

Call to Order:

The meeting was called to order at 7:37 p.m. in the 3rd Floor of the Town Offices. Present were Chairman Zach Bergeron, Members Vinnie Chiozzi and Joan Duff and Associate Member Austin Simko; also present were Paul Materazzo, Director of Planning, Jacki Byerley, Town Planner and Tom Urbelis, Town Counsel.

Frederick Drive:

Mr. Bergeron opened the public hearings for Frederick Drive, an application for a Modification of a Subdivision and a Special Permit for Earth Movement.

Don Borenstein of Johnson and Borenstein, representing applicants Mark and Phillip D'Annolfo stated a 9-lot subdivision was approved for the site off of Rocky Hill Road in 1958. In 1961 the Town purchased the last lot at the end of the cul-de-sac. Some grading work commenced but the construction of the subdivision never went forward. This application is to modernize the standards of the subdivision including the roadway and utilities. The modification does not affect the layout of the road. There will be one lot line change. The plan is being revised further from the IDR comments. The applicants have had their first hearing with Conservation with their second hearing scheduled for September. The Board of Health has issued an approval.

Dennis Griecchi of Andover Consultants, Inc., the engineer representing the applicants, stated that the layout of the right of way will remain unchanged with the pavement and utilities being brought up to current standards. An 8 inch sewer main and an 8 inch water main will be brought up Frederick Drive from Rocky Hill Road. The water main will be looped per the Water Department. The stormwater management system will meet all current stormwater standards of the Wetlands Protection Act and will consist of deep sump hooded catchbasins in the right of way, a water quality unit, a Stormceptor 900 unit, and an infiltration basin to control peak rates of runoff. The existing dwelling will also connect into the Town sewer and its septic system will be abandoned.

Ms. Byerley noted that the plan shows the sewer main stopping at the last two lots. She suggests that the sewer and water mains should extend to the end of the cul-de-sac to allow for two stubs at the lot that the Town owns. A peer review on the stormwater report has been initiated with Dan MacRitchie. He will be performing a separate review of the Notice of Intent that has been filed with the Conservation Commission. The applicant will need to obtain a grading license from the Town in order to perform necessary grading outside of the easement area of the cul-de-sac. Attorney Borenstein stated that his client has been granted a temporary grading license by the Board of Selectmen that will go into effect when all necessary approvals are granted by all Boards.

Mr. Chiozzi questioned the cul-de-sac's location on Town owned land. Ms. Byerley confirmed the applicant has an easement to construct the cul-de-sac. She requested that Attorney Borenstein be prepared to discuss how the road will be accepted as a public way for a future meeting. Attorney Borenstein added that the applicant has the easement with the right to construct the roadway per the 1958 subdivision plan. Mr. Chiozzi questioned how the applicant will have the right to convey the street to the Town when the applicant does not own the property that the cul-de-sac is on. Attorney Borenstein stated that the Town already owns the underlying

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fee, and if the Town still owns the underlying fee when the roadway is accepted, the rights in the roadway would be conveyed in the usual way to be accepted as a public way.

Mr. Simko asked why the parcel was deeded to the Town in 1961. Attorney Borenstein stated that he did not know for what purpose it was conveyed, but the Town owns various parcels in the area. He added that when he went before the Selectmen, he showed them how the Town owned parcel could be layed out as two building lots. The applicant is willing to bring utilities to that parcel. Mr. Chiozzi noted that this plan does not show the parcels as lots. Attorney Borenstein stated that it is one lot and the applicant does not propose to put two lots on this plan. Mr. Simko again questioned why the Town wanted the land. Town Counsel Tom Urbelis stated that the property was purchased for school purposes per a 1957 Town Meeting vote. The Bancroft School was eventually built in that area. He added that the property may be in the control of the School Committee, not the Board of Selectmen. Attorney Borenstein stated that the Town Meeting vote was to purchase land for various purposes, and the 1964 deed was conveyed to the Inhabitants of the Town of Andover. Mr. Bergeron noted that it is important for the Board to be assured that the cul-de-sac can be located where it is shown on the plan. Mr. Chiozzi added that it is very important for emergency vehicles to be able to turn around in the cul-de-sac. He wouldn't want the owner to want to develop the land in the future, and then no longer have a cul-de-sac. He questioned what obligated the land owner to keep the cul-de-sac in place. Attorney Borenstein stated that the easement gives the applicant the right to construct the cul-de-sac and for the cul-de-sac to remain in perpetuity. Mr. Simko asked if the easement was granted at the same time that the land was deeded to the Town. Attorney Borenstein stated that the deed to the Town reserved the easement.

Ms. Byerley stated that the Water Department has to approve the water line being looped back to lots 14 and 15 as shown on the plan. Mr. Griecci stated that the plan shows a 6 inch main looped around to Rocky Hill Road. There were comments at the IDR that the 6 inch it should be looped around in that way, and then connected into the 8 inch main in Linda Road. Mr. Griecci stated that he is speaking with Morris Gray of the Water Department as to how that could be achieved. Mr. Chiozzi asked if the water main can be looped to Black Horse Lane through a reserved easement. Ms. Byerley stated that Black Horse Lane is looped to Charles Circle, and she did not know of a reserved easement. Mr. Chiozzi stated that Black Horse Lane has an easement along the back property line to Route 125.

Ms. Byerley asked Mr. Griecci if they plan to provide sidewalks. Mr. Griecci stated that there will not be sidewalks in the subdivision because the original plan did not have sidewalks and there are no sidewalks in Rocky Hill Road. Ms. Byerley advised Mr. Griecci that the applicant will have to request a waiver for the sidewalks.

Ms. Byerley informed the Board that the DPW issued a three page memo of items to be addressed. Mr. Chiozzi asked if there have been any improvements to Rocky Hill Road, as it is a very narrow road. Mr. Materazzo stated that the culverts were upgraded as part of the Black Horse Lane approval. Mr. Chiozzi suggested that the Board look at prior approvals for limitations on truck traffic. Mr. Bergeron asked if there is anything unusual regarding the

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Special Permit for Earth Movement. Mr. Griecci stated that they are not anticipating moving anything major off site.

Steve Cooper of 6 Rocky Hill Road stated that at there were some contested spots of wetlands with Conservation that are currently in court. He stated that no earth should be moved until the wetlands are determined. Ms. Byerley stated that no construction except for test pits can commence until the applicants receive approvals from both the Conservation Commission and the Planning Board. Mr. Chiozzi asked if the wetlands have been flagged. Ms. Byerley stated that they have been flagged. Mr. Cooper stated that it is in court because the applicant, Town and wetland specialist do not agree on the type and location of the wetlands. Attorney Borenstein stated that the applicant received an Order of Resource Area Delineation (ORAD) from the Conservation Commission. The ORAD included two isolated wetlands under the Town's jurisdiction. One wetland is in the cut for the road and the other is on the side lawn of the existing house. The applicant does not agree with the size of the wetlands and has appealed the determination. That appeal is now stayed because the applicant feels that they can satisfy the Conservation Commission, accepting their lines. The applicant has a Notice of Intent in front of the Conservation Commission using the wetland line approved by Conservation. The applicant cannot start construction until they have an Order of Conditions in hand.

Mr. Cooper stated that the neighborhood has lived through 10 years of construction with Charles Circle, Black Horse Lane and a large house on Black Horse Lane. Equipment is brought down the road and positioned as early as 3 a.m. Construction workers speed down the street going 40 mph in a 30 mph zone. A brook runs through the area and after the main construction of Black Horse Lane, heavy trucks damaged the 6 foot culvert. Rocky Hill Road is a narrow street that cannot handle the extra traffic and cannot be widened. He would like to see Rocky Hill Road made a one way from Linda Road to South Main Street. It is very dangerous and has become a quality of life issue. Mr. Bergeron noted that construction traffic can be regulated. Ms. Byerley stated that the Inspector of Buildings would enforce the regulations placed on construction traffic. Mr. Bergeron added that other traffic issues or mitigation can be discussed with the public safety officer. Mr. Cooper stated that he has spoken with Sgt. Chuck Edgerly, and has asked Sgt. Edgerly that if more traffic came could making a portion of Rocky Hill Road a one way be an option.

Katherine O'Neil of 12 Rocky Hill Road stated that she lives on the other side of the stream. Her property has recently experienced flooding from trees being taken down and falling down in recent storms. She purchased her property seven years ago and it was not wet until recently, the culvert would always work. Brian O'Neil, also of 12 Rocky Hill Road, stated that the topography of the area keeps changing, changing the dynamics of the woods. Ms. O'Neil noted that the subdivision was contemplated before the Wetlands Protection Act, and this amount of houses will have a huge impact on the neighborhood. She added that Frederick Drive is flooded whenever there is rain and the road has washed out over the years. The water has to be displaced somewhere and it will go down the hill to the stream, making the water issues worse. Mr. Bergeron noted that the applicant has to prove that the development will not make any existing water issues worse through stormwater management. Ms. O'Neil added that the construction traffic and noise is constant as is trash/littering.

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Greg Salois of 20 Rocky Hill Road stated that he is the abutter to the replicated wetlands and infiltration basin. He noted that water will be caught in the infiltration basin and then drain into the stream. He is concerned about the safety of children near a full infiltration basin.

Brian O'Neil of 12 Rocky Hill Road stated that three years ago the house at 18 Rocky Hill Road had three feet of water in the house because of the stream overflowing. If more changes are made to the neighborhood who knows what will happen. Katherine O'Neil also of 12 Rocky Hill Road added that the base of her property turned into a pond during the flooding. Mr. Bergeron stated that the stormwater peer reviewer will be present at a future meeting to discuss concerns and answer questions. Brian O'Neil added that the potential for additional home lots at the end of the cul-de-sac concerns him. He anticipates two more homes in addition to these six within a five year period. Ms. Byerley stated if the Town chose to sell that land for residential purposes it would have to go through a bid process. Steve Cooper of 6 Rocky Hill Road asked if the sale would have to go through Town Meeting. Tom Urbelis, Town Counsel stated that Town Meeting has to approve the sale of Town owned land.

Steve Cooper of 6 Rocky Hill Road asked about the time frame of the building process. He noted that there has been 10 years of building projects in the neighborhood. Ms. Byerley stated that she could not give an estimate.

Katherine O'Neil of 12 Rocky Hill Road stated that Frederick Drive comes out on a tight angle and she doesn't know how you could get a fire truck out of the street. Mr. Chiozzi asked if the Fire Lieutenant was at the IDR. Ms. Byerley stated that he was not. Greg Salois of 20 Rocky Hill Road had questions about privacy. He noted that the existing trees and bushes in the replication area would come down. He asked if there was a possibility of adding privacy bushes so that lights would not shine into his front yard. Mr. Griecci stated that it was something he could evaluate. Mr. Bergeron noted that any landscaping would have to take into account the sight distances from existing the street, but there are landscaping techniques that can assist.

Dave Howard of 21 Rocky Hill Road stated that his house is the 2nd oldest on the street. He noted that Officer Ota conducted a traffic study of the blind corner in front of Frederick Drive with the average speed noted as 38 mph. He is concerned with the volume and speed of traffic. He would like to see an island put in place that cars would have to go around to bring speed down. Mr. Chiozzi asked who is driving on Rocky Hill Road because it is not a through street. Mr. Howard stated that Rocky Hill Road is a cut through street and more convenient than Linda Road because there are less curves in the road. Nancy Circle, Linda Road, Charles Circle and Black Horse lane all use Rocky Hill Road to exit to South Main Street. Making a piece of Rocky Hill Road a one-way would balance out the traffic. He added that the road slopes down into the end of his driveway and there is a lot of surface runoff. Mr. Bergeron noted that the improvements to Frederick Drive would include catchbasins. Ms. Byerley added that the DPW has commented on the need for catchbasins at the intersection of Rocky Hill Road and Frederick Drive to catch the water. Mr. Howard showed where there is a standing water on an abutting property. He added that in regards to utilities, the poles on Rocky Hill Road are old and leaning. Mr. Griecci showed on the plan the existing poles that will stay in place and where the utilities

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will then go underground. Mr. Howard emphasized that a firetruck will not be able to exit the street easily and added that the lights of exiting cars will shine directly into his home.

Greg Salois of 20 Rocky Hill Road asked who would maintain the detention basin. Mr. Griecci stated that the Homeowners' Association would be responsible for the maintenance of the stormwater lot, basin and the replication area. Mr. Salois asked if the Town could take over the maintenance. Ms. Byerley stated that the Town has the right to inspect and to clean the detention basin but would not normally do so. She added that the Town requires that yearly maintenance reports be submitted as part of their Stormwater Management Plan.

The Board determined that at the next meeting the following topics will be discussed: sidewalks, ownership of easement, truck traffic, high construction area, traffic mitigation, fire safety/site distance/street entry and traffic speed and volume.

Brian O'Neil of 12 Rocky Hill Road stated that the opening of Andover Town Market has led to increased traffic and he would like to see a light put at the intersection of Rocky Hill Road and South Main Street. Mr. Bergeron stated that they will look at the entire neighborhood, not just one intersection.

Katherine O'Neil of 12 Rocky Hill Road asked if the same Town engineer who reviewed the Black Horse Lane stormwater will be reviewing this project. Ms. Byerley explained that the applicant hires an engineer to design the stormwater mitigation system, and then the Town hires an engineer to double check the design to ensure that it meets all regulations. Ms. O'Neil stated that she felt something was missed in the Black Horse Lane review or something happened in the area because her lawn is now flooded when it never was before. Steve Cooper of 6 Rocky Hill Road stated that the Montessori School happened.

On a motion by Mr. Simko seconded by Mr. Chiozzi the Board continued the public hearings for Frederick Drive Modification of a Definitive Subdivision and Special Permit for Earth Movement until August 23, 2016 at 7:45 PM. **Vote:** Unanimous (4-0).

Other Business:**Meeting Minutes:**

On a motion by Ms. Duff seconded by Mr. Simko the Board moved to accept the Planning Board minutes for the May 24th and June 14th meetings. **Vote:** Unanimous (4-0).

On a motion by Ms. Duff seconded by Mr. Chiozzi the Board moved to go into executive session for consultation with Town Counsel for confidential legal advice; and to discuss litigation strategy in Bernardin v. Andover Planning Board, et al. and Lauten v. Andover Planning Board, et al.; and the Chair declare that an open meeting would be detrimental to the Town's litigation strategy and not to return to open session. **Vote:** Unanimous (4-0). Roll Call: Mr. Simko yes, Mr. Chiozzi yes, Mr. Bergeron yes and Ms. Duff yes.

The Chairman so declared that an Open Session would be detrimental to the Town's litigation position.

Adjournment: The meeting was adjourned at 8:43 p.m.