

## PLANNING BOARD

AUGUST 11, 2003

Present: Stephen J. Browne, Wright C. Dickinson, Elissa G. Franco, George N. Lester, and Timothy P. Sullivan

Chairman Franco convened the meeting at approximately 8:00 p.m.

### ANR PHILIP STREET

Jason Saari, engineer, presented an ANR plan creating one new lot, lot "B", out of property at 56 Philip Street. The new lot shows an area of 22,451.42 square feet. He explained that that the Applicant/Owner wants to start one lot/house at a time. They would like to start this fall. There are wetlands in the rear of main lot, but not on the newly created lot. They will develop residentially one lot at a time to obtain enough money to do a subdivision later. There are many issues with the main property such as steep slopes and rocks. They will possibly sell a back strip of land to abutters.

VOTED to endorse the ANR plan for 56 Philip Street dated July 24, 2003 prepared by Taj Engineering of Chelmsford, MA for Applicant and Owner Charles R. & Joanne W. Kelcourse, Trustees of The Kelcourse Realty Trust, 64 Philip Street, Medfield, MA 02052 showing lot "B" with 22,451.42 s.f. and lot "A" with 7.4042 acres.

### BRIDLEFIELD SUBDIVISION

VOTED to renew Bridlefield Subdivision surety until August 22, 2005.

### SHINING VALLEY FARM

8:15 p.m. subject public hearing was reconvened.

Paul Robinson, applicant's engineer, reviewed the sight distance on Pine Street near the proposed development with plans and documents. Reviewed letter from Lincoln-Mill Engineering Associates and March 2002 letter of Pfischner Engineering Company.

Mr. Robinson and Mr. Homer looked at the standards and went to the site and measured back the required 15 feet from the roadway to take their sight distance. They observed the traffic for an hour. Sight distance is for the vehicle exiting the driveway, where the driver can see an object 3.5 feet above ground. To the west they would have to take out a foot of soil and take out a couple of small pine trees. In order to get sight distance would need to cut out a four-foot distance and build a retaining wall. They went with the 325 ft. suggested by Dale MacKinnon, Planning Board engineer. They would have to take down 12 trees. There is a better situation to the east (left) where there is a large amount of undergrowth would affect one tree (10" oak that would have to be taken down in the ROW). They could also make the 430 foot sight distance but it would include some additional trees in front of a neighbor. The big problem is the sight distance to the right. The layout is almost 65 feet wide ROW at the site. He proposed signs to be installed at the owner's expense. All trailers will go to the right; either side sign for trailers entering; They would include chevrons to indicate sharp curve. Discussed in past meetings with

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Mr. Cerel and the rights to work within the ROW. The scenic road would require a special hearing.

Mr. Dickinson questioned the number of trees that would need to be removed to the left.

Mr. Robinson said that a couple of trees on left are on the owner's property. There will be good line of sight once the scrubs are cut out. He showed pictures.

Mr. Dickinson stated that they can cut down the area in front, but will need some mechanism to keep the area maintained.

Mr. Robinson responded there will be a new house that will take care of some of the landscaping, but there will be a need for perpetual maintenance along the ROW.

Chairman Franco questioned the houses that would use the new roadway.

Mr. Robinson explained that there would be three additional homes on the road. The fourth new house would be on Pine Street. Then of course there is the barn that would also be using the roadway. They reviewed old plans from 2001. The ROW would have been wider than 50 feet at the entrance.

Mr. Homer said they would provide the narration that Dale MacKinnon would like. All the tests ran to satisfy the BOH agent, will satisfy many of the questions in Dale's letter. His comments are easy to address.

The administrator will send Dale a copy of the letter from Mr. Domey.

Mr. Dickinson questioned if a wetland crossing is still needed. (Response - yes) They should talk with the trails committee. He also asked if they have provided the turn around for the fire trucks.

Mr. Robinson responded that they will revisit the issue with the fire chief. They were hoping to provide less such as an area where the two houses can provide a turnout area for a 3-point turn. They will see the fire chief.

Mr. Dickinson questioned the driveway for the house on Pine Street since Dale was suggesting that it be on the new street and the Board of Health agent has approved a detention basin for that area.

Mr. Robinson said he is not sure that Dale's request is set in stone. They would prefer a driveway out onto Pine Street.

Mr. Robinson said they are looking for a sight distance waiver to 245 feet on the west and 325 feet from the east.

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Mr. Lester said he would like an opinion from Town Counsel to determine if they have the right to do work in the right of way, and is the Town obligated to allow them to do the work.

Mr. Dickinson agreed that we would have to have the attorneys discuss the issue. He continued that the Board preliminarily reviewed plans including a cluster and pointed the applicant in the direction of this application. He questioned the number of lots in the cluster plan.

Mr. Robinson did not recall the number. He was not the engineer at that time.

Mr. Sullivan said he would like to know more regarding the sight line distance.

Mr. Browne recalled that no waiver plan was a standard plan and not a cluster. He added that the Board pointed them in the direction of a no cluster subdivision.

Mr. Dickinson added that the Board felt the direction they pointed in was the least impact on this lot.

Mr. Browne said the issue is a standard no waiver. The issues raised in the letter would still require crossings. In granting a waiver the Board needs to see if there is a positive interest to the town. The idea of a cluster is not one that the Board has to include.

Mr. Lester said he remembered originally there were 23 lots in the first sketch the Board saw.

Mr. Robinson questioned why this discussion was coming up now.

Mr. Lester explained that to grant waivers of culdesac the Board needs to view what are the alternatives.

Mr. Robinson said he would look for the other plans.

Mr. Dickinson said the Board is not telling them that they have to do a cluster development. They are just back tracking a little on the documentation so that there is a clear understanding of the progression.

Chairman Franco asked for questions of from other Town boards. There were none so she asked for questions from the public.

Lesley Shore, an abutter at 315 North Street, said she remembered at the end of last meeting last year they presented what could be put on 500 foot road and she was surprised then that there would not be any more houses on the plan.

Mr. Browne explained that the original number was not done by this engineer. This engineer did a new plan.

Mr. Lester said they could possibly do a cluster plan that may not be any real difference other than the arrangement of the houses.

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Ms. Shore expressed concern for the ecology of the area. She said she has met with the Zohars. She asked that they not cross the stream and noted that the cluster zoning plan did not cross the stream.

Mr. Browne responded that the cluster would have been anywhere, whether a stream crossing or not.

Ms. Shore said it would be a real public interest to put the open area under a conservation restriction.

Mr. Dickinson said his notes of December 2000 showed a 6 lot cluster; 19 lots; and a third plan with 9 lots as shown by the previous engineer

Bill Tragikas, an abutter at 315 North Street, stated that cluster zoning could protect open land instead of just spoiling the land.

Ms. Shore questioned the location and maintenance of trails. She said that Deerfield Drive had a horse trail given along Deerfield drive. Many years ago she tried to find her way along the trail. She expressed concern about protecting the trails on private property.

Mr. Lester responded that is an issue that the Board has addressed in other subdivisions and as such have developed standards now. The town has the rights through its Board of Selectmen to enforce the use of the ROW .

Mr. Dickinson observed that since the hearing is winding down, a list of waivers and the benefits to the Town would be good for the Board to go through.

Chairman Franco asked for discussion on the issues remaining.

Mr. Browne said they have given sight distance, which helped.

Mr. Dickinson said they could have a list of pros and cons for the other plans.

Ron Zohar, applicant/owner questioned possibilities. A non-waiver plan could be 6 houses. He questioned if they could make pasture turn outs beyond the streets? If they have to move the turnout for the horses and build a non-waiver plan, then they might just as well use the area for houses.

Mr. Zohar continued that they would still maintain the trails.

Mr. Robinson said he would speak more to this once they have the concept pans. He added that what they are proposing is less dense. If they were to do a cluster all the developing would be

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close. This way there is distance between the houses. The areas of open land will be maintained. These are large lots. There are 2 houses on 8 acres. Five or so houses densely located together is not a big ecological savings. They have an existing crossing and are proposing to reconstruct to better standards.

Mr. Dickinson noted that all the runoff is going to the left.

Mr. Robinson said they will be addressing that and the crossing with conservation.

Mr. Dickinson questioned the use of fertilizers.

Mr. Robinson responded that they would receive orders of conditions from the Conservation Commission.

Chairman Franco stated that the Conservation Commission must still make certain determinations.

VOTED unanimously to continue the public hearing to September 8<sup>th</sup> at 8:15 p.m.

VOTED to extend the time in which the Board has to make a decision to September 25<sup>th</sup>.

LILAC LANE

Mr. Dickinson reported that he went by Lilac Lane and what he saw was a patch of weeds, dirt, and rocks. The grass is not taking. It does not appear to be maintained. The work needs to be done again.

Mr. Browne said then it should be done again.

Mr. Dickinson recommended sending a letter to the developer that the work is not acceptable.

MEDFIELD WOODS

Mr. Dickinson reviewed the Comprehensive Permit Plan and noted a need for a traffic study. There are conservation issues, concern for the road width and one-way traffic. The area is residential in a primary aquifer. There are concerns for runoff. There are no sidewalks. In addition he questioned detention basins, trails and open space.

The Board will send a letter to the Board of Appeals expressing its concerns.

The meeting was adjourned at 9:45 p.m.

Respectfully,

Stephen J. Browne, Secretary  
Medfield Planning Board

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Present: Stephen J. Browne, Wright C. Dickinson, Elissa G. Franco, George N. Lester, and Timothy P. Sullivan

Meeting convened by Chairman Franco at approximately 8 p.m.

SCENIC ROAD HEARING - 2 FOUNDRY STREET

Chairman Franco read the legal notice for the Scenic Road Public Hearing for stone walls along 2 Foundry Street.

The Applicant, Frederick Baird, presented the Board with three packets of documents that included pictures to explain his application. He gave a background stating that they (he and Susan Miller) purchased the property at 2 Foundry a couple years ago. They have spent the last year fixing up the property, doing much work. Their object has been to maintain the integrity of the property. He said he has done this "a lot in my past." He added that they want to keep with the surroundings. They have attempted to maintain the stone walls but it has been futile. They are poor stones. There is no bounding in the stones. The walls would never be sound. They need more attention. In some areas stones are missing or in danger of collapsing. A vehicle fell into the wall forcing the wall out. He has engaged a contractor to work on the wall. They were not aware that they needed a public hearing. He said he is "somewhat apologetic." The contractor dismantled the wall to the right of the entrance. He said they were told could proceed at their own risk and may have done too much proceeding too far. He added that they had some urgency. He apologized and said but they were just trying to proceed. They have completely 300 feet of wall to the left. (photos 1 & 2 show the nature of the wall built) Photos 3 & 4 are from the Kenny property on the other side of the street. He said they are very similar in construction type. He said that he has used driven stones. He is keeping with the area. There are also two photos of the Kenny wall. The wall on the Kenny property is a single stone wall. His side is double stone so he can make it square off at the top. Photos 7 & 9 are photos of the area on the completed side. Photos 10 & 11 show the part of the wall not completed. The wall runs to the gate. There are some 200 feet still intact. Much of the wall is above the road surface. Photo 12 is looking back from the meadow towards the wall. Photos 13 & 14 show stones that have fallen down from time to time. Photos 15 & 16 are indications of the stone taken out of the left side - very little stones. They took out large stones on the right side. The stones on the left side are much smaller. Photos 17 & 18 show the substrata of the road. He said there is no structure to it at all. Photo 19 shows a stump. The wall is on top of stumps in some areas. When the town put the sewer in, the town left the stump down 4 feet. He has only removed lilac bushes but no trees. The stone walls do not show any consistency of maintenance and are slowly deteriorating. They are dry walls. There is a cement wall on bridge. He has attempted to restore the walls. There was significant damage during the snow last year. The damage over the years has been severe. He wished to preserve the environment of the stone wall.

Attorney Timothy B. Borchers spoke on behalf of his clients and explained that Fred has an engineering background. He continued by stating that this section of the law does not get a lot of interpretation. There are some cases from the courts, but they do not help. Enabling legislation provides for the Board to be able to assess a fine and we will face that. They are sad in a way. He said for reasons of safety they needed rehabbed the wall. The portion to the right,

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approximately 275-300 feet has been completely restored. The best the board can do is penalize, should that be the case. He added that ignorance of the law is no excuse. However, there are no postings. There is nothing in the deed. They had no notice. They were innocent in their infraction. If the board must impose a fine, it only should be done to the section that was disturbed before the cease and desist. They thought they were proceeding in good faith. They did not think they would be further violating the bylaw when contractor proceeded to break down the wall to the left. They have nothing but love for the town. One last thing, if it please the board, they would be willing to donate whatever it took to put up signs at the beginning and end of scenic ways so that people entering this area would know. He asked if there were any further questions and said he would welcome the questions.

Wright Dickinson said he had not been by the area and questioned if they were bringing in any new stone.

Mr. Baird responded that they did bring in some larger stones to bond the wall. The portion of new stone is only 5%. They were hand picked to be the same.

Mr. Dickinson said he could get from the pictures the new stones and can see the difference. It sticks out that there is more than 5% of a mix.

Mr. Baird explained that they moved stones around from one end to the other. None of the stones in the shots were taken in. He explained that they built the wall with natural inward rotation of the stones. They cannot rotate the stones as such in a single width.

Bill Bernard, who worked on the wall, said that the patina that was there is now buried in the wall, but those are the original stones taken apart and redone. They are the original rocks. They used hammers in constructing the wall.

Mr. Dickinson asked if they changed the height of the wall.

Mr. Baird responded that they did not. He explained that the wall looks slightly higher. When they build the ground back up it will look less. He added that the higher the wall, the more you pay. The wall was 30" off the road and will be 30" when done. They are waiting to put further crushed stone.

Chairman Franco questioned if the original stone was single or double width.

Mr. Baird answered that it was hard to tell.

Mr. Dickinson asked if there were pictures before the work started.

They were not aware of any.

Attorney Borchers explained that the stones to the left of the entrance way were all sub terrain.

Mr. Dickinson asked for a time line on the work done.

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Mr. Baird responded that they had excavated the bases and laid 6" of  $\frac{3}{4}$  crushed stone. Then they were told that they needed a public hearing. He stated they were told by Michael Sullivan (Town Administrator) that they would proceed at their own risk. When they moved to the left side of the driveway, they received the cease and desist and stopped all work.

Mr. Dickinson asked if Town Counsel had commented.

Planning Board Administrator Norma Cronin responded that he had not.

Mr. Browne said he was familiar with what the wall looked like before. He asked if this shows up in any other deeds in the area.

(No response)

Attorney Borchers noted that the property is located on a corner with Philip Street, which is not a scenic road.

Mr. Baird said he did not intend to move down in the direction of gate. He added that they have permits from the town for other work that they are doing. They are trying to deal with all the work.

Chairman Franco questioned how far into the left side were they working.

Mr. Baird responded that they want to go as far as the lilac bushes; a distance of about a maximum of 100 feet to the driveway. The entire stonewall is about 900 feet – 300 feet to the right – 300 to the left – 300 on Philip. They need to deal with the 100 feet to the left.

Mr. Bernard said they may want to ask the Board at this time to do any further work if you intend to do any part of that wall. The wall is crumbling and falling down. Some of the wall is 5 feet tall. They need to shore up the wall. The road is much higher from the property. The rocks are collapsing. Over many years when roads were graveled the elevation changed.

Mr. Baird said they want to form the stones on the left side.

Mr. Dickinson questioned if any work done to the left side would undermined the road.

Mr. Bernard responded that there is 4-6 feet from the road.

Mr. Baird said that they have a number of trees along the boundary of the property. They may – also need to seek permission from the Board. Some of the trees are in competition with one another. Some trees are dead. If they leave them way they will form badly and then they would not have healthy trees. They would like to deal with the trees.

Administrator Cronin advised that would require a new hearing for trees and would include the Tree Warden.

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Mr. Browne said we need to stick with the walls.

Chairman Franco said they would need to mark the trees and have the Tree Warden review and be present for the hearing.

George Lester asked if the wall is in the town right of way.

Chairman Franco said it was determined to be at least partially in the right of way.

Mr. Baird said he replaced the wall in the same place.

Mr. Lester observed that the location of the walls on or off town property varies some places in town.

Attorney Borchers said that the street is bound by the stone wall.

Chairman Franco asked if there were any questions from other town boards. Hearing none, she then asked if there were any questions or comments from the audience.

Margaret Bancroft, 44 Foundry, read a statement from her husband and herself, a copy of which is in the file. She added that she believes this is not a dry stone wall but rather that it has mortar. She added that the applicant has removed rocks and they are sitting along his property.

Barry Colt, 61 Philip Street, said it is hard to hear some of the things going. He said we didn't build all those walls. The walls were in place. If something fell down the residents would put it back. The construction of the wall was not a point. He suggested looking across the street where the same kind of stone is and the wall is built. He added that there are so many stones in the Foundry Street that they "almost grow stones." He added his support to what Mrs. Bancroft said.

Helen Dorgan, 72 Philip St., added that she owns property in the area and part of the charm of the area is the old stone wall. This new wall, while it is very nice, it takes away from the character of the neighborhood. If everyone built a neat perfect wall, the natural beauty would be lost. She said she would like to see the wall back the way it was.

Chairman Franco asked if there were any further comments.

Attorney Borchers said that Fred and Susan met no offense. They have respect for the area. Look at the wall it is a perfect, modern dry wall. There is no visible mortar. It will keep from breaking apart in the future. It is not within the power of the Board to order that the wall be taken down. The spirit is well received but it is not possible to restore what was there. It will never be what it was.

Mr. Baird said it is an old stone wall. It was not the wall we see today. At what point and how far do we go back. The wall was very broken down. The stones had fallen. Many of the stones were not physically visible. What would he put it back to?

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Chairman Franco suggested that the Board take a look at the wall.

Mr. Browne expressed concern about the point about stones being moved.

Mr. Baird said they moved the wall to construct. They moved in two directions so they could put a crushed basin. They found regular stones which pulled out and rolled them aside so they could lay stone. They could place on the inside, the down side. The wall is constructed by hand. No stones have been removed. The fact that they sit inside the property was because they ceased work. Some stones were moved to the left side. They will bring in more stone. They will use every piece of stone they have.

Chairman Franco asked for permission for the Board to look on both sides of the wall.

Permission was given.

The Board members will make individual visits to view the site.

VOTED to continue the public hearing to September 22, 2003 at 8 p.m.

Chairman Franco stated that the Board would expect to make a decision at that meeting.

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Shinning valley farm

EF – opened at 9:08 pm

TC – have submitted paper work – have sewer easement – easement to allow public access to trails etc. – covenant for propose circle remain private – form 6 covenant – covenant no further subdiv – sample deed for one of the lots showing restrictions – home owners trust

TC – question came up if had the right to request trees be removed on Pine Street – have the right to come before 87 section 4 allows for that hearing – do have the right to petition and show why in the best interest of the town - question chief had concern about driveway to the two lots – talked with the chief so revised a plan – chief wanted a hammerhead or a turn around – have done that but have not spoken to him to know if that is what he wants - there is a way to turn around and come back out. – also question of the alternative tpe plan – showed open space plan which provides for 6 lots along Pine St – could do as a matter or right under open space – all the lots would be up close which is out of character with the remainder of Pine Street – area blow up allows you to see the dnsity along Pine street – houses have been super imposed about the size to build – that shows the density – open space would be detrimental to what the town intends – this plan allows the trails to be spread out

WD – the six plus the barn –

Paul R - no total of 5 – same number

EF – at one point a plan was presented with more houses

TC – that was a sketch – this is more realistic – show the proposed sub better

WD – whole concept of this plan has drainage where the two lots are

PR – would be a much different drainage skeem – road would have to be built up to get drainage out to a different are

WD- uphill some?

PR – yes

SB –

TC - generally a case of how much will cost to engineer drainage – whole variety

TS – in an open space plan what would be the status of the remaining undeveloped land

TC – area shown as open space

PR – shown areas of open space – could be paddocks

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TC – must remain in the natural state – current trail in use but not sure could remain with an open space

PR – read from bylaw re: the open land

GL – could have open land by an association – Tubwreck is an association owned open land

TC – discretion of how the space is used is up to the ZBA

EF – purpose was to show they could do a nonwaiver subdivision

SB – did compare with a nonwaiver subdivision as well as the

WD – back tracking to see what was viable

EF – was a plan with 8 or 9 lots

SB – previous plan was only sketches – this is what we saw when decided to proceed with a standard subdivision

TC – wanted to be aware if open space – left a package for her only this afternoon – would point out the documentation re signage is the same as the MacKenzie subdivision to be consistent

SB – since then the trails committee has created – need to check

TC & MS – yes

SB – issue about fire trucks - ? access to trails by emergency vehicles

TC – way drafted for emergency purposes – trail system includes all the way from the road – loops around – access over all easements – existing trail will need to be added in

MS – would be helpful to have the latest plans

GL – would create a through way to come in off

TC – reviewed the emergency easement – probably do not need to specifically located

SB – mentioned the issue of no further subdivision – also look for no through street or connection their too

TC – reviewed said covenant – remain private road – no petition – not extended

SB – need to say not connection to any other roadway - prohibition of left turns – a question of a waiver on the sight distance

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EF –reviewed

WD – in order to get the site lines would have to remove trees – which would be subject to returning

PR – have not been any accidents in that vicinity

WD - wetland area – row easement???

TC - ? reference to part of the trail easement – do need to cross stream – Oct 16<sup>th</sup> ConCom for reconstruction of the crossing

EF – questions from other boards

Msmick – open space committee has not seen – can get the committee together for a more formal in put – what is the surface and how wide is the easement – how much will be paved for driveways

PR – 30 feet wide – portion paved for the driveway – trail would be on the side of the driveway – gravel surface on the side – pavement width about 12 feet so room on the side for trail – crossing the wetland would need to be in the pave area

MSm – thickin not just equest – but also skiing

GL – one going to the town area will do

MSm – positive that the committee would want connection to the town land

SB – that has always been there

TC - will add on not to connect in any way

Jan Tarlow – 4 Chestnut land – crossing not approved by the ConCom – withhold

EF – could make a decision before going to the ConCom

Jan – concern that could be a stumbling block – it is only a foot path now

EF – they are looking for approval

Jan – problem taking down trees so these people can have what they want – if give them a waiver might have a safety issue

EF – if waiver granted would be subject to public hearing scenic road

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GL – point is houses close up or spread them all out – the traffic would be the same issues – the visual impact on pine street would be greater

Jan – both are bad

GL – traffic is the same either way

EF = plan with the sight distance and tree removal – point out trees that are a fact to achieve the 245

Paul – changing the alignment a little bit – to the left is a fence, trees within property, under brush within property (trees less than 2" diameter and shrubbery) – all the pine trees do not have lower branches and see through them – when get about 250 feet out is an Oak tree which would provide 325 feet to the east side – going to the west or right – the alignment of pine street wines withing the row – result – looking to right looking to a slope upward – within that slope there are numerous trees – now 210 feet – if propose 245 feet would not tree work – might effect one or two pine trees – would need some regarding – to get to the 325 line would get more into the hill - cut out two feet of the hill – cutting down numerous trees to get the 325 – would propose as mitigation – would require any trailers could only take a right turn out (eliminating slowing traffic) – propose signage trailers entering signs on both sides – plus the yellow chevrons alerting to

GL – trailers more with the existing use

PR – right now it runs with trailers going in and out – the existing condition is not a problem – there will be three new houses using this way – talking minimal ammout - no proposal to increase the size of the operation at this time

SAB – current situation and proposed horse will be the same with trailers

MSM – what if the horse business expands

SB – could do that by right

GL – if subject

MSm – could happen that there will be additional traffic

GL – it is not related to the subdivision

MSm – who will keep the under growth cut down? Will spread when removed.

WD – need to safeguard taken care off

MSm – there needs to be some mechinizm that will be maintained

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PR – that will all be on lot one

TC – can make it a requirement for the owner of lot one

GL – town clears – can you make a homeowner responsible for town

WD what if snow is 5 feet high does the homeowner

WD – IF – approved tonight and then negotiation where does it go

SB – issue before with NSTAR

MSm – if approve with that sight distant waiver

WD – if approved then fell apart then would have for a modification

Bill Trag – 315 North St – the two plans – same number of houses in each – in public interest to use the cluster zone

SB – complete list of waivers – discussions with trails (Muffy)

EF – email any concerns to Norma

WD – reviewed

PR – will revisit to be sure waivers are all correct on plan

SB – waive street light discussion

EF – they (Selectmen)

TC – will get to Norma so have before the next hearing

WD – continued to Sept 22 at 8:10 pm - and extend due date Sept 30<sup>th</sup>

Voted to return surety for Bunker Road

Voted reappoint to sadv bd.

Lilac Lane

Homeowner wanted to be paid

See if he can sign off his right

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Check into the letter –

10:20 p.m. adjourned

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Present: Stephen J. Browne, Wright C. Dickinson, Elissa G. Franco, George N. Lester, and Timothy P. Sullivan

FOUNDRY STREET – STONE WALL HEARING (cont.)

Chairman Franco reopened the public hearing for the stone wall at 2 Foundry Street.

Attorney Borchers, attorney for the applicant, stated that the applicant were present to respond to comments received by the Board and the Board's concerns. He provided the Board with an outline of remarks and response to letters and comments previously received by the Board.

Chairman Franco stated that all the Board members had been to see the wall and asked for comments from the Board. There were none at this time. She then opened discussion to the public.

Bruce Simpson, from E. A. Simpson Masonry, and a former resident of Medfield, spoke of the historic significance of the old field stone walls and the need to protect them. He spoke of maintaining the structural integrity of old field stone walls. He noted that he has been doing this type of work for 40 years. He read a letter from David Nyren, a local stone mason, who has been in the trade for many generations. That letter is in the file as part of the record. Mr. Simpson likened the work done on the stone wall to that of putting vinyl siding on the Peak House.

Richard DeSorgher, a long time resident of Medfield, former Selectman, and current Town Historian, spoke. He told a story of growing up here and learning from his father that "ignorance of the law is no excuse." He provided the Board with a history of the Scenic Roads in Medfield, and specifically Foundry Street. He stated that at the Annual Town Meeting of 1974, Article 41 was passed to make Foundry Street a scenic road. Town Meeting is the legislative body of the Town. This points to the Town's desire for protection of the stone walls and protection of trees. Pine Street and Wight Street were also approved. There has been some erosion of the stone walls and trees due to safety concerns. Foundry Street is the oldest street in Medfield. Medfield is the 43<sup>rd</sup> oldest community in the Commonwealth. The Historical Society in October will feature Foundry Street. He expressed a concern for a lack of enforcement of laws approved by the town. He is concerned that there needs to be enforcement of these laws. We are a government of laws and not of men. We need to stop the erosion of laws.

Chairman Franco asked if anyone else wished to be heard.

Margaret Bancroft, 44 Foundry, provided photographs that show the walls on Foundry Street. She explained the photos saying some show the old original fieldstone walls. The photos at bottom show the new wall with flat plain surface. This is a way of distinguishing appearance. She mentioned the large old foundation stones.

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A resident of Hillcrest Road (unable to understand name) said she has been a resident for 15 years. She continued that the town is special and part of what makes it special are the stone walls. It would be a shame if Board lets this happen.

Eliza Castaneda, 36 Foundry Street, said that she grew up on Foundry Street and went before the Board for 9 feet of wall that needed to be breached to provide an entrance to her house. They used the stones for the entry and replaced the others as they were.

Roger Hardy, 114 Woodend Lane, stated that his family has lived here since 1778 (that date is correct). He has had a working relationship with the walls in the area. He was raised on a farm that was there. His father's farm cleared the stones and built the walls from the cleared stones. He has not found one of them that have fallen over in the past years. He asked that the Board preserve the stone walls.

Nick Bancroft, 44 Foundry Street, stated that he had submitted a letter. He hoped the Board consider the charge it has to monitor the stone walls and take action.

Martha Smick, 120 Pine Street, a member of the Open Space Committee, said she would like to see everything done to protect the scenic roads. They are an asset that the citizens of the town has recognized. We should protect all the scenic roads

Chairman Franco asked if anyone else wished to be heard.

Attorney Borchers responded that much has been said this evening that would be inappropriate for Frederick Baird, a New Zealander, and his wife, Susan, albeit a longer term resident, to object to it anyway. The Town of Medfield is a historic town. The quality of which they wish nothing but the best for. Inadvertently they ran a foul of the law, but the town bears a lot of responsibility for failing to enforce. The Town has let us down on its sacred trust by not notifying a resident such as these folks to be prepared to adequately obey. In the same way he expects to see speed limit sign so should know about it being a scenic road. (story as a law student) This bylaw is ineffectual unless you have lived there long enough to know. Put yourself in the position of the homeowner. If the Board is going to impose a fine, which is what its obligation is to consider, then it should be decided partially on fairness and that the penalty fits the crime. If the penalty is to be assessed at the rate of \$300 per 5 foot section that has been removed, the Board must consider that penalty. He pointed out that notwithstanding a statement signed by somebody named Nyren, notwithstanding respect for Mr. Nyren and Mr. Simpson, that conversation is inaccurate. Regardless of whether it is or not his client has stated in writing already to the Board and will state so again tonight that that is not the stated facts. What Mr. and Mrs. Baird acknowledge is that they did remove approximately 400 feet of the stone wall and it was only after first 300 feet of that that they learned that it would be a violation of the Bylaw to remove a stone wall on that street. At that point it was suggested to them by the Town officials that they contact other Town officials and inquire about what they should or should not do. That is what they did. They were not told a fine they were they could proceed at their own risk – that the walls would be constructed in a wide wall construction. What they did , partially with some

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miscommunication with contractor, a section was removed. It is questionable if it would be considered a wall at all. At that point they realized it was not something that they should have done. This is a platform for the airing by many people who are not even interested parties but care about the Town and care about history. The real case at hand is what does the board do when a piece of wall has been removed under these circumstances. The wall has been removed. The Bylaw states only, based on State law, that the town may access a fine for the violation. This is contained in the Police Regulations in the Town (Bylaw). There is no authority in any of the Police Regulations for doing anything other than a fine. He questioned if the Town has met the burden of being custodians of history. He questioned if the Planning Board has sent notice to individuals who live on these ways – or the Conservation Commission or the Historic Commission – all of which are empowered to recommend scenic roads for the Town. None of that to their knowledge has occurred. His clients are willing to help, in lieu of a fine, the preparation of beautiful signage that would recognize these roads. There is a sign informing people what the Peak House is. He questioned if there are signs on any of the scenic roads and acknowledged that there are not. Finally, it would be a matter of some discussion with his clients, but they have no intention at this time of touching the wall that is on Philip Street, not yet designated as a scenic way. That is a good piece of what you see in that picture. That is a section that these people have no intention of touching. To impugn and suggest that it was within their character to have deliberately violated the statute is not supported other than by hearsay. Bear in mind the degree of the infraction, the degree of notice that our citizens have of this provision. When we become citizens of the United States, we have to memorize certain portions of the Constitution, the Pledge of Allegiance, or other such public documentation. There is no requirement when becoming a citizen of Medfield that we read back through the Bylaws to find out rather or not we may be on such a street as this.

Chairman Franco said the Board would take a minute to review what was submitted.

Mrs. Bancroft, read a scenic road decision of the Town of Westwood noting that the decision is based on the same law that Medfield follows.

Attorney Borchers responded that the Town of Westwood enacted a Bylaw under the same law. However, Westwood enacted further regulation on its own. They did not order the homeowner to rebuild any wall. They did order that any new wall sections be done with integration between new and old style. It is distinguishable because of the different Bylaws from the towns.

Mr. Sullivan stated that he took issue with a comment by Attorney Borchers. The Scenic Roads Act designating certain roads to be protected under the Massachusetts Scenic Road Act was not intended to raise revenue. The interpretation presented to this Board was that the homeowner has full right to do whatever they wish and when complete with their plans, and if they did violate an aspect of the law, then they would pay a fine, much like a person pays a speeding fine and then move on. His sense of why this Bylaw was passed around 1974. The Town had lost many substantial and meaningful landmarks and was concerned about what the Town was going to become. Using the Scenic Roads Act, the

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intent was to protect structures such as the stone walls and not to raise revenues for the Town. His interest in this case is to see that wall replaced as it was or at least within the understanding of what a dry stone Yankee Farmers Wall means, much like the one across the street.

Chairman Franco said she wanted to make one point that some of what is getting lost is that this stone wall isn't owned by the homeowner. It is a stone wall owned by the Town of Medfield. It is in a public way. It is regulated by the Scenic Way Act, and therefore, it is not within the rights of the homeowner, because it does fall under the Scenic Road Act, to do whatever they wish. That is the reason why there is a statute to begin with. As a planning board it is put upon us to enforce the statute in a way that it was intended to be and protect what it was to protect.

Stephen Browne seconded what he just heard. The Applicant has applied for a building permit for much of the work doing with the house. When the applicant moved to town he was not sent notice by the planning board, or anybody else. He knew to go to get permit. To shift the blame for wall to the Planning Board, the Conservation Commission, or the Historic Commission is incorrect. Even if there was ignorance in this case, the blame is on the part of the person who built the wall.

Attorney Borchers responded that with all due respect to the Board, Mr. Sullivan has misstated what the Bylaw provides. Part of the enactment of the Warrant article in 1993 was that this Bylaw currently contains no enforcement mechanism. "This shall now be our enforcement mechanism." To hear a number of the Board stating that he hoped was a personal opinion and not a legal opinion. He respectfully disagreed with that. Much has been said about the spirit in which the statute is. They do not wish to argue that there should not be a penalty assessed. They have admitted that last time around. All they ask is that the penalty should be in fitting with the violation. They did ask mercy on the Board. They did not ask for full relief.

Mr. Browne asked if he is saying by that that you can build anything you want in the public way and there is no enforcement mechanism on the part of this.

Attorney Borchers said this is not in the public way. That was addressed at the last meeting. This abuts the public way. There is no claim that this wall itself is part of the public way.

Mr. Lester said he thought we established that it borders the public way.

Attorney Borchers said if that were the case then the town would protect its stone walls in the same way that it protects every other piece of property in Town.

Mr. Lester questioned if the border ran along the stone wall. Where does the stone wall run? The legal description is that the stone wall is the border of the right of way and the Town has an interest. Even if it were not a scenic road you would still have to go before

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the selectmen because it is in a public way. The selectmen have jurisdiction over the public ways.

Attorney Borchers said he did not know of any applicable statute. He just wants to see the only statute applicable fairly applied to Mr. Baird and Ms. Miller. The only one he knows of is this act. We can debate the stone wall the same way if you own half way out into the stream, you own part of the brook. By law you do not. This property is out to the edge of where the stone wall is. That is beyond the fact finding of this Board. The fact is a stone wall was removed. The penalty for which is to assess a fine and the Board, in his opinion, can only fine. Since the Board asked for his comment, he appreciates the opportunity to help interpret it. He asked the Board to respectfully consider that the only right is to fine. Any other action the Board may choose to do is only in the future to protect other stone walls. If the Town had a requirement that you need a permit to erect the wall then you would have to apply for a permit to erect the wall. There is none.

Mr. Dickinson note that the Applicants are not interested in ripping down the wall and putting it back the way it was. He asked if that was a correct statement. He asked if that was a consideration that they would look into as the "right thing to do?"

Attorney Borchers said that is irrelevant.

Mr. Baird stated he does not want to stray into that area.

Mr. Lester talked about being a modern drywall and asked if there is mortar in the wall.

Mr. Baird there is a cement core that you cannot see.

Mr. Lester asked for the dates when the applicant talked with Mike Sullivan.

Mr. Baird answered that it was after the right side of the entrance had been torn down. The comment came from a discussion in which Mr. Sullivan said to proceed at your own risk.

Mr. Browne sought to clarify the situation stating that "proceed at your own risk" was given the authority to proceed at your risk as opposed to being told that you do not have authority to proceed and you need a permit. Any thing you do is at your risk. That is how Mr. Browne understood and asked if that was a correct interpretation.

Attorney Borchers responded that what his client is saying that at the point where the side to the left was done he was proceeding at his own risk. Up until that point he was not aware of the law.

Mr. Browne said his own interpretation of what was being said is that "proceed at your own risk" was giving the authority to proceed as opposed to saying that you still need a permit.

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Attorney Borchers responded that his client was not told to cease and desist at that time. He said he understood it as, "You may proceed but you do so at your own risk."

Mr. Baird added that when he had this conversation, he had no law in front of him. He had only a conversation on the telephone.

Mr. Lester questioned the reference to dry wall construction.

Mr. Baird stated he was very brief. He said they would be using some (mortar?).... in the core and at the base to stabilize the wall. He commented further that Mike Sullivan got back to him (the remainder of his comment I cannot understand – njc)

Mr. Browne said that last time the applicant told the Board that no more than 5% of the stone in the wall was new stone. Based on the other facts the applicant provided last time the 5% figure is not consistent with the other facts the applicant gave the Board. The applicant said that the height of the wall at the maximum level of the twelve data points he took. This is a double wall and not a single wall. All that mass says that 5% is hardly than likely the figure. Inspection makes it seem that it is probably more than 5% new stone.

Mr. Baird said that the base of the wall was considerably wider. They struck a lot of stones.

Mr. Lester stated that he understood the applicant's comments. This is a law. There are many laws like that where the onus is on the homeowner or business owner. It is your responsibility to know or consult. You do not receive a deed restriction when you obtain a parcel of land that tells you if you want to develop it you must get subdivision approval. You know that because you consult with an attorney or obtain information. The same is for Wetlands Bylaws. If you have a swamp in your backyard, you can't just fill it in to have a tennis court. The Town does not put a sign on every swamp that you need to get a wetlands permit to fill it in. The same for trees. The Town does not put a sign on every tree. Tidal 5 inspections, building permits, Board of Health rules, business permit – those are all things that you are responsible to find out.

Mr. Baird questioned that the realtors in the town should be aware of the scenic roads in the town should be explained by real estate agent.

Mr. Lester responded that he knew where the applicant was going with that statement and it is not the responsibility of realtors to give legal advice.

Mr. Baird said that the point he was trying to make is that they are a group of people who should have above average knowledge of that. The ones he asked did not know about it. He suggested the Board ask the citizens of town because those he asked do not know. He said that is different than the building code. Everybody grows up with knowing a building permit is required. It is a very different thing than a scenic road.

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Chairman Franco called for a motion to close the public hearing.

Mr. Sullivan moved and Mr. Browne seconded a motion to close the public hearing.

VOTED unanimously to close the public hearing.

Chairman Franco asked for a motion as to whether or not there was a violation of scenic the Scenic Roads Act.

Mr. Sullivan moved that the Board determines that the work done at 2 Foundry Street by Mr. Baird and Ms Miller violates the Massachusetts Scenic Roads Act and the applicable Medfield Bylaw. Mr. Browne seconded.

VOTED unanimously that the Board determines that the work done at 2 Foundry Street by Mr. Baird and Ms Miller violates the Massachusetts Scenic Roads Act and the applicable Medfield Bylaw.

Chairman Franco explained that the second part of the procedure is to determine how the Board will hand what the homeowner must do about the violation. She poled the Board.

Mr. Dickinson moved that the homeowners put the wall back to the way it was before, with conditions:

- That the new wall be removed and the wall be put back in as close a state as it was before all this happened, commencing by October 15<sup>th</sup> and completing by December 1<sup>st</sup>
- Any nonnative stones be removed from that wall
- Any ground cover that was disturbed around either side of the stone wall be put back to the way it was before
- A written notice be issued to the Board upon completion for a review of that construction of the wall
- Reserve the right to impose a fine on top of that

Mr. Sullivan seconded.

Mr. Browne questioned amending the time for ending since rebuilding the new wall could take time.

Mr. Dickinson responded that it all came down pretty quick and it all went back up pretty quick. He said he did not to go long on the length of time. He wanted to get it done within the season and not want it to go into next year.

Chairman Franco suggested into the next year to give them the opportunity to do the work correctly and not to rush it.

Mr. Sullivan said that to the end of December would be 13 weeks plus.

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Mr. Dickinson said that in order to do this and put that wall back couldn't take much more than a 3 or 4 week period of time. It is not like construction a square faced wall and going back to a farmer's wall. A concerted effort to get the project done in 3 or 4 weeks. There are experts here that might be able. The effort put into that could be less than a fine the Planning Board might levy.

Mr. Lester questioned structuring fine.

Mr. Sullivan stated that a fine is not the point.

Chairman Franco responded that she thought the interest of the people of Medfield is to have the wall rebuilt rather than the monetary.

Mr. Lester questioned if the Board only had the authority to issue a fine.

Mr. Browne said the Board disagrees with that and is reserving the right to fine. If the work is not done then can look into it.

Mr. Dickinson said he is not convinced that the town does not own 50% of that wall.

Mr. Lester concurred that there is the issue of ownership.

Chairman Franco felt that December 31<sup>st</sup> may be short.

Mr. Dickinson said that if good faith it can be started and finished soon. It can be done and put back. Stretching it out makes it fester longer.

Mr. Lester addressed the section to the other side that it be rebuild it in the style.

Chairman Franco said they want to reserve the wall similar to the house next door. The Board reviewed photos.

Mr. Dickinson agreed that there needs to be some basis of the wall.

Mr. Browne said it should be what it was before, not what was today. To the extent that we cannot find slides or photos we should go to surrounding walls such as the Kenny's across the street. It should not include the bridge.

Mr. Dickinson said that the person who took it apart knew what it was like before.

Mr. Browne responded that we need to go with what we have direct access to.

Chairman Franco said that the conditions should also read on or before the sale of the property.

Mr. Dickinson restated the motion to clarify:

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SHINING VALLEY

Ted Cannon – spoke with the chief

Norma – Chief Kingsbury said satisfied with the turnaround

Ted – t- turnaround between 2&3 will be at 24 voogt widths

Waive drainage constrctgion needs to come out

Norma – no talk with tc

Ted – did amend the covenant for trails per Muffy Smick – new draft adds trail committee – add all existing trails to the trail easement and added that - sure to encompass the ststreet but eh e driveay – all the trails – no connection covenant - obtain PC approval for signage still needed for safety – add obligation to lot 1 to control the underbrush – covenant for that lto – clear a ten foot strip – any tree under 2 inches to satisfaction of road commissioners – open space committee approval for last – Paul Robinson not here – want to see - lot where barn is – there is a trail being used – have a path that connects in front of the barn – would actually construct that

George – would mark the trails

Ted – will add the recommendation

Georg – include the public row – coming that driveway – over all the other row – along svc – preserve an area that is nonpaved as part of the trail system – mark and maintain

Muffy – meeting was late – read the support – no one sheet showed the trail system – consider asking for a trail sheet – (see memo) –

George – on the coming through from Pine st – access way out to Deerfield –

Muffy – that is the most important piece – talking aobut the other people allowing connection to adjaectn land - linkage is most important – commended for their efforts to do this

Steve – good idea to include trail sheet

Wright – a bunch of conditions

Ted – address the – need to add sight distance waiver to plan – eliminate reference drainage construction – no open space restrictions – developers plan for paddock area – can complete a set of easement restrictions

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Steve - had impression that would be paddocks – not necessary to state exact location but that there would not be any building

Ted – would restricted to what the zoning – can prepare paddock easements - if developer wants to consider the size of the stable must deal with that at the time

George – waiver to the sight distance and connect to the stable operation

Elissa – may or may not have a right to limit the size –let it be known that decision is predicated

George – if double the size of the stable operation then increase

Elissa – have to predicate waiver on the plan before the board – just a statement based on current condition – basis for why did what we are being asked to - is it adequate for the houses

Steve – not waiving sight distance – but waiving down –must come back

Wright – all items from Earth Tech letters that they are all addressed to the satisfaction of the board – probably have all been addressed

Ted – if include referenceing Earth Tech's comments – BOH approval – ET at opposite end of spectrum

Wright – have been resolved to the board's satis because agreed to go with domey – one item remaining – the need to come back for a hearing on the site distance thing – if an approval is granted – then a scenic road hearing – issues

Elissa – come back for a modification –

Wright - concern for what the public says – next could cut down

Steve – did allow others to go down for public safety

Ted – part of the scenic road then board can grant approval

Wright – close the hearing on shinging valley farm

Tim –second

George – have considered the waivers and are comfortable that the trail system – struggled with issue of cluster – the more dispersed plan preserves the character on Pine st.

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Wright – approve subject to the waivers listed on steves waivers excludeding 9 and including the sight distance – conditions including standard list of conditions – add all items from Earth Tech letters addressed to the boards satisfaction – that the additional trail be put on the plan actual trail construction to the satis trail committee

Tim sedcon

So voted unanimous.

BROOKSIDE

Continued public hearing at 9:55 pm

Rick – Bill Domey approved drainage

Tim – quick review

Rick – 63 Green – existing house – proposal to add short culdesac for another house in the rear – gave a plan with full culdesac and full construction – appropriate for a driveway – catch basin drains out to an existing swale – some water from adjacent Hinkley park – water quality swale in accordance with – rather than meeting the 80% - meet 77% - will infiltrate about all of the water that has come off the driveway –each house will have a roof infiltrator – addressed the drainage issues – new stuff –talked with Conservation – have provided a Conservation Restriction – in addition concom determined a river behind with the edge in the swamp – they can only work up to the haybale – give a deed restriction that no more land be disturbed . There is not a trail there. They could put a trail in the Conservation Restriction in case the town acquires this piece – thin woods – have addressed the items talked about – DPW – has a problem with puddle at the existing driveway – Ken wants a catch basin put in at the entrance – client has a problem – mingling town water – it is water from the street – there is a problem for dpw – the area can be maintained by the private individuals – cannot tie to the town – can only connect to their system – could just rebuild a piece of the street to make the gutter flow – concern that bill domey and us have a problem – it is doable – could cut out a piece and regrade and pave

Wright – driveway goes up from the road

Rick – hafve a catchbasin 10 feet up – from street will go up – would prefer that they do some work on the road to the satisfaction

Wright – are all of Dale MacKinnon's issues of 2002 addressed

Rick – proposing a sewer extention to a high point on the driveway – water will be individual services – no hydrants – sewer – one pump and on gravity – give the town an easement over the row – do not normally address gas because cannot always know if gas

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company – it would be an individual service – would address letters of Dale – parcel A – small piece that ends up being common – could offer to the neighbor or

Steve – include in common ownership of the road

Wright – trail

Rick – sort of a trail goes where the house is so would reestablish

Wright – on the property include the trail on the property on the right from Hinkley Pond – slope down

George – plan ahead on

Rick – can identify the line with some bounds – would be in the flat area

George – did the concomm have question about taking title – how would they restrict about riverfront

Rick – that is a deed restriction – an enforcement issue with concomm

George –

Rick – may have some identification of the line for the commission

George – right of the public to access

Rick – within that area

Wright – covenant about regarding and tree removal to be prepared - talking in general for further removal – back area is the most effected

Rick - is already protected – the road and driveway aligns with the street – waivers on the plan – (read) as on the plan

Wright – could we see the no waiver plan – there was some discussion about traffic – are there any waivers for sight distance

Steve – so little traffic

Rick – believe have the sight distance – met with concomm last week – have BOH –

Wright – operation and maintenance agreement of the basins

Rick – two catch basins – each to a homeowner – and commonly responsible for the water quality structure

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Wright – infiltrators for the house accessible

Rick – can put risers up to them – can look down to see if clogged – would have to go back over a period of years

Continue hearing until October 20<sup>th</sup> at 8:15 pm. So voted

Deadline to October 31<sup>st</sup> so voted

OLD BUSINESS

Lilac Lane

Wright – have had communication with Riccardi – still holding money – went on record that work is not sufficient and made difficult – work done on the side of the driveway – the area on the left – you have altered the grading added trees and deleted a swale in the front lawn which has been filled – it did serve a purpose for the drainage of the subdivision – some of the work done does not meet the requirements of the homeowners and deed restrictions –

Elissa – areas

Johannanatha Indbinder – 2 Lilac Lane – work that was done – all was loaming and hydroseeding – would not be satisfied – did not alter anything below the driveways – there was a swale in front of the house that was not connected to anything – nonfunctioning structure – did fill that in – front yard was not part of the drainage easement – have not altered the contours of the basin

Wright – would have to go back – would have to survey and base on that – what he had out there was not – swale bill domey – need to go back – there was specific area that was suppose to be lower depressed area – west of the hydrant – there was a purpose for that and it has been filled in and level off

..... One Lilac lane – pond near the driveway – the area never drained so stagnant water – concern for disease – discussed with Mr. Domey who said remove the hazards and make a dry well in the center – there were two drainage structures – no water to go into that area – two big drainage structures

Wright – there was a section at the bottom of the driveway – swale was necessary – plan that board approved shows a depression – it was meant to take care of the -

Dr. Villa - blue diamond there and area was filled – ex

Wright – according to plan there is suppose to be built

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Inbinder – if were going to seed it it needed to be done – reading of the subdivision – Mr. R has not met what he is suppose to do – sounds – for him to say

Wright – just saying trying to make him accountable – the man does not respond

Indbind – \$2500 – not adequate

,,,,,, 3 Lilac LANE – SHOCKED by how the situation is gone – come to the meeting – berating for work done – occupancy permit held 9 month – had the money and should not have released – you could have done it well – the street is a mess – fire hydrant was installed – with no culdesac – disappointed could have done a better job

Dr. Villa – a few questions – as coming to a close – have a few jobs that should have performed – those jobs included – the fire hydrants – only one was raised – concerned safety hazard – not properly installed – several documents that the driveways should have two pavements – three top coats for the driveways are outstanding – down spouts on his prolert – town agreed the two down spouts were to be done bny the buildier – landscaping – Mr. r God will bring green – he put stone - how come we have all these outstanding

Wright – tried to get all the issues on the table – had multiple meetings – a lot of effort was made on the part of the board to get the work done – since then the grass did not take – many of the things were done – would have to go out to full bid – eeveryone involved – now additional things are getting added to the list

Elissa – Wright has spent a tremendous amount of time out there

Dr. Vill – still a few outstanding jobs that are to be done – call the default

Steve – just the process will cost more – could call it quits

Ellissa – legal proceeding – drainage ststructure – need to go back and look –

Wright - involved in all the meetings - to be

Dr. Villa – never knew when meetings – time

Elissa – got to a point last spring had believed on what was left to be done – from our engineer and the hojmeowners

Inbinder – 2002 – Mr. MacKinnon

Elissa – that is the process – if other things reappear – need to take the current status –

Dr. Villa – asked question about landscaping

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Elissa – your view of what looks good may not be the same as what is on the plan and what is necessary

Dr. Villa – result on the right side

Elissa – not disagreeing about that – having heard your comment here tonight – take underadvisement –

Steve – question of he give us the money – get the money

Elissa – discuss with town counsel

Inbinder – if need to visit the original driange plan – look at large basin structure by the driveway – there is always standing water – mosquitos – never dry up – skunk fell into drainage basin - concerns that small child could crawl – there is a list to put

Wright – Bill Domey

Dr. Villa – concern about working

Steve –

Inbinder – very small

Dr. Villa – concerned about the one that is near the street – has a hole in it – collects most of the water

Inbinder – different size - ? working as designed

Dr. Villa – concerned that the one at the bottom will sink

George – was study

Dr. Villa – warranty

Inbinder – mortar and rock is crumbling – did not come here to be told we need to redo the landscaping – do not think

Wright – are where we are there is a whole sequence of events to get where we are – acted on behave – take it under advisement and talk with town counsel.

Mrs .... – do something with the fire hydrant

Dr. Villa – priorities – would want the sstructures and the hydrant and will do own landscaping

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Wright – do not want to negotiate without support

Elissa – take under advisement and talk with town counsel

George – buffer on Woodcliff

Steve – every time they violate – we change conditions - if he has violated then do it –  
never will do right – same issue – still not fixed down to Boyden

Closed at 11 P.M.

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Meeting convened by Chairman Franco at 8:00 p.m.

**MEETING WITH ED MUSTO**

Ed Musto from the Erik Road subdivision, the approved subdivision. Stated there was a memo that circulated regarding how the plan that was circulated was different from the plan that had been approved by the Planning Board. It is different. What has changed is a piece of land which has been granted into him by the Colwell's. It is merged with lot #5 making the shape of lot number 5 and the area of lot number 5 different from what was shown on the approved plan. He said that and maybe a couple of bearing changes and lot lines, and other than those changes, it is the same plan that was approved by this Planning Board back in March. He stated he just wanted to come and clear that up.

Chairman Franco asked what was the reason for wanting to add this property. It doesn't have its own name. It is part of lot 5, but, when you look at the plan it looks like an extension of Quarry Road. What is the purpose of that? Is there some other motivation here? Is there something else that you are looking into the future that we should know about?

Mr. Musto responded, No, No, No he is not looking into the future for anything. Obviously he is not trying to cut his own throat here, cut off my nose to spite my face. He said that is a piece of land which Mr. Colwell had an obligation to deed over to him. He added that it goes back to 1995. He added that he has owned that piece of land since it went on record in 1997 so he has owned it since then. It has to be shown on a plan.

Chairman Franco said the Board's information was that Hoover Realty Trust is still paying taxes on it currently.

Mr. Musto responded that they might be, but, this is the deed right here deeding it to him. (A copy of which has been placed in the file.) He continued that that was something else that also came up whether or not, who was paying taxes on it.

Chairman Franco stated that it is currently Hoover Realty Trust.

Administrator Cronin added that the Assessor's records (last week) show that it is Hoover Realty Trust. They do not have any deed to the contrary.

Mr. Musto went over the plan pointing out parcel "c"

Chairman Franco asked that other than just wanting to add it to lot 5 ...

Mr. Musto added that "we" have to look back in the scheme of things and understand how this piece came into existence. He asked to take a few minutes of the Board's time to explain. Back in 1996 the Planning Board denied his subdivision plan. He had an agreement with Mr. Colwell that, in the event that the Planning Board did not want to grant him the waivers he needed for that plan, that Mr. Colwell would deed over to him the parcel of land necessary to make his subdivision conform to the Planning Board's Rules and Regulations.

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At the time the Planning Board denied his plan, his obligation was to deed over that piece of land – so that is why he owns that piece of property.

Mark Cerel added questionably in order to give you a through connection to his subdivision.

Chairman Franco stated she thought that the earlier decision was that there was no through connection.

Mr. Musto responded that is where it gets at the timing.

Mr. Cerel stated that whatever the legal significance it was not back then. It is irrelevant of the fact that he still owns it now.

Chairman Franco stated there is a condition on the Quarry Road subdivision of no further connection.