

# Planning Board

**Public Meeting**  
**June 16, 2004**  
**7:00 p.m.**

**Members Present:** Barnett Adler, Ellen Battaglini, and Annie Howard.

**Member Absent:** Howard Burchman (excused absence)

**Advisory Staff:** Mark Latour

The meeting was called to order at 7:05 p.m.

## Site Visits

**Deborah Paine on behalf of Eastwinds Realty Trust, 14 Bradford Acres 5:30 p.m.**

This site visit was postponed until Monday, June 21<sup>st</sup> at 5:30 p.m. – Immediately following the site visit a Planning Board meeting will be held in the Provincetown Town Hall at 6:00 p.m.

**Slade Associates, Inc. on behalf of Henry Bloch, Jr., 10 Hobson Avenue 6:00 p.m.**

This site visit took place by the three members listed in attendance at this meeting.

## **Public Hearings**

**Case #2004-05 Site Plan Review (continued from June 02, 2004)**

**Application by Slade Associates, Inc. on behalf of Henry Bloch, Jr. under Chapter 41, Section 81-L for approval of a Definitive Subdivision Plan in accordance with the Rules and Regulations of the Provincetown Planning Board and as shown on a plan entitled Plan of Land in Provincetown by Slade Associates, Inc. Surveyors dated February 26, 2004 located at 10 Hobson Avenue, Provincetown, (Res 1 Zone), being land bounded as follows: northerly by Lot 1, LLC 37209, easterly by Hobson Ave., southerly by Provincetown Harbor and westerly by land of Douglas Taylor.**

Chet Lay, a surveyor with Slade Associates, Inc., presented the case to the Board. He passed out plans to the Board for their perusal. He said the plan was originally presented in 1981 to the then sitting Planning Board. The Blochs appealed the decision by Alex Ritchie, the Chairman of the Planning Board in 1981. Essentially the Town did not want the lot developed unless it was developed according to the Town's rules in regard to zoning and codes. Mr. Lay was presenting mainly to allow Mr. Bloch to construct a shell road bed which Warren Alexander, the Building Commissioner, has no problem with it. They would also like to waive the cul-de-sac as it is not needed.

Ed Patton, an attorney speaking for Mr. Bloch, once again repeated the history of the property and its travails. In 1981 the Blocks sought to divide the property between their daughter and Mary Ann Boswell, a niece, and just wanted an endorsement; they realized that they did not have the requisite frontage. They received an open ended refusal from the Planning Board – meaning, they felt - that they could come back. The Board denied the ANR endorsement. Essentially the agreement

referenced an attachment placed on the land for the ANR and at that point in time everyone recognized that this was not an endorsement – but merely left the door open. One lot going to Block's daughter along with Boswell and the other until the time the Blochs wanted to build on it.

Attorney Jamie Veara then presented his case to the Planning Board speaking on behalf of the abutters/neighbors who were opposed to this proposal. He cited all the problems with building in this location i.e., width of road, lack of a cul-de-sac, and drainage concerns. (There are no drainage problems since a shell paving is being requested atop sand which drains rapidly.) He continued saying there was a 1981 land court restriction and the request was denied with a settlement reached since there was no adequate frontage. Atty. Veara said he wants something in writing from Warren Alexander regarding the road bed and agreed that maybe he said it but it has to be in writing.

A bit of verbal sparring took place between the attorneys and then it was time to listen to the opponents in the audience.

### **People from the public speaking in opposition:**

Kevin Ainsworth rose first to oppose the proposal. Speaking for the neighbors he said none of them attended the original hearings since they were assured that Mr. Bloch never wanted to build on the land. Now they know differently.

Eric Mitkus who lives on Garfield Street opposed it because it is not a 28 foot road.

Dr. Arthur Geller has sent in a letter and noted that the Board had a site visit and he'd like to submit an addition to their site visit. He submitted a postcard from his grandmother's collection of 1903 showing a picture of the original 3 cottages. He also said a lot of his opposition relates to simple aesthetics.

Doug Taylor, an abutter, referred to the growth of land due to uniqueness of location where there is a great deal of natural accretion. His cottage used to be at the water's edge and now sits 400 feet from the water. He feels the property rights of neighbors and the neighborhood are at stake here.

Bob Mason owns 10 Hobson Ave and is opposed to the plan. He feels that if a house is put on the lot then his property will be devalued. He has been a volunteer firefighter for 40 years and feels there's no way you can get an engine down there. Another problem is the accreted land that Doug Taylor noted.

(A man whose name I didn't understand) said he didn't want to become redundant yet he cited all of the previous detailed arguments against the project.

Pauline \_\_\_\_\_ lives on corner of Hobson and 6A. She objected because someone cut down the beach plum bushes.

Mary Ann Boswell had a lengthy dissertation and said she did send in a letter, too. In addition she continued the road is at one point only 9.8 feet wide – not the 14 feet reported. She also talked about fire safety. Her letter, she said, dwells on reminiscences. She also wondered about the assessor's error since the code changed from 130-131-132.

James Wigel spoke on behalf of the Beachcomber Condos who had just completed their annual meeting. Their objection to the project was that they all use the avenue to go down to the beach and they also fear that any new construction will ruin the character of that neighborhood.

Eric Mitkus spoke, once again, and wondered aloud if the Land Bank or Conservation Committee could pay for this land?

Chet Lay, responding to Mary Ann Boswell's opposition said that the assessments on this lot are not germane to this issue. He continued saying that 14 feet is the norm for the fire departments in Eastham, Orleans, Wellfleet, etc. and all accept 14 feet as a normal, useable street.

The discussion at this point became cyclical.

Kathy Kirby, the co-owner of one house, said that the neighbors felt that Hank (Bloch) was attempting to purchase and not build and to leave it as an open lot without the development of it. That has changed.

Barnett Adler felt the Board need a report from the Fire review board on the road width..

Annie Howard agreed and said, "Yes, we really do need to request a letter from the Fire Dept." and went on to say that what we have in front of us is a proper plan of a sub division. Anne further felt that Planning could condition the approval regarding any more accretion and to stop the road at a particular point now since the mean high tide line keeps moving.

Ellen Battaglini asked Mr. Bloch if he had ever assured the neighbors that he'd never build on it? He denied it.

The Board decided to request a letter from our fire dept. and to go through Atty Veara's letter, point by point. We need to do a little homework and take into consideration all the public comments. The land court findings must be researched and Chet Lay will provide up-to-date plans.

**Motion: Barnett Adler made a motion to continue the case until the July 7<sup>th</sup> meeting; Ellen Battaglini seconded the motion and it carried 3-0-0.**

**Case #2004-07 Site Plan Review (continued from June 02, 2004)**

**Application by Deborah Paine, Inc. on behalf of Eastwinds Realty Trust for Site Plan Review under Article 4, Section 4100 of the Zoning Bylaw, Dwelling Units and Commercial Accommodations. The applicant seeks Site Plan Review approval to increase the density of residences from three (3) to six (6); 16,000 square feet of land required for density of six (6) units at the property located at 14 Bradford Acres (Res 3 Zone). (The artist's studios as shown on the site plan are not requested in this application at this time.)**

**Continued until June 20, 2004 at 6:00 p.m.**

- Chris Snow who was asked to represent Cingular requested that the meeting not open up to hear the case. He requested a continuance to the July 21<sup>st</sup> meeting. There evidently hadn't been time to advertise the hearing properly, thus the request for a continuance.

- **Request for Approval Not Required Pre-Application**

**William N. Rogers on behalf of 48-60 Race Point Road Realty Trust, Ken Weiss, Trustee, 48-60 Race Point Road. Applicant seeks approval to remove create two lots from one.**

**Discussion on Amended Site Plan for 48-60 Race Point Road**

Wm Rogers, II told the Board that Ken Weiss purchased the project with approved plans and there are some adjustments to poorly done site plans. Billy continued saying that they'll be asking the Board for some changes and he says they have been trying to work with two ladies who are abutters for a long time. There are some amended plans that he'll be changing – access road paved – moved some decks around – a retaining wall that has to be put into.

Ken Weiss elaborated by saying, “We’re in here for 3 issues – we are going to need a change to the site plan and we want to create an ANR – it’s complicated because we’re on your agenda for July 7<sup>th</sup> mtg.”

Billy said he will have more plans on July 7<sup>th</sup>. Ken is working directly with East Scape and they will be writing a letter to Planning to explain the problems in elevations.

**Conrad Malicoat and Ann Lord, 320 Bradford Street - informal discussion on vehicular access to 308 Bradford Street**

After an informal discussion, the bottom line is that the access to the Malicoat property is via the old railroad right of way which is now the Town of Provincetown’s property.

Anne Howard advised them to go before the ConCom and find out how the restriction for their use of access was written. Also perhaps going to the Open Space Committee might be helpful.

**Pre-Application Conference for a Telecommunications Facility**

**Pre-Application conference by Southwestern Bell Mobile Systems, LLC d/b/a Cingular Wireless (“Cingular”), Kevin L. Mason, representative for the installation of a Telecommunications Facility at 9 Ryder Street Extension.**

This was covered previously when Chris Snow asked for an extension because proper advertising of the case was not made.

**Any other business that shall properly come before the board**

**Minutes for June 2<sup>nd</sup> meeting.**

It was decided to wait for all four members before approval of minutes was made.

**The next meeting of Planning will be on Monday - June 21<sup>st</sup> immediately following a 5:30 p.m. site visit and will take place at 6:00 p.m.**

Annie Howard wants the town counsel to weigh in on the Hobson Avenue case.

Anne and the rest of the Board gave a well-deserved thank you to Mark Latour and wished him well in his future endeavors. They will all miss him and his guidance.

Adjournment happened at 9:45 p.m.

Respectfully submitted,

*Evelyn Gaudiano*

Evelyn Rogers Gaudiano

**Approved by** \_\_\_\_\_ on \_\_\_\_\_, 2004.

Annie Howard, Chair