



MINUTES OF THE HEARING ON THE PETITION BY HEARING # 10-07
99 PARKER STREET LLC

(SESSION #3)

A public hearing of the Acton Board of Appeals was held in the Town Hall on Monday, August 16, 2010 at 7:30 pm in Room 204 on the application of 99 Parker Street LLC for approval of a Comprehensive Permit on a parcel of land located at 99 Parker Street, Acton, MA, Map I3/Parcel 8 of the Acton Town Atlas. The petitioner is proposing five single family dwelling units with two of the units being affordable.

Present at the hearing were Kenneth Kozik, Chairperson; Jonathan Wagner, Member; Adam Hoffman, Alternate Member; and Cheryl Frazier, Board of Appeals Secretary. Also present at the hearing was Mark Starr, Petitioner; Dennis Dyer, Consultant to the petitioner, Nancy Tavernier, and Corrina Roman-Kreuze of the ACHC and Janet Adachi, member of the Board of Selectmen.

Ken Kozik re-opened continued Hearing #10-07. He began by listing the new documents contained in the file, which included an IDC from Roland Bartl, Town Planner, an IDC from Corey York, Town Engineer dated August 16th, an email from Fire Chief, Robert Craig, two letters from Meridian Associates dated July 22, and updated August 12, 2010 and a second letter dated August 10, 2010, a Site Plan Set of plans revised on August 12, 2010. Submitted and received August 16th for the record was a new set of Site Plans addressing the Fire Chief's issues.

Ken Kozik began going over the outstanding issues. The first issue was the Fire Chief's email. Dennis Dyer responded to Ken by stating they thought up until today that the turn into the property was ok but as it turns out it is not, the second issue with Fire was the turning radius for emergency vehicles and that has now been addressed and changed with the plans submitted tonight.

The next outstanding issues were with the Engineering memo. Item # 5 recommends a condition in the decision to require the engineer to certify the groundwater prior to the issuance of their first building permit. Dennis Dyer said that would not be a problem. In item # 11 the Engineer has added a guardrail, the Engineer will need to certify the guard rail design/installation is sufficient to prevent a vehicle from accidentally driving into the wetlands. Dennis Dyer said that is not a problem. In item #19 staff recommends a condition in the Decision that an as-built plan showing the buildings, pavement, drainage and utilities be required on the as-built at the conclusion of the construction. Dennis said

that will not be a problem. In item #20 the applicant incorporates language for the private way into their legal documents and maintenance agreements so that future residents understand the town is not responsible for plowing or other maintenance. Dennis Dyer not a problem.

The last issues to be discussed were with the Planning Dept. memo. In item #1 number 2, no waiver is required for the enclosure of the front porch because it's pre-existing non-conforming. The front yard setback waiver, if granted should be 20 feet for unit #2. The applicant doesn't have a problem with that. In item #3 the applicant has no problem with the contribution to the town in the amount of \$9,100 prior to issuance of a building permit. In item #6 the applicant's Engineer has not sufficiently documented the groundwater recharge issue. Dennis Dyer said when they went before the Conservation Commission they were very satisfied with the design that was proposed and the Board felt it was adequate. The Board of Appeals would need proper documentation to show that it complies or if it does not comply they need a condition that design changes be made before the issuance of a building permit.

Nancy Tavernier said in item #5 of the Planning Board memo regarding the review of legal documents, they can't make any changes because there under DHCD control.

Ken suggested that the applicant get an email from the fire dept. with their approval. He added that the regulatory agreement has to be in place prior to the building permits being issued. Ken continued saying they have looked at all the items and the Board feels everything is ok, but the Board would like the Fire Dept. memo approval, and also look into the Condo docs with Town Counsel. Ken asked if Scott could call him regarding the condo docs.

Mark Starr said he started this process two years ago. He said three weeks is not a long time but with the writing of the decision and then the appeal period on top of that this delay is going to cost him a lot of money. He is asking the Board if they could please come to a decision tonight and close the hearing.

Nancy Tavernier asked if she could please speak. She said this decision, that is taking so long, discredits DHCD's LIP process. She added that Mr. Starr is going to lose another building season. She feels this hearing could be closed contingent on the Fire Chief saying it's ok. Then he has to wait for the decision to be written and then the 20 day appeal period on top of that. Is it that important to have the Fire Chief comment in writing when we all know he is fine with it.

Jon Wagner asked Nancy what things have changed in the last two years as she said. She said she feels staff is not qualified to handle the 40B's. They don't understand how it works.

Ken asked alternate member Adam Hoffman how he felt about closing tonight or continuing. He said he would prefer to have the continuance with the condition of

closing the hearing next time but they could possibly close and deliberate tonight with the issues that need to be addressed to be made conditions.

Jon Wagner moved that Hearing #10-07 be closed. Adam seconded the motion. The Board voted to close the hearing 3-0.

Jon Wagner moved to approve the Comprehensive 40B application subject to submission of plans to be approved by the Engineering, Planning and Fire Departments and incorporating the Engineering Department memo dated July 6th and revised through August 13th, Planning Department memo dated August 13th with the request that they have issued in their July 6th memo and incorporating language and addressing the shielding of the neighbors with adequate vegetation.

Adam seconded the motion. The Board voted unanimously 3-0 to APPROVE the 40B Comprehensive Permit application for 99 Parker Street.

Respectfully submitted,



Cheryl Frazier
Secretary to the Board of Appeals

Ken Kozik
Chairman of the Board of Appeals