

BOARD OF SELECTMEN AND SEWER COMMISSIONERS' MEETING

APRIL 27, 2009
Acton Town Hall, Francis Faulkner Hearing Room
7:00 P.M.

Present: Lauren Rosenzweig, Paulina Knibbe, Terra Friedrichs and Mike Gowing, Peter Berry, absent. Town Manager Ledoux, Recording Secretary; Christine Joyce. The meeting was televised.

CITIZENS' CONCERNS

Michaela Moran, 80 School Street concerned about MBTA letter and wanted to wait until we have the meeting on Wednesday. She wanted more input from the citizens. Lauren felt we needed to go ahead with the letter in order to hold on to the easement for the Assabet River Rail Trail. She noted that the letter was specifically related to setting aside land for the bike path, and would not imply that all else proposed was fine with the town. However, when it is discussed the Board consideration and voted to add language to the letter that reflected that continued dialogue about the plans for the station should occur, and that this letter was aimed at preserving the ARRT easement as discussed with the Town staff, MBTA, and Mass Highway.

John Benkert, 23 Concord Road was in to discuss the property owned by the Elliot House. Lauren said that after he meets to discuss his concerns with the group tomorrow, he call if they have any resolutions. (was recognized at 8:55 PM—was not present at 7:00 PM to 7:15 PM slot during regularly scheduled Citizen Concerns. He arrived at 7:15 PM with the meeting already in progress).

Dore' spoke about the list of past Board of Selectmen. Lauren thanked him for his work

REORGANIZATION

LAUREN ROSENZWEIG – Moved to Nominate Paulina as Chair. MICHAEL GOWING – second. UNANIMOUS VOTE

PAULINA KNIBBE – Moves to Nominate Peter Berry as Vice-Chair. TERRA FRIEDRICH – second. UNANIMOUS VOTE

MICHAEL GOWING – Moves to Nominate Lauren Rosenzweig as Clerk. TERRA FRIEDRICH – second. UNANIMOUS VOTE

CHAIRPERSON'S REPORT

Lauren wanted to announce that Wednesday night at 7:00 pm that representatives from MBTA will be coming to present their designs for the double tracking project at S. Acton commuter rail station. All are invited to come and hear about the plans. This is funded by the Federal Government. Peter will be the new liaison to the Committee.

Lauren spoke about MAPC meeting regarding economic stimulus and how it will be handled with the communities. We need to make sure our projects are protected.

Comprehensive Community Plan – a summary of the meetings with all those involved can be obtained on the web site.

Lauren also spoke about the Patriots Day this year and there were a lot of activities for all to enjoy, and how this helps us to find out where our place is in history.

OPERATIONAL MINUTE

Steve read a statement regarding of Swine Flu. We have not had any one in Acton and Massachusetts be affected. Flu prevention guidelines are outlined on the web. Board of Health will run a drill of the medical reserve corps in preparation, and continue to closely monitor.

Central Street Sidewalk work has begun.

Town Staff Appreciation luncheon for the senior's was held today and that it was a great success.

Social Outreach Coordinator at the next meeting will request funds for purchase of food cards for those in need. In addition staff will be making donations to help fund these.

SELECTMEN'S REPORTS

Green advisory wrote to Terra for applications that were not selected in the first round

OLEC request for legislation support

Design Board will be looking into the proposed Next Generation Children's Center proposal.

Comprehensive Community Plan Phase II was outlined by Terra. She said we need to review demographics and who we are serving, as well as Town Meetings. The task will be reviewed under the MGL guidelines.

Farmer's Market is moving along and Counsel has reviewed.

Mike said the senior's had a great time at the Appreciation Luncheon sponsored by the Town Employees.

Paulina will be liaison to the Side Walk Committee

PUBLIC HEARINGS & APPOINTMENTS

SUB WAY SUB SHOP, COMMON VICTUALLER LICENSE, 134 GREAT ROAD
MICHAEL GOWING – Moved to approve. LAUREN ROSENZWEIG second. UNANIMOUS VOTE

SITE PLAN SPECIAL PERMIT, 01/23/09-417, WETHERBEE PLAZA II, 107-115 GREAT ROAD

Paulina read the notice and opened the meeting that had been continued to tonight. Mark Donohoe presented the site plan for approval. Leo Bertolami spoke about the curb cut and sidewalk reconstruction by the State. He further outlined the Ellsworth Village issue. The Building Commissioner gave them some leeway on the plan.

Leo asked that they allow a 6-10 month stay. They want the options held for more time to review the plans. Leo wants a temporary occupancy under a Bond and will remove the signage and pay the \$1,000 per sign.

Roland Bartl spoke about the meeting with Mr. Bertolami. He could support some arrangement, but Roland was not sure what Leo said and we would wish to only work with one tenant. The buildings cannot be moved forward. The building needs to be done upfront if it is East Acton Village.

Mike noted that he has signed the paperwork under the Mullin Plan that he has reviewed the CD of the previous meeting.

Terra spoke about what staff has recommended—that the applicant combine the lots.

Roland spoke about the desire of the town that the tenant not be evicted and that the town has worked with Mr. Bertolami and he was asked to resolve the outstanding issues.

Roland said remove the lot line and let the upper portion continue under the protected Limited Business zoning under 2004 protection. That resolves the issue.

Lauren said that she is in favor of the lot combining and going under the previous zoning. She said she does not want him to make the statement about demolishing the house again, and respectfully asks that he not make that statement again. She thinks we need to go back to the old zoning.

Mike spoke about language changes that would save a lot of time.

Leo spoke about the demolishing the buildings, and he said it was planning's statement about the statement, Roland said he did not say anything about demolishing buildings. He suggested they be moved up closer to the road as is required in East Acton Village Zoning.

Terra asked about the remedy of this. Leo said he give the Town a \$5,000 Bond and in 6-9 months we don't have an agreement we can keep the money.

Paulina spoke about the importance of zoning, and suggested he fix what is going on by combining the two lots and asked for his response. He agreed with what she said and he further explained the issue as he understands them.

Leo asked for list from planning if we go back to limited BUSINESS what he needs to do as he goes forward in revising the plan.

Paulina asked Roland, if we were to deny this and allow existing tenant to stay contingent with the understanding that if it can be resolved in the 6-9 months if he can use limited business zoning.

Roland said they want to keep the tenant and get a sign, or the Board of Selectmen would limit this to a time and limited to the one tenant that occupies the site. Leo did not want to remove the tenant but would have to notify his Fortune 500 companies of changes that would be required in the leases regarding certain fees.

Lauren asked the Planner about Enforcement Letter and the amount of the bond. If it goes to litigation it will cost more than \$5,000.00.

Paulina wanted to know what zoning is going to take place on the site as limited Business Zoning. We need to close the door on East Acton Village. If the lots are combined it becomes Limited Business. Roland spoke about the Conservation issues on site that have been approved.

Paulina said we deny plan 60-90 days if you do not resolve the issues with your tenant you come back with modification of the site plan (amend Plan). Roland said we might need to have him file a new site plan if it is triggered under zoning.

Leo offered one tenant, sign permit and upon approval of a site plan for one lot, he will remove any non-compliant signage.

Roland noted that Leo needs to come into compliance with zoning and to be conditioned to the 2004 site plan, then he can make changes and be dealt with later

Lauren Rosenzweig - Move we deny this permit and give the owner of the property 3 months to resolve issues and that he needs to post \$5,000 Bond and allow tenant to stay and install a sign, and to apply to existing tenant only. Withdrawn

MIKE GOWING - Moved to deny the site plan and ask to have him submit a new plan. With regard to the tenant situation, Terra asked about 6 months enforcement on the delay of enforcement on the tenant to Oct 31, 2009. LAUREN ROSENZWEIG –second.

LAUREN ROSENZWEIG - Move we require applicant to submit a \$5,000 cash bond, allow one free standing signs on site or driveway and one on the building, as per zoning, to be removed as per new combined lot site plan, and an extension to bring new site plan for limited business. Agreement expires on October 31st. MICHAEL GOWING – second. UNANIMOUS VOTE.

Dore' suggested that we get money from the applicant for using so much staff time. Paulina wanted to take under advisement.

SITE PLAN SPECIAL PERMIT, 02/20/419-2/20/09-419, 59 GREAT ROAD, BELLA FAMIGLIA

Paulina read the legal announcement and opened the hearing. Mark Donohoe asked to continue the hearing to May 18th at 8:00 in order to better prepare for the hearing.

WALKER REALTY TRUST LLC. 348-352 MAIN STREET, NEXT GENERATION CHILDREN'S CENTER

Town Attorney, Art Krieger discussed Chapter 40A State Zoning Act. He spoke about the case law. Art said we cannot prohibit the siting as a right for religious or day care uses. Use is permitted; site plan does not need to be filed. Art spoke about proposed traffic mitigations.

John Petersen, 6 Jackson Drive – Mr. Petersen spoke about Mass General Laws and are they to lessen congestion in the Streets? He spoke about scope of the project.

Walter Foster is representing the neighbors of Isaac Davis Way. He said the Board should write to the ZBA to weigh in in writing to raise issues. They want gates on Isaac Davis Way and wants screening from the building. What happens in the case of the renter leaves. He suggested bond be filed if we are left with a vacant building of this size which can only be used for educational or religious activities, he noted the issue as it related to the Dover Amendment which restricts use.

Richard Logan asked if the daycare is required to be non-profit, Attorney Krieger said no. Mr. Logan said that the traffic is difficult already and trying to get to emergencies is important. He asked that we litigate this.

Karen Eckert – Agawam Road, felt the character of the town and to mitigate the plan. The safety was another concern.

Peter Ashton – Appearing on behalf of Infant Toddler Center. He feels this is an issue that needs the Board to listen to the public about this. Peter understands the law but believes this is a policy issue and the Board needs to consider. Impact on other child care providers. Urged the Board to write the Appeals Board.

Pat Leete, Childcare at 394 Mass spoke in opposition on behalf of Early Childcare Advisory Council, and urged the Board to write to a letter to Appeals Board.

Mike Farquar, 9 Agawam Road spoke about dealing with the Kelleher's and they will bulldoze the town. He spoke about the Westford center, and urged the Board to keep it out of Town. If you have to approve put stringent restrictions.

Charlie Kadlec said this is the wrong facility in the wrong place. He asked what is it that our current Reps and Senators could do to help, any action to increase our choice in Acton. Art said we need to bring special legislation to amend. Charlie asked the Board to contact the legislature to let them know,

Mr. Levin, Hosmer Street said we should give the tape of this meeting to the developer. He does not think this proposed use will be supported in Acton.

Terra spoke about the support of the costs to protect ourselves.

Mike asked about the size of the public safety building, it is 23,000 sq. ft. same size as the proposed building

Paulina asked about grandfather clause and when it would go into effect.

Paulina asked if we want to send a letter, what it should say.

Terra asked that we make reference to the Design Review comments. Paulina said they will not be ruling on the look of the building. The ZBA will either affirm the decision of the Building Commissioner, or if the ZBA believes that it is reasonable, she asked that we note FAR and parking lot items as part of denial of this proposed Daycare.

Lauren asked when the State law was developed what was the intention. Atty. Krieger noted in 1990 Dover Amendment was voted to promote day care.

Lauren noted the issues affecting neighbors, Design Review guidelines and to screen direct abutters. We also need to address traffic and traffic safety.

Paulina said we needed to develop a letter to ZBA regarding the Sense of the Board and the Town. If this is going forward, what happens if we try to restrict the size and impacts?

Dore' Hunter, Foster Street spoke about consensus and we need to have the support of the Day care centers clients and owners and play for time. The real card is to try to convenience the owners of the daycare that they are not going to make money.

PAULINA KNIBBE - Move to write a letter to ZBA expressing sense of the Town This project is not supported and encourage them to look closely for reasons to affirm the decision of the Zoning Officer. LAUREN ROSENZWEIG – Moved a friendly amendment to outline what we heard from the citizens tonight, town character, traffic, size, lower numbers at childcare facilities, protection of neighbors currently. LAUREN ROSENZWEIG withdrew her amendment and urged the people here tonight to go to the ZBA meeting on May 4th and to voice their concerns to the ZBA.

Paulina noted issues of traffic, size and massing of building, screening to the neighbors, concerns about what happens to the building if its use is abandoned.

Paulina suggested they are Violating Master Plan, defamation of town charter, traffic which will be of great impact the town.

Consensus above – Unanimous vote by the board.

Dick Calendrella urged the people at the meeting to begin a petition to give to the Developer and ZBA asking them to not support this project.

Mark Hudson – asked that we protect our zoning.

Robert Walker, Developer of the project spoke about the voluntary enhancements they have offered and he feels they need to find out what they have agreed to in order to be welcomed in to the neighborhood

Paul Hoff spoke about changing the bylaw to control development

SELECTMEN'S BUSINESS

JENK'S FUND FOR THE YOUTH OF ACTON

It was agreed to roll over the interest back into the principal until next year

EAGLE SCOUT COURT OF HONOR, BEN SANCETTA

Mike Gowing to present the award.

OTHER BUSINESS

BFRT DRAFT LETTER TO NIKI TSONGAS

MIKE GOWING – Moved to accept the letter as written regarding the Bruce Freeman Rail Trail.
TERRA FRIEDRICH – Second. UNANIMOUS VOTE

CONSENT

Hold Minutes 13 – because they have not been finished.
Hold #26 MBTA Meeting

LAUREN ROSENZWEIG – Moved to approve consent items not held TERRA FRIEDRICH
- Second – UNANIMOUS VOTE

Item 26, Item was discussed and we definitely want this easement. Amendments to the
letter that is prepared by adding Paulina's added statement. UNANIMOUS Vote

Paulina asked about the State Tax increase. Terra was asked if she was in favor of the
Governor's proposal, she did not want a lot of money going into the Mass Pike folks. Lauren
liked the Governor's plan and was not sure why the legislators were not in favor. She is in
favor of looking at gas tax with transportation in mind.

Mike said it comes down to what regressive tax do you want?

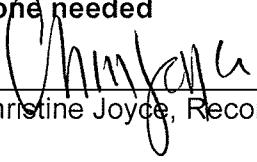
Sid Leven said the Governor said he would veto it. He is in favor of taxes on income and
asked the Board to let the legislature know and to rescind the Sales Tax.

Add to May agenda regarding letters to the legislators.

LAUREN ROSENZWEIG -Motion to adjourn. MIKE GOWING – second UNANIMOUS VOTE

EXECUTIVE SESSION

None needed


Christine Joyce, Recording Secty


, Clerk
Date: 6/8/09