

CITY OF WALTHAM
BOARD OF SURVEY AND PLANNING

The following are minutes of the 7:00 p.m., April 6, 2011 Board of Survey and Planning meeting held in the Auditorium of the Arthur Clark Government Center located at 119 School Street, Waltham, MA. In attendance were Chairman Creonte, and members Barrett, Callahan, DeVito, Duffy, Moroney and Tarallo.

Before opening the meeting, the Chairman introduced Mr. Stewart LaCrosse, Jr., the new Clerk of the Board.

The Chairman opened the Public Hearing at 7:00 p.m. He informed all that this meeting was being video taped by Waltham's local cable access channel and that there were sign in sheets at the front of the stage for each petition being heard.

The Clerk read the first item on the agenda which was for a Special Permit Curb Cuts at 36 River Street and Farwell Street. The Board must act on this petition by June 15, 2011.

Attorney Philip B. McCourt, Jr. came forward representing the petitioner TC Saracen, LLC. Mr. McCourt updated what had taken place since the previous meeting. There was a site view on December 1, 2010 at both River Street and Farwell Street proposed curb cut locations. Since that time they had appeared before the Traffic Commission at a number of meetings and had submitted a traffic report submitted by their traffic engineer which has been accepted by the commission. A member of the Board had suggested moving the curb cut on Farwell Street and Brian Beisel of Conley Associates having working with GPI, the city consultant on updates to the resignalization of the intersection. Mr. Beisel reviewed all the updates including left turns, right turns, and stripping of all lanes.

Ms. Callahan asked for the review of sidewalks and handicap wheel chair ramps per Wade Putnam's comments.

Mr. Beisel explained that they were building all new sidewalks and that there would be four (4) wheel chair ramps installed and reviewed all these locations.

Ms. Callahan asked if Stop and Shop will still be able to use the Farwell easement locations.

Mr. Beisel said that Stop and Shop currently is and will continue to use that right of way. Ms. Tarallo asked if there was a written agreement between the developer and Stop and Shop and would like to have a copy of that right of way agreement submitted to the Board for its files.

Mr. DeVito asked what the signage will be on the River Street right turn only egress to deter people from taking a left turn.

Mr. Beisel said there will be proper stripping as well as a clearly posted right turn only sign at that egress.

Mr. McCourt then reviewed that they had appeared before the Conservation Commission with the proposed design with the site and the Commission was very happy with the intent of the design for this location. The members had received a copy of the O.O.C. from the Conservation Commission in their packages for review. He also commented that they have been working with D.C. R. and that they are very supportive as well. If they were to obtain an approval from the Board of Survey and planning for the two curb cuts their next step is to appear before the City Council. The City Council has the final approval of the proposed 200-unit project and hope to appear before the Council mid to late fall of this year.

Mr. DeVito mentioned that he was concerned that the proposed benches located south of the project shown with standing lights appears to be too dark, and would suggest better illumination in some of these areas.

Mr. McCourt said these types of issues may be addressed at later time during the City Council approval and they will consider movement of lights at that time and will guarantee they won't make an unsafe area.

Mr. Moroney asked if the new paving markings will be placed upon new paving or what is currently there.

Mr. Biesel answered that during site construction and placement of new water and sewer and utilities that they will repave the street surface prior to all new stripping.

Mr. Moroney asked if they would be reusing any of the existing curbing when constructing the new sidewalks.

Mr. Beisel commented that they may reuse some curbing if it is good condition.

Mr. Moroney said he had some concerns regarding the street markings if coming east on River Street and taking the right turn onto Farwell Street with the thru lanes going across the left turn into the driveway access on Farwell and asked Mr. Beisel to go over this location on the plan.

Mr. Beisel responded that there will be proper stripping to direct traffic in that area.

Mr. Moroney commented that there will be 53-foot tractor trailers taking that left turn into that driveway access and doesn't feel that turn will allow enough room for that turn. He asked if that left hand turn can accommodate a tractor trailer. He asked how long the lane was. Mr. Beisel answered it was 320-feet long.

Mr. Moroney suggested adjusting the lane.

Mr. Beisel answered that it is 60-feet long but he will double check the analysis. He would also consider looking into adjusting the left turn lane.

Mr. Moroney asked how the trucks will exit this site.

Mr. Beisel answered that there this proposed project would not change the flow of trucks entering or exiting this site.

Mr. Moroney asked if it meets or exceeds all the national requirements.

Mr. Beisel answered that they meet all the national requirements.

The Chairman commented that he to is concerned about the tractor trailers turning into that driveway. He asked if there was room for another eastbound lane.

Mr. Beisel answered that there is no room in the 40-foot right of way to add another lane and with all the resignalization of the signals there is no need for an additional lane.

Per the Chairman's request, Mr. Beisel reviewed the widths of all the lanes

The Chairman asked why the developer couldn't use some of their land and have the right hand lane added.

Mr. Beisel commented that they would look into it.

The next discussion involved the peak hour traffic flow of the possible addition of 200-300 cars being added to the traffic.

Mr. Moroney asked who decided the fire lane right of way on the site location.

Mr. Beisel said the Fire Department chose the location.

Mr. Moroney suggested possibly taking 10-feet of the fire lane to add to the 4th lane.

Mr. McCourt came forward and reminded the Board that the site currently houses school buses that have been using this intersection and turn radius for years during these peak hours that were previously discussed. This intersection currently works well and with the improvements shown will work even better. He appreciates all the points and suggestions that have been brought up and will explore these ideas.

Traffic was further discussed.

The Chairman asked if they have any police reports indicating how many motor vehicle accidents have occurred at this intersection.

Mr. Beisel said, "There were four (4) crashes in that intersection in the past five (5) years."

The Chairman asked if it was at all possible to have an eastbound right turn lane from River Street into the entrance drive.

There were further discussions on all suggestions of the Board.

The Chairman then asked if there was a motion.

Mr. Duffy made a motion to accept the petition for the Curb cuts at 36 River Street and Farwell Street.

The Chairman asked for a second.

The motion was not seconded so it did not pass.

The Chairman asked if there was another motion.

On the motion of Mr. Moroney, seconded by Mr. Barrett, the Board

VOTED: to continue the petition at their next meeting of May 4, 2001 to allow the petitioner to investigate the following suggestions of the Board:

- 1. Two full length turn lanes on Farwell Street so that the full width of Farwell Street would be increased from three (3) lanes to four (4) lanes wide.**
- 2. Reduce the width of the fire lane on the east side of the building in order to utilize the land on the west side of the building to increase the width of Farwell Road by one (1) lane.**
- 3. Re-visit allowing right turns for eastbound traffic from River Street into fire lane for entrance to the complex to provide relief to the left hand turn lane on Farwell Road.**
- 4. Left hand turn options for westbound traffic on River Street to the complex either at Stop and Shop to gain access or at the fire entrance through use of a third center lane on River Street.**

Ms. Callahan also reminded the petitioner that the Board would like to have for its records a copy of the agreement between the petitioner and Stop and Shop stating use of the right of way easement.

The Clerk then read the next item on the agenda which was for a Special Permit Curb Cut on Main Street for 110 Bear Hill Road. The Board must act on this petition by June 15, 2011.

Attorney Philip B. McCourt came forward to address the Board on this matter. Mr. McCourt updated the Board on the status of this petition. The curb cut on Main Street was submitted per the request of the Board during deliberations on the Subdivision currently before the Board and how the Board felt that a second means of access on this site would be a better design for traffic flow and safety. This curb cut has been submitted to the Board for review.

At that time Mr. Ron Muller of Ron Muller & Associates had submitted a traffic and safety assessment for 110 Bear Hill Road. The Board hired V.H.B. to review the subdivision with both one access on Bear Hill Road and also to review it with a second access on Main Street. Vinod Kalikiri of V.H.B has submitted their review to the Board and is in agreement that the proposed curb cut on Main Street is safely located and that the subdivision would be better if there was a second access to the site.

Mr. Muller then reviewed the revisions that were made to the plan design.

The Chairman recalled there being an issue with the crossing onto city property at this curb cut.

Mr. Muller reviewed the legal opinion that Michelle Learned from the City's Law Department had previously submitted regarding this issue and that she would want the petitioner to appear before the City Council with an easement agreement for approval and final approval from the Mayor should this curb cut be approved with this condition being part of the Decision.

Mr. Moroney asked that the representative from V.H.B. come forward to answer questions from the Board on his review.

Mr. Vinod Kalikiri of V. H.B. came forward.

He reviewed all his comments he had provided and also his replies to Allen & Major's responses to his original review.

He commented that he concurred with Allen & Major and that it is his opinion that two curb cuts for this site are better than one.

The Chairman then opened the meeting to the members for questions.

Mr. Duffy asked if there were no proposed buildings proposed at this time, how were the traffic calculations done?

Mr. Muller reviewed how the calculations were prepared by using a "by right" scenario of this site which would be 374,000 square feet. If the developer wanted to go over that they would have to appear before the City Council for a Special Permit.

There were further discussions on the traffic study.

Mr. Moroney asked Mr. Kalikiri if this traffic study included the impact that the Totten Pond Road area would be hit with if the added traffic flow of approximately 500 new cars from this site. He also commented that with the future development of the Polaroid site that the traffic in that entire area is going to be real bad of which he has a huge concern.

Mr. Kalikiri informed the Board that he was hired by the Board to review the site access and to figure out if this property would benefit from one or two curb cuts and not to explore where the traffic would go after it leaves the site.

Mr. Moroney said he would make a motion to have both traffic engineers go back and do a traffic analysis and how this and the Polaroid Development would affect the Totten Pond Road ramp which already is grid lock during peak hours.

Mr. Muller said with all do respect but Polaroid site owners were not proposing any development when this traffic study was being done and that those developers should incorporate their traffic study to coincide with this project at Bear Hill Road. He also commented that with the Polaroid site developers proposed connector that the traffic would eventually be better. This was discussed further.

The Chairman reminded the Board why they were there which was to approve or disapprove a curb cut for Main Street, and he felt all the other issues would be addressed and discussed during the Subdivision approval. Then he commented that based upon both traffic engineers reviews of the proposed curb cuts, and that they both agree this second curb cut would be better for this. He asked for a motion as to whether the Board would approve or disapprove this petition.

Mr. Moroney made a motion to accept the curb cut on Main Street as submitted.

Before continuing with the motion the Chairman asked Mr. McCourt to go over the draft Decision that the petitioner submitted.

Mr. McCourt reviewed the Decision and how it was revised to show the Boards original comments and conditions.

The Chairman asked Mr. Kalikiri to come forward. The Chairman reviewed his input, and stated Mr. Kalikiri was working for the City of Waltham's interest. Site lines are fine, the two lanes one in and one out of 25-feet are sufficient based upon his review.

Mr. Kalikiri reviewed his comments and reviewed them again with the Board. Such matters as future stops signs and traffic lights would change in his review after a development is approved and built.

His review is based upon a 374,000 square foot "by right" development of this site. The Chairman asked Mr. Kalikiri if he believed that this curb cut allowed for safe and adequate access for traffic going north.

Mr. Kalikiri responded, "Yes".

The Chairman asked Mr. Kalikiri if he believes the design and location of this curb cut meets and/or exceeds the requirements.

Mr. Kalikiri responded, "Yes".

The Chairman then asked Mr. Kalikiri if he thinks the Bear Hill Road approved curb cut is a safe and adequate curb cut.

Mr. Kalikiri commented that after his final review of the Bear Hill Road curb cut, it was his opinion that the Bear Hill Road curb cut meets all the applicable design standards.

The Chairman thanked Mr. Kalikiri for his review and input and asked if he would be returning to the Board's next meeting for the subdivision review.

He responded, "Yes, I have also reviewed the Definitive Subdivision plan for the site and will be available at the Board's next meeting for questions on his review."

The Chairman then returned the discussion to the draft Decision that has been submitted.

Mr. McCourt reviewed a few items that the Board had on this Decision.

The Chairman also pointed out to the members that the Board does not have to accept the draft Decision and they are free to write their own.

The Board then discussed Ms. Learned's April 16, 2010 opinion regarding the petitioner seeking a legal document regarding the easement and that this agreement needed to be accepted by 2/3 of the City Council and final approval of the Mayor.

Mr. McCourt commented that the Board's approval of the Special Permit for the Main Street Curb Cut could be subject to the condition that the petitioner must obtain this easement agreement with the City Council and final approval with the Mayor.

Attorney Robert Schlein of Prince Lobel came forward to answer any questions.

Mr. Moroney asked for clarification on page three paragraph two on the draft Decision

Mr. Schlein reviewed the proposed language of that item for the Board.

Mr. Barrett commented that on page two under the paragraph listed as Petition description that the curb cut width is shown as 40.63 feet along the right of way property line and said that this was an incorrect measurement and asked what the correct measurement should be listed in this Decision. Mr. Barrett believes it should be 48.0 feet at the property line measurement.

Mr. Schlein and Mr. Muller both looked at the plan and went over the curb cut measurements and responded that the appropriate number should be listed in the Decision as 48 foot paved driveway area width and apologized for the error and that they will make the correction to the proposed Decision.

Ms. Callahan then reviewed the letter from Michele Learned dated April 16, 2010 reading the statement, "That prior to final approval of this special permit the landowner would be required to execute a legal document that preserves the City of Waltham's rights and interests in the identified unpaved portion of the public layout of Main Street that landowner seeks to use as its driveway, in a form acceptable by two-thirds of the City Council and the Mayor." She again commented that the statement quotes "prior" to final approval.

Mr. McCourt commented that this could be done the same way the Board accepted the easement agreement at Prospect Hill Lane last year, and that the Board approved the curb cut with the condition that the landowner follow through with the request of Ms. Learned to obtain that approval and then follow up after that agreement is accepted and then return to the Board to have the condition removed and to certify the vote of the curb cut approval. They will modify that final paragraph in the proposed Decision to accommodate Ms. Learned's request, but for the record he would like to state that they did not agree with her, but it is up to the Board and you want that as a condition as part of this approval then they are willing to do that.

There were brief discussions regarding the Decision and the Chairman informed the Board that the motion on a petition is documented in the Decisions and that the Board can have the Secretary and the Clerk draft the Decision to reflect the motion, and that the petitioner submits a draft petition as part of the submittal process.

The Chairman then closed that part of the hearing and opened the meeting to anyone that would like to come forward and speak in favor of this petition.

There being none, the Chairman closed that part of the hearing and opened the meeting to anyone that would like to come forward in opposition of this petition.

There being none he closed that part of the hearing and asked the Board if there was a motion.

Ms. Callahan wanted it on the record that she is not comfortable making a motion to accept the Special Permit for the Main Street Curb Cut at this time.

Mr. Barrett made a motion to approve the 48-foot curb cut that ends up being a 50.63 foot curb cut onto Main Street as proposed with both traffic reports from V.H.B. and Ron Muller Associates with the contingency that the Petitioner has to go to the City Council and the Mayor for approval of the legal agreement as requested in Michelle Learned's opinion dated April 16, 2010 with the same contingencies that Boston Properties had for the curb cut approval for Prospect Hill Lane.

Mr. Moroney seconded this motion.

Mr. Duffy asked the Chairman for a roll call.

ROLL CALL:

John Duffy	NO
M. Justin Barrett	YES
Kathleen A. Callahan	NO
Mila R. Tarallo	NO
S. Anthony DeVito	YES
Brian E. Moroney	YES
William M. Creonte, Jr.	YES

With the requirement of five votes for a special permit for approval the motion did not pass.

The Chairman then closed that part of the hearing and asked the Clerk to read the next item on the agenda.

The Clerk read the next item on the agenda which was for the Definitive Subdivision at 110 Bear Hill Road. The Board must act on this petition by June 15, 2011

Attorney Philip B. McCourt came forward to address the Board. He updated the Board on the status of this petition.

This item has not been addressed since the December 2010 meeting and at that time on the request of the City Engineer he had asked for a third party review of this subdivision plan and MWH Global was engaged for this review and has completed their review for the City and submitted their report to the Board. They had just received a copy of that report yesterday and have not had time to review and respond or make any revisions.

“Tim Williams from Allen & Majors, Is here to assist with any questions you may have at this time on the subdivision as well as Jeff Schmitt and David Bedoya from MWH Global the consultants that have submitted the review.”

Tim Williams, the site engineer from Allen and Majors came forward. He reviewed the current status. He reviewed the current work on Bear Hill Road itself and also reviewed the added drainage for the site that the Board had previously requested. They have also incorporated items from the MWH review and have resubmitted another plan showing these revisions dated March 8, 2011 and that it is the most current subdivision plan which is currently before the Board. We have recently received a comment letter from the City dated March 8, 2011 and another comment letter from MWH dated March 30, 2011 which we received yesterday. We took a look at those comments. We have made some changes and responded and have forwarded it of to MWH. However, they have not had a chance to review and submit subsequent responses. We would like the opportunity to sit done with MWH and go over all comments and responses.

One of the concerns of MWH was the amount of volume being discharged off the site and they will work with MWH to analyze the off street off site impacts to that drainage. The drainage itself, the drainage patterns essentially go in two directions. The majority of the drain water would be sent down into the route 128 drainage system. All the water shed flow goes onto Bear Hill Road and collected in a series of catch basins and those catch basins run through a water quality treatment devise, infiltration chambers that Mass Highway had put in and runs into their 48-inch trunk line and discharges in a point he showed on the plan. Also, a portion of the storm water drain which will run down the access driveway would be captured midway and discharged into the Main Street drainage system. They will work through the increased volume that is coming off the site with MWH.

He reviewed the City's comments that address the water and sewer and also the pumping station. Mr. Williams reviewed these issues with the Board and what they would be proposing when a development of this site is designed and all these concerns would be addressed and they would work with the City and the Board and address all the concerns.

In May 25, 2010, they wanted to address a memo they had put together stating how this subdivision plan meets all the City Definitive Subdivision requirements. All the criteria in the city outline have been adhered to in hopes for a smooth process. That is where they are at until they are able to work out these volume issues with MWH.

The Chairman commented that the drainage analysis that had given to the Board was seen differently by MWH and asked if that was correct.

Mr. Williams said when they did their drainage analysis they basically looked at the site as an empty field. We didn't contemplate any buildings on the site.

The Chairman asked why they would do it that way if they were talking about a possible development there. You are telling us “by right” there is a 375,000 square foot

development allowed, and that the Board has told you they want to make sure all drainage for the site was adequate.

Mr. Williams said that they did submit, as requested by the Board, a build out of the site with the drainage, although it was just a conceptual design over the summer.

The Chairman then asked what MWH's comments were for.

Mr. Williams said it was for the review of this Definitive Subdivision plan. After a development is proposed then another drainage analysis will be provided for that project at that time.

This subdivision is a full blown subdivision plan showing all water and sewer, utilities and drainage, but just no buildings on it at this time.

The Chairman then asked if a representative from MWH would come forward.

Mr. Jeffrey Schmidt came forward.

The Chairman asked for an overview.

Mr. Schmidt said that they have reviewed the definitive subdivision as proposed by Allen and Major as shown with no buildings on it. So our comments are based on this plan showing a level site with the access road. Our initial comments addressed the hydraulic model that a concern of theirs also concerns runoff and Allen and Major has addressed those concerns. Our primary concern is the volume of runoff coming off the site. We need to figure out how that volume is going to be held back on site so that it is not impacting the downstream drainage system after development of the site.

Mr. Moroney asked Mr. Schmidt if he is familiar with all the requirements for the City of Waltham relative to drainage of a definitive subdivision and requirements for that drainage to be mitigated on site versus allowances made to discharge that water off site.

Mr. Schmidt said it was his understanding that there's an Engineering Department policy about subdivisions maintaining or holding back run off. He is not sure how the Board addresses that. He was of the understanding that this was a policy and not a legal requirement.

Mr. Moroney said relative to your review of the drainage, it shows no building on site.

Mr. Schmidt said, "Yes this was based on his review."

Mr. Williams came forward and showed the entire subdivision site plan and what Mr. Schmidt based his analysis on and this was reviewed and clarified.

Mr. Moroney asked if Mass Highway or the State of Massachusetts is going to be doing improvements to 128 and are they aware of the drainage coming off your site and have they considered that for their improvements?

Mr. Williams commented that they have submitted their plans to Mass Highway and have received a comment letter from them in the summer and have responded to that memo. They are comfortable with the design. He also said that Mass Highway told them not to submit anymore plans to them until they are going to show buildings on the site.

There were further discussions on site drainage concerns and city ordinances.

Mr. DeVito said that based upon the comments from MWH he would like to make a motion.

On the motion of Mr. DeVito, seconded by Mr. Moroney, the Board

VOTED: to continue this petition at their May 4, 2011 meeting so that Allen Major and Associates can make adjustments and changes on the additional run off volumes and show that the increased overflow of volumes will not negatively impact the City of Waltham's downstream storm drain system, and to have Wade Putnam from the City Engineers office comments all answered prior to the next meeting.

The Clerk read the next item on the agenda which was for a Utility and Profile Water and Sewer Extension and road construction at Lot 12 and 546-550 Braemore Road. The Board must act on this by May 10, 2011.

Ms. Tarallo recused herself from this petition.

Mr. McCourt came forward to address the Board on this petition and said this had been continued from the previous meeting but was not heard due to there not being a full Board present at the previous meeting. They did have a chance to hear some of the neighbors questions and concerns and Councilor Tarallo had some items he wanted addressed.

Curtis Beaton of 705 Beaver Street, Waltham then came forward and said that the intent of the extension of improvements to the road and to construct three-single family homes on Braemore Road. He reviewed the temporary cul-de-sac added to the design and explained the reason it is that shown on the plan. At the previous meeting Councilor Tarallo had said that the plan was a bit confusing and needed to be cleaned up

and shown with more information. The plan didn't show if the road would be paved or not. Some of these items have been addressed and they had submitted a revised plan for the Board's review. The first item the Councillor wanted cleaned up was whether the first part of Braemore Road was going to be paved. Over the last month he had taken the opportunity to clean up the plan so that it was less vague on his intent. He then reviewed how any traffic would turn around. This is why they designed the temporary cul-de-sac and reviewed this on the plan. His intent is to build out Braemore Road with twenty-four (24) feet of pavement, twelve feet (12) wide with sloped granite curbing on both sides of the road line. Up in the area of the three lots there would be a paved sidewalk and that basically is what he was proposing. He also mentioned that this Engineer was held up and if there were more detailed questions they would ask to continue this at the next meeting.

Mr. Duffy asked why they were having a temporary cul-de-sac.

Mr. Beaton said it would be possible in the future to connect to Sachem Street.

On Mr. Barrett's request there were brief discussions pertaining to Wade Putnam's comments dated October 28, 2009 and time stamped as February 25, 2010. He said that he would like to see all those responses submitted to Mr. Putnam's comments.

There being no further questions the Chairman then closed that part of the hearing and opened the hearing to anyone that would like to come forward in favor of this petition.

Daniel Alden of 45 Fir Ave, Waltham came forward and commented that he is in favor of Mr. Beaton's proposed project and feels he does great work and would be happy to see the continuance of new homes being built as well as the water and sewer extension as he also owns property on Braemore Road. He would also like to build homes on Braemore Road.

The Chairman then closed that part of the hearing and opened the hearing to anyone who would like to come forward in opposition of this petition.

Frank Alden of 719 Hosmer Street, Marlborough, MA came forward and said that he owns lots on Balm Ave and Braemore Road and had reviewed the proposed plan. He would like the opportunity to review the revised plan that Mr. Beaton has cleaned up per Councillor Tarallo's request. At this time he is still not sure where he stands on this project.

Councillor Edmund Tarallo of 52 Montview Ave, Waltham came forward. He started by saying that it was true that Mr. Beaton, the neighbors and himself had spoken after the last meeting but that he still had some issues with the plan that he would like the Board aware of. With the revisions that have been made since that discussion there are still some concerns he would like to share. He can not determine from the plan the construction of the road

from Trimount Ave. up the entire length of Braemore and feels this needs to be shown more clearly on the plan prior to any approval by the Board.

Regarding Mr. Putnam's comments those were submitted prior to the plan that was submitted on March 28, 2011. He did not know if Mr. Putnam had time to review the revised plan and submit new comments and if not the Board should wait to review those comments prior to giving any approval.

Regarding the items that are shown and the issues he had deals with the sewer manhole which has not been found on the Trimount Ave. and wants to know if there will be a sewer manhole there. If they are going to be doing work in a subdivision he would like to make sure a bond or covenant is filed with the Board which is a requirement.

The grades of the road from Trimount Ave. to the end are not adequately portrayed on the plan. We have seen and would like these accurately shown. There are comments from the Engineer that the water and sewer lines were not 8-inches and they certainly need to be for the development of these properties as well as any other future development by the neighbors that spoke earlier. They would be able to connect to this water and sewer extension so these water and sewer lines need to be adequate.

He also had two major issues that he thought needed to be considered. There have been no drainage study or drainage reports on the development of the road which was before the Board. He felt there needed to be a study of what the drainage impact would be for the proposed road extension. This area has had some major drainage problems.

The other major concern he had was that the proposed road is better now with the cul-de-sac, but it doesn't go to the end of the properties as originally proposed. The plan now shows lots with houses. In accordance with section 3.7.11 of the zoning ordinance, those houses can not be constructed without variances. Then it maybe possible to build two houses on the lots. When you approve a plan that shows lots and houses you give the registry of deeds and every other person that reviews the plan that you are approving that plan with the lots and houses shown. The Board doesn't have the power to do that nor does the developer the ability to do that. If he wants to do that, he needs to get variances and any other approvals he needs from other Boards, but this Board can not do that. Section 3.7.11 specifically deals with the small lots of this neighborhood and Councillor Tarallo reviewed this with the Board and explained why this ordinance was crafted. He felt this plan was misleading and needs to be modified. So at this time, the Councillor could not stand before the board in favor of this petition.

The Chairman then closed that part of the hearing and said he will reopen that part at the May meeting.

The Board discussed all these matters and at Mr. Duffy's request would like to see the petitioner address all these concerns for the next meeting.

The Chairman then asked if there was a motion.

On the motion of Mr. Moroney, seconded by Mr. DeVito the Board

VOTED: to continue the petition for the Special Permit Utility and Profile Plan water and Sewer extension and road construction at Lot 12 and 546-550 Braemore Road at the next meeting of May 4, 2011 to allow the petitioner time to make requested revisions to his plan.

The Clerk then read the next item on the agenda which was for a Definitive Subdivision for 9 Hope Ave.

Attorney Robert E. Connors, Jr. of 6 Lexington Street, Waltham, MA came forward to represent the petitioner CHB Properties known as Children's Hospital. He said that they are before the Board with a subdivision plan to freeze the zoning at this site. Mr. Connor's reviewed zone freezes under M.G.L. c. 40A, section 6 for non-plan freezes and plan freezes. After this review he explained how if this plan is approved it will freeze the current zoning for eight (8) years which will allow the owners to plan future use of that site. He reviewed the current zoning on that property and why they would like to freeze it.

Mr. Duffy asked for a review of the frontage.

Mr. Connors said, "There is adequate frontage as is."

Mr. Duffy said he saw no problem and made a motion to approve the Definitive Subdivision as submitted.

Mr. Barrett seconded this motion.

The chairman asked for a roll call.

ROLL CALL:

John Duffy	YES
M. Justin Barrett	YES
Kathleen Callahan	NO
Mila Tarallo	NO
S. Anthony DeVito	NO
Brian Moroney	NO
Chairman Creonte	NO

The motion did not carry since five (5) votes are required for approval of a Subdivision.

Ms. Callahan commented that she didn't think it fair for Mr. Duffy to make a motion since the other members didn't have the opportunity to ask their questions.

Mr. Duffy apologized and made a motion to reconsider his previous motion and continue with the public hearing of the subdivision.

All members agreed to the reconsideration and the Chairman continued with the petition of the Definitive Subdivision for 9 Hope Ave.

Ms. Callahan asked why this petition was submitted on February 9, 2011 and not heard at the March 2nd meeting.

Mr. Connors commented that when they had submitted the petition for the March meeting he had spoken to the Board's Secretary and was informed that there would not be a full Board present at the March meeting he then asked have it put on the April 6th agenda when a full Board was anticipated.

Ms. Callahan said that she felt that was unfair to the Board as now the time to act is May 5th, 2011 and that they may not have proper time to review the petition and that should be considered with future submittals.

Ms. Callahan asked what they may do with the site and if would be tacked on to the other current building.

Mr. Connors reviewed possibilities that can be done with the site.

Ms. Callahan asked if they were looking for frontage.

Mr. Connors replied, "No, we already have frontage on Hope Ave."

Mr. Moroney commented that he had and continues to have problems with Definitive Subdivision plans that come before the Board showing no buildings and are using this procedure to freeze zoning. That is what they have doing for the past year with the Bear Hill Road subdivision.

Mr. Barrett commented that if the petitioner is happy with the current zoning then why are they freezing it? "It doesn't make sense if you can build by right."

Mr. Connors responded that the owners have no immediate plans to build, but would like to freeze the current zoning in case there are ever zone changes made.

The Chairman then recommended due to the very late hour that they should continue this to the next meeting of May 4th and asked if there was a motion.

On the motion of Mr. Duffy, seconded by Mr. Barrett the Board,

**VOTED: to continue the petition for a
Definitive Subdivision at 9 Hope
Ave at their next meeting of
May 4, 2011.**

The Chairman then closed the public hearing and opened the regular meeting.

The Clerk read the first item on the agenda which was for the release of final Surety for the Hickory Drive Subdivision.

Mr. Connors came forward and asked the Board if this matter could be continued at the next meeting of May 4, 2011.

The Chairman asked if there was a motion.

On the motion of Mr. Moroney, seconded by Ms. Tarallo, the Board

**VOTED: to continue the request of release of final
surety for the Hickory Drive Subdivision
at their next meeting of May 4, 2011.**

The Clerk read the next item on the agenda which was for the approval of the minutes to the meeting of March 2, 2011.

On the motion of Mr. DeVito, seconded by Mr. Duffy, the Board

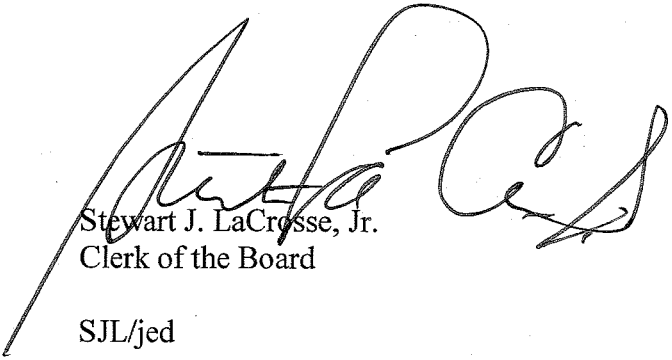
**VOTED: to accept the minutes to the meeting of
Mach 2, 2011 as submitted.**

There being no further business on the agenda of the regular meeting, the Chairman asked if there was a motion to adjourn.

On the motion of Mr. Duffy, seconded by Mr. Moroney, the Board

VOTED: to adjourn the meeting at 11:31 p.m.

Respectfully submitted,



Stewart J. LaCrosse, Jr.
Clerk of the Board

SJL/jed