

Bolton Planning Board Minutes
6/27/12

Present: Jonathan Keep, Mark Duggan, John Karlon, Doug Storey, James Owen and Jennifer Burney
Town Planner

7:30 pm Village Overlay District (VOD)

Jonathan Keep gave an overview and stated that he feels a higher density is required to make the VOD more attractive to developers.

Mark Duggan is in agreement with Jonathan and feels a higher density is appropriate.

Jonathan Keep said a good example is in West Acton John Karlon feels Bolton is overly restrictive and was feels the pendulum is changing; there is a growing feeling that change is coming and there is a right and wrong way to do things. Doesn't want to Framingham or Route 9.

James Owen wants to see what the overview is.

Frank Lazgin resident of Coventry Woods Way has lived in Bolton 20 years and former planning board member reminded the Board that a 2/3 vote is needed and extensive overlay work has been done. Only 4 of the survey has a 2/3 response. A restaurant, open space, farm stands, desire of location of district should be at intersection of Wataquodock Hill Road. An Affordable Housing component only received a 30% vote according to the 2008 survey.

Iris Berdrow asked what the objectives are. Control against what and what incentives? What does village means?

Jonathan Keep responded that the article was bogged down by the Salt Box. Jonathan thinks that a location restricted to Kane to provide something other than a strip mall more of a village, a residential component is important. Being able to walk to and walk within. To walk within developments.

Doug Storey stated that it needs to be a flexible creative development of business use where it started with housing, but made it optional, flex 10% in business zones, prohibit fast food, and what was allowed and not allowed Mark Duggan said what he got out of debates is an expectation that a farm stand and a family restaurant is desired and who is going to control it. Once property is zoned can't control business or would have to build it yourself.

Dave Lindsay approval process could control it.

Mary Ciummo of Corn Road feels that including the Salt Box - and converting it to a CVS and Dunkin Donuts is just the beginning. What is EDC saying to developers? If a VOD is passed is this the way we want to go?

Jonathan Keep stated that the Board is not rezoning residential property.

Tom Geagon consultant for the Salt Box stated that he is tired of the tarring and feathering. Never had intent in bringing CVS to Salt Box.

Eric Raisman - Fox Rd in new to Bolton and has lived here 5 years, comes from Westford and supports commercialization. Would rather see a D&D at service station. Came here for school system, beautiful area, retain home value. old school vs. new school. Want services don't want services.

Larry Delaney of Fox Run - would like to see the board continue and feels there is a misunderstanding that VOD is economic business it's about better design. Current zoning allows strip malls, huge setbacks. If a developer comes in with a good design and using VOD then it could be approved by a Special Permit. Do we want it to be designed as strip mall or come in with a better design? VOD is a clever way to get better project. Feels more education is needed. Encourages the Board to continue to work on it.

Al Ferry - feels that modifying the use table and making minor changes in current zoning could be fixed and whether the VOD is actually needed. He is concerned that only super majority of Planning Board makes a decision. Could minor changes occur in the bylaws and then bring a developer agreement to town meeting. There is a fear of unknown. Concord has a nice down town.

Mark Duggan stated that the Board met with folks in Berlin regarding development agreement. A lot of time, energy, money to come up with proposal and without a VOD it would be risky for a developer.

Doug Storey. Replied to Mr. Ferry that Concord has no set back, 80% lot coverage.

Jennifer Burney said the Board could consider formula based zoning and higher density for housing component.

Ken Troup stated that under the VOD Freddy Freidus building would receive a huge increase. Feels a higher level of approval by ZBA or another board is need. Used the analogy of the Pre Existing Non Conforming allowed by certain percentages.

Doug Storey responded could allow an increase from 8% to 10% Doug would not see an issue with a second building.

James Owen buildings could be 4 buildings and more appealing with a center courtyard. Than 2 big buildings.

Eric - Fox Rd - Stated that the Town has been talking about it for years. Is there an expectation of when it would happen?

Iris Berdrow agrees with Larry and continues to work on it. Walk to village. And meets all needs of residents. 1) Scope of it - the big box 2) appearance 3) change and be clear of intentions.

Cia Boynton of Main Street Agrees with Larry to continue. Scary that all was going to change at the same time. Envisioned all 3 corners of 495 changing. Would like to see the Board take 2 corners only and do the district to see what happens. Likes more footprint if you have housing, etc... pick a few that they can do: setbacks, number of building, parking.

Mark Duggan feels the VOD did address many concerns. Difficult to pass piece meal e.g. building a house one room at a time. Parking set back is done to benefit the town not the developer. Parking behind. lot coverage is incentive Burt of Meadow Road said keep working on it, didn't get a fair hearing at Town Meeting, residents scared about Kane property at TM lots of people associating it with the VOD and get the article and in earlier in night. He said he voted against Kane and supported VOD. Feels going from 8-10% lot coverage is not much. Allows flexibility, allows multiple buildings, has control of what it would look like. No problem with a national chain coming in or a building that turns over and over again. But wants to make it look good and feels we do have that control.

Jonathan Keep interest in properties that have nothing in them but fear of properties that have something in them.

8:30 pm Century Mill Estates

Present: Fred Hamwey, Hamwey Engineering, Planning Board consulting engineer to discuss inspections as well as Developer Andy Bendetson

Board member James Owen recused himself as an abutter.

Doug Storey stated that the covenant took 5 months to be recorded and what was recorded was different from what the Board endorsed. Mr. Bendetson stated that a developer has certain rights and acknowledged owners and recorded and notice given to the board and courtesy and full knowledge.

Gary Brackett replied that the developer is allowed to do this but should have been a courtesy to the Board what was being recorded new owners are now bound by covenant and responsibilities. Owners should have done due diligence and are aware of conditions of covenant, special permit conditions and yet are coming in for a building permit. The same conditions apply to new owners, requirement that infrastructure is in place, fire protection, road, and utilities. Doug Storey said it is up to the Board to make sure of safety and appropriately control the development and the way the development is constructed.

Gary Brackett stated that the Board has the regulatory control and board is granted immunity as a public duty acting in permitting function and if the planning board and/or the building inspector makes a mistake protects the boards/ and someone claims negligence they are protected. The Board is making sure the developer is being held to conditions of covenant and Special Permit.

Additional lots are being requested to be released. The model home can be issued a building permit once infrastructure is completed and/or additional bond is given.

Doug Storey stated that an individual can be conveyed a lot as long as grantee signs and acknowledge covenant.

Gary Brackett stated that sections 5, 11, 12, 15 of covenant relate to releases. Either certificate of performance or co partial release or require additional surety.

Mark Duggan stated that the developer is held responsible for work and in event the developer abandons responsible and successor owners now have to step up for the responsibility.

The Special Permit requires a completion date of June 2016 and Planning Board could rescind Special Permit and give the developer notice that the Special Permit may have to be renewed if not completed by this date.

Andy Bendetson stated that he has built 6,000 homes in Massachusetts and never has had an uncompleted project.

Doug Storey asked Mr. Bendetson to address adding names to covenant.

Mr. Bendetson stated that he doesn't need a lot release for a building permit, just doesn't need a lot release until conveyed and for occupying it you need a release.

Town Counsel stated that there has to be access of safety paragraph 2 of the condition states it must be completed to get a building permit. You need to be able to get a fire truck & ambulance in there.

Larry Delaney former Planning Board chair stated that in the Rules and Regulations lots are held, road had to be in before released. Usually use a bond to but the developer is using a covenant which is cheaper. He feels the board shouldn't give a building permit until a release a covenant from is requested.

Andy Bendetson stated that he gave a lot to the town that doesn't have a mortgage on it.

Gary Brackett stated that a lot can be conveyed under section 6 but section 2 state must have construction of ways and installation of municipal services.

Mr. Bendetson says he will not convey any further lots and will come in and post a bond by division by the amount left to finish it divided by the number of lots e.g. $400,000/10 = 40,000$ posted to release one lot to convey.

Town Counsel will issue a letter to board pursuant to Section 6 of the covenant regarding conveyance of a lot.

Larry Delaney gave an overview of the project:

In 2003 filed for 5 lots

Submitted a 250 housing unit 40B.

Because of the Rate of development Bylaw and issues in Hadley and Templeton this was corrected in 2008.

2006 amended

perced property

2007 approved 71 Subdivision

2010 requested additional 7 lots

2011 approved but held up by taxes

Lawyer representing owner of 55A stated that his client is now subject to covenant and wants to build a house.

Board reviewed procedure: Standards paved roads not finished road, acceptable services, water, infrastructure to house. & a request is made and the planning board has released a lot.

Fred Hamwey's review: Road is paved for Road B. Cistern is operable per Mr. Bendetson. Swale and detention basin is not completed; water will drain off the road and is not directed to the swale and detention basin. Water service is in but the pump house is not completed. No potable water yet. Approved well & septic.

Andy Bendetson stated that 98% of work is completed. 19 lots conveyed on the covenant. 3 people have 17 lots.

Doug Storey asked the developer asked Mr. Bendetson to clarify that he will not add anyone to the covenant. Will not be issued a building permit until a bond is posted or infrastructure is in and is satisfactory by the board any time the developer wants to convey or receive an occupancy permit the developer will come to the planning board and request a release a lot and post a bond.

Town Counsel will draft a letter with our discussion to confirm what the board says.

Town Counsel stated for 55A request a release of lot the planning board will review infrastructure and ways tom make sure it is adequate to serve the lot and whether a bond is required.

Board would like to hear from Town Counsel on procedure and issuance of a building permit for 55A and formal request from applicant for 55A.

Also needs to request lot release for model home. In order to occupy the house need to have potable water, functioning septic system. Shared septic and is done by the Board of Health and is in the process per Mr. Bendetson.

Next meeting is July 11. Fred Hamwey to do a review bond estimate of Mike Carters prepared estimate.

Road C is not constructed. Bond estimate would not include Road C. 48A is model home and comes off road A.

Covenant release and performance approval needs to be recorded. Will need to submit an as built to Fred Hamwey for his review.

Fred's report inspection concerns
Gave an overview of inspection note 6/25/12

Andy Bendetson agreed to fix culvert and Harold Brown needs to be in agreement of what will be done per the Planning Board.

The abutters the Goddard's have marked 3 trees previously that have been replaced and 3 bushes and not perfectly healthy and landscaper out there 1 month ago and will try to see if they will make it but replace it if they do die.

Re-endorse ANR previously endorsed for 51 Nourse Road identified by the Bolton Assessors as Map 5.C Parcel 3 consisting of 12.32 acres and 2 los identified by as Map 5.C Parcel 78 consisting of 4.74 acres and Lot 4 identified as Map 5.C Parcel 79 consisting of 10.10 acres.

Applicant: David James of 51 Nourse Road.

A motion was made by John Karlon, seconded by Mark Duggan to approve the ANR

Vote: 5/0/0

**The Board Voted to appoint Jonathan Keep as Chairman and John Karlon as Vice Chair
Vote 4/0/0**

A motion was made by John Karlon, seconded by Mark Duggan to appoint Michelle Tuck, Ted Kirchner and Marshall Mckee to the Design Review Board for a term of 1 year.

Vote: 5/0/0.

Submitted by Jennifer Burney Town Planner