



Acton Zoning Board of Appeal

Minutes of Meeting

July 23, 2018

Acton Town Hall

Room 204

Zoning Board of Appeal members in attendance: Kenneth Kozik, Chair; Adam Hoffman; and Emilie Ying.

Also in attendance: Kristen Guichard; Senior Planner, Roland Bartl; Planning Director, Alec Wade; Planning Intern

Mr. Kozik opened the meeting on July 23, 2018 at 7:30PM.

Public Hearing #18-07 – 446 Massachusetts Avenue, Continuation –Comprehensive Permit 40B

Mr. Kozik summarized the previous meeting, citing citizen concerns and the developer's interest in taking steps towards resolution. Mr. Kozik asked if the Planning Division had any updates pertinent to the project.

Ms. Guichard explained that the Engineering Department reviewed the applicant's plans and was comfortable with the submitted plans at this stage. The Building Commissioner has stated that he is confident the developer will resolve concerns over fire safety by the time the project is ready for permitting.

The applicant, Mr. Joncas, stated that he agrees with the Engineering Department's comments and will work with the Building Commissioner moving forward to resolve his concerns. Mr. Joncas met with the immediate neighbors to the property, Mr. and Ms. Peddagali. Mr. Joncas answered questions of the neighbors and is willing to take steps to mitigate their concerns both during and after the construction process.

Mr. Kozik noted that he did not see any structural changes to the plan. Mr. Joncas confirmed but noted that changes had been made to the landscape for storm water mitigation.

Mr. Kozik opened the floor to public comments.

Ms. Friedrichs asked if the developer had made any follow up to the Design Review Board's suggestion of a wrap-around porch. Mr. Kozik asked Ms. Ying if the Design Review Board had reviewed the plan. Ms. Ying confirmed that the Design Review Board had made comment on the initial plan but no comments had been submitted since. Ms. Friedrichs made the suggestion that the developer could utilize a portion of their Pro-Forma to fund such a porch.

Ms. Friedrichs questioned whether the board could be stricter on development and whether the town staff questions the developers or holds the developers accountable. Ms. Friedrichs stated that projects should be smaller for the purposes of conserving town character and quality of life.

Ms. Ryan-Friend cited Design Review Board comments regarding whether the project fit with the character of the neighborhood. Specific comments had been made that the project could be made to look more residential, potentially by including gables.

The architect, Mr. Barton, stated that he had not yet addressed any aesthetic comments; he had been more focused on concerns had by the Engineering Department and Building Commissioner. Mr. Barton intends to focus on aesthetics after the Design Review Board has submitted updated comments.

Ms. Ryan-Friend expressed discontent with the method of public notice and ability to access information.

Mr. Kozik asked the Planning Division for clarification of where the public notice standards come from. Mr. Bartl stated that public notice standards are set by Massachusetts General Law, and require two notices in the local paper, a mailing to abutters, and a posting on the town website. Ms. Ryan-Friend suggested posting a list of current 40B Projects on the Acton Community Housing Corporation website.

Mr. Kozik commented that the process puts developers through a lot of vetting, and must meet with multiple boards and committees who each do their best to hold the developer accountable.

Ms. Ying stated a series of workshops had been hosted on communication, and that a Facebook group had been created, titled “Acton, MA (Community Forum)”. Ms. Ying stated that this resource is intended to provide additional notice and allow commentary.

Ms. Friedrichs noted that she and other residents may not be able to use Facebook due to new website policies. Ms. Friedrichs conveyed concern over the Acton Community Housing Corporation website and use of codenames to identify developers.

Ms. Tavernier, Chair, Acton Community Housing Corporation noted that it is against fair housing laws to identify by name unit owners or tenants in affordable housing projects. Ms. Tavernier also noted that Mr. Honn, Chair of the Design Review Board had spoken favorably of the project at the last meeting. Ms. Friedrichs dissented and state that Mr. Honn had wanted the project to be smaller.

Ms. Thatcher inquired further about the Facebook group Ms. Ying had discussed earlier. Ms. Ying stated that residents could request to join and be approved by a moderator of the group.

Ms. Thatcher raised concern over a past project, Blanchard Place, which she felt had not met requirements in constructing a path for school children. Mr. Kozik could not recall the exact outcome of that project, however noted that there had been confusion over ownership in regards to a public right of way.

Ms. Friedrichs questioned the removal of trees within a public right of way and asked if a tree hearing was required with this project. Ms. Guichard clarified that the only trees being removed in this project were within the private property.

Ms. Adachi, Board of Selectmen, clarified that when Mr. Honn spoke at the previous meeting his only concern had been the distance from abutting properties.

Mr. Kozik asked for questions on the project thus far from Ms. Ying and Mr. Hoffman.

Mr. Hoffman asked if the applicant could review the waivers being requested to make note of any changes.

Mr. Joncas stated that he had originally misinterpreted the water connection fee amount. Mr. Joncas has withdrawn his requested waiver for this fee. Mr. Joncas also intends to comply with the fire protection fee. While still requesting a waiver from the building permit fee, Mr. Joncas would instead be willing to pay related inspectional fees. Mr. Bartl explained that these fees are for building permit related services for which the Town incurs direct costs, specifically for file archiving, and plumbing, electric, and gas permits and inspections.

Mr. Kozik asked the board for opinions on the project thus far and how they were leaning toward voting.

Ms. Ying expressed concerns over how the developer could work to remedy the Building Commissioner's concerns over fire code without having to decrease the size of the development. Ms. Ying would like further comments by the Design Review Board for greater discussion. While the Acton 2020 plan sets out to preserve community character, Ms. Ying feels that the needs of the community have changed since then. Ms. Ying would also like to hear comments from the school community.

Mr. Hoffman is generally in favor of the project, having heavily weighed the need for senior housing. Mr. Hoffman stated his most prevalent concerns lie in the accessibility of the development and open space.

Ms. Ying clarified that she is also leaning favorably towards this development, but would be interested in seeing project financial breakdowns to demonstrate that 31 units is the most feasible option.

Mr. Joncas explained that based on his previous experience 31 units was the minimum feasible for this project considering the costs and associated risks. Such costs and risks include: the cost of land acquisition and accompanying fees, debt service costs, investor's interest, and third party property management fees. Mr. Joncas stated that if the project were to be mandated fewer units, he would approach the Housing Appeals Court.

Ms. Ying asked if the applicant could provide a breakdown of costs associated with Acton development.

Mr. Joncas informed the board that if the Board of Appeals would like to investigate the project feasibility, they could ask the Planning Division to approach either Massachusetts Housing Authority or Massachusetts Housing Partnership.

Mr. Kozik summarized that the Board appears to be favorable of the project thus far. Moving forward Mr. Kozik would like to see the updated Design Review Board comments, and asked if the Planning Division could prepare a draft decision. Ms. Guichard confirmed that the Planning Division would begin working on a draft decision.

Ms. Friedrichs stated she believes the developer would profit too much from the project, and asked again if that money could be spent instead on amenities for the development. Ms. Tavernier asked if the developer could respond to Ms. Freidrich's comments.

Mr. Joncas explained that the profit margin is to pay for a variety of services, risks, and fees. These included risks from the federal reserve funding, tax law, tax credits, cost of construction increasing, and increased demand for material. Mr. Joncas further expressed that he must also use that margin to pay the salaries of himself and his team, as well as the cost of purchasing the property.

Ms. Friedrichs proposed that in the future, town meeting vote could instead designate additional money to help fund developments at this level in order to better provide amenities for residents.

Mr. Kozik motioned to continue the hearing, Ms. Ying seconded the motion. The board voted unanimously to continue the hearing on September 5th, 2018.

Meeting Adjourned at 9:30 PM

Respectfully Submitted,
Alec Wade