

BOLTON BOARD OF APPEALS
Minutes of Meeting
November 15, 2006 at 7:00 P.M.
Bolton Town Hall

Present: Gerard Ahearn (Chair); Jackie Smith; Kay Stoner; and Brad Reed

1. Riverside Hearing

Present: Roxann Burney, Paal Brandvold, other abutters

Ahearn read the hearing notice. Greg Thomas, a member of the board recently added, was not present.

Ahearn explained the applicant and town signed an agreement written by Town Counsel intended to provide structure to the process forward.

O'Hagan reviewed the history of the project. The first plan was for 12 units. Concerns raised were density, environmental involving construction within an Area of Critical Environmental Concern and Priority Habitat areas; and historical/archeological concerns. O'Hagan reviewed additional plan iterations including a 10 unit plan and eight unit plan. The current plan before the Board shows six units in two buildings, with two affordable units. The architecture of the structures were designed to complement the barn on the Mass Fish and Wildlife parcel, and other historical structures in the neighborhood. The project would use a single septic system. Buildings were pulled from the western property line to address a concern made by neighbors that the proposed location would negatively impact the Mass Fish and Wildlife property.

O'Hagan stated no mounding would be necessary for the septic system. The vegetation at the front of the parcel would be maintained to provide a buffer from neighbors. The drainage system is composed of an infiltration swale. No water would leave the site as a result of the project. The land in back would be permanently restricted either through a conservation restriction with the state or donating the land to Mass Fish and Wildlife. The price range for the affordable units would be \$160,000 to \$165,000. Residents of the affordable units will be selected via a lottery system. O'Hagan characterized the requested waivers as minimal. No Board of Health waivers would be necessary. Multi-family structures on the property would require a waiver, as well as the frontage requirement. The applicant also is requesting a waiver from the requirement of a traffic study.

O'Hagan stated that the plans are proposed to be reviewed by the Town's consulting engineer before building commences to ensure the necessary regulations.

Reed asked how much the market rate units are expected to go for. O'Hagan responded high \$300,000s to low \$400,000s. The deed restrictions for affordable units would include foreclosure provisions promulgated by Fannie Mae. O'Hagan requested that the Board clarify that it recognizes the six unit plan from June 2006 as the Plan before the Board.

Stoner asked what provisions would be put into place to ensure the trees marked to be saved are in fact saved. The permit would mandate that trees had to be flagged to be not cut down.

A memo from Martha Remington dated October 18, 2006 was read by the Board chair.

Burney asked whether this meeting constituted a new public hearing. Ahearn responded yes. Burney also asked whether the concerns raised by abutters throughout the hearing would be in the meeting minutes. These minutes would be given to new members to review.

Reed asked if it was necessary for the new members to review all materials, even for the plans not before the Board. Ahearn responded that the members should review all materials as many comments submitted by abutters and town boards remain germane. Branvold asked if town boards have given input on the latest iteration. Ahearn responded they have been given the opportunity to do so. Burney asked if the draft conditions submitted by the Burneys will be reviewed by the Board. These would be submitted as part of the record and will be reviewed by the new Board members. O'Hagan characterized that Mass Fish and Wildlife is interested in obtaining the piece of open space and will keep the Board apprised of discussions.

It was decided that Stoner and Reed would review all portions of the record before issuing a vote on the project, including the draft conditions submitted by the Burneys. A work session would be arranged with Brackett and Lucas and the applicant to review the draft decision.

The Hearing was continued to December 14th at 7pm.

2. Architectural review per decision and Mass Building Code – Regency at Bolton

Present: Brandon Scott, Toll Brothers

Tipton introduced Scott to the Board. Tipton explained that Toll Brothers is concerned with the Board's choice of the architect to perform the plan review, and Mr. Scott was attending tonight's meeting to discuss their concerns. Scott explained that Toll Brothers was very concerned with the Board's choice because Mr. Adams was used by the Boston Globe as a consultant in an article that was very critical of Toll Brothers. Toll Brothers did not have a formal chance to respond to the article or defend themselves publicly. Scott stated the article was damaging to the company's reputation. Scott also stated Toll Brothers' position is that Mr. Adams could not provide a fair and unbiased review of the plans. The Boston Globe article reviewed units where an occupancy permit had not been issued, and the Hopkinton Building Inspector at the time was not notified.

Brad Reed stated the article highlighted serious deficiencies at a project in Hopkinton including improperly anchored walls and improperly installed roof trusses. He understood that the state had to get involved in order to correct the problems. Reed asked if the problems had been rectified. Scott responded they had been and the customers were satisfied with the work. Reed indicated he would like to see some evidence from Toll Brothers that the deficiencies stated in the article have been adequately resolved. He wants the review to be done objectively, but wanted to obtain proof from Toll Brothers that Mr. Adams would not provide an unbiased review. Smith asked Scott if Toll Brothers was agreeing to pay for the services of a second applicant, who bid a higher quote on the project. Scott responded they were. Mr. Renzoni was recommended by the Building Inspector in Stow; Mr. Adams was recommended by the Building Inspector in Hudson, and Mr. John Manni was recommended by the Building Inspector in Grafton. Mr. Manni's quote of \$2,000 was the lowest, however the Board felt that he did not have enough residential experience.

Scott asked the Board why they were requiring the review when the plans had been already stamped by a Massachusetts Registered Architect. Reed responded that his understanding was that the Building Inspector, Frank Krysa, was not familiar with modular construction. Scott stated the construction was panelized, not modular. Scott stated this was the first time Toll Brothers had been asked to pay for a review for stamped architectural plans. He was also concerned that costly and

unnecessary reviews would continue to be requested by the Board. In addition, he stated that it was odd that Mr. Adams was chosen when there were literally thousands of other architects in the state who could provide the review. Tipton responded that the foreseeable reviews that remained were to have someone inspect the home construction. Scott asked the Board to send a letter that outlined what they were asking. Tipton suggested that the Board clarify what they were asking for. Ahearn asked what prompted the Globe article, and what evidence could Toll Brothers provide that the 2001 article was inaccurate. Ahearn pointed out that Mr. Adams might have not had a conflict of interest or be biased if he was simply doing the job that he was hired by the Globe to do. Tipton pointed out the review is fairly simple and involves whether the plans conform to Mass Building Code. The Board decided to send a letter to Toll Brothers that would ask them to provide proof that Mr. Adams was biased. In addition, the Board would ask Mr. Adams to provide a statement that the review would be done fairly.

3. Omnipoint Special Permit

The Board voted to sign the draft special permit for Omnipoint to alter or expand a preexisting nonconforming structure at 41 Main Street.

4. New Board Member

The Board voted to recommend Andy Kischitz of Berlin Road to the Board of Selectmen to fill its present opening.