



PLANNING BOARD • Town of Acton

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ACTON PLANNING BOARD

Minutes of Meeting

December 4, 1989

RECEIVED & FILED

DATE *February 12, 1990*

Barbara Brown
TOWN CLERK, ACTON

Planning Board Members in attendance: Chairman Quinton Brathwaite, James Lee, Mary Giorgio, Doug Carnahan, Greg Niemyski and Rob Block.

Planning Staff in attendance: Town Planner Roland Bartl, Assistant Town Planner Timothy Smith and Planning Board Secretary Donna Jacobs.

Chairman Quint Brathwaite called the meeting to order at 7:35 PM.

- I. The Board reviewed the minutes of the meetings held on November 6, November 13 and November 20. Rob Block moved to approve the November 6 minutes as written. His motion was seconded by Greg Niemyski and voted unanimously. Greg Niemyski moved to approve the minutes of the November 13th meeting as written. His motion was seconded by Quint Brathwaite and voted unanimously. Greg Niemyski moved to approved the minutes of the November 20th meeting as amended. His motion was seconded by Jim Lee and voted unanimously.

It was announced that the next MAGIC meeting is scheduled for Thursday, December 14 at 7:30 PM in the Acton Town Hall. Roland Bartl advised the Board that MAGIC is now dealing with important regional planning issues including traffic and suggested that the Board should participate in the monthly MAGIC meetings. After discussion, it was agreed that the Board members would rotate attendance at these meetings according to the following schedule:

Mary Giorgio	December	June
Quint Brathwaite	January	July
Doug Carnahan	February	August
Jim Lee	March	September
David Hill	April	October
Greg Niemyski	May	November.

II. Meadowview Subdivision

Rob Block moved to enter into executive session to discuss the pending litigation on the Meadowview subdivision. Motion was seconded by Quint Brathwaite and approved by unanimous roll call vote.

The Board re-convened in regular session at 8:30 PM.

Roland Bartl reviewed Option #1 contained in Plan Modification 2.5 which provides for a single access road. Jim Lee spoke in favor of Option #1 because it looks like a real emergency access. Roland pointed out that the wetlands crossing need to Option #1 is substantially less than the crossing required for a dual access. Greg Niemyski expressed his desire that the emergency access not look like two curb cuts. Greg Niemyski moved to strike Option #2 contained in Plan Modification 2.5 of the draft decision. His motion was seconded by Jim Lee and carried with 4 in favor and two opposed.

Rob Block moved that the Board strike Finding and Conclusion #3 on page 4 of the draft decision. His motion was seconded by Mary Giorgio and was defeated by a vote of 2 in favor and 3 opposed with Quint Brathwaite abstaining from the vote.

Rob Block moved that the Board strike the third sentence of Finding #4. There was no second to his motion.

Greg Niemyski moved to modify Plan Modification 2.4 by replacing the word "urges" to "requests". His motion was seconded by Doug Carnahan and carried with 4 in favor and two opposed.

Rob Block stated that he doesn't like the decision at all. In his opinion, the decision sets planning in Acton back several years.

Jim Lee stated that he feels there is no point to proceed in an adversarial manner when there is no clear indication that there is an adversarial relationship.

Jim Lee moved to delete the parenthetical wording in Waiver 1.0 and references to Option #2 in Plan Modification 2.5. His motion was seconded by Greg Niemyski and carried 4 in favor, with Rob Block & Mary Giorgio abstaining.

Jim Lee moved to modify waiver 1.2 as recommended by David Hill. Jim's motion was seconded by Quinton Brathwaite and carried by a vote of 4 in favor with Mary Giorgio and Rob Block abstaining.

Quint Brathwaite moved to modify Plan Modification 2.2 adding David Hill's words "in such a manner as to avoid headlights shining on existing houses across Robbins Street, but not to the detriment of sight distance". Greg Niemyski seconded his motion which carried with 5 in favor and Rob Block abstaining.

Mary Giorgio moved that Condition 3.8 be modified to add the figure \$9,387.38 in the blank space provided in the draft decision. Quint Brathwaite seconded the motion which carried 5 in favor and Rob Block abstained.

Mary Giorgio moved that the Board not adopt the decision as drafted. Her motion was seconded by Rob Block. Mary's stated that her main reason for recommending denial is the fact that the Board has created the plan rather than the developer and this should not be the role of the Planning Board. She stated further that the plan as submitted by the applicant has several flaws which she considered reasons for denial, including but not limited to the length of the access road and the density of the proposed subdivision. The motion was defeated by a vote of 2 in favor and 4 opposed.

Greg Niemyski moved that the Board adopt the drafted Meadowview decision as amended this evening. Doug Carnahan seconded the motion which carried with four in favor and two opposed.

Jim Lee made the following comments in relation to the Meadowview decision: "I recognize that this subdivision plan has many negative features and that in general it does not satisfy the objectives and criteria that has been developed and presented at various open town meetings such as those held by the Planning Council as well as here with the Planning Board. At best, in my opinion, it is only a marginally acceptable plan.

However, until such time as the zoning bylaw restrictions and housekeeping changes recommended by this Board are supported and approved at town meetings and we (this Board) complete(s) our action and decision on changes to the subdivision rules and regulations, we do not have the specificity in current regulations to control development in the way that is desired!

Therefore, I do not believe that we have adequate clear grounds to deny this subdivision petition. Accordingly, I reluctantly vote in favor of this decision to grant subdivision approval subject to the waivers, plan modifications, conditions and limitations contained in the decision. These waivers and modifications etc. will go a long way towards ameliorating the negative features initially presented by the petitioner."

Greg Niemyski read the following comments to the Board: "While I am not pleased with the outcome of this process, I believe it is important to explain to you the reasons for the approval that may help guide any further actions you may take regarding this plan.

Even though the Acton Water District originally denied water to this site, the Commissioners, in their enlightened wisdom, have decided that there is adequate flow to safely supply this subdivision. The Water Commissioners' decision is not impeachable, legally, by the Planning Board. We may strongly disagree with their finding, but they are the supposed experts in this area.

The flooding issues were raised and documented. Our own Town staff has reported to this Board that this subdivision will not exacerbate the existing conditions. Again, we are relying on a professional opinion in this area.

The balance of the issues regarding this plan deal with safety and protection of the environment. The plan that was presented did not meet the needed safety requirements and in fact created an unsafe intersection with Robbins St. The plan as modified addresses that issue. The protection of wetlands is not directly within the purview of the Planning Board, but rather with the Conservation Commission and we have taken their comments into consideration in this decision.

I believe the plan as modified in the decision, protects the residents and the environment to the highest degree that the Board can legally require at this point in time.

It by no means is acceptable to the residents and I'm sure the applicant will find provisions that he finds unacceptable. But the Board's requirement is to rule on the plan as submitted in light of our existing subdivision rules and zoning bylaws.

We recognize that these rules need to be amended and we are in the process of reviewing them in conjunction with the goals and objectives of the Master Plan."

Doug Carnahan informed the Board that the plan submitted by the applicant was awful, but in his opinion the Board has remedied the shortcomings of the submission through its plan modifications and conditions in a manner that allows the plan to be approved subject to those conditions and modifications. Doug expressed his frustration with the application method chosen by the applicant because it did not allow for any interaction or negotiation.

Quint Brathwaite informed the Board that he is frustrated with the poor submissions being received by the Board. He also expressed his displeasure at the lack of support the Board has received at recent Town Meetings on zoning bylaw amendments proposed by townspeople, yet not supported at Town Meeting. Because of these reasons, Quint announced to the Board that he is no longer able to continue in the position of Board Chairman. Effective January 1, 1990, Quint is resigning as Chairman of the Planning Board.

III. Stoneymeade

Tim Smith reported that developer Mark Gallagher has agreed to add a one foot high guard rail on the left side of the entrance road as recommended as a result of the joint Planning/Conservation site visit held on Saturday, December 2nd.

Greg Niemyski moved that the Board authorize the release of \$147,095.48 as recommended by the Acton Engineering Department. Rob Block seconded the motion which passed unanimously.

Jim Lee asked when the open space land will be deeded to the Town. Mark Gallagher advised the Board that deeds have been prepared and he can convey the lands to the Town whenever the Town wishes.

The Board then discussed the proposed installation of a recreation area instead of sidewalks along Pope Road. After the joint visit of last Saturday, it was stated that it is the sense of both the Planning Board and the Conservation Commission that installation of sidewalks is preferable to construction of a recreation area.

Greg Niemyski reported that the joint site visit was very useful and productive. Greg suggested that the Boards establish a practice of joint site visits to review development proposals.

IV. Discussion of Subdivision Rules & Regulations

Roland Bartl advised the Board that staff has not received comments on the proposed changes in the rules and regulations from Town Counsel.

Jim Lee stated that he believes the proposed changes in the regulations provide far more specificity which should make the Board's job of evaluating development proposals far easier.

Mary Giorgio stated that she is still not in favor of the proposed changes to section 4.1.8 which changes the length of a cul-de-sac.

Jim Lee moved that the Board adopt the Subdivision Rules & Regulations this evening as submitted and previously amended, subject to Town Counsel's approval. His motion was seconded by Rob Block and carried 5 in favor, one opposed.

V. Other Business

The Board briefly discussed the recent decision by the Land Court judge on the Foster Masonry case. Roland Bartl advised the Board that Town Counsel will be meeting with them in the near future to discuss the court decision.

Jim Lee moved to adjourn the meeting at 9:55 PM. Rob Block seconded the motion which carried unanimously.

Approved by the Acton Planning Board

David Hill 05FFB90
David Hill, Clerk Date