



# PLANNING BOARD • Town of Acton

472 MAIN STREET ACTON, MASSACHUSETTS 01720 TELEPHONE (508) 264-9636

## ACTON PLANNING BOARD

Minutes of Meeting

October 16, 1989

RECEIVED & FILED

DATE *December 21, 1989*  
*Barbara Brown*  
TOWN CLERK, ACTON

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

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

The Planning Board meeting was called to order at 7:35 PM by Chairman Quinton Brathwaite.

### I. Modification to Audubon Hill PCRC's Restrictive Covenant

Discussion took place concerning the proposed modification to the restrictive covenant for the Audubon Hill PCRC, a 70 unit elderly housing development on High Street that was approved by Special Permit about six months ago.

Tim Smith explained that there is a conflict between the restrictive covenant and the development agreement with the Town which necessitates a modification to the covenant.

Roland Bartl, Town Planner, has requested that the Board vote to authorize him to modify the restrictive covenant for the Audubon Hill PCRC.

Mary Giorgio proposed a motion to give the Town Planner authorization to modify the restrictive covenant for the Audubon Hill PCRC. Motion was seconded by Jim Lee and passed unanimously.

### II. Approval of Minutes

Minutes of the September 11, 1989 and September 25, 1989 meeting were reviewed. It was noted that the minutes for the September 25th meeting had typographical errors. Rob Block moved that the minutes of the September 11, 1989 meeting be approved as rendered and the minutes of the September 25, 1989 meeting be approved as amended. The motion was seconded by Greg Niemyski and passed unanimously.

### III. Stoneymeade Redline Change and Bond Reduction

Mark Gallagher and Richard Brown of Overview Development met with the Board at 8:00 PM to discuss the redline change and bond reduction they have requested for the Stoneymeade subdivision.

Mark directed the Board's attention to the 10/10/89 memo from David Abbt, Engineering Administrator regarding the requested redline change to the subdivision plan. Mr. Gallagher advised the Board that the actual grades differ from the original grades shown on the plan and a concrete wall has been constructed, thus eliminating the need for guard rail. Assistant Town Planner Tim Smith pointed out that the plan called for guard rail to extend beyond the concrete wall along both sides of the entrance way. Mark Gallagher explained that the change in grade had reduced the slope and therefore eliminated the need for any guard rail at the entrance way.

Greg Niemyski questioned what landscaping is planned for the entrance way. Mr. Gallagher reported that he originally asked to be allowed to plant sequential flowering shrubs, but that Tree Warden Dean Charter and David Abbt, Engineering Administrator, decided that this proposal would not work, therefore Mr. Gallagher will plant sequential flowering trees and utilize stone monuments to prevent vehicular damage by 4x4's.

Jim Lee moved to approve the red-line changes as presented by the developer, conditional on the developer's agreement to use trellises and ivy as suggested by the Engineering Dept. to soften the harshness of the concrete wall. Mark Gallagher agreed to the Board's condition. The motion was seconded by Rob Block and passed unanimously.

Mark Gallagher then addressed the Board about his requested reduction of the performance bond for Stoneymeade. He reviewed his numerous meetings with the Engineering Dept., his meetings with the Board and reminded the Board of their directive to Engineering Administrator David Abbt to look more closely at the numbers used to calculate the work remaining to be done.

Mark referenced the Engineering Dept.'s memo dated 10/13/89 which produced an entirely new calculation of the bond. Mr. Gallagher pointed out that he did not request a new bond calculation, merely a reduction in bond. Mark advised the Board that the bond was part of a tripartite agreement between the developer, Town and Concord Cooperative Bank based on negotiated union contracts for completion of the road and his rights under the bond had been assigned to the Town and the bank as a guarantee that the work would be completed even if the developer failed.

Tim Smith questioned whether the Town or bank would have to renegotiate the present contracts and thus be subject to inflation factors which would result in insufficient funds to complete the work remaining to be done. Mr. Brown responded that the contracts were written with assignment provisions and do not contain an escalation clause. Mark Gallagher informed the Board that the bank has 100% of the funds needed to complete the work set aside in an escrow account to insure the completion of the roads.



Mary Giorgio expressed her frustration over the conflicting calculations and stated that she understood David Abbt's position was protective of the Town's interests.

Rob Block asked when the developer expected to pave and was informed that the roads would be paved between Thanksgiving and the close of the asphalt plants on or around the 15th of December. Jim Lee asked if Mr. Gallagher was stating that the work would be done within 6 or 7 weeks? Mark replied that the work could be done within 6 weeks.

David Hill questioned whether there was a time limitation on the present contracts which might void them if the work wasn't completed until Spring '90? Mr. Brown responded that there is no time limit on the contract. David Hill also questioned the installation of the road sign.

Tim Smith reminded the Board that regulations require installation of the road sign prior to construction of the first house, which has already occurred.

Jim Lee stated that he would like to go with Rob Block's suggestion of a compromise between the amount requested by the developer and the amount suggested by the Engineering Dept. Mark Gallagher reported that there is a difference of approximately \$150,000. in the calculation of paving costs between his calculations and those done by the Engineering Dept. Mary Giorgio moved that the Board authorize a bond release equal to 50% of this difference plus the \$94,085.87 recommended by the Engineering Dept. for work that has been completed, with the total amount released not to exceed \$193,000., subject to:

- a) the Town Planner's review of the legal contracts to verify their protection of the Town's interests with legal counsel's advise, if necessary and,
- b) the installation of a road sign, marked "Private Way".

The motion was seconded by Rob Block and passed unanimously.

#### IV. Durkee Lane

Mary Giorgio commented that she thought the decision was well written.

Jim Lee asked if the owner met the conditions contained in the decision, could it be assumed that the Planning Board would automatically approve the road? Mary referred Jim to conclusion #9 which states that the applicant must submit to the Board for review, approval, conditional approval or denial a plan that complies in procedure, form and contents to the requirement of Section III.B of the Subdivision Rules & Regulations.

Rob Block stated that he concurred that it is not a street within the meaning of the law and the Board should move the question.

Quint asked why the decision didn't refer to the Subdivision Rule that prohibits the approval of a way which connects to another town. Rob Block responded that the Petitioner is not seeking subdivision approval, therefore that subdivision rule should not be cited in the decision.

Rob Block moved the Board vote to issue the drafted decision stating that Durkee Lane is not a street within the meaning of Section 1.3.12(4) of the Bylaw. Motion was seconded by Greg Niemyski and passed unanimously.

#### V. Highridge Subdivision

David Hill moved the Board vote to issue the draft decision approving the Highridge Subdivision as written.

Rob Block asked if the Board received a complete grading plan for the entire subdivision or just a grading plan for the road construction? Tim Smith explained that everything beyond the road layout would be covered by the site plan approval and the developer would supply that information at the time of applicatin for site plan approval.

Rob Block was concerned that the grading of the site was a critical issue for its future development due to the natural contours of the site. Greg Niemyski suggested that the Board require a note be added to the plan requiring the developer to submit a complete grading plan with the site plan application.

David Hill moved to issue to the decision as modified to include the plan modification adding a note requiring a grading plan be submitted at the time of site plan application. Motion was seconded by Rob Block and passed unanimously.

#### VI. Kennedy Estates

The Board discussed the proposed "island" in the cul-de-sac with regard to the concerns brought forward by the Engineering Dept. which centered on the additional time required to plow a landscaped cul-de-sac. Chairman Quint Brathwaite polled the Board members for their preference on this point. A majority of the Board members favored the inclusion of the landscaped island as presented by the applicant.

Assistant Planner, Tim Smith pointed out that the issue of requiring some type of easement projecting to the abutting Charter land requires discussion and subsequent decision by the Board. Jim Lee asked if the Planning Dept. was aware of potential development on the abutting land. Tim Smith reported that he has been advised by developer Jim Fenton that he has an option on the Charter land. Rob Block stated that the Board should "plan" for future development by making a



provision to connect through by roadway to the adjacent 20 acre parcel as it could yield up to 40 houses. The Board discussed the desirability of a road in this location and felt that a connection from Arlington to Charter Road may not be a good decision due to the substandard nature of Charter Rd.

The Board then discussed the possibility of requiring a pedestrian easement to the abutting land. Board members concluded that requiring pedestrian easement would provide the desired connectivity between both existing and proposed neighborhoods.

Jim Lee moved to issue the decision as drafted including a landscaped cul-de-sac and a pedestrian easement to the abutting parcel. The motion was seconded by Doug Carnahan and passed with 6 members in favor and Rob Block abstaining as he was not in attendance at the public hearing.

#### VII. Subdivision Rules & Regulations

Board members commented that the utilization of boxes for proposed changes in the regulations made reading the changes much easier.

The Board discussed the proposed change to the length of cul-de-sacs. David Hill suggested that requiring the first 1/3 of the proposed road's frontage may be an alternative to the proposed 300' depth and 500' frontage requirement. David went on to point out that a developer could construct two roadcuts if he possessed 500 feet of frontage. Rob Block suggested that the Board needed to put more thought into this issue and suggested that it be scheduled on the 10/23/89 meeting agenda.

#### Miscellaneous

The Board members discussed the possibility of appointing a new MAGIC representative as David Hill has resigned this position. Chairman Brathwaite expressed his concern that MAGIC is not focussing on issues that the Board has deemed important, such as traffic and regional planning. After much discussion, it was decided not to appoint another member to MAGIC.

Rob Block moved to adjourn the meeting at 9:45 PM, motion was seconded by Jim Lee and passed unanimously.

Approved by the Acton Planning Board.

Mary Giorgio  
Mary Giorgio, Clerk

11/4/89  
Date