

RECEIVED  
JUL - 9 2010  
TOWN CLERK, ACTON  
*Mad*

**MINUTES OF THE HEARING FOR A FLOOD PLAIN  
SPECIAL PERMIT, 50 POWDERMILL ROAD**

**HEARING # 10-04**

**(SESSION 3)**

A public hearing of the Acton Board of Appeals was held in the Town Hall on Monday, May 17, 2010 at 5:00 pm, on the petition of Powder Mill Properties, LLC for a **Special Permit** under Section 4.1.8 of the Zoning Bylaw to allow the **USE** within the Limits of the Floodway fringe. The petitioner is proposing to re-grade a portion of the parking lot at 50 Powder Mill Road resulting in a loss of an estimated 1,305 cubic feet (1.6% of available) Flood Storage. The property is located at 50 Powder Mill Road. Map J3-Parcel 49.

Present at the hearing was Ken Kozik, Chairman; Jon Wagner, Member; Adam Hoffman, Alternate; Scott Mutch, Zoning Enforcement Officer, Corey York, Town Engineer; and Cheryl Frazier, Board of Appeals Secretary. Also present at the hearing was the petitioner, Leo Bertolami and his Engineer Mark Donohoe of Acton Survey and Engineering.

Hearing #10-04 was reopened. Ken said the last time they met, the petitioner volunteered to hire an independent engineer to clarify a discrepancy with the flood storage volume. He hired Stamski & McNary to clarify the discrepancy. The Board received a copy of a letter from Stamski & McNary addressed to Roland Bartl regarding their analysis.

Ken asked the applicant's engineer for his comments regarding Stamski and McNary's findings. Mark Donohoe said he thinks their calculations are fine and he can modify the site plan to meet their numbers and then if the Board requires he can have Stamski and McNary look at it again.

Mark Donohoe said he has not received the correspondence between the town and Stamski and McNary and would like copies of that. He said he felt there were two issues. The first is to allow them to come back with a new design to meet the percentage and secondly drop the design down.

Ken Kozik asked the other Board members for comments. Jon Wagner stated that basically they will be starting from square one. Adam Hoffman felt the proposal sounded reasonable.

Ken said the way the proposal reads is if the board were to close the hearing, the permit would not be granted, but if they close and deny the application the petitioner is stuck for two years. Ken said the petitioner could continue the hearing and resubmit more

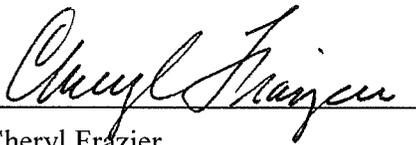
information or the Board could close the hearing, deny the permit and vote on whether the change they are making is significant.

Mark Donohoe stated they would rather continue the hearing. Ken asked Adam Hoffman if he would like to continue the hearing or close this hearing because of a material change. Adam said he wouldn't have a problem with either. Jon said he believes the hearing should be continued not closed and resubmitted.

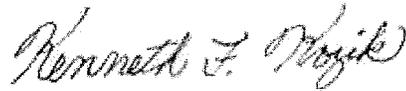
Ken moved to continue the hearing to Monday, July 12, 2010 at 7:30 pm.

Ken asked for a motion to continue the hearing. Adam made the motion to continue the hearing. Jon Wagner seconded the motion. The Board voted 3-0 to continue the hearing. The hearing was continued to Monday, July 12, 2010 at 7:30 PM.

Respectfully submitted,



Cheryl Frazier  
Secretary to the Board of Appeals



---

Kenneth F. Kozik  
Chairman of the Board of Appeals