

BOLTON PLANNING BOARD
Minutes of Meeting
November 9, 2005 at 7:30 P.M.
Bolton Town Hall

Present: Larry Delaney, Mark Giunta, Frank Lazgin, Douglas Storey, Nat Tipton (Town Planner)

ADMINISTRATIVE ITEMS

1. Oaks Open Space Deed

Tipton mentioned that a draft open space deed to convey open space as part of the Oaks subdivision has been delivered to the Planning Board. It is his understanding that in order for land to be deeded to the town, an article to accept such land would need to be voted at town meeting. An advantage to deeding the open space to the Conservation Commission is that they can accept land under MGL Chapter 40, Section 8C without a procedural town meeting vote. The Board asked Tipton to follow up with Town Counsel to make sure this is the case.

2. Forbush Mill Road Scenic Road/Tree Removal Decision

The Board signed a decision granting authorization for Peter Waldron to remove two trees on Forbush Mill Road under the Scenic Road bylaw.

HEARINGS

3. Landquest Common Driveway Hearing

Present: Ron Roux (Applicant), Doug Resnick, E.K. Karlsa, Larry Ducharme, Elizabeth Whitaker (Ducharme and Dillis), Rob Oliva (Hamway Engineering)

Because Board member Stephen Garner was not present, the applicant was asked if they wanted to proceed with four voting members. Approval would need to be unanimous. The applicants indicated they would like to proceed with four members.

Since the last meeting, the applicants have submitted draft documents for the Board's review that would grant easements and set a procedure for storm water management ("*Grant of Storm Water Management Easements and Agreement for Maintenance of Storm Water Management System*"); would establish the Homeowner's Association ("*Cider Hill Homeowners' Trust*"); and would grant easements for the common driveway and utilities and establish procedures for common driveway maintenance ("*Grant of Common Driveway Easements, Individual Lot Owner Driveway Easements and Utility Easements and Agreement for Maintenance of Common Driveway*"). Resnick stated the common septic systems have their own maintenance agreement and easements that were submitted and accepted as part of the common septic approval with the Board of Health and DEP. The applicant will construct driveways and other infrastructure to the point where the common driveway easement ends; it will then be the responsibility of the homebuyer to construct the rest. Storey stated the association document should mention and tie its establishment with the common driveway special permit in 3E. The applicant agreed. The trust document establishes an arbitration board will be established to resolve disputes between association members.

Elizabeth Whitaker reviewed brief changes suggested by Rob Oliva, including the addition of a swale and manhole/catch basin locations. The applicant request one waiver: the reduction of the crown length from ½ inch per foot to ¼ inch per foot as is typical for most residential roadways. Storey mentioned the need

to bootstrap payment in lieu requirement of the Affordable Housing bylaw to the common driveway decision. The Board also needs to clarify whether it will hold a lot or bond money for driveway completion similar to previous subdivisions to ensure proper driveway construction.

On motion by Doug Storey, seconded by Mark Giunta, the Board voted to close the hearing. The applicant offered to write a draft decision for the Board's review. A past decision of the Board will be sent to the applicant to integrate language used by the Board for previous decisions. The Board and Town Planner will closely review the decision to ensure compliance.

DISCUSSION

4. Riverside 40B Hearing – Input from Planning Board

Present: Mark O'Hagan (MCO Associates); Roxanne Burney, Mark Lovington, Pat Westwater-Jong, Brenda Wright, Art Bettez (abutters)

The purpose of this meeting is to update the Board on ZBA proceedings with Riverside and determine if the Planning Board would like to submit comments on the latest 10 unit plan. O'Hagan summarized the original plan (12 units/3 affordable) and most recent submission (10 units/3 affordable) that moves all work out of the priority habitat area per ZBA request. Storey explained that O'Hagan recently met with the Affordable Housing Partnership to discuss their comments. The Partnership suggested reducing the amount of units and buildings to make the proposal more acceptable to abutters and reduce its aesthetic impacts. Storey expressed concern that the most recent plan would not be approved because its architecture did not conform to surrounding parcels, and there needs to be a higher percentage of affordable units. One possible solution is to reduce the amount of units to eight into two buildings, and mandate that at least four be affordable.

Burney stated if any plan was to be allowed, only two units should be permitted as is allowed by present zoning. The parcel lies within an Area of Critical Environmental Concern and a portion of it lies within a Priority Habitat Area. Lovington reviewed a memo that he submitted to the Planning Board and ZBA that advocates denial. Allowing development on the property would cause undue burden on environmental and historically significant features. Bettez expressed frustration that a new plan is submitted every meeting and stated he has concerns about a dense development tapping into the aquifer. Delaney questioned if the argument to prevent development on the property because it lies within an ACEC is valid, because the underlying features of the area were present when the Autumn Lane subdivision was built.

The Board will decide if it will issue comments at its next meeting.

5. West Berlin Road – Apple Valley Homes

Tipton explained that it has come to his attention that a deed restriction exists on the 15 acre parcel that was the subject of a backland lot special permit. The deed restriction was put in place in 1979 that restricts further subdivision of the lot into one or more building lots. This did not come to light during the backland lot hearing. Delaney commented that the town could lack the authority to enforce a restriction that it does not hold. Tipton will ask the applicant for a legal opinion for their perspective on whether the backland lot special permit remained valid.

6. Skinner Zoning Article

On motion by Larry Delaney, seconded by Doug Storey, the Board voted unanimously to recommend passage of Articles 3 and 4 on the Special Town Meeting warrant to rezone a portion of properties owned by Skinner and Slater from Residential to Limited Business. The Board did not issue recommendations on the other articles.