

# Planning Board

**Public Meeting**

**July 7, 2004**

**7:00 p.m.**

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

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

**Advisory Staff:** Warren Alexander

## **Administrative Amendment**

Randy McDonald of Notis Construction, Inc. on behalf of George Nash to add a roof deck to the existing dwelling using a spiral staircase as a means of egress at the property located at 9 Pilgrim Heights Road, Provincetown.

**Motion: A motion was made to table this case until later in the meeting since no one was in attendance to present it.**

**There was a second and approval 3-0-0.**

## **Public Hearing**

Case #2004-05 Definitive Subdivision (continued from June 16, 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, began presenting the case to the Board. He said that the person who said the road narrowed to only 9 feet at one point was wrong. There is no area of the road that is less than 14 feet. He also said that Bayview constricts to only 12 feet.

Anne Howard asked Warren Alexander if the Fire Chief had looked at the plan. Warren said he preferred not making a decision until the entire Fire Board has a chance to meet on this case – and – as yet they haven't.

Annie apologized to the very large group assembled for the case. She said that the Board really needs all the information in order to make an informed decision. The blame for the delay was placed on the holiday and the missing staff person who had been let go due to economic problems within the Town.

**Motion: Ellen Battaglini made a motion to continue the case until the July 21<sup>st</sup> meeting.**

**Barnett Adler seconded the motion and it passed 3-0-0.**

## **Public Meeting**

**Request for Approval Not Required (Case # 2004-08)**

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 create two lots from one.

This was a three part discussion on the above case. William Rogers, II said that he thought the best way to do this is talk about the amended site plan first which he turned in to Maxine Notaro today. Gary Locke, his assistant, handed them to Maxine.

Mr. Rogers is trying to amend the site plan (approved by the Board previously) by revising the deck location and putting in covered porches as shown; also a wall is needed because of a 3 ft drop; a reinforced retaining wall around the electric boxes; regraded access from the street to 12.9% grade. He said that there is a revised parking plan and he plans to put in walks and make the parking area permeable.

Barnett questioned the reasoning for the plan around the electric boxes. Ken Weiss said he sent ComElectric the approved plans and was faced with N-Star plan designed from faulty Eastcape plan. Billy said that there's 50 ft frontage on the road but the big problem comes with the **access**.

The road on the plan is exactly the same as the one on the Eastcape plan. The grade elevates 20% and you can't get out. Billy made it a 12.9% grade and now it is passable. Eastcape never showed the Planning Board the easement created by them on lot 6 and the easement goes through a building. Mr. Rogers says the plan is impossible! He told about the wrong grades in the plan. "Those are the engineering problems."

Ken Weiss in an attempt to clarify all his issues said that in June of this year the MA Supreme Judicial Court ruled that an easement can be moved if there is a problem; it is a very recent finding.

The two women who own the abutting lot, Louise and Carol, told the Board that they (the Ken Weiss property) had cut 6 ft into their property and on another side they cut in an additional 6 ft. They want permission to have access to their property in order to begin building.

Ken Weiss held up a 2/18/03 signed agreement when abutters were given the easement and they realized that there would be some movement on their property.

The two women said the signed agreement was with Jim Buckingham and Miriam Collinson and didn't refer to having the abutting property cut into theirs.

Warren Alexander said all of the people have to understand that the Board accepted the plan and the plan was already amended. The retaining wall was never put before the Board and they should stick to the plan and hold it with plantings rather than argue whether Jim Buckingham promised a wooden wall.

Billy opined that Eastcape put the foundation too high and if they had put it lower then they wouldn't have had a problem. They have a 31½ ft foundation and if Eastcape had cut down the foundation then there would not have been a problem.

Warren Alexander told the two women that people tend to amend plans once they've been approved and then fail to return to the Planning Board for further approval. He further felt that James Buckingham should have reviewed the Eastcape plan with Ken Weiss.

Annie tried mediating the problem and said that plantings will be able to hold the land. Ken Weiss

said that we're going to make a mess here and we have to come together on some kind of agreement.

Barnett Adler had a solution. He felt that as soon as construction begins on lot 6 then maybe making that area a construction easement with a timeframe on it would solve the problem.

Ken is not anxious to put a construction easement on his property because it may impact unfavorably on his affordable housing financing. Ken preferred putting big money into escrow (same amount for each party) until the conclusion of the building. The women didn't want to part with big money because every cent of what they have saved will go into building their house.

Annie felt that the same amount for each party in escrow wouldn't be fair since Ken is planning a complex of buildings for sale and the women are planning a single home.

Ken wants big money in escrow so that it hurts! At this point it became a cyclical discussion until Warren called a halt.

Warren said there was no reason for a single family lot to come before the Board. This issue is something that the two property owners have to agree on. Let them fashion an agreement between them. That should not be a stumbling block but it may be. **If we can't get both parties to agree in this venue then all projects could be stalled.**

Annie cautioned that somehow you guys have to work on an agreement. The Board then moved on to the **Approval Not Required** (ANR) subject. Ellen asked why they want lot 6 separated? Answer: So that they can sell it.

**Motion: Ellen Battaglini made a motion to approve the ANR 2004-08; Barnett Adler seconded the motion and it passed 3-0-0.**

#### **Preliminary Subdivision Plan (Case #2004-09)**

William N. Rogers on behalf of Off Cemetery Road Realty Trust, 45R Off Cemetery Road for a Preliminary Subdivision Plan for land bounded as delineated on a plan filed with the Provincetown Town Clerk and on file in the Department of Community Development.

William Rogers, II presented the preliminary plan to the Planning Board. Susan Avellar came in with her own map which was researched when Ted Malone started the A&P affordable housing project. Susan giving mini history of the entire area and finally Barnett asked, "What's the point?" She said that she wanted to present clarification of naming the road.

Billy said he is going to need about 3 waivers to do this for the ANR. Warren suggested the ANR should specify that no parking will be allowed on the road because the fire engines couldn't make it up. (Warren had tried a test run that very day and found that access was made difficult for the engines when any parking was on the road.

As an aside, Billy wondered why he has to pay \$700 for preliminary and then another \$700 to file? No ready answer was available.

It was decided that there would be an amended plan on the agenda for the July 21<sup>st</sup> meeting.

**Motion: Barnett Adler motioned to approve putting the amended plan on the agenda for the July 21<sup>st</sup> meeting. Ellen Battaglini seconded the motion and it carried 3-0-0.**

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

There was none.

**Minutes**

**Motion: Ellen Battaglini made a motion to approve the minutes of the June 21<sup>st</sup> meeting. Anne Howard seconded the motion and it was passed 2-0-1 abstention (BA).**

Barnett Adler asked Annie for clarification on regular access to subdivisions. There are 3 categories of streets, i.e. major, secondary and minor. He wants clarification of this.

Annie went over the archival file on Hobson Way. She will study before the next meeting.

Adjournment took place at 9:21 p.m.

Respectfully submitted,

*Evelyn Gaudiano*

Evelyn Rogers Gaudiano

**Approved by** \_\_\_\_\_ **on** \_\_\_\_\_, 2004.  
Annie Howard, Chair