

BOLTON BOARD OF APPEALS
Minutes of Meeting
May 17, 2006 at 7:00 P.M.

Present: Gerard Ahearn, Jake Foote, Jackie Smith, Kay Stoner, Charlie Lord (Associate), Nat Tipton (Town Planner)

1. Regency Discussion – Toll Brothers

Present: Bill Keaton, Brandon Scott, Joseph Shivell (Toll Brothers); Frank Krysa (Building Inspector); Rob Oliva (Hamwey Engineering)

Tipton briefed the Board on the latest steps involving the project. Tipton distributed a memo from the Board's consulting engineer (Sandy Brock of Judith Nitsch Engineering) outlining her review of the changes previously approved by the Board. The plans were approved by Ms. Brock, noting that there were no significant changes to the previous approved plan. She did reiterate a few outstanding issues from her previous review – there was no dumpster for trash shown on the plan; catch basin #10 might need to be redesigned to catch runoff; drywells were not shown on the plan that were needed to meet recharge requirements; she did not receive final drainage calculations, and recommended that the Board have a copy of the drainage calculations on file (although she did not feel the change to drainage structures were significant and warranted her review); and handicap ramps were not shown on the plan. A memo from Craig Martin of Ducharme and Dillis was distributed to the Board. The memo indicated that drywells were shown on the plans, catch basin #10 had been revised; handicap ramps have been included on the plans; and curbside pickup will be provided for the site.

Frank Krysa asked the Board if he could issue building permits for trailers, signs, and a demolition permit. Tipton stated it was his understanding that the intent of the comprehensive permit was to mandate that certain items be submitted before issuance of building permits for the dwelling units. There were not specific requirements stated in the comprehensive permit for the permits above. Tipton urged the applicant to submit the required materials stated in the permit well in advance of applying for building permits for dwelling units, as Town Counsel was required to review and approve these documents as well. Shivell stated they would try to do this. They expect to be applying for building permits for the homes sometime around August 21st.

Tipton explained that he had contacted Hamwey Engineering of Leominster to conduct the review of the road construction. Hamwey Engineering recently submitted a proposal to the Board outlining its proposed activities for overview of road construction. Foote thought that the proposal should be revised to ensure proper location of the road. Foote explained there have been problems in the past with oversight on road construction and portions of the road end up being built at a different location. He thought the proposal should be revised to have a surveyor confirm that submitted as-builts are correct. Oliva indicated they would revise the proposal to include this. Hamwey does not have a registered surveyor on staff. Shivell asked whether how accounting would work to pay the consultant. Tipton thought that an escrow account held by the town would work, but he needed to look into it. Tipton asked Krysa if he needed assistance with overview on home construction; Krysa said he needed some time to think about it and would get back to the Board.

Shivell asked if the Board would require all necessary items in the comprehensive permit to be submitted and approved by the Board, or whether the Board could appoint an agent to approve

certain items. Ahearn wasn't sure about how the comprehensive permit is worded and needed to consult Town Counsel on this question.

2. Mike Benjamin – Board of Appeals Nomination

Present: Mike Benjamin, Powder Hill Road.

The Board met Mike Benjamin and recommended him for its opening. Tipton will ask the Board of Selectmen to appoint Mr. Benjamin at its next meeting.

3. Riverside Comprehensive Permit Hearing – Continued from April 19, 2006

Present: Mark O'Hagan (applicant); Dick Heaton; Roxanne Burney; Erik Bettez, Rick Brown, Annalise Anestis

Ahearn updated the audience on recent occurrences since the last session of the hearing. The Town had been granted a waiver from the Department of Housing and Community Development from its ruling that the seven affordable units approved under Sunset Ridge counted towards certification in 2006 rather than 2005. This ruling means the town is considered in compliance with its affordable housing plan through December 2007. The Board contacted Dick Heaton and Mike Jacobs to perform the pro-forma review. Mr. Jacobs indicated he was not interested. Conservation Commission and Historical Commission both submitted comments since the last meeting. Martha Remington of Historical Commission submitted a copy of the original document from the state that created the Area of Critical Environmental Concern (ACEC) in Bolton back in 1996.

Heaton reviewed his memo to the Board on his proforma review. He concluded the eight unit project that he reviewed is not economically feasible due to the four affordable units in the plan under the current market conditions. With rising interest rates and construction costs and dropping affordable homes prices dropping, Heaton felt the market had changed enough since the applicant submitted the initial application that it simply was not possible to do. Under certain assumptions, Heaton felt a project of five (with one affordable unit) or six (with two affordable units) could be feasible, although it is questionable whether the applicant could get funding with only 20% affordable. Heaton felt the square footage would need to be increased to around 2200 square feet for either of these scenarios and might need to add an extra bedroom.

Foote stated he felt the eight unit plan was best, as it would add four affordable units to the town's inventory. Ahearn responded that the town did not have as much of an urgent need of to create four affordable units because of the waiver. Foote asked O'Hagan whether he would prefer to build the six unit plan over the eight unit plan. O'Hagan responded this was the case and could do a project where the units only had two bedrooms each. The total septic flow would stay under 2,000 gallons a day. The architectural style would remain the same from the eight unit plan before the board.

Rick Brown commented that he was involved in the passage of the Area of Critical Environmental Concern (ACEC) in the 1990s. He pointed out this was not an easy process and had the support of the town. This was not an appropriate project for the town to approve because of the sheer density. He urged the Board to deny the project. Roxanne Burney (Autumn Lane) felt the Board had two options: deny the project outright or approve no more than four units. Approving more than four units would likely be appealed by the neighbors. Eric Bettez noted that many neighbors in the area continued to have water problems due to drilling and adding more units in the area would be problematic. Tipton suggested that an engineering review should be done before the Board approves the project. O'Hagan felt a permit could be issued with a condition of review and approval by the town's consulting engineer. The Board

decided to have Town Counsel prepare a draft decision for the next meeting for review before closing the hearing.

4. Wisell Property Conversion – 711 and 713 Main Street

Present: Kevin O'Brien, Bolton Housing Authority

O'Brien explained there was a potential problem in the decision rendered by the Board in December 2004. It is unclear at what price point the affordable unit should be priced at. DHCD guidelines allow affordable units to be priced to remain affordable to a family earning between 70% and 80% of median family income. The Drewicz's feel the decision allows them to price the unit at 80% of median family income, approximately \$180,000. If the unit were to be priced at 70% of median family income, the unit would go for \$170,000. O'Brien explained the Board should make a determination on what was intended by the decision. Ahearn recalled that the intent of the decision was to price the affordable unit at 70% of median family income.