



PLANNING BOARD • Town of Acton

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ACTON PLANNING BOARD

Minutes of Meeting

December 3, 1990



Planning Board members in attendance: Chairman Mary Giorgio, Greg Niemyski, Trey Shupert, David Hill, Jim Lee, Doug Carnahan and Quint Brathwaite

Planning staff in attendance: Town Planner Roland Bartl

Chairman Mary Giorgio called the meeting to order at 7:30 PM.

I. GENERAL BUSINESS

Minutes - David Hill moved that the Board vote to approve the minutes of the 11/26/90 Planning Board meeting as drafted. His motion was seconded by Quint Brathwaite and carried by unanimous vote.

Audubon Hill - Roland advised the Board that the developer has requested that all units in the first phase, Phase S-3, of the development be released from restrictions on sale. The Boston Federal Savings Bank transmitted a letter of credit in the amount of \$15,000. to cover the final coat of pavement for Brewster Place via fax late today. Roland and Asst. Town Manager John Murray (because the Restrictive Covenant is part of the Comprehensive Development Agreement with the Town) have reviewed the letter of credit and recommend that the Board vote to release these Units upon receipt of a negotiable copy of the letter of credit. Quint Brathwaite moved that the Board vote to authorize the release of the Brewster Place Units subject to receipt of a negotiable copy of the Letter of Credit for \$15,000. His motion was seconded by Greg Niemyski and passed by unanimous vote.

II. STONEYMEADE

Steve Calichman and David Bradbury, Chairman of the Board of the Concord Cooperative Bank, met with the Board to discuss the completion of the Stoneymeade subdivision. The bank has taken back 29 lots within the subdivision by foreclosure and is prepared to complete the subdivision and gain road acceptance at the next annual town meeting.

Mr. Calichman discussed the completion of the road and the Concord Cooperative Bank's efforts to gain acceptance of the road as a public way at the next Annual Town Meeting. He reported that the Water District is satisfied and will indicate by letter; the Fire Chief has no outstanding incomplete items under his jurisdiction; and the Tree Warden has a small

punch list of cleanup items to be completed.

The major items remaining to be completed were identified by Steve Calichman as the installation of the road bounds and the preparation of the As-Built Plan. He advised the Board that the bounds are being installed and the As-Built Plan is being prepared for submission to the Engineering Department and the Planning Board in the very near future.

Steve Calichman reported that the bank also met with the Engineering Department and Mr. Grace of TNT Printing regarding the site distance problem at Pope Road/2A and stated that the bank is prepared to take care of some landscaping that has to be done at that location to resolve the problem. Mr. Calichman informed the Board that the above mentioned work will be completed by December 15th.

Other outstanding items include street lights, crosswalks and the sidewalk along Pope Road. Steve Calichman requested that the Board waive the requirement for street lights because streets lights haven't been required in other subdivisions in Acton for the past several years and because the contractor was unaware of the requirement and did not install the underground conduit for street lights. Mr. Calichman questioned the requirement of a thermoplastic crosswalk and informed the Board that he hasn't been able to find a contractor who will apply the thermoplastic markings and requested that he be allowed to paint the crosswalks. He suggested the Board allow the bank to obtain quotes from reliable contractors on the cost of constructing the pedestrian pathway along Pope Road. If the quotes come in for less than \$50,000., the bank would ask the Board for authorization to construct the pathway rather than giving the Town \$50,000. Steve Calichman pointed out that the covenants are due to expire in March '91 and asked for a six month extension to allow the bank time to complete the work remaining to be done.

Mary Giorgio asked the Board for comments on Mr. Calichman's presentation. Quint Brathwaite asked about the railings that were to have been installed on the walls. Steve Calichman replied that the railings are on the punch list and will be installed. Quint stated that the Board has required street lights when there is a sidewalk in a major development because of high levels of pedestrian traffic. Mr. Calichman responded by stating that the road contractor was unaware of the requirement for street lights and that no provision for underground conduit was made during road construction. Quint Brathwaite pointed out that the requirement of street lights was discussed very early in the development approval process. Board members asked if Concord Coop. has an estimate of the cost to install street lights. Mr. Calichman replied that he didn't have an estimate, but that it generally costs \$1000. per light plus the construction costs involved with digging up the sidewalk and/or road shoulder, laying the conduit and repairing the sidewalk and/or road shoulder.

Quint Brathwaite stated that the Board wants a meandering sidewalk along Pope Road, similar to the one recently installed on Main Street, with the developer paying for the product and the Town's Highway Department doing

the work so that the Town can get more sidewalk out of the money and control the width, character & nature of the sidewalk. Mary Giorgio read from a section of the Decision which states that the petitioner shall provide the funds to the Town in the amount necessary to construct the pedestrian path (estimated at \$50,000.). Mary believes the Board has to comply with the Decision on the sidewalk, but could grant a waiver on the street lights, and allow paint rather than thermoplastic crosswalks. Mary asked if the Concord Cooperative Bank would then give the \$50,000. to the Town to construct a walkway which the Town could construct further down Pope Road using the \$50,000. plus its own resources.

Jim Lee stated that he is a proponent of sidewalks and believes that this sidewalk is very important. Jim also stated that he would personally like to see the street lights installed, but is willing to drop his recommendation of that requirement and agree with Chairman's recommendations.

The Board agreed to postpone making a decision on the recommendation of acceptance of Stoneymeade Way as a public way until their next meeting on December 17th to allow the work to be completed and to give Concord Cooperative Bank time to pay taxes.

The Board unanimously voted to agree to the deletion of the street lights requirement and substitution of crosswalks marked by two coats of paint rather than thermoplastic as red-line changes or minor changes to the Decision; agreed to extend the covenant for six months; and agreed to adhere to the requirement that \$50,000. be provided to the Town for the construction of the sidewalk along Pope Road frontage and for such further distance as the Town can build with the \$50,000. Concord Cooperative Bank agreed to this arrangement and will pay the back taxes due on the property prior to December 17th.

III. QUICK LUBE REPETITIVE PETITION CONSIDERATION - PUBLIC HEARING

Chairman Mary Giorgio opened the public hearing to consider the request of Robert Moran to allow a repetitive petition for a Groundwater Protection District Special Permit for a Quick Lube business at 360 Great Rd. and circulated the attendance sheet.

Atty. Charles Kadison reviewed the history of the petition and identified the reasons for previous denial as the proximity of the proposed retaining wall to the brook and the need for modifications and changes to the emergency contingency plan. The petitioner has re-drawn the plan so that the improvements are a mean of 25 feet from the brook. Atty. Kadison said that the changes in the emergency contingency plan are not being addressed this evening because they are just procedural changes which will be addressed if permission is given for a formal submission of a new special permit petition.

Attorney Kadison spoke about the emergency contingency plan briefly and emphasized that the design of the building and site is such that any spill can

be contained in the building or catchbasins.

Bruce Stamski of Stamski & McNary reviewed the improvements in the site plan which include the changes in the retaining wall, slight adjustment in the building location, restructure of parking layout, minor relocation of curb cut, addition of green space for plantings in front of the building, and redesign of retention area so that it will be at finished grade level rather than several feet below the finished grade level as was proposed in the prior application.

Jim Lee asked about surface runoff flow direction and how the wetlands line was established. Bruce identified the low point of the site as a catchbasin. Bruce Stamski responded that the wetlands were identified by a botanist through identification of plant species and have been confirmed by the Acton Conservation Commission.

Roland Bartl noted that the roof drains are now going into the catchbasin rather than into a separate pit as previously proposed. Bruce Stamski replied that the catchbasin has been re-sized to accommodate the roof drainage.

Quint Brathwaite asked how often the clay liner needs replacement. Bruce Stamski responded that there is not enough experience with clay liners yet to have a predetermined replacement time, but the liner is evaluated in the emergency response plan of in the hazardous materials permit.

Mary Giorgio suggested that the Board allow questions from the audience at this time. Mr. Taylor asked how tall the wall is. Mr. Stamski responded that the retaining wall is approximately 16 feet in height at the Brook Run Condominium side of the site. Jim Lee added that the Town requires the wall be of a certain height that will stop vehicles and provide safety for children and that the height is more that just an architectural determination.

Mr. Tom Wrigley, attorney representing the Brook Run Condominium, had a questions about the retaining wall's footing and its proximity to the vegetated wetland. Bruce Stamski replied that the footing is at the base of the wall and the net effect after construction is that the work would be between 20 - 30 feet from the wetland. Atty. Wrigley asked about the required 25' setback from the wetland. Bruce Stamski replied that the footing of the wall is roughly 6.5' wide and extends from the wall toward the wetland. Jim Lee asked about the cover over the footing. Bruce responded that the footing is four feet below the surface and will have 1.5 feet of soil over the cover. Jim Lee pointed out that 1.5 feet of cover is more than adequate for plant growth.

Cynthia Shafer of 376 Great Rd. asked about the 25 foot wetland setback and the reason for the requirement to which Mary Giorgio briefly outlined reasons for the wetlands setbacks.

Jim Lee asked about the change in leaching. Bruce Stamski said he will be discussing this issue with the Board of Health if the Planning Board allows the repetitive petition.

Greg Niemyski asked if the source of the volatile organics found on the site has been identified. Atty. Kadison replied that Mr. Moran has ordered that further investigation for that purpose and will continue this investigation before reapplying for the special permit.

Peter Shanahan informed the Board that the Conservation Commission has some fundamental concerns with the proposed land use in close proximity to the wetlands and advised the Board that the Conservation Commission's Rules and Regulations have been amended and now require a setback of 35 - 40 feet from the wetlands. Bruce Stamski informed the Board that the original site design was approved by Conservation through an appeal of the local commissions decision to D.E.P. and their issuance of a superseding order of conditions. Bruce feels that the revised plan represents an improvement to the previously approved plan and should not be a problem for the Conservation Commission.

Mary Giorgio suggested that the Board postpone their decision on the request for repetitive petition until the next meeting because due to lack of sufficient time this evening. Board members indicated that they are all able to attend the next meeting and voted to close the public hearing and vote on the decision during the 12/17/90 meeting.

IV. KENNEDY ESTATES PUBLIC HEARING - continuation

Mary Giorgio reconvened the public hearing and recognized Attorney Charles Orcutt as Marjorie Kennedy's representative. Attorney Orcutt stated that he had received Roland Bartl's comments and did not intend to debate or refute them this evening, but rather to continue where he left off at the previous session of the public hearing.

Attorney Orcutt provided the Board with a letter concerning the work-in-progress on the preparation of an ANR Plan for George Charter's land, with George Charter's permission, and reiterated Mr. Charter's statement that his land is not intended for definitive subdivision. Attorney Orcutt pointed out that both the Ira Smith and Franklin Charter parcels have residences on them and any development of those parcels is purely speculative.

Attorney Orcutt offered two possible amendments to the present Certificate of Action. The first amendment would be the inclusion of a condition that accepts his client's offer of a monetary contribution to the Town of Acton sidewalk master plan of an amount equal to the cost of the disputed pedestrian walkway and in accordance with the construction specifications to be clearly defined in the final vote of the board on the decision. Attorney Orcutt suggested that the Board take a preliminary vote to indicate whether they agree with suggested amendment and then take a final vote which carefully details the construction specifications to eliminate the need for an appeal of the modified decision.

If this proposed condition is not acceptable, the second amendment proposed

would be to require the owner's transferring to the Town a suitable pedestrian path easement between lots 5 and 6 upon the occurrence of both of the following:

- a) Development of George Charter and/or Ira Smith property under a definitive subdivision plan which plan is approved by the Planning Board and which requires a pedestrian way to be connected to the Kennedy pedestrian way, and
- b) The application and approval of said definitive plan is completed within three years.

Atty. Orcutt reminded the Board that one of the issues in the appeal of the previous decision is the question of taking without just compensation. Therefore, Atty. Orcutt proposed the three year time limitation to mirror the time within which the Town can acquire a portion of a subdivision for purposes of public park or playground under MGL. Ch.41.

Attorney Orcutt suggested a meeting to discuss and agree to the conditions prior to issuing the modified decision. He suggested that the issue of the sidewalk along Arlington Street could be discussed and modification agreed to at the subsequent meeting. Attorney Orcutt feels the Board should contemplate the possibility that the Conservation Commission may not grant approval for the construction of the sidewalk along Arlington Street. Mary Giorgio suggested that there may be other alternatives to the Arlington Street sidewalk requirement.

Jim Lee walked the site the day after the last Board meeting and reported that there is a path which shows obvious present use across the George Charter land which leads onto the Kennedy land for a short distance and then onto the Authentic Homes land. Mary stated that from a planning perspective it is less important to determine if a pathway exists now than it is to plan for connectivity between parcels as they are developed so that new developments don't become islands of developed land. Bruce Stamski asked if the Board could read the section of the Regulation which authorizes the Board to require pedestrian connection. Board members read the present regulation but noted that the subdivision is subject to the prior edition of the Subdivision Rules and Regulations.

Mary Giorgio asked for Attorney Orcutt's recommendations in writing. Quint Brathwaite moved that the Board vote to close the public hearing and schedule discussion and decision on this matter for December 17th. His motion was seconded by Jim Lee and carried by unanimous vote.

V. BOND CALCULATIONS

Haley Lane

Greg Niemyski moved that the Board vote to amend the previously established bond amount to \$32,500. plus those funds needed to guarantee installation of town water as required by the Acton Water District. His

motion was seconded by Jim Lee and carried by unanimous vote.

Nagog Park Road

Roland Bartl reported that he and David Abbt conducted a site visit today and observed that all of the items have been done as best they can be done on a road that has been in use for 18 years. They recommend release of the \$18,000. bond subject to receipt of the final As-Built Plan but noted that this release should not be interpreted as a recommendation to accept the road. David Hill moved that the Board vote to release the bond subject to the receipt of the As-Built plan. His motion was seconded by Greg Niemyski and carried by unanimous vote.

Acton Technology Park Bond

Action on this issue has been postponed until December 17th.

VI. WARRANT ARTICLES FOR ANNUAL TOWN MEETING

The Warrant closes on December 21st. Roland asked the Board if there is anything they want to bring forward to the Annual Town Meeting. The Board agreed to ask staff to supply a list of potential zoning amendments for discussion at the next planning Board meeting.

The meeting adjourned at 10:00 PM.