

**BOLTON BOARD OF APPEALS**  
**Minutes of Meeting**  
**June 21, 2006 at 7:00 P.M.**  
**Bolton Town Hall**

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

**1. Riverside 40B Comprehensive Permit Hearing – Continued from May 17, 2006**

Present: Mark O'Hagan (MCO Associates), David Burney, Erik Bettez, Rick Brown, Annalise Anatise, Mark Lovington, Dan Senie (Public Ways and Safety Committee); Martha Remington (Historical Commission)

Ahearn began the session by mentioning that a draft skeleton decision was prepared by Town Counsel. The board would need to render a decision within 40 days after closing the hearing. Ahearn reviewed comments received since the last session. David Burney submitted comments on suggested components of a draft decision received from his attorney. Mr. Burney emphasized that this submission was in no way a demonstration of support for the project. Mark Lovington commented in written correspondence received just before the previous hearing that high density development is inappropriate for the site. Two to three units is the greatest density that should be approved if a project is permitted, but he would still prefer to see no development on the site due to its environmental/historical/archeological sensitivity. Ahearn mentioned that 5 units were the lowest possible density mentioned by Mr. Heaton in his analysis. Lovington stated he did not see why this was the case and requested a copy of Mr. Heaton's memo to the Board. Rick Brown stated it was his understanding from Mr. Heaton that the current design was precluding a lower density. The project could be redesigned with different features to create a lower density. Jeff Tabb of 8 Autumn Lane submitted comments to the Board stating the focus on meeting affordable housing targets for certifications is not warranted, and sees this as a unique opportunity to protect a special parcel. If something has to be built, two units with two bedrooms each at most should be permitted. Foote responded that over a large piece of land (12 acres) is being preserved under the current design that would protect the Priority Habitat Area.

Annalise Anedate responded the board is missing the point that the proposed project is too dense for the site to handle. Cindy Ickes of Still River Road stated she felt the whole lot could not be cleared due to the wetland restrictions on the back. Mr. Foote mentioned that this project was the kind of project that the Affordable Housing Partnership had requested around town, being smaller projects spread around town. Jackie Smith stated she had spoken with a representative at the state who said that the ACEC in Bolton was the only documented ACEC, but other sites might qualify. David Burney responded that he felt it was appropriate for Ms. Smith to identify who she spoke with at the state for the public record. Mr. Burney went on to say that he felt the topography of the property precluded a large development on the site and was therefore confident that a denial would not risk the parcel being sold to another developer who would put a larger project on the site. He went on to say he would appeal a decision that would approve more than four units, and believed the open space being proposed on the site was unbuidable and was being offered because of a tax benefit to the developer. Foote responded that a four unit project was not before the board. Burney went on to say that he would enjoy "sucking every penny" out of Mr. O'Hagan during the appeal by requiring turtle migration studies, and would sue board members for damages for not requiring signed architectural plans. He also felt the board required that the developer to provide more than 25%

affordable and was holding the project to a higher standard than necessary, something that he would include in a lawsuit. Foote responded that the plan before the board was the only one it could consider and suggested the board close the hearing. Ahearn mentioned that the board could in fact condition a decision capping the maximum number of units below six.

Mark Lovington stated there is no data provided by the applicant that a four unit project is not economically feasible. A board member responded that Dick Heaton gave his professional opinion. Remington asked if the property line has changed as she perceived that it had on the plan. O'Hagan confirmed that it had not. Remington asked if the Affordable housing Partnership was aware the site was in an Area of Critical Environmental Concern. She recalled that this fact came up after the hearing was opened and perhaps the BAHP was not aware of the special status when it supported the project. She commented that the BAHP had not partaken in project hearings and was short-sighted to include projects in sensitive areas. Erik Bettez mentioned that he was in awe that the Board of Appeals had the patience to continue the hearing for this long. He recalled that the BAHP was the only town board that supported the project. Burney mentioned he had documentation that the ACEC was not brought up by the developer at the beginning of the hearing. He asked for a statement from the BAHP on whether they knew the project was in an ACEC when they recommended the project.

Foote asked O'Hagan what he would do if the Board would deny the project. O'Hagan responded that he did not know at this time. Burney asked O'Hagan through the board chair whether he is willing to do a project with four units. O'Hagan responded that he was not.

Ahearn went through the components of the draft decision. The draft decision consists of a procedural history, summary of the hearing process, summary of the deliberation process, conditions ranging from general, infrastructure, pre-construction, condominium association requirements, open space requirements, and monitoring/regulatory requirements. Ahearn mentioned there were five waivers from the town bylaws that were being requested.

At 8:20pm, Jake Foote announced he was resigning from the Board due to health reasons. Because of his absence, the board could not continue to take information. The Board continued the hearing to July 19, 2006 at 7:45pm.