



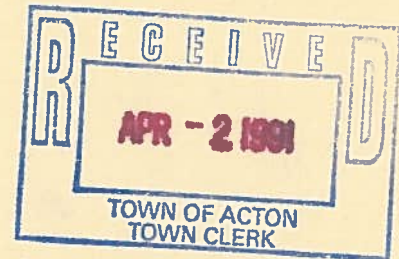
PLANNING BOARD • Town of Acton

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ACTON PLANNING BOARD

Minutes of Meeting

October 15, 1990



Planning Board members in attendance: Chairman Mary Giorgio, Trey Shupert, Greg Niemyski and Quint Brathwaite. Planning Board members not present: David Hill, Jim Lee and Doug Carnahan.

Planning staff in attendance: Town Planner Roland Bartl and Assistant Planner Donna Jacobs.

I. GENERAL BUSINESS

Minutes - The Board voted to approve the minutes of the September 24, 1990 Planning Board as written.

Lisa Lane - Quint Brathwaite moved that the Board vote to authorize the release of the Sedimentation and Erosion Control Bond for the Laws Brook Place subdivision as recommended in the 10/15/90 memo from the Acton Engineering Department. The motion was seconded by Greg Niemyski and carried by unanimous vote.

ANR Plan for Kennedy Land in North Acton - Greg Niemyski moved that the Board vote to deny the application for approval of the ANR Plan submitted for the Kennedy land in North Acton due to lack of sufficient frontage. Trey Shupert seconded the motion. The Board discussed the motion by reviewing the minutes of the August 13, 1990 Planning Board meeting at which the attorney for Mr. Kennedy stated he would have the plan re-drawn to show the entirety of the parcels shown on the ANR Plan to show that there is sufficient frontage in Westford. Assistant Planner Donna Jacobs reported that no new plans had been filed and the extended deadline for action on the existing ANR Plan is October 16th. The motion carried by unanimous vote.

II. COOK ESTATES & COLONIAL ACRES III - Lot Releases

Greg Niemyski moved that the Board vote to authorize the release of the lots contained in both the Cook Estates and Colonial Acres III subdivisions because L&S Builders has provided sufficient surety (totalling \$61,000.) for the completion of the subdivision ways and improvements to the Town of Acton in the form of a cash deposit held by the Town Treasurer. The motion was seconded by Quint Brathwaite and passed by unanimous vote.

III. ZONING BYLAW AMENDMENTS - Public Hearing

Chairman Mary Giorgio opened the Public Hearing for proposed Zoning Bylaw amendments at 7:50 PM by announcing that public notice was published in accordance with the requirements of MGL Ch. 40A. Quint Brathwaite moved that the Board vote to waive reading the Notice of Public Hearing due to its length. Greg Niemyski seconded the motion which was approved by unanimous vote.

Mary Giorgio explained that the Public Hearing is a legal hearing held by the Planning Board as required by statute for proposed zoning articles on the November 28, 1990 Special Town Meeting Warrant. She then introduced Anne Fanton, Chairman of the Planning Council, and explained that the Planning Council would be presenting the first two articles which were developed as a result of the Master Plan's development.

ARTICLE A: Affordable Housing Incentives and Overlay District

Prior to beginning her presentation of the proposed Affordable Housing Overlay District, Anne Fanton introduced the members of the Planning Council in attendance at the hearing and announced that the Final Draft of the Master Plan is available at the Town's libraries and the Planning Department. The Planning Council would appreciate all comments on this Final Draft prior to November 15, 1990.

Anne explained the background work which led to the development of the proposed Zoning Bylaw amendment and asked for questions from the audience.

Bruce Stamski stated that the North Acton Recreation Area may be jeopardized if the surrounding land is developed at 5 units per acre. Bruce also asked if there was some mechanism in place to protect groundwater resources. Anne Fanton replied that the Planning Council will look into his concerns.

Kevin Sweeney asked what happens if a piece of land has been overlooked for inclusion in the overlay district. Would that be an instance where the Comprehensive Permit process is used rather than the provisions of the Town's bylaw. Anne Fanton responded that the overlay map can be amended by Town Meeting vote.

Kevin Sweeney stated that the process is cumbersome in comparison to the Comprehensive Permit process which requires the ZBA to decide on the proposal within 90 days. Anne Fanton replied that every parcel in the community has been addressed in preparing the overlay district map. Betty McManus of the Acton Housing Authority stated that the Comprehensive Process has been lengthened by the ACHC to allow comments from town Boards and agencies to the point where it now takes 6 months before the application gets to the ZBA for hearing.

Marylee Swartz of 48 Hammond Street asked about the land on Hammond St. to be included within the district. Marylee advised that only two of the original lots remain undeveloped. Roland Bartl responded that the Planning Council removed those lots from the overlay district.

Charles Kadlec asked if a special permit is needed. He also questioned

whether it made affordable housing happen or just provides the option for the developer. Anne Fanton responded that a special permit is required from the Planning Board and that the proposed bylaw amendment merely provides the option for the developer.

Charles Kadlec asked if there is discretion in issuing the permit and if the Planning Board can deny it. Roland Bartl replied that Special Permits by nature are somewhat discretionary but they required here to ensure design standards and affordability factors required in the Bylaw.

Bruce Stamski asked why it is proposed to give preference to local people. Anne Fanton replied that local preference is only for 50% of the affordable units and that the Master Plan meetings identified a need for affordable housing for local people, children of residents, town employees, elderly and moderate income residents. Selectman Nancy Tavernier pointed out that preference is also given to people who work in the Town as well as for anyone who lived in Acton for at least five years within the past 15 years.

Bill Lawrence of the Chamber of Commerce asked where the cash option was derived from. Roland Bartl replied that it was suggested by the consultant and has been included in bylaws written for other communities.

ARTICLE B: Zoning Map Amendment - Rezone to R-10/8

Anne Fanton explained that this proposes re-zoning of some R-8 parcels to R-10/8 as incentive to provide open space.

There were no questions on this Article.

ARTICLE C: Technical Corrections - Zoning Bylaw & Zoning Map

Mary Giorgio explained that these were technical corrections. Atty. Charles Kadison asked if any substantive changes were included. Roland Bartl replied that the change in the "one dwelling per lot" provision allows for development with more than one dwelling unit per lot in districts such as the Village Districts, PUDs, PCRCs, etc. where non-traditional development is contemplated. Anne Fanton pointed out that there are also some changes proposed for the recently adopted PUD bylaw provision.

ARTICLE D: Elimination of Retail in the Small Manufacturing District

Mary Giorgio informed the public that the Selectmen have not placed this Article on the Warrant, and that another public hearing will be held should this Article be proposed for any future Town Meeting.

ARTICLE E: Lumber Yards in the Small Manufacturing District

Mary Giorgio informed the public that the Selectmen have not placed this Article on the Warrant, and that another public hearing will be held should this Article be proposed for any future Town Meeting.

ARTICLE F: Definition of Family

Mary Giorgio reported that staff has recommended a change in the definition of "Family" as a result of recent court decisions addressing the rights of handicapped individuals. The present definition sets a ceiling on the number of non-related persons living together as a single household.

Attorney Charles Kadison asked why "non-profit" was added. Roland Bartl replied that it was taken from the court decision on the City of Cambridge's definition of family.

ARTICLE G: Municipal Exemption

Mary Giorgio explained that the proposed municipal exemption would make it easier for town government to function.

Atty. Charles Kadison stated that he was surprised and shocked by this proposed amendment and asked why we expect the balance of the community to comply if the bylaws are too stringent for Town government to comply. Mr. Kadison went on to state that the Town will better understand the development process if it has to comply - if its a valid process then its valid for the Town as well. Mary Giorgio replied that there is a system of checks and balances included in the language of the exemption and that a public hearing is required.

Bruce Stamski asked if the public hearing was for a special permit. Mary Giorgio replied that no special permit is required under the proposed municipal exemption.

Atty. Charles Kadison said that the Town should get specific exemptions for certain classes of things such as emergency & rebuilding of existing projects/structures.

Charles Kadlec stated that he agreed with Mr. Kadison. He went on to state that he could think of no better test for validity of the Zoning Bylaw than by requiring the Town to comply with it. By exempting the Town, Mr. Kadlec said double standards would be created.

Dick Weidman, former Bedford Selectmen and Planning Board member, informed the public that when he served on the Board of Selectmen in Bedford their Town Counsel advised that the Town should set an example for its property owners. Mr. Weidman added that he firmly believes it is the responsibility of the Town to set an example for its property owners.

Kevin Sweeney said that an exemption for repair and replacement is absolutely necessary,

Bill Lawrence of the Acton Chamber of Commerce questioned why the Town was exempt from the requirements for hazardous waste generators. Roland Bartl explained that the hazardous waste generator exemption has been in existence for a number of years.

ARTICLE H: Groundwater - Contributing Streams & Tributaries

Mary Giorgio explained that this amendment would establish a buffer along feeder streams leading to Town wells. Mary stated that the Planning Board has dealt with several developments in the recent past where it felt there was not sufficient protection for groundwater.

Bruce Stamski asked if there is a map needed to establish these areas. He went on to state that a lot of homeowners will be impacted by this amendment, perhaps every homeowner in Acton is within 200 feet of a contributing stream or tributary.

Brewster Conant stated that the amendment would make it impossible to construct a road over a stream in spite of the fact that the state and local wetlands regulations allow it.

Atty. Charles Kadison said that this amendment reaches out to protect issues already protected by both the Board of Health and the Conservation Commission.

Bill Lawrence suggested the proposed amendment needs further study.

Charles Kadlec asked if there is a legal definition of stream and tributary.

Belle Choate stated that one of the areas included in the Affordable Housing Overlay District would be rendered unbuildable if this amendment passes.

Kevin Sweeney asked if the Board had worked with the Conservation Commission on this setback requirement and how it relates to their 25' setback from wetlands.

Bruce Stamski stated that he wants to see the hydrogeological study/information that supports this proposed amendment.

Atty. Charles Kadison suggested the proposed amendment needed careful study before going forward.

ARTICLE I: Lot Width

Mary Giorgio informed the public that this amendment was proposed to eliminate extremely irregular lot shapes. Mary reported that the Planning Board has seen some very irregular shaped lots in the recent past which have caused abutters to express their concerns to the Board.

Charles Kadlec said that the rationale needs to be further explained because "who cares what shape a lot takes?".

Atty. Charles Kadison said that as long as the setbacks are in place, "who cares".

Kevin Sweeney asked what happens to the 3 acre lot with a 50' tail. Would the tail have to be parcelled off or deeded away because it couldn't be part of a lot according to this definition?

ARTICLE J: Town Boundary Lots

Mary Giorgio stated that this amendment is proposed as a resolution for those lots which span town boundaries.

Atty. Charles Kadison said that he felt this amendment is long overdue, but questioned why the zoning has to be the same in both towns.

ARTICLE K: Nonconforming Buildings

Mary Giorgio explained that this amendment would clarify the process for a property owner seeking to extend his nonconforming building.

Attorney Kadison said he thought more towns should address this issue since the state law is unclear, but questioned why upward expansion of the building was not addressed.

Roland Bartl explained that his research indicates that there is sufficient case law addressing the upward expansion of a nonconforming building or structure.

ARTICLE L: Associate Members

Mary Giorgio informed the public that the Selectmen have not placed this Article on the Warrant, and that another public hearing will be held should this Article be proposed for any future Town Meeting

The public hearing adjourned at 10:00 PM.

Articles A, B, C & F - Quint Brathwaite moved that the Board recommend the Town vote to adopt Articles A, B & C and withdraw Article F from the Warrant. Trey Shupert seconded the motion which passed by unanimous vote.

Article G - Quint Brathwaite moved that the Board vote to advise the Board of Selectmen that Article G should be amended in one of the following ways:

- a. Amend to establish two classes - one for emergency and repair, replacement and regular maintenance without special permit with all other exemptions requiring a special permit, or
 - b. opt for the specific exemptions previously drafted by the Planning staff.
- Greg Niemyski seconded the motion which was passed by unanimous vote.

Article H - The Board discussed Article H in view of the comments received during the public hearing. Greg Niemyski suggested that the buffer should be pulled back to 25' to coincide with the Conservation Commission's setback to wetlands. Mary Giorgio suggested that this issue should be studied jointly with the Conservation Commission and volunteered to meet with the Commission to develop something for consideration at the Annual Town Meeting. Quint Brathwaite moved to hold this Article until further study.

Greg Niemyski seconded the motion which was carried by unanimous vote.

Article I - Greg Niemyski moved that the Board vote to withdraw Article I from the Warrant for further study. Quint Brathwaite seconded the motion which was passed by unanimous vote.

Article J - After much discussion concerning the restriction requiring the land be zoned the same in both towns, it was voted to recommend adoption of the a revised amendment to limit the restriction to residentially zoned lots in Acton.

Article K - Greg Niemyski moved that the Board vote to recommend the Town's adoption of this amendment, modified to include upward expansion if Roland Bartl's research indicates such a modification is necessary. Quint Brathwaite seconded the motion which was passed by unanimous vote.

The meeting adjourned at 11:15 PM.

D. Brathwaite