



Acton Zoning Board of Appeal

Minutes of Meeting

July 19, 2018

Acton Public Safety Facility

EOC Room

Zoning Board of Appeal members in attendance: Kenneth Kozik, Chair; Jonathan Wagner; and Suzanne Buckmelter.

Also in attendance: Kristen Guichard, Senior Planner and Robert Hummel, Assistant Town Planner, Corrine Losch, Natural Resource Division Summer Intern

Mr. Kozik opened the meeting on July 19, 2018 at 7:30PM.

Public Hearing #18-04 – Comprehensive Permit (40B) – 184 Main Street

Mr. Kozik opened the public hearing at 7:30PM. He stated that this was a continuation on a previous board meeting that was held on June 20, about an eight unit comprehensive permit project with two affordable units. He noted that this was the third draft of the comprehensive permit that took into consideration the concerns brought up by the public at the last meeting and a letter that had been submitted to the Town by an abutter. The letter had prompted Town Counsel to recommend a condition that addressed the jurisdiction of the Board concerning the drain pipe through 33 Prospect Street and its easement, which was at first listed in the draft decision under 2.14 in the finding section but was now moved to 4.2.1 under the conditions in the final draft decision.

The applicant, Mr. O'Hagan asked that last sentence of the new condition 4.2.1 be struck from the permit because he had objections to the wording. Mr. Kozik stated his objection to the last sentence because it brought into question who is held responsible for legal decisions based on pipe use and jurisdiction. Ms. Buckmelter stated her objection to the last sentence because it may give jurisdiction back to the Zoning Board when making legal decisions about the pipe.

Mr. O'Hagan asked to modify the wording on condition 4.1.1 to allow the applicant to later alter and add a wrap-around porch due to the request of the Crafts of 188 Main Street. Mr. Kozik asked the Crafts if they still wanted this condition and the Crafts indicated that they did not want the wrap-around porches. The Crafts also wanted to express that at the previous meeting on June 20th they did not want the wrap-around porch. Mr. Kozik suggest that 4.1.1 be stuck from the permit.

Mr. O'Hagan asked with respect to conditions 4.3.2 and 4.3.3 concerning condominium fees if 4.3.3 could be struck as it stated different information about the fees than 4.3.2. Mr. Hummel clarified that these were two options to be chosen by the applicant. Mr. Kozik suggest that 4.3.3 be stuck from the permit.

Mr. Kozik opened the floor for public discussion. Ms. Cobleigh Glenn expressed that she would like this project to be resolved and moved forward. Dudley Goar stood up as the attorney for the Samuels, an abutter of 33 Prospect Street, and spoke about the letter that was sent to the Board of Appeal. Mr. Goar wanted to clarify that the letter suggests that the use of the 33 Prospect Street drainage pipe would be

in conflict with his client's property rights. Mr. Kozik asked how they believed it could be resolved and Mr. Goar responded by saying that building less units or not building at all would resolve the matter. Others from the public voiced their concerns over the drainage pipe, worrying about flooding and questioning whether there is an easement for the pipe. Mr. Goar stated that it is the burden of the applicant and the town to deal with the drainage easement and that it should ultimately be up to the ZBA to make these decisions. Mr. Wagner disagreed and stated that the revision to 4.2.1 allows the neighbors to take legal action because the ZBA does not have jurisdiction; Mrs. Buckmelter and Mr. Kozik agree. Members of the public voiced their disagreement and suggested the board members postpone; the Board did not believe there was a reason to postpone the vote. The public raised more concerns over the maintenance of the property and a note was read on behalf of Terra Friedrichs of 627 Massachusetts Avenue.

Mr. Kozik made a motion to close the public hearing. The motion carried unanimously.

Mr. Kozik stated that people were notified, traffic was talked about, overall number of units were discussed. The biggest issues talked about was drainage and many arguments, both legal and emotional, were heard. The town agencies have reviewed the project as last revised and agreed that it will work.

Mr. Wagner stated that the 40B has momentum and will be approved which constrained the board to modify and not to deny the permit. This meets all the criteria but does put legal work on the abutter. We are assuming that the applicant has the legal right over the neighbors.

Mr. Kozik made a motion to approve the decision with conditions reflecting the most current draft of the comprehensive permit that the board reviewed at the public hearing, striking the last line of 4.2.1 and deleting 4.3.3.

Mrs. Buckmelter seconded the motion.
The motion carried unanimously.

The meeting adjourned at 9:00 PM

Respectfully Submitted,

Corrine Losch, Natural Resource Division Summer Intern