



**Monday September 20, 2010 – 7:30 PM**

**Revised**

**APPROVAL OF MINUTES - AUGUST 12, 2010 - HEARING #09-03**

Ken Kozik opened up by voting to approve the minutes from the August 12, 2010 Board of Appeals hearing for the Comprehensive Permit application for Marsh View LLC 93 Central Street. Ken explained how the Board got to this point. The meeting that was held on August 12<sup>th</sup> now has an open meeting law complaint. Ken explained since Adam Hoffman, alternate member of the board was not present for the hearing, but is present this evening, he could abstain from voting to approve the minutes. Ken asked Jon Wagner and Adam Hoffman if they had received the minutes for review from Kim Gorman. They both had. Ken moved to accept the draft minutes that were drafted by Attorney Nina Pickering Cook. The Board voted 2 in favor to approve and 1 to abstain.

**Absent: Marilyn Peterson, Richard Fallon, and Francis Mastroianni.**

**DISCUSSION AND RESOLUTION TO THE OPEN MEETING LAW COMPLAINT FOR THE MEETING THAT WAS HELD ON AUGUST 12, 2010, 93 CENTRAL STREET**

Ken Kozik opened up for discussion to the Board of Appeal members the second item on the agenda which was the Open Meeting Law complaint. Ken noted the name of the complainant. He read a description of the violation. Ken continued stating that they have 14 days to file their response with the Attorney General. Ken began by reading the Board's response to the violation written by Town Counsel. After the response was read Ken made a motion to accept the response to the Open Meeting Law Complaint. The Board voted two (2) in favor of accepting and one (1) vote to abstain.

**APPROVAL OR DENIAL OF MINUTES FOR BOARD OF APPEAL meeting held on August 2, 2010 for McCarthy Village II, Sachem Way Hearing 10-08.** The Board accepted and approved the minutes of August 2nd. The Board voted unanimously to approve 3-0.

**APPROVAL OR DENIAL OF MINUTES FOR BOARD OF APPEAL MEETING THAT WAS HELD ON SEPTEMBER 13, 2010 MCCARTHY VILLAGE II,**

**SACHEM WAY HEARING #10-08.** The Board Ken made a motion to accept and approved the minutes of September 13, 2010. The Board voted unanimously to approve the minutes 3-0.

## **MINUTES OF THE HEARING McCARTHY VILLAGE II HEARING #10-08**

In accordance with the provisions of M.G.L. c. 40B, §§ 20-23, the Acton Board of Appeals will hold a continued public hearing on Monday, September 20, 2010 at 8:00 PM in Room 204 of the Acton Town Hall Acton, MA on the application of the Acton Housing Authority for approval of a Comprehensive Permit on a parcel of land located at 15-26 Sachem Way, Acton, MA Map C-5/Parcel 16 of the Acton Town Atlas. The petitioner proposes 12 dwelling units with all of the units being affordable.

Present at the hearing was Ken Kozik, Chairperson; Jon Wagner, Member; Adam Hoffman, Alternate member; Scott Mutch, Zoning Enforcement Officer/Assistant Town Planner. Also present at the hearing was Rebecca Mautner, Project Manager along with Benny Ber and Steve Baker of Baker/Wahl Architects. One abutter, from 122 Nonset Path, Charles Sullivan was present. Also in attendance were members of the Acton Housing Authority.

Ken began by reading the new exhibits into the file.

Ken asked Scott to begin by going over his updated memo along with the Engineering memo. He asked Scott to enlighten everyone regarding item #4. Scott said he would defer to the applicant because they brought some new information with them tonight. He continued stating that staff thought that this project abutted or extended into the Wills Hole Conservation area and some of the special habitat would have had to be removed to support this project. They asked the petitioner to show it on the plan and Scott believes they have additional information with them tonight. Steve Baker of Baker/Wahl Architects began by saying they spoke with Tom Tidman and the conservation land is on the property line and the project does not intrude on that. The applicant feels this issue is moot and feel they have addressed concerns that the town had. The Architects have identified the Conservation land and will submit for the record a Conservation Map from the Town of Acton website that shows the border of the wetlands. The project does will not infringe on the wetlands. Ken Kozik asked the applicant how hard it would be for them to get an email confirming that. Jon Wagner is trying to figure out since they don't have verification from Tom Tidman on the wetlands issue how can they incorporate it into the decision. Ken said it doesn't have to be incorporated into the decision because it doesn't encroach on the wetlands. The applicant said the Board could condition in the decision that there will not be any building in the wetlands. Ken moved on to Item #5 and asked Scott for comments. Scott said the project will not make a significant impact on the threshold to trigger a full traffic study. Ken moved on to item #6. Scott said it would be up to the Board but staff strongly supports the extension of the sidewalk within the property. At this point it's up to the Board whether or not they want to condition it as part of the decision. Staff highly recommends that it be implemented. Rebecca Mautner, Consultant for the Acton Housing Authority said as they discussed last week the sidewalk is not in the plans and not in the budget at this time. The project is behind six existing units, and in addition to being expensive it would take away from the existing units green lawn space. They believe the sidewalks will create adverse issues. She added that the \$20,000 funds that were given to them from the Board of Selectmen are dedicated to allow for the buffering between the new construction and the abutters to the property.

Ken asked the abutter if he would mind having a sidewalk instead of a buffer of trees. He said he would mind. Ken moved on to Item #12. Scott said there is still some question on what the plans show and it's something that could be labeled on the plans and/or conditioned in the decision that Bldg A would be accessible.

Ken asked the applicant if they have addressed the landscape plan and the issues. The changes are small relocations of plantings due to the concern of one of the abutters. The landscape plan has been approved by Dean Charter. There was discussion on the landscaping plans.

Planning staff would like to see a condition in the decision that a playground could be erected in the future. Should the applicant wish to do this in the future and it was a condition in the decision the petitioner would not have to come back to the Board to approve it. Ken said the discussion they had at the last hearing regarding the building of a playground the Board felt it would interfere with the screening for the abutters. Jon Wagner said if the playground is not on the plan it should not be part of the decision.

Ken moved on to issue #18 which deals with the trail. As discussed, the property abuts conservation land and there's a trail that runs just inside the conservation land. Kelly Cronin supports connecting to that trail. Scott said that there would be a condition in the decision that prior to the final occupancy permit being issued the trail would need to be finished. Rebecca Mautner, said their plan would be to work with local volunteers like the Boy Scouts to make a footpath to connect to the existing trail. Jon Wagner asked if she was comfortable with them incorporating that into the decision. Steve Baker said they would perhaps mark a trail possibly mulch it and maintain it and keep it as far away from the abutter's property as possible. The applicant agreed. Charles Sullivan of 122 Nonset Path, abutter would like a condition placed in the decision to the location of the trail and a plan modification on the plans and maintaining it. Jon Wagner said the Board will need revised plans that show the path and the accessible unit also.

Ken moved to issue #19 Tree Warden. The Planning Department staff defers to the Tree Warden regarding all landscaping questions and review.

Ken moved on to the Engineering Dept. memo. Item # 1 Snow area should be pitched to the paved area. Engineering is ok with everything except some of the standard language. All of the other comments have been addressed and there are no outstanding issues and the conditions of the memo to become part of the decision.

Ken said the only issue left is the sidewalk issue. Ken asked board member Adam Hoffman what his view was on the sidewalk. Ken explained that presently there is a short sidewalk between 2A /119 to a senior center at the existing project and from that point on there's a small road to the original project with houses on both sides of that road and this would be an extension of that road but without a sidewalk. The Planning Board wants the sidewalk from 2A/119 to the back of the new project but the Petitioner does not want the sidewalk because it will encroach on some green space of the new residents. Adam asked Rebecca if any of the existing residents from Phase I have been approached and asked whether or not they prefer a sidewalk. Rebecca Mautner said they have had numerous

community meetings with the residents invited and none of them at any point have ever requested a sidewalk. She said it's never been considered it an option both in terms of aesthetics and their budget. They also wanted this phase of the project to blend in with the existing project. Jon asked Scott what his thinking was regarding this. Scott said the Planning Dept. still recommends and believes it makes sense from a Planning prospective to have a sidewalk. He said he doesn't believe it has a negative impact as the petitioner stated. Adam asked Scott what's the reasoning is for the sidewalk. Scott said public safety.

Ken asked if anyone in the audience had any more comments. Chuck Sullivan, 122 Nonset Path asked how the Board will protect the interest of the abutter when it comes to playground. The Board feels they may condition the decision to not having a playground. His other question was in regards to the item #13 in the Engineering memo regarding the drainage outlet. He wanted to know what are they referring to. Steve Baker, Architect said it has to do with ground water protection. The system that will be installed will capture the storm water, so it leaches into the soil and recharges so if there is a 100 year storm there is an outlet for that 100 year event. They will be capturing more water with the new system. Jon asked Mr. Sullivan if he was happy with the new revised plans. He said he was.

Ken had a question for the petitioner. If the Board were to render a decision in the petitioners favor, the decision would need to be written within 14 days. He asked if the petitioner if they would be willing to give a 28 day extension. Rebecca Mautner said they appreciate all the town has done, but if they grant the Board the extension they would be disqualified. They would be able to agree to 21 days.

Ken made a motion to close hearing #10-08. The motion was accepted. The hearing was closed.

Jon Wagner moved to approve the Comprehensive Permit Application with the following conditions:

- 1 Final Landscaping Plans approved by Dean Charter.
- 2 The issues raised in the 9/17/10 Engineering department memo be incorporated.
3. Plans to show connection to sewer system.
4. Playground /recreation area not permitted without approval of the Planning department.
5. LEED certification as referenced in Item #7 Planning Department memo dated 7/30/10.
6. Clear and maintained trail connection to Wills Hole Conservation Area and show trail on plans.
7. Confirmation from Tom Tidman that the project does not encroach on Conservation land.
8. Written decision within 21 days as per agreement with applicant.

Ken made a motion to approve the Comprehensive Permit. The motion was seconded. The Comprehensive Permit was granted unanimously 3-0.

For a review of the meeting documents for this meeting, please visit the digital link below:  
<http://doc.acton-ma.gov/dsweb/View/Collection-3572>