

PRESENT: Patricia Hacker, Chairman
David Stringfellow, Vice Chairman
Margaret Andrzejewski
J. David Early
Jeffrey Mendola

EXCUSED: Michael Pohl

ALSO:	Dennis Kramer	Code Enforcement Officer
PRESENT:	Frank Lisowski	Deputy Code Enforcement Officer
	Michael Metzger	Deputy Town Attorney
	Brien Hopkins	Councilman – Town Board Liaison
	Dennis Mead	Councilman
	Mariann Hooper	CVS Pharmacy
	Steve Kohler	CVS Pharmacy
	Dana Darling	Applicant – Darling Subdivision
	Garrett Hacker	Engineer – Darling Subdivision
	John & Sue Wolski	Darling subdivision

MINUTES

Mrs. Hacker asked if there were any corrections or additions to the minutes February 10, 2004.

Mrs. Hacker: just one comment, I want to amend my statement on page 7, where I stated to Mr. Kohler that “the site plan was acceptable,” I did not mean that the site plan was acceptable and completed, I meant that the procedure that he was following was acceptable. With that addition Mrs. Hacker made a motion to accept the minutes, second by Mr. Stringfellow. All in favor

CORRESPONDENCE

Chairman Hacker reported the following correspondence:

- Letter dated February 11, 2004 to the Town Board with the Planning Board recommendation for appointment of Richard Hody as the regular member, and David Bernas as the alternate member.
- Letter February 5, 2004 from Erie County regarding training program and request for Planning Board input on future training.
- Town Board minutes of February 4, 2004.
- Other correspondence to be read at agenda point.

7170 BOSTON STATE ROAD – CVS PHARMACY

Mrs. Hacker: I had a member of the North Boston Fire Company contact me regarding the demolition of the building at this location. Mrs. Hacker asked Mr. Kohler to give the fire company consideration when it comes to demolishing these buildings.

Distribution and review of the packages that were hand delivered earlier this evening.

Mr. Kohler: I picked up all the comments that your engineer had, we modified the signage to match what we discussed last meeting, have reduced our signage to what the Town will allow with the variance and we basically have:

- One pylon sign located along Boston State Road
- There will not be a sign on Zimmerman Road
- There will be an enter sign, but it will be a directional sign, it won't actually say CVS on there
- The two CVS signs is what we're going to ask for in the variance and for the signs that say one-hour photo and food shop on the side of the building. We believe that meets the code.

Mr. Early: what is changed then?

Mr. Kohler: we eliminated signage across here, so now we have CVS on two corners of the canopy, and these two here is what we will be asking for in the variance.

Mr. Early: so in essence all you have done is take off the duplication of signs on one side, that's all you've done.

Mr. Kohler: correct.

Mr. Lisowski: no monument sign,

7170 Boston State Road – CVS con't.

Mr. Kohler: no monument sign, we'll only have the one sign on Boston State Road, a pylon sign.

Mrs. Hacker: which three are being omitted?

Mr. Kohler: the three on the left side elevation, specifically one-hour photo, drive thru pharmacy and food shop are being omitted on the left side elevation.

Discussion followed regarding directional signs.

Mr. Early: how many signs do you see that they still have?

Mr. Lisowski: they have five, right now. Three are permitted. Two additional signs are permitted through the variance process for a total of five. They are applying for a variance for the other two – drive thru and food shop.

Mrs. Hacker: there is no sign at the front by the road?

Mr. Kohler: there is one sign on Boston State Road.

Mrs. Hacker: doesn't that make six?

Mr. Kohler: (pointed and counted signs)

Mr. Early: you're counting the drive-thru over the canopy as directional?

Mr. Kohler: correct.

Mr. Stringfellow: is it really necessary to have two signs right next to each other that say drive-thru pharmacy?

Mrs. Hacker: this isn't what you have in Williamsville, it's not what other towns have, and I really don't see any change at all.

Several discussions around the room.

Mrs. Hacker: we were at 362.75 square foot and it's going to drop to 310, not a big difference.

Any other comments on it?

Mr. Stringfellow: does the square footage meet the requirements for percent of coverage?

Mrs. Hacker: yes, it is within square footage requirements, but that doesn't mean it's the look that we want. I don't see the necessity for all this signage.

Chairman Hacker asked that the package delivered tonight be forwarded to Mr. Brox, Engineer Scott Kinsman, and to Mr. Pohl for their review.

The Secretary asked for a list of signs that are to be considered directional.

Mr. Stringfellow: I think at this point all we have here is the CVS representative's interpretation of signs that are directional. We might not agree.

Mrs. Hacker: Right, I think that's something for Mr. Brox and Mrs. Vacco to give us some guidance on.

Mr. Metzger: so I can relay this properly, five signs plus directionals.

Mrs. Hacker: the only change there is, is ~~one~~ the south side of the building, nothing else has changed, they eliminated about 55 square feet.

Mrs. Hacker: so we're now omitting the monument sign, correct?

Mr. Kohler: correct. We'll have one pylon sign out front that will say CVS on it.

Mr. Lisowski and Mr. Kohler discussed signs and descriptions. Mr. Lisowski pointed out the five signs to remain.

Mrs. Hacker: Butch, do you have anything more on this?

Mr. Lisowski: just a suggestion. That we try to give a recommendation from this Board, so that the variance can be applied for in a timely manner. The secretary needs the information by March 11, 2004, for a Public Hearing to be in April.

Mrs. Hacker: so we have to act on this at the next meeting?

Mr. Lisowski: to try to push this project along, so that CVS knows where we stand on it. I think for the variance process they would probably like to know before March 9, so they could apply for the variance, if that's what this Board is going to recommend.

3/9/04

7170 Boston State Road – CVS con't.

Mrs. Hacker: What is the timing of a variance?

Secretary Faulring: The Public Notice has to be in the papers two weeks prior to the Public Hearing. I have to have the application and all the papers on March 11, 2004 so that I can fax the public hearing notice by 5:00 PM. on Friday, March 12. It's published in the *Hamburg Sun* and the *Springville Journal*.

Mr. Early: Butch, what they're asking for in the variance can be determined by what you know to be required as signage. What we want and what they're going for in a variance are two different things. We need to find out exactly what they have to ask for in the variance.

Mr. Lisowski: They are entitled to three signs. They can apply for that on the permit, which I can grant. They would like two additional signs, they want the variance for the additional two. I would like to put them all under one sign permit. If this Board makes a recommendation to the Zoning Board of Appeals, I guess I'm just trying to keep the project going so they know which direction they're going in. I can wait to the day before the signs are put up to issue a permit. But I think they would like to know, without assuming what the Planning Board's recommendation is.

Mr. Early: What is and what isn't a directional sign?

Mr. Lisowski: open to interpretation, there isn't anything in our code that specifically is called directional, is 'pick-up'? Is drop-off?

Mr. Kohler: it also includes the exit sign in the backside of the drive-thru to keep traffic moving in that direction to avoid any conflict at the drive-thru.

Mr. Lisowski: I think the way it's set up for the drive in, you need some informational or something to refer you to the correct line to go through.

Mr. Early: so they're advertising drive-thru pharmacy and written right next to it is drive-thru pharmacy, again.

Mr. Lisowski: in my conversation with Steve, the one sign will say drive-thru pharmacy, that's an information sign telling you they have a drive-thru pharmacy. They are willing to seek the variance for that sign, but when you get in the lane for the drive-thru, one lane is for drop-off, the other lane is for pick-up. In other words, to eliminate cars backing up you would know which lane to go through. Is that informational?

Mr. Early: that's obvious, and it's necessary. But is it necessary to have a big sign right next to a sign advertising to the public that they have drive-thru pharmacy?

Mrs. Hacker: I believe that since the current CVS doesn't have a drive-thru, everyone will know that there is a drive thru, and I don't think that we need the amount of signs that we have here. And, as we just received these plans tonight, we won't be making any decision tonight.

I have some notes from Mr. Pohl noting that there will be a change in the letter from the Town Engineer after he reviews the updated plans. He also asked me to relay to you, the wall that is noted on the west side of the retaining wall, is very important that we maintain that, apparently there was some discrepancy in the original plans to them.

Mr. Kohler: the original plans called for an alternate of either topside grading or a retaining wall.

Mrs. Hacker: correct, and he seems to feel the retaining wall totally essential.

Mr. Kohler: I may not personally; but we are working with the adjacent landowner.

Mrs. Hacker: I thought you owned both lots?

Mr. Kohler: that's off the parcel that we own.

Mrs. Hacker: he was under the impression that it was on your side of the property line.

Mr. Kohler: if the retaining wall goes in, it will end up on our property. If we don't put the retaining wall in we will grade it to the adjacent property.

Mrs. Hacker: what I was getting from Mr. Pohl is the retaining wall is essential. We will wait until we get the word officially in their report.

Mrs. Hacker: everybody please take the time to review these plans. It looks as if, once again, that we are being put under the gun to hurry up and do something, and I don't feel that we should have to do that. We've been pushed like this before and I don't think it's in our best interest, or the Town's.

Mrs. Hacker: I would like to table this until we receive the engineer's review and Mr. Brox's review, and we have all had time to look at this new package.

7170 Boston State Road – CVS con't.

Mr. Early: are there any other issues to be discussed tonight?

Mr. Kohler: the only issues that I was aware of are those in the Brox letter, and I've addressed those. We do come down to whether the retaining wall goes in or not.

Secretary Faulring directed the members to Mr. Kohler's letter that was included in the package distributed this evening.

Mrs. Hacker recapped the change in signage.

Ms. Hooper: is there going to be a difference in what is allowed by code, and what you're going to allow? What are we working against, a code issue? Because if we meet the Code for percentage of building area, is that going to be the determining approval?

Mr. Lisowski: I would like to send my permits in, and ask the recommendation of the Planning Board on all new signs, and I listen to the recommendations and the concerns that come from them, and relay those concerns and recommendations to the applicant. Right now the way I see the three signs, they are legal and permitted by Code. But I'm asking for input here on anything different than what has been applied for, for instance if they are lighted. I respect the recommendation of this Board.

Mrs. Hacker: if this is a twenty-four store and these signs are lit for that length of time there is going to be a big issue with that.

Mrs. Hacker: is there anything in Code about 24 lighting?

Mr. Lisowski: not 24 hour, no.

Mrs. Hacker: my understanding after talking to the Town Attorney, is that would have to be discussed because it's not addressed in the Code.

Ms. Hooper: is it possible, while we are trying to compromise and agree on the appropriate signage, that we can continue on the construction plan that we had in place, in other words to start the demolition, since there doesn't seem to be anything wrong with the engineering and construction part of it, other than this retaining wall.

Mrs. Hacker: the demo issues don't affect us, but we have by no means accepted the site plan. We still have questions and the engineer hasn't even seen this package received here tonight.

Mr. Kramer: you will be making a recommendation on the site plan, and generally that's a referral to the Town Board, and once a site plan is approved, the Town Board will probably authorize the issuance of a building permit. I would think that they could go ahead and start some preliminary work.

Ms. Hooper: is it possible to get the site plan approved at the next meeting?

Mrs. Hacker: I can't say that it will or won't be done at the next meeting. There may be other questions that need to be answered. I don't see why you can't go ahead with demolition; there are still issues that remain with the retaining walls and of course the signage.

Mrs. Hacker: is there a motion?

Mr. Stringfellow: I will make a motion to table discussion until the March 9, 2004 meeting, second by Mrs. Andrzejewski. All in favor.

8032 BOSTON STATE ROAD – MARTIN BARRETT

Mrs. Hacker: We have asked Mr. Barrett to make a change in parking in front of the florist and the restaurant, but nothing has been submitted as of yet. However, following the last meeting, I was asked to find out about the powder coating business. Is this now manufacturing, is this a change of use. And my understanding is that powder coating uses chemicals, there is a ventilation issue, and there is a disposal of chemical issue that we should have addressed.

Mr. Stringfellow: do we know when this went to a powder coating business.

Mrs. Hacker: no, we don't have this information. It never came to us.

8032 Boston State Road – Martin Barrett, con't.

Mr. Mendola: I asked that question of you. Only because we had a motorcycle dealer who does repairs and has all that same sort of stuff, and now we're going to a single parcel with an existing use restaurant, and retail and, if it turns out to be manufacturing, we have a whole bunch of uses on the same site.

Mr. Metzger asked for a list of the business types at this location.

Mrs. Hacker: the florist in front, the powder coating in the rear of the same building, and a restaurant in the other building.

Mr. Early: and now there is a request for the restaurant to reopen.

Mrs. Hacker: as Mr. Barrett is not here, and no further information has been received, I would like to table this issue, until we get a recommendation from the Town Attorney and more information from Mr. Barrett.

Mr. Mendola: when is the 90-day temporary permit up?

Mr. Kramer: around the beginning of March.

Mrs. Hacker: there is no problem with the florist, I don't think this should in any way hold up their permit. Their paperwork has been before us and so has the sign.

Mr. Stringfellow: the 90 days are up. Something has to be done.

Mrs. Hacker: but it should not be done to the florist.

Mr. Early: the florist is why it's here.

Mrs. Hacker: the florist applicant has done what we've asked, except for the parking, which Mr. Barrett agreed to have changed. We'll have to get an opinion from the Town Attorney. Mr. Barrett may be waiting for someone to provide the new parking configuration to him, before he can get to us.

Mrs. Hacker: I'll make a motion to table discussion, seconded by Mr. Mendola. All in favor.

BOSTON HILLS LLC – GARY ECKIS

Mrs. Hacker read the letter from Town Attorney Vacco that was hand-delivered this evening.

Mrs. Hacker asked that this letter be sent to all members with the next mailing and that a copy be made part of the Eckis file.

Mrs. Hacker: so it looks like the issue with the pond has been addressed, hopefully with warmer weather the paving on the turnaround will be completed,

Mr. Stringfellow: Has the Town Attorney addressed the fact that Mr. Eckis is asking to put two more driveways off that 't' turnaround that are not there now.

Mr. Kramer: Mr. Eckis indicated to me that he met up there with Highway Superintendent Kreitzbender, and Wayne approved the two driveways.

Mrs. Hacker: I think once it is paved as to the way it was on the map will alleviate some of the questions as to the turnaround.

Mr. Kramer: I think that one of the points that was maybe missing is the fact that the Town accepted Deer Run, and the 't' turnaround, and I don't believe there was any stipulation on there that stated that there couldn't be a driveway off of the 't', when it was accepted by the Town Board. So the Highway Superintendent says 'there can a driveway here and a driveway there, and it won't interfere with my plowing.'

Mrs. Hacker: Mr. Eckis seems to be in agreement that it was never paved as the way it was accepted on the map, and so, will be done with good weather.

Discussion between Mrs. Hacker and Mr. Kramer determined that there would only be one more additional driveway coming off the 't'.

Mr. Kramer: the parcel with the pond will not come off the turnaround. There will only be one additional driveway.

Mrs. Hacker: so the question to our Town Attorney is, 'is it feasible to put one more driveway on that turnaround, and would Mr. Kreitzbender determine that or the Planning Board?'

Mrs. Andrzejewski: I have a letter dated November 24, 2003 from Mr. Kreitzbender in which he states, 'according to Town policy, no driveway is to be installed with 50 feet of a turnaround.'

Boston Hills LLC – Gary Eckis

Mrs. Hacker: how much frontage is on that property.

Mr. Stringfellow: there are two properties that he intends to sell that will have to driveways off the 't', not any feet away from the 't', on the 't'.

Mr. Mead: my initial thought is that the 't' turnaround was not done right in the first place. But more importantly he wanted to combine two properties or make one property larger, and it was my understanding that the Board had agreed that nothing would be done, until the turnaround was done first; and if another piece of property was going to be put on there a cul-de-sac was going to have to be built.

Mr. Stringfellow: and now he's saying that he can't make a profit if he puts in a cul-de-sac.

Mr. Mead: my question is, does a putting a driveway to the first one, or just one, without affecting the other piece of property affect the subdivision? I know the second one would affect the subdivision and the property line and the frontage.

Discussion followed regarding the two lots that Mr. Eckis has buyers for.

Mr. Kramer: my understanding is that he wants to take the lot with the pond and add the 26-acre parcel to it. I talked to the people that bought the parcel with the pond, and told them that a building permit could not be issued to build a house way back here. He has no road frontage for the 26-acres, it comes to a point. So the only way he can deal with that is to sell it to an adjoining property owner. So the driveway for Lot #23 is not going to come off the 't' he has one driveway already for that property. The piece he has left is this 6-acre piece and that's where they want to put an additional driveway off the 't'.

Mr. Mendola: but that piece of property is not part of the subdivision and he was told it could be part of the subdivision if he put in a cul-de-sac, and he refused to put in a cul-de-sac.

Mr. Kramer: but it doesn't have to be part of a subdivision if it has road frontage.

Mr. Stringfellow: but he is selling 5 lots and that makes it a new subdivision

Discussion followed regarding the 5 additional lots

Mr. Kramer: the way New York State Subdivision is if it's over five acres, it's not considered a subdivision lot, anything under is considered a subdivision lot. You can sell 4 parcels in a three-year period and then wait, and then you can sell four. However, if you sell 5 in a three year period, that are under 5 acres, then you have to apply for New York State Subdivision rights. I don't know if the Town of Boston says 'if you split a piece of property 5 times, you have to apply.' We haven't as past practice. He continued by describing the parcel that has frontage on Rice Road

Discussion followed.

Mr. Metzger recapped three issues to refer to Mrs. Vacco:

- is it feasible to place another driveway on the 't' turnaround
- who had jurisdiction, the Highway Superintendent or whomever
- does this trigger the necessity for a cul-de-sac

Mrs. Hacker made a motion to table further discussion, seconded by Mrs. Andrzejewski. All in favor

PROPOSED DARLING SUBDIVISION

Mrs. Hacker distributed the package that was received at the Town Hall on February 13, 2004.

Mrs. Hacker referred the members to the letter from Garret Hacker, E & M Engineers and from Scott Kinsman at Foit-Albert, dated February 24, 2004.

Mrs. Hacker relayed memos made from a discussion with Mr. Pohl:

- imperative to address wetlands - clearer delineation on the map (Lot #23)
- identify if they are federal or state wetlands
 - Mr. Hacker: they are both Federal
- Suggested that the Engineer Kinsman and Supervisor Eagan be in attendance at the next meeting
- Look at closed drainage issues

Proposed Darling Subdivision, con't.

- Refer to Section 104 – 15: 'After approval of preliminary'
- Recreation requirements
- Storm sewer maintenance districts

Mr. Early: how are you going to look at this in so far as Phase I and Phase II?

Mr. G. Hacker: Phase I will be the western portion, the temporary turnaround will be placed at the end of proposed Phase I where it joins Phase II. Utilities would be in place for both Phases.

Mr. Early: Why are you going this way?

Mr. G. Hacker: for the ease of selling lots, from the Wildwood end.

Mr. Darling: I don't think it matters which Phase we'd start. The utilities have to be in for the whole thing first, because they all tie in.

Mr. Early: I don't see how we can look at this as Phase I, Phase II, it almost has to be looked at as total, maybe not the roadway but the rest of it.

Mr. G. Hacker: it'll be just the construction that will be in the phases, the design was complete for the whole subdivision.

Mr. Early: so when it gets to approval, it would be for the whole subdivision.

Mr. G. Hacker: it would be for the whole subdivision.

Mr. Mendola: what is the angle of intersection of Road 'A' to Boston State Road.

Mr. G. Hacker: it's more than 75 degrees

Mr. Mendola read from Town Code Section 104 –29, specifically G and J

Mrs. Hacker: Mr. Brox recommends that the new road line up across from Omphalius Road.

Discussion followed regarding the positioning of the subdivision road, and recommendations for safety purposes.

- A large berm
- Removing a lot and creating a green space

Chairman Hacker: any other questions for Mr. Hacker or Mr. Darling.

Mr. Kramer: this Board did recommend rezoning for an R-1 subdivision right?

Mrs. Hacker: yes.

Mr. Darling: has that determination been made on the zoning yet?

Mr. Mead: No, and I don't know when that will take place.

Mr. Early: except for the property on Wildwood, it's all R-A zoning?

Mr. Darling: yes, except for the two lots coming off Wildwood, that is R-1.

Mr. Mead: part of the concern of the Board was that, once the Board turns it over and rezones it as R-1, then it is out of the Board's hands and the Town is subject to any Codes that has to do with subdivisions. The subdivision is in the complete jurisdiction of the Planning Board, so it would no longer be in the Town Board hands once the rezoning is done. The concern of the Town Board was that some of the subdivision laws were changed to address the issues that we had problems with in Hickory Meadows, with the drainage and other issues. That law was passed.

Mr. Mendola: Mr. Brox also brought up, 'if Phase I is done first, all the construction traffic will be going up Wildwood as opposed to a temporary road coming out to Boston State Road.'

Mr. Darling: I have thought about doing the top part first, Wildwood might have a better selling point for the seclusion, but you can see it better from the State Road.

Mrs. Hacker: The Town Board is concerned with the small lot sizes. The Town Board's opinion of road placement differs with that of the Town Planner, they would prefer that the two roads do not line up.

Mr. Mead relayed the Town Board's concerns:

Proposed Darling Subdivision, con't

- Safety of the residents. The Town Board would like to see the installation of some type of berm with fence and trees
- The amount of lots, we're looking at a lot more water, garbage pick-up and this expense is not recovered by taxes
- The only other concern was it coming off of Wildwood, which you're already addressing
- We don't want the same type of thing as we have at Hickory Meadows, no trees.

Mr. Darling: we could ask for some kind of deed restriction to take of that.

Chairman Hacker: any other questions?

Mr. Stringfellow made a motion to table discussion, seconded by Mr. Mendola. All in favor.

Mrs. Hacker asked that a letter be sent to Scott Kinsman and Supervisor Eagan asking their attendance at the March 9, 2004 meeting for discussion on the proposed Darling Subdivision.

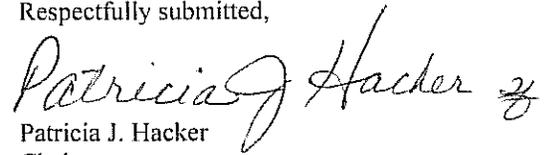
CODE ENFORCEMENT OFFICER KRAMER

No report or any further comments this evening.

Chairman Hacker asked for a motion to adjourn.

Mr. Mendola made a motion to adjourn at 9:25 PM. seconded by Mr. Stringfellow. All in favor.

Respectfully submitted,


Patricia J. Hacker
Chairman

PJH:tjf