

BOLTON BOARD OF APPEALS
Minutes of Meeting
October 19, 2005 at 7:30 P.M.

Present: Gerard Ahearn, Jake Foote, Russ Karlstad, Jackie Smith, Nat Tipton (Town Planner)

1. Riverside 40B Comprehensive Permit Hearing – Continued from July 12, 2005

Present: Mark O'Hagan (MCO Associates), Amy Wilson (Conservation Commission); Dick Perry, Roxanne Burney, Joe McLaughlin, Mark Lovington, Dan Senie (Public Ways and Safety Committee); Martha Remington (Historical Commission)

Ahearn announced that Patrick Sullivan had resigned from the board effective September 16, 2005 to move to New Hampshire. This will affect the project in that only four members could vote.

Ahearn reviewed correspondence received by the Board since the last hearing. Comments were submitted from Brenda Wright (401 Still River Road); Ken Troup; Paal and Karen Bravold; Natural Heritage and Endangered Species Program; Martha Remington, Mark O'Hagan; and the Historical Commission.

O'Hagan reviewed the changes to the plan from the July plan (new plan is entitled "Preliminary Layout Plan" dated October 13, 2005 by Ducharme and Dillis CDG). The plan moves all work out of the priority habitat area at the request of the board to minimize impacts of the project to rare and endangered species. Six lots would be created with four single family units and four duplex structures for a total of ten units. Three of these units would be made affordable. Each lot has 25 feet of frontage along Still River Road. The road has been pulled away from the left side of the parcel towards the center to save natural screening and provide greater separation between the driveway and the west lot line. The design will be built to common driveway standards which will afford some cost savings. A waiver would need to be granted to access six lots from a common driveway.

The project utilizes individual design for wells and septic, rather than a shared system. There is a 100 foot separation from wells to septic systems. This design would require waivers from the Board of Health, but does meet Title V requirements. The overall project disturbs less than half of the parcel. The applicant has purchased the parcel and has formally changed the name to "Riverside Homes LLC).

Amy Wilson stated the Conservation Commission would like the applicant to place a conservation restriction on the back part of the parcel to prevent further development within the priority habitat area. Public access to the back of the portion should be ensured as well. Dick Perry of 373 Still River Road stated he was upset that he was not notified of the hearing process until recently. Ahearn explained the hearing was advertised again because the Board was not able to continue the hearing to a certain date at the previous meeting. Dan Senie (Public Ways Safety Committee) asked if sidewalks with the new road design were eliminated. O'Hagan responded they were. Senie stated the Public Ways Safety Committee recommends a waiting area for school buses.

Jon Witten commented it was unfair that the plan was submitted to the Board just before the hearing, in essence precluding public review. Witten argued this violates the purpose of open

meeting law. Witten also mentioned that the issue of MassHousing needing to issue a new site eligibility letter for the new plan has not been resolved. Witten also argued increasing the amount of duplexes is a substantial change to the project. Witten reminded the board that the parcel is in an Area of Critical Environmental Concern (ACEC), the only ACEC in Bolton. This is a unique property that should be developed for only two dwellings (one affordable, one market rate). The town is in a unique position to deny or condition the project without appeal from the developer. Witten recommended the Board close the hearing. Witten reminded the board that Mr. O'Hagan has not shown up with any experts to help support his case, and his strategy seems to be to tire the board. The Board could severely condition the project to require a minimal sidewalk, denitrifying septic system, impose site plan conditions, etc... Absent that, let Mr. O'Hagan do subdivision control through the town's bylaws. Two units is the amount of units stated in the Purchase and Sale agreement submitted by the applicant as the minimum density acceptable for approval to complete the transaction. O'Hagan responded that two units was an arbitrary holding point and was not economically viable.

Mark Lovington commented that he didn't understand the applicant's contention that two units would not work. O'Hagan purchased the lot for \$375,000 when many lots go in Bolton for \$500,000. Lovington stated he thought that constructing and selling two units should be economically feasible. Joe McLaughlin of 407 Still River Road stated it was disingenuous to suggest that Mark wants to help town by creating affordable units because he was only in this for the profit.

Martha Remington questioned if the Affordable Housing Partnership and Planning Board knew about the parcel's unique characteristics when the plans were first distributed. Karlstad indicated that the Planning Board knew about these characteristics. Ahearn suggested it would best to submit the current plan to boards and committees for their input on the latest iteration. Witten questioned what more can the Board get by continuing the hearing. He commented the constraints are not going to go away. The applicant is the only party that benefits by continuing, as Witten argued that the applicant could wait until the town loses certification.

The Board voted to continue the hearing to November 16, 2005 at 7:30pm.

2. Sign Variance Decision – Pat Larson

The Board signed a decision denying a variance for Pat Larson of 101 Wilder Road.