



**ACTON ZONING BOARD OF APPEALS**  
**Minutes of Meeting**  
**07/07/2020**  
**6:30PM**  
**Virtual (Zoom) meeting**

Board of Appeals members in attendance: Ken Kozik, Adam Hoffman, R. Scott Robb  
Also present: Roland Bartl, Planning Director

**1.0 Opening**

Chair, Ken Kozik opened the meeting at 6:30 p.m. He read the guidelines for virtual meeting.

He called the roll. Adam Hoffman – Aye; Scott Robb – Aye; Ken Kozik – Aye

**2.0 New/Special Business**

**2.1 ZBA 20-02 Public Hearing Continuation, Comprehensive Permit application for “The Apartments at Powder Mill”, 2, 4 & 12 Powder Mill Road**

The Chair of the Board, Mr. Kozik, re-opened the public hearing at 6:30pm. He explained the public hearing process. He invited the applicant that to give an overview of the application

**I. Project updates**

The applicant’s attorney, Lou Levine gave updates on comments received from the staff

- Project got approval from the Conservation Commission.
- Engineering Peer Review comments had not yet been addressed because they arrived so close to meeting date
- Fire code issues will be reviewed during the Building permit stage; the fire department is fine with the project as is, with condition that the applicant submits a complete building plan that will be reviewed.
- Applicant supports all ideas/comments in the Planning staff memo.

**II. Comments/requests from the Board**

- The Chair, Ken Kozik mentioned that the Board had received emails from the public urging the Board to require the developer to provide 20% of the units to serve people who are at or below 50% AMI. He added that 40B was enacted by the State and that the project as it is met the 40B statute requirements and was reviewed and supported by Board of Selectmen in its proposed configuration. Any issues with that should be taken up with the Board of Selectmen. He urged the public to bring any 40B statutory issues to the attention of the State Senator and Representatives.
- The board would not be comfortable approving the application without an approval memo from the Fire Department. The applicant was urged to get one by the next meeting.

- The Board determined that 3D renderings would not be required for this project because the application was received before the board adopted the rule that requires 3D drawings.

### **III. Public comments:**

- Ms. Janet Adachi read a statement of support on behalf of the Acton Community Housing Corporation (ACHC).

#### **Straw Vote:**

Ken Kozik, Adam Hoffman and Scott Robb-Would approve with conditions

The applicant was asked to incorporate all departmental and board comments in the plans to be presented in the next meeting. The board delegated the Planning Division to draft a decision for the next ZBA meeting.

With these comments, and agreement with the applicant, Mr. Hoffman moved, Mr. Robb seconded and the board unanimously voted (3-0) to continue the public hearing to August 4, 2020 at 6:30pm.

The Chair called roll. Adam Hoffman – Aye; Scott Robb – Aye; Ken Kozik – Aye

## **2.2 ZBA 20-8 Public Hearing, 960- 962 Main Street ZEO Appeal**

The Chair of the Board, Mr. Kozik, opened the public hearing at 7:30pm.

The attorney representing the applicant, Mr. Dimitrios Ioannidis presented an overview of the appeal that was challenging the decision of the zoning enforcement officer. He gave a history of the land use in question, highlighted communication with the town officials and his client's concerns.

The attorney representing the defendant, Mr. Dailey explained the historical use of the property, from the 1950's to date, noting that the property has remained active over the year with varying uses of the property always including outdoor storage and handling of various materials.

### **I. Comments by the Planning Director**

Mr. Roland Bartl explained that his site visit in 2019 with DEP representatives and Mr. Tom Tidman was not to determine dormancy of the land, but was rather in response to a concern about potentially hazardous crushed pavement materials on the property. DEP had determined that this material is not classified as hazardous. He collected samples of the material and samples of the soil to consult with the Health Department about their relative percolation rates. At that time there was a brief mention of the activities on the land, which he deemed pre-existing nonconforming.

### **II. Acton Water District Comments**

Mr. Matthew Mostoller, from the Acton Water district expressed concerns about the unsupervised traffic on the property, intensity of non-conforming use and its implications to the water supply, and pattern of uses that have not been adequately regulated by the town. He informed the board that the Acton Water District has raised a number of concerns with the Board of Health over time but have not seen much action from the town.

At 9:10pm, Adam moved and Scott seconded to close hearing ZBA 20-8. The motion was unanimously (3-0) approved. The Chair called roll. Adam Hoffman – Aye; Scott Robb – Aye; Ken Kozik – Aye

### **Deliberations**

The Board discussed that both sides presented compelling evidence but based on what was presented at the meeting the use of the land did not appear to have changed and that the zoning enforcement officer's decision was proper.

The Board unanimously (3-0) denied the appeal to the ZEO's decision. The Chair called roll. Adam Hoffman – Aye; Scott Robb – Aye; Ken Kozik – Aye

### **3.0 Announcements:**

The Planning Director, Mr. Roland Bartl, announced that he would be retiring on July 28, after 33 years of service in the Town of Acton.

### **4.0 Adjournment**

At 9:18pm, Mr. Hoffman moved and Mr. Robb seconded to adjourn the meeting. The motion was approved unanimously.

The Chair called roll. Adam Hoffman – Aye; Scott Robb – Aye; Ken Kozik – Aye

Meeting adjourned.

### **Documents used during this meeting**

- Agenda
- Powdermill Apartments LLC Comprehensive Permit application
- Town Department Comments
- Planning Department Memos
- Public Comments and Emails
- 960-962 Main Street ZEO Appeal Application
- Acton Water District Comments
- Engineering Peer Review Comments
- Health comments

**Link to docushare:** <http://doc.actonma.gov/dsweb/View/Collection-11673>

Respectfully Submitted,  
Vivian Birchall  
Land Use Department