



# PLANNING BOARD • Town of Acton

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## ACTON PLANNING BOARD

### Minutes of Meeting

July 9, 1990



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

Planning Staff in attendance: Town Planner Roland Bartl, Planning Board Secretary Donna Jacobs

The meeting was called to order at 7:30 PM by Chairman Mary Giorgio.

#### I. GENERAL BUSINESS

Chairman Mary Giorgio opened discussion about the distribution of board member's packages in preparation for Planning Board meetings. It was agreed that the packages would be available for members to pick up at the Acton Police Station after 5 PM on the Friday preceding the meeting.

The minutes of the June 11, 1990 Planning Board meeting were unanimously approved as amended.

#### II. DECISION: Quick Lube Groundwater Special Permit

Town Planner Roland Bartl presented a revised draft decision which incorporated the recommended changes received from Town Counsel, Acheson H. Callaghan, Jr. of Palmer & Dodge, for review by the Planning Board this evening.

Mary Giorgio asked Roland to highlight the changes in the revised draft for the board members. Roland pointed out those changes and discussed with the Board the reasons why a denial appeared to be appropriate as well as further revisions to the draft decision:

1. A decision denying the Groundwater Special Permit because issuance of a conditional approval as drafted would require substantial alterations to the development which would be equivalent to a denial.

2. The inclusion of a paragraph which addresses the repetitive petition condition contained in 40A. As proposed, the decision would allow the applicant to make a repetitive petition subject to certain plan modifications. Quint expressed concern about establishing a precedent. Roland explained that MGL Ch. 40A S.16 establishes a process for repetitive petition by the applicant. As drafted, the decision would merely allow the applicant to apply again if certain conditions are met. Jim Lee explained that if the applicant comes back with any increase in setback from the adjacent wetland, it would substantially change the plan and thereby qualify for repetitive petition under Ch. 40A.
3. The denial decision more clearly coordinates and supports the decision with the Conservation Commission's denial.
4. plan modifications were included in the text of the decision as guidance to the applicant in the event he elects to re-apply.
5. Mary Giorgio suggested that on page 4, item #5 the word "observe" be changed to "require". Roland suggested that the word "horizontal" be added before "buffer". Both changes were agreed to by the Board.
6. Greg Niemyski suggested that the second full paragraph on page 7 be eliminated. Jim Lee agreed that the Board should strike the paragraph and start the next paragraph without the word "However".

Greg Niemyski moved that the Board issue the draft decision denying the Quick Lube Groundwater Special Permit as amended this evening. David Hill seconded the motion which passed by unanimous vote.

### III. AFFORDABLE HOUSING OVERLAY MAP

Planning Council member Walter Pizzano met with the Board to present the Affordable Housing Overlay Map proposed by the Planning Council.

Wally Pizzano explained that the process used to determine which parcels of land should be included in the overlay district began with the elimination of all of the following parcels: those located in Zones 1 & 2 of the Groundwater Protection District; those parcels in the flood plain; town owned municipal parcels containing buildings, cemeteries, dump, etc.; plus those parcels identified as having significant scenic vista value and those that are already substantially developed.

Wally Pizzano explained the proposed overlay map key as follows:

- pink indicates a 25/10 density bonus (25% density increase for 10% of the units being affordable)
- blue indicates a higher density of 5 units per acre

purple indicates non-residentially zoned land that may be appropriate for higher density residential development.

Mary Giorgio suggested that the Planning Board look at the overlay map in relation to planning issues because the Planning Council will be looking for support of their proposal from the Planning Board at Town Meeting.

Jim Lee stated that he thought the Council's has a good approach to the issue because of their apparent disregard for location of parcels in relation to existing property values - parcels are proposed throughout the town.

Doug Carnahan suggested that the Council could go one step further by looking at the existing infrastructure and make recommendations based on ability of the infrastructure to support the denser development.

It was agreed that Planning Board members would review the proposed overlap map in the Planning Office and schedule the item on the next meeting agenda for further discussion.

#### IV. ANR - "Plan of Land in Westford & Acton owned by Kennedy Land Corp."

Attorney Justin McCarthy and Mr. John Kennedy presented the ANR plan and asked the Board to determine that the existing road is adequate for existing uses (sand & gravel, livestock and Acton Water District) and meets the definition of road in the Subdivision Rules & Regulations and in Mass. statute, therefore the proposed lots have frontage and can be divided by a ANR plan.

Lots 2 & 3 are owned by John Kennedy and Lot 1 is owned by his nephew, Albert Kennedy. The proposed division of land is the result of a Land Court case settling the Kennedy estate. Deeds have been prepared as determined by Land Court but are unable to be recorded until a plan of the land is drawn and accepted by the Board.

Greg Niemyski asked if the Planning Board would be providing access to land in the Town of Westford. Attorney McCarthy explained that because the proposed lots already have frontage in Westford there will be no new access granted by the ANR as proposed.

Roland Bartl stated that the Board would need to see the property boundaries as they are shown in Acton for the entire parcel being divided, but the Board does not really need to have the Westford land shown.

Jim Lee asked if the Acton Planning Board's action is incomplete without action by the Westford Planning Board. Attorney McCarthy replied that the Westford Planning Board would also have to sign an ANR plan. Jim also stated that the question of determining the adequacy of the road is separate from the question of the ANR plan.

Attorney McCarthy asked what the Planning Board needed in order to be able

to sign the ANR plan. Roland replied that the Board needed a plan showing all of the parcels in Acton proposed for division by the ANR plan. Attorney McCarthy advised the Board that he located a plan of land dated 1929 that shows the entire land area. Roland suggested that Mr. Kennedy have Nelson Engineering prepare a compiled plan for the Board.

Attorney McCarthy and Mr. John Kennedy agreed to allow the Board an extension of the time required for action on the ANR submission until August 14th due to the lack of a quorum for the Board meeting scheduled on July 23. Attorney McCarthy will deliver a letter stating their agreement of the extension to the Planning Department.

#### V. THE ARBORS REDLINE CHANGES - The Green Co.

Representatives from the Green Co. presented their proposed redline changes for Phase I of The Arbors which include the addition of a recreation area containing a swimming pool and tennis court with related parking; supplemental plantings; and a meandering sidewalk.

The Engineering Department memo requested that the sidewalk comply with width, setback from street layout and setback from street pavement to allow for snow storage. The Green Co. indicated that although a meandering sidewalk is more aesthetically appealing, they would not push for it in light of the Engineering Department's concerns.

Greg Niemyski asked whether the Planning Board was being asked to accept the proposed recreation area in lieu of the recreation area approved for Phase II of the project or if the proposed area is in addition to recreational facilities provided in Phase II. The Green Co. indicated that the present owner only controls Phase I on the project and they were unable to address what recreation areas may be built in Phase II. The Green Co. was proposing the recreation area because their marketing studies indicated the need for the amenities to improve the marketability of the units. Quint Brathwaite stated that since the project has been approved for a considerable time, the Board should approve the proposed recreation area if it will help the developers sell the units.

Greg Niemyski asked if there are any other red line changes being considered in the foreseeable future. The developer replied that no further changes should be proposed for the next 20-40 units.

Roland Bartl suggested that the Green Co. check with the Building Commissioner on the height of the fence because of the setback requirement if the fence exceeds a certain height.

Quint Brathwaite moved to approve the redline changes as proposed subject to comments made by Roland Bartl in his 6/29/90 memo with the exception that the sidewalk be located on the inside and comply with the Engineering Department's recommendations. Greg Niemyski seconded the motion which carried by unanimous vote.

## VI. MEETING with TOWN MANAGER - Utilization of Town Counsel

The Board met with Town Manager Don P. Johnson and Selectmen Chairman F. Dore' Hunter to discuss the Town's policy regarding the utilization of Town Counsel and identify any areas of concern. It was agreed that the Planning Board would suggest an alternative format for Counsel's response to the Board's questions which will utilize a summation of Counsel's opinion as the introduction to his response with detailed information attached thereto. It was also agreed that the Planning Board will advise the Selectmen in writing of any miscommunication or dissatisfaction with Counsel's response to Planning Board questions.

## MISCELLANEOUS

### MEADOWVIEW UPDATE

Roland Bartl advised the Board that he met with Victor Bass of Palmer and Dodge and Warren Bolton last Friday to discuss possible resolution to the pending litigation. Roland stated that progress was made and that he believes the Town can resolve the issues concerning the road configuration and water supply.

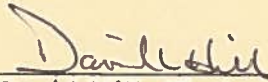
### GRANDFATHERING LEGISLATION

Quint Brathwaite moved that the Board send the draft letter to the appropriate legislators regarding S909 and other similar bills proposed for consideration. David Hill seconded the motion which carried by unanimous vote.

### MAGIC MEETING

The next MAGIC meeting is scheduled for July 19th, 7:30 PM, at Don Gilberti's house. Greg Niemyski indicated that he would probably be able to attend the meeting as the Board's representative.

The Planning Board meeting adjourned at 10:45 PM.

  
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David Hill, Clerk

DH/dmj