

BOARD OF SELECTMEN AND SEWER COMMISSIONERS' MEETING

**December 29, 2008
Acton Town Hall, Room 126
5:00 P.M.**

Present: Lauren Rosenzweig, Paulina Knibbe, Andrew Magee, Terra Friedrichs, Town Manager Ledoux, Recording Secretary; Christine Joyce. The meeting was not televised.

CITIZENS' CONCERNS

None.

OPERATIONAL MINUTE

None.

CHAIRPERSON'S REPORT

None.

SELECTMEN'S REPORTS

-None

PUBLIC HEARINGS & APPOINTMENTS

CLASS I AND II DEALERS LICENSES

ANDREW MAGEE – Moved to approve the Class I Licenses in compliance as listed in the Motion Document, omitting Acton Suzuki as they have a 30 day license to January 31, 2009 which was voted by the Board of Selectmen on December 15, 2008. PAULINA KNIBBE- second. UNANIMOUS VOTE.

ANDREW MAGEE – Moved to approve Class II for dealers listed on the Motion Document. PAULINA KNIBBE – second. UNANIMOUS VOTE.

Terra Friedrichs Entered the meeting at 5:05

SCHOOL STREET FIELDS

Steve updated the Board on the lease process to get additional acreage at the School Street Fields. The State wanted conditions and mitigation for the agricultural soils. They worked to write a one-year license that would morph into a 10-year lease. There are issues that have not been negotiated at this time and they will be worked out in the lease. Andy noted that this is part of the Article 97 Lands which took three years to get passed. PAULINA KNIBBE – Moved to approve. ANDREW MAGEE – second. UNANIMOUS VOTE.

SELECTMEN'S BUSINESS

OTHER BUSINESS

Wetherbee Realty, 107 Great Road. The building is not in compliance with site plan and the building tenant is in there without an occupancy permit. Leo Bertolami wants a Temporary Occupancy permit and have Acton Survey prepare a site plan before the 23rd of January. The Board discussed that they could grant a temporary Occupancy Permit to the tenants, the Terrain folks. Steve said we need a solid timeline and assurance that the Site Plan will be filed.

Lauren was comfortable with at Temporary Occupancy Permit and that it has certain fixed timelines to address the issues of building set-back, the outdoor stairs, air conditioner unit, the additional impervious pavement and the road to the light house, among others. Terra is prepared to vote not to approve unless the letter says New Site Plan, not amended site plan. Paulina spoke about the tenant and is inclined try to retain the business.

Scott said this all came up when they asked for the As Built Plans. He noted that the new zoning regulations allow building on the side line a zero setback. Counsel warned that if we introduce a Temporary Occupancy Permit, we may not be able to get them out.

Paulina said if it looks like we can bring into compliance we could vote it. Scott said he thinks that it can be done.

He is violation and we need to issue him fine for being in violation. Andy asked about the zoning change.

Andy suggested an extended notice to evict be sent to notify the tenant that we are aware you are in the building without an Occupancy Permit, but that also signaled that we hoped to resolve the issue prior to the tenant having to leave. To that end, you have sixty days to make arrangements. Andy suggested we should not have to re-design to accommodate Mr. Bertolami's mistakes.

Lauren wanted to know how to proceed and should there be a large fine assessed until he is in compliance. Lauren asked that we phrase it as an eviction or extension of Occupancy Permit. Terra asked about a violation fee for the Occupancy Permit. Extension of the Eviction is a solution for this day. We don't want to be pinned down by Bertolami. Paulina said we need to address these problems separately. She said we could be accommodating to the tenant but we want to set up a system that has a consequence for anyone who violates.

Paulina wanted to be sure if he builds again that we monitor him.

Extending the tenant eviction and saying that we are sorry, now it is up to your landlord to fix this. Andy suggested that we tell the tenant we will try to resolve this. We need to put the timeframe out long enough that this process can come into compliance.

The Board had many questions at this meeting, and asked that Mr. Bertolami be invited to the January 12 meeting at 8:55, to have him talk about his situation.

We will want an independent review of the site plan a peer review. Andy wants this peer review and to have the applicant pay a reasonable fee for independent review of a plan. Andy suggested we do this.

It was felt that we require a new site plan for the site on Great Road.

ANDREW MAGEE – Moved to extend the eviction notice to Terrene Sustainable to March 31, 2009. TERRA FRIEDRICHS – second. UNANIMOUS VOTE.

Ask Leo in to discuss his schedule of compliance and a discussion. The Board asked Scott Mutuch to look into zoning-related fines that will be assessed and discussed on the 12th of January.

Lauren suggested that we need to send two letters, one each to be issued to tenant and Bertolami, the later to discuss the fines for coming into compliance. The Town Manager will draft them.

CONSENT

EXECUTIVE SESSION

ANDREW MAGEE – Moved that the Board enter into Executive Session to discuss Middlesex Retirement case. Roll Call taken, All Ayes. The Board will adjourn into Regular Session only to adjourn.

Christine Joyce, Recording Secty

Andrew D. Magee, Clerk
Date:_____

**EXECUTIVE SESSION
December 29, 2008**

MIDDLESEX RETIREMENT

Steve discussed the situation with Middlesex Retirement. He asked the Board if they wanted to continue on with the Case.

ANDREW MAGEE – Moved that we proceed with the case against MR. TERRA FRIEDRICHS – second. UNANIMOUS VOTE.

Board adjourned at 7:00 p.m.

Christine Joyce, Recording Secty

Andrew D. Magee, Clerk
Date: _____