



ACTION ZONING BOARD OF APPEALS

Minutes of Meeting

5/6/2019

7:30PM

Acton Town Hall

472 Main Street

Room 204

Board of Appeals members in attendance: Ken Kozik, Adam Hoffman, Emilie Ying.

Absent: Suzanne Buckmelter, R. Scott Robb

Also present: Roland Bartl, Planning Director; Vivian Birchall, Administrative Assistant; Stephen Anderson, Town Counsel.

1. Opening

Chair, Ken Kozik opened the meeting at 7:30 p.m.

2. Minutes

Mr. Hoffman moved to approve the 4/29/2019 minutes. The motion was seconded by Ms. Ying. The motion was unanimously (3-0) approved

3. New/Special Business

7:35 PM – ZBA 19-05 – Hearing, 236 Central Street Special Permit Application

The applicant presented an overview of the application for a special permit, including a simulation of the proposed building and highlighting the consultative process with the town staff.

Ms. Ying moved, Mr. Hoffman seconded and the board unanimously voted 3-0 to close the public hearing at 8:05pm.

Deliberations:

The board discussed the application. Ms. Ying moved, Mr. Hoffman seconded, and the board unanimously (3-0) voted to approve the special permit application with conditions recommended by the Planning Division staff.

Ms. Ying will write the decision.

8:08 PM – ZBA 19-06 – Hearing, 12 Orchard Drive Special Permit Application

The applicant and the property owners presented an overview of the application for a special permit and mentioned that they have been working in consultation with the planning staff to come up with a conforming plan.

Ms. Ying moved, Mr. Hoffman seconded, and the board voted unanimously (3-0) to close the public hearing.

Deliberations:

The board discussed the application and agreed that the project as presented, with conditions proposed by the staff, complies with the by-laws and would not be injurious or detrimental to the neighborhood. Mr. Kozik moved, Mr. Hoffman seconded and the board unanimously (3-0) voted to approve the special permit application with conditions to build substantially to the measurements and plan reviewed during the 5/6/2019 meeting.

The decision will be written by Mr. Kozik.

8:30 PM – ZBA 19-07 – Hearing, 4 Piper Lane Comprehensive Permit Application

Mr. Bruce D. Ringwall on behalf of the applicant, presented an overview of the application/proposed development which he said was guided by the subdivision control law. The presentation included proposed location, zone, acreage, number of units, building plan, interaction and comments from town departments and concerns from abutters.

The ZBA chair noted that there is a prior special permit application related to the land that the Board handled within the preceding year. He asked Town Counsel to advise the Board on the subject and whether or not the State's Comprehensive Permit Regulations provide a 40B Safe Harbor in this case.

Presentation by Town Counsel

Mr. Anderson gave a detailed presentation on: Potential 40B Safe Harbors; 760 CMR 56.03: Methods to Measure Progress Toward Local Affordable Housing Goals; Chronology re potential safe harbors under 760 CMR 56.03; How boards can proceed despite safe harbors; Board's waiver upon failure to invoke safe harbor 760 CMR 56.05 (3); ZBA's options as to safe harbors; Procedure to invoke safe harbor 760 CMR 56.03(1); Housing Production plan safe harbor; Related Application Safe Harbor; Factors that need to be satisfied for Related Application Safe Harbor; Potential response Re "Not Same Developer"; Potential response Re "Not Same Property"; Potential response Re "Not Same Purpose"; Potential response Re "Exception Applies".

He explained the 4 Piper Lane Comprehensive Permit Application in the context of Safe Harbors.

Response by the legal representative from South Acton Neighborhood Association (SANA)

Mr. Dan Hill pointed out reasons that the application should be denied under the State's Safe Harbor regulations. These included:

- The site in question was the subject of a related application that sought a special permit
- By definition, the prior application was more than a minor modification and that is why it needed a special permit
- Intent of the developer is irrelevant under the safe harbor regulations
- The regulation does not require that the site of the work be exactly the same.

Response by the applicant's attorney

Mr. Levine explained the application, land acquisition process and timing in comparison to the fore-mentioned affiliated application. He pointed out that comments from the different town departments showed minimal concerns, and were overall good. He added that MassHousing had found no problems with the application and issued a Project Eligibility Letter.

Several members of the attending public offered additional comments.

Discussion:

Each board member expressed their conclusion from the hearing, stating that they would vote to invoke safe harbor 760 CMR 56.05 (3)

After discussion, Mr. Kozik moved and Ms. Ying seconded to invoke safe harbor 760 CMR 56.05 (3). The motion was unanimously approved (3-0)

Mr. Kozik moved, Ms. Ying seconded and the board unanimously voted (3-0) to continue the public hearing on 5/13/2019, 7:35pm at Town Hall Room 204.

Mr. Anderson and Mr. Bartl will draft the decision to be discussed at the continued public hearing.

4. Adjournment

At 11:05p.m, Mr. Hoffman moved and Ms. Ying seconded to adjourn the meeting.
The motion was approved unanimously.

Documents used

05-06-19 - Meeting Information

Type	Name	Owner	Modified Date	Size	Actions
File	19-05 - 236 Central Street	planning	03/25/19	3	  
File	19-08 - 12 Orchard Drive	planning	03/25/19	4	  
File	19-07 - Piper Lane Comprehensive Permit	planning	04/05/19	11	  
File	05-06-19 ZSA Agenda	planning	05/02/19	210 KB	  
File	DRAFT 4-25-19 Zoning Board of Appeals Minutes	planning	05/06/19	232 KB	  

19-05 - 236 Central Street

Type	Name	Owner	Modified Date	Size	Actions
File	Application	planning	03/21/19	1	  
File	Public Comments	planning	03/21/19	2	  
File	Staff Comments	planning	03/21/19	8	  
File	19-05 - 236 Central St. Revised Legal Notice	planning	04/25/19	107 KB	  

Application

Type	Name	Owner	Modified Date	Size	Actions
File	Applicant's Building	planning	05/02/19	130 KB	  
File	Letter from Scott Hayes - 1915_ZBA_2BL4-1.8_4-25-19.pdf	planning	04/25/19	85 KB	  
File	Special Permit Application 3.8.19	planning	03/02/19	2 MB	  

Public Comments

Type	Name	Owner	Modified Date	Size	Actions
File	Annette Lochrie Comments	planning	04/29/19	16 KB	  
File	Terra Friendrichs Comments	planning	04/29/19	13 KB	  

Staff Comments

Type	Name	Owner	Modified Date	Size	Actions
File	19-05 - Planning Department Memo.pdf	planning	05/01/19	152 KB	  
File	AWD Comments	planning	04/23/19	91 KB	  
File	Building Comments 5-3-19	planning	05/06/19	14 KB	  
File	Building Commissioner 5-6-19	planning	05/06/19	81 KB	  
File	Building Division Comments	planning	04/09/19	4 KB	  
File	Engineering Department Comments	planning	03/19/19	164 KB	  
File	Engineering Department Comments 5-1-19	planning	05/03/19	162 KB	  
File	Health Comments	planning	04/19/19	37 KB	  

19-06 - 12 Orchard Drive

Type	Title	Owner	Modified Date	Size	Actions
Application		planning	03/25/19	1	
Public Comments		planning	03/25/19	2	
Staff Comments		planning	03/25/19	4	
12 Orchard Dr. Revised Legal Notice		planning	04/25/19	100 KB	

Application

Type	Title	Owner	Modified Date	Size	Actions
Application		planning	03/25/19	13 KB	
Proposed First Floor		planning	04/15/19	129 KB	
Proposed Second Floor		planning	04/15/19	12 KB	

Public Comments

Type	Title	Owner	Modified Date	Size	Actions
Devin Lee Comments		planning	03/25/19	1 KB	
Jared Bloom Comments		planning	03/26/19	15 KB	
Steven Shumah Comments		planning	04/22/19	9 KB	

Staff Comments

Type	Title	Owner	Modified Date	Size	Actions
19-06 - 12 Orchard Drive Planning Division Memo		planning	04/25/19	92 KB	
AWD Comments		planning	04/25/19	101 KB	
Engineering Comments		planning	03/25/19	107 KB	
Health Comments		planning	04/25/19	52 KB	

19-07 - Piper Lane Comprehensive Permit

Type	Title	Owner	Modified Date	Size	Actions
2018 Fire		planning	03/25/19	1	
80 School Street Documents		planning	05/02/19	13	
Application		planning	03/25/19	0	
Other Associated Housing Documents		planning	05/02/19	3	
Pre-Application		planning	03/25/19	4	
Public Comments		planning	05/02/19	22	
Staff Comments		planning	05/02/19	0	
760 Code of Mass. Regs. Chapter 8E.08		planning	03/25/19	281 KB	
Comprehensive Permit Application - Piper Lane, Acton, MA - hearing extension agreement		planning	05/02/19	0 KB	
Letter to Zoning Board of Appeals with Exhibits 6.2.19		planning	05/02/19	1 KB	
Piper Lane Revised Legal Notice		planning	04/25/19	103 KB	

2015 Fire

Type	Title	Owner	Modified Date	Size	Actions
PDF	2015_0033 90 School Street Report AFD (redacted)	planning	05/03/19	96 KB	
<h3>90 School Street Documents</h3>					
	t8-01 - 90 School Street Planning Dept Memo w. Legal	planning	05/06/19	1 MB	
	90 School Street Final Signed & Stamped Decision	planning	05/06/19	172 KB	
	Application	planning	05/06/19	982 KB	
	AVVO Comments	planning	05/06/19	101 KB	
	Engineering and Health Comments	planning	05/06/19	75 KB	
	Fire Comments	planning	05/06/19	44 KB	
	First Agreement on Time Extension.	planning	05/06/19	42 KB	
	Full Plans	planning	05/06/19	1 MB	
	HDC LETTER_90 School Street	planning	05/06/19	18 KB	
	Neighborhood Letter	planning	05/06/19	176 KB	
	Property Card	planning	05/06/19	771 KB	
	Second Time Extension	planning	05/06/19	10 KB	
	ZBL Section 8	planning	05/06/19	91 KB	
<h3>Application</h3>					
	Low Pressure Sewer Plan	planning	04/09/19	1 MB	
	Piper Lane 40B Application	planning	04/09/19	10 MB	
	Piper Lane Condominium Site Plans	planning	04/09/19	37 MB	
	Piper Lane Condo Floor Plans	planning	04/09/19	232 KB	
	Piper Lane Condos Renderings	planning	04/09/19	1 MB	
	Piper Lane Hydraulic Report	planning	04/09/19	441 KB	
	Piper Lane Report Letter 3-7-19	planning	04/09/19	1 MB	
	Stormwater Management Report Piper Lane LLC (March 2019)	planning	04/09/19	3 MB	
	Stormwater Q&A Piper Lane LLC (March 2019)	planning	04/09/19	130 KB	
<h3>Other Associated Housing Documents</h3>					
	2019-4-9_Axon - letter for HPP Certification - Avilon II	planning	05/06/19	150 KB	
	Axon Avilon Phase II - Final Decision Signed and Stamped	planning	05/06/19	230 KB	
	Housing Production Plan 2019	planning	05/06/19	2 MB	

Pre-Application

Type	Title	Owner	Submitted Date	Size	Actions
Attachment	Action comments to MassHousing 03-01-18	planning	03/03/18	261 KB	
Attachment	Action Comments to MassHousing 11-13-18	planning	03/03/18	900 KB	
Attachment	MassHousing Letter to Action 03-04-18	planning	03/03/18	31 KB	
Attachment	MassHousing Site Approval Letter 03-29-2010	planning	03/03/18	801 KB	

Public Comments

Type	Title	Owner	Submitted Date	Size	Actions
Attachment	Alexia Nicoli on behalf of SANA comments 4-20-2019 This information was submitted to the Planning Division in a hard copy format. The materials referenced in this cover letter are available for public view in the Action Land Use Department M-F, 8AM-5PM.	planning	04/26/19	69 KB	
Attachment	Barbara Morse Comments 4-26-19	planning	04/26/19	0 KB	
Attachment	Carolyn Dittes and Frank McNamara 5-6-19	planning	05/06/19	14 KB	
Attachment	Catherine Bradshaw-Hyden 5-6-19	planning	05/06/19	16 KB	
Attachment	Cheryl Bible Comments 4-26-19	planning	04/26/19	34 KB	
Attachment	Christy White & Philip Corp 4-22-19	planning	04/22/19	14 KB	
Attachment	Don Hill 5-6-19	planning	05/07/19	1 MB	
Attachment	Donald Hill Comments 4-11-19	planning	04/11/19	2 KB	
Attachment	David Henn Comments 4-25-19	planning	04/25/19	41 KB	
Attachment	Gene Beresin & Michaela Moran Comments 4-16-19	planning	04/16/19	120 KB	
Attachment	Gene Beresin Comments 5-6-19	planning	05/06/19	1 KB	
Attachment	Jean Butter 5-6-19	planning	05/06/19	13 KB	
Attachment	Jennifer Brown 5-6-19	planning	05/06/19	11 KB	
Attachment	Judi Kotanchik 5-6-19	planning	05/06/19	64 KB	
https://actionnewyork.stateview.com/ViewCollectionList.aspx		planning	05/06/19	14 KB	
Attachment	Lauren Miller 5-6-19	planning	05/06/19	12 KB	
Attachment	Michaela Moran Comments 4-4-19	planning	04/11/19	197 KB	
Attachment	Nancy Desker 5-6-19	planning	05/06/19	12 KB	
Attachment	Peter Grover 5-6-19	planning	05/06/19	10 KB	
Attachment	Rubin Henn 5-6-19	planning	05/06/19	12 KB	
Attachment	Roger Gay 5-6-19	planning	05/06/19	11 KB	
Attachment	Rustin Carpenter 5-6-19	planning	05/06/19	12 KB	
Attachment	William Gilpatrick 5-6-19	planning	05/06/19	12 KB	

 Staff Comments

Type	Title	Owner	Modified Date	Size	Actions
 4 Piper Lane PD memo with attachment		planning	05/02/19	108 KB	  
 ACHC 4 Piper Lane comments to ZBA 8-3-19		planning	05/02/19	244 KB	  
 AWD Comments 4-29-19		planning	05/02/19	101 KB	  
 Cross-Town Connect Comments 4-23-19		planning	05/02/19	120 KB	  
 Engineering Department Comments 4-29-19		planning	05/02/19	142 KB	  
 Fire Department Comments 5-1-19		planning	05/02/19	47 KB	  
 HDC Comments 4-25-19		planning	05/02/19	109 KB	  
 Health Division Comments 4-29-19		planning	05/02/19	122 KB	  
 Piper Lane Condominium - DRB 06-01-2019 Review - revised		planning	05/02/19	114 KB	  
 Police Comments 5-3-19		planning	05/02/19	30 KB	  
 SDA PP Slide Deck - 5-3-19 (A0816430x03BA0)		planning	05/02/19	716 KB	  
 SDA PP Slide Deck 2 -5-6-19		planning	05/02/19	307 KB	  
 SDA PP Slide Deck 3 -5-6-19		planning	05/02/19	330 KB	  

For additional materials used during the meeting, please visit: <http://doc.acton-ma.gov/dsweb/View/Collection-10518>

Respectfully Submitted,

Vivian Birchall
Land Use Department