensive Plan, we collected data going back to the prior Plan in 2002—so it is a trend—but the implications of that trend are very subjective. Some people see it as an issue of a loss of community character; some people see it as a nuisance issue, particularly for the abutters with loss of light, shadow effects, loss of privacy. It really comes down to what your values or subjective perceptions of any damage done by the big replacement house phenomenon," Mr. Garber said.

Ms. Mustapich said she reached out to a realtor who she hopes will provide additional data. "We refer to this as a problem, a derogatory term. Is it a problem or is the world evolving? I asked for information on how many properties have changed hands but not been teardowns. It is a complicated problem. Are additions also a problem? Is it because one set of floor plans is being used [over and over] so people view them as ugly? Is it because they're being built to the set back? If you live next to one and it drives your property value up and you turn around and want to sell your home, is that a problem? Before we have the staff spend time on something, should we analyze if a vocal minority are upset or if there's an overwhelming groundswell to reduce the size of homes and limit the size of additions? I hear both sides."

Ms. Hackman she's interested to know what other communities are doing about the issue. Mr. Garber said there's "a small handful of affluent communities that don't have a high growth rate that passed something in the late 90s that amounted to a site plan review for every replacement house over a certain size. It allowed them to move the house a little or save a tree but it doesn't change the fact that a 5000 sq. ft. house is going on that lot. [Ms. Mustapich] raises some excellent points: not everyone sees this as a problem. I know the Code Enforcement Director feels strongly that people who put on sizeable additions over the years to make room for their families are not speculative builders. Those folks would get swept up in any attempt to regulate house size."

Ms. Hackman clarified that two things were being discussed: 1) the overall mansionization process and 2) the non-conformity issue. Regarding non-conformity, larger houses built on smaller lots in denser parts of the community are noticeable. "Over the long term, what is the maximum demand for these houses? Everybody's constantly talking about how we need middle-income housing and this doesn't necessarily provide that. I don't understand where the limits of the market are. Somebody said to me that these houses are going to be dinosaurs because energy costs are going to be so high...I don't think it's good thing for the community to swing so much toward higher income without a balance. I do worry about the effect on our community and the region. Where's the moderate housing? I think that's what most people need."

Ms. Lloyd said, in response to some of Ms. Mustapich's comments, that this was not an issue of mansionization over the entire town but, instead, a look—specifically—at non-conforming lots. "These are overwhelmingly towards the center of town. It's not an issue of someone not liking the design and

therefore we shouldn't have them. It's a question of what the effect is on the abutters and what the effect is on the neighborhood. A question of light and air...These very site specific aspects are what need to be considered and no one is suggesting that it should apply overall."

Ms. Mustapich said that some people disagree with teardowns in general, conforming or non-conforming. Ms. Lloyd said she agrees with Mr. Cohen's concerns about a lack of clear guidelines for how a case might be judged and the possibility of inconsistency/lack of fairness.

Ms. Lloyd added that she is worried that this will become "yet another issue that we put on the back burner because it's hard and we don't have time. We do that with so many issues. In some respects, this is not a Planning Board responsibility; it's a ZBA responsibility, not that I am unsympathetic to all staff's workloads. But, to be blunt, the Town needs to make some decisions about how it spends its money. Planning has very little budget—I don't know how much Code Enforcement has—but there are other agencies that serve a small population and get a relatively large budget. There needs to be a re-examination of what's important to the Town. The question goes well beyond us."

Ms. Mustapich said that perhaps a committee should to be established to define the problem to see if it should even be called a problem.

Ms. Lloyd said there is case law that requires ZBAs to look at non-conformities. Mr. Cohen said it struck him that a particular paragraph in Town Counsel's letter discussing "Reconstruction as a Matter of Right" makes no mention of what to do if the proposed replacement house is not "significantly greater in mass or size in comparison to the existing structure *such as by substantially expanding vertically or horizontally beyond the existing footprint.*" "What if it's not beyond the existing footprint? Or what if it's within the setbacks or within the limitations but it's a substantial expansion?"

Ms. Perry said there's a sequence of tests. The Code Enforcement Officer can determine what the non-conformities are. "Then it's a bit of a fine line about whether it substantially increases or intensifies those non-conformities. It's interpretation as to where you draw the line."

Mr. Cohen said his understanding is that, if it's a non-conforming lot, then the structure is non-conforming, even if it meets the setbacks.

Ms. Lloyd suggested sending the ZBA a position paper before the upcoming joint meeting and alerting them to the history of how non-conformities were handled. Mr. Garber, in his memo, put forward the idea of forming a focus/study group to collect and analyze data. Mr. Garber said that Mr. Laskey is busy, as well, but that it would be good to start a conversation with the ZBA.

Mr. Cohen asked if the bylaw revision regarding mounding and house height would be ready for a fall Town Meeting vote. Ms. Hackman said she believed the initiative was being handled by Code Enforcement. Ms. Perry said that the Planning staff would draft the language and discuss it with Mr. Laskey.

Mr. Garber said that, essentially, it would mean "changing the definition of height and influencing the building technique, possibly lowering the height and measuring to the top of the roof and not halfway up, and changing the way you measure at grade."

Ms. Perry said there may be a need to do some limited research, such as on how many houses would become non-conforming, unless the new rule was to apply only to houses built after a certain date.

Mr. Hanegan expressed concern about unintended consequences of any change in approach. “There are so many variables, you’re almost guaranteed to get them. You might use non-conformity as leverage to reduce the number of teardowns but then get more ridiculous-looking conforming houses. I agree with Amy: this does have a certain amount of urgency: teardowns are going on at a rapid pace. If this happens too much, then we’re changing the demographic in our town as we see less of those smaller, middle-income houses. There’s also the concern, too, that people selling their [smaller] houses are maximizing their primary investment. We shouldn’t put this on the back burner; it probably rises to the level of an ad hoc committee to take a look at these issues.”

Mr. Garber said that he and Ms. Perry agree strongly on another aspect of this question: big houses that are architecturally designed can have character while still being big, and be dramatically less intrusive. “So design is yet another factor. Builders know they can plunk down their stock McMansion box very easily... Even houses built on spec could be attractively designed, without a big cost increase.”

Ms. Hackman said Mr. Garber’s memo (4a) could be sent to the ZBA along with a copy of the letter from Counsel (4) to start the conversation, get feedback, and consider formation of a committee. Ms. Hackman said she also liked the idea of a bylaw about changing height limits and methods of measuring but acknowledged the possibility it might create non-conformity.

Mr. Garber said he worried more about dimensional non-conformities than changing the height definition. He said he would also discuss this issue with Mr. Laskey.

STAFF REPORTS:

- Possible position on bikeway options: Ms. Perry explained the two options being discussed for the Railroad Ave connection between the Minuteman Bikeway and the Reformatory Branch Trail. One option is to have bike lanes added to the street, the other is to have a shared-use accommodation on the south side of Railroad Ave. The shared-use option would be eligible for State/Federal funding but the bike lane option would not. Mr. Siegenthaler clarified that the Town is still pursuing State and Federal funding for paving the Reformatory Branch itself but if the bike lane option is chosen, that funding, as well, would not be available.

The Selectmen will vote on these options on May 11. It was noted that Railroad Avenue, in poor condition, will need to be addressed, with or without State/Federal funding.

The Board acknowledged that the shared use option promotes goals within the Comprehensive Plan.

MOTION: Ms. Mustapich moved to convey support of the shared use option for Railroad Ave. Mr. Hanegan seconded. The motion passed unanimously, 5-0-0.

- 201 Burlington Road—minor change to site plan: Definitely on agenda for May 19.

- 30 Chelmsford Road—pending subdivision or special permit Planned Residential Development: Don't know which way it will go yet.
- 162/150A/158 South Road—pending special permit Planned Residential Development: Awaiting further developments
- Update on Blake Block—stormwater maintenance, safety: Mr. Garber and Mr. Laskey separately visited the site and report that the retention pond is functioning well with only about a foot of water present. Mr. Blake said that last fall he had a contractor scoop out siltation; he says he has receipts for the work. Mr. Laskey will send out another letter to Mr. Blake reminding him of his obligation to maintain the pond per signed agreement. He will copy the homeowners' association.

Mr. Garber said that the Blake Block retention pond, as most detention ponds, was approved without fencing. It is difficult to backtrack now and compel installation of a fence. The best that can be done is to admonish when out of compliance.

Ms. Lloyd said the issue belongs to Code, not to Planning. Mr. Hanegan agreed that it would ultimately be an action that Code Enforcement would take but sees report of the issue as one of being a good citizen and making note of a potential tragedy.

- Other potential cases: Ms. Perry said she had received an inquiry about a possible hotel project in an industrial mixed use zone. There are no details available.

OTHER BUSINESS: Mr. Garber reported he has finished editing the next draft of the Transportation Demand Management (TDM) plan. However, he recommended the Board wait to review it because the Middlesex3 group is concurrently working on TDM—with input from MAPC— and additional revelations might arise that would inform Bedford's plan.

MEETINGS ATTENDED: Ms. Hackman attended the Selectmen's meeting during which Bedford Youth and Family Services and Healthy Bedford presented survey results on whether residents desire/would use localized public transportation options. The idea is that either Bedford Local Transit would get a bigger bus and have a regular afternoon route or there would be a separate bus. Target populations for the service include school-age children traveling to after-school activities and food pantry participants.

The Selectmen seem in favor of the initiative. As for the question of funding, there are two possible ways to go: 1) State Community Innovation Challenge grants: 2) legislation filed to create "transit benefit districts" which Ms. Hackman described as a collaborative agreement between businesses such as retailers.

Mr. Hanegan met with Rep. Ken Gordon who is pushing for improvements to the Routes 3 and 95 interchange. If the traffic runs more smoothly on the highway, fewer drivers would cut through Bedford. Rep. Gordon seeks the input from the Planning Boards in the affected communities.

Ms. Hackman added that Rep. Gordon has identified four potential solutions that Massachusetts Department of Transportation will vet. Funding for this project would come through the regional Transportation Improvement Plan. Mr. Hanegan applauded Rep Gordon's efforts to look at the root of the problem.

MINUTES: *MOTION: Ms. Mustapich moved to accept the minutes of April 21 as amended. Mr. Hanegan seconded. The motion passed unanimously, 5-0-0.*

ADJOURNMENT: *MOTION: Ms. Hackman moved to adjourn the meeting. Ms. Mustapich seconded. The motion passed unanimously, 5-0-0.*

Time: 10:30 PM

Respectfully submitted,
Kim Siebert, Acting Recording Secretary