



RECEIVED

SEP - 8 2014

TOWN CLERK
ACTON

**MINUTES OF THE HEARING FOR THE 40 COMPREHENSIVE
PERMIT FOR 6 POST OFFICE SQUARE**

HEARING #13-06

In accordance with the provisions of M.G.L. c. 40B, §§ 20-23, the Acton Board of Appeals held a public hearing on Monday, February 3, 2014 at 7:30 PM on the application of Post Office Crossing for approval of a Comprehensive Permit on a parcel of land located at 6 Post Office Square, Acton, MA Map E-4/Parcel 19-1 of the Acton Town Atlas. The petitioner proposes twelve single family dwelling units with three of the units being affordable. The Development will be called Post Office Crossing.

Present at the hearing were Board members, Ken Kozik, Chairman; Richard Fallon, Member; Suzanne Buckmelter, Alternate member; Scott Mutch, Zoning Enforcement Officer; and Cheryl Frazier, Board of Appeals Secretary. Also present at the hearing was Attorney Louis Levine from D'Agostine, Levine, Parra & Netburn, James MacDowell, of Eastern Land Survey Associates, William Luster, and Rebecca Curran, Landscape Architect from RC Design.

Ken opened the hearing, listed the contents of the file which included a Determination Project Eligibility letter under the Local Initiative Program (LIP) from the Department of Community Housing and Community Development, a public hearing notice, a legal ad, a third party billing authorization to the newspaper, a consent extension form to continue the hearing to January 6, 2014 signed by the applicant's attorney, a cover letter for the certified mailing and amount submitted, another consent and agree to continue to February, 3, 2014, a cover letter with the submittal of the Comp permit application, the Storm Water Management Report, a copy of certificate of organization of Post Office Square, copy of the Purchase and Sale Agreement, copy of Amendment and Restatement of purchase and sale agreement, copies of architectural plans, copy of letters x 2 from Eastern Land Survey Associates, addressing concerns of the Acton Fire and Police Department, copy of a letter Eastern Land Survey Associates addressing concerns to Engineering Dept. regarding roadway name, three different house plans for the project New Englander, New Fiddlehead, and April Yarrow. Various correspondence from Eastern Land Survey Associates, regarding water impact, roadway name to fire and police department, response to Acton Engineering department, water impact statement addressed to Chris Allen, Water District, Matthew Mostoller, Environmental Compliance Manager for Water department, memo from Christine M. Griffin, of Anderson &

Kreiger LLP, a letter from Brewster Conant, abutter to the project, and a letter from Isabella Choate with her concerns. Also contained in the file were the abutters list along with the certified mailed green cards and receipts, two sets of plans, and two ten page Definitive Subdivision Plans, both dated October 22, 2012 and two (2) Site plans with different notes on each. Also included in the file were staff comments from Planning Department (2), Engineering Department (2), Conservation, Police Chief Widmayer, Acton Water District, ACHC (2), Board of Health Inspector, Evan Carloni, (2).

Ken began by stating that since the information has come in, in bits and pieces and some of the issues have not been addressed by the town departments he wants to give the opportunity to the petitioner to either continue the hearing or they can move forward tonight with what they have.

Lou Levine, here on behalf of Attorney John Keilty stated that he doesn't expect the hearing to be closed this evening and will be continued. He would still like to have the representatives to give an overview of the project tonight. Ken agreed that that would be fine and thought it would be a good idea for the Board to do a site walk. The site walk would be held for the Board of Appeals members and the petitioner. The public would be invited but could not give any input during the walk. The site walk was scheduled for Tuesday, February 11th at 10:00 am.

Lou Levine representing the applicant stated this project is located at Post Office Square. It has been the subject of a friendly 40B LIP application Local Initiative Project to allow for 12 units. They went before the Board of Selectmen a couple years ago for their endorsement of the project. The BOS will be writing a letter of support for the project. Prior to going to the Selectmen they went to the Design Review Board for review of the plans that you will see tonight. They reached out to staff preliminarily then received approval from the DHCD. Mr. Levine then asked William Luster, to give the layout of the subdivision.

William Luster of Higher Ed Partners began by stating they began this a little over a year ago. It's a 12 unit parcel as shown on the plan. There is a road in and out of the project. When they began this they knew they wanted single family homes on separate lots with each unit to have three bedrooms, a two car garage and a full basement. The affordable units would be #1, #7 and #8 distributed throughout the project. They have three different designs. They have the New Fiddlehead, which is 3 bedrooms, 2 baths and 2,222 square feet with the garage is in the basement. The first floor has a living room, family room, dining room and kitchen. The second floor has 2 bedrooms with a spacious master suite. The next design is the April Yarrow, this design has 2,529 square feet with three bedrooms, two and a half baths, a garage in the basement along with a small mudroom. The first floor has a kitchen, living room dining room, study and front porch. The second floor has three bedrooms and a study. The New Englander which is 2,550 square feet has three bedrooms, two and a half baths, first floor kitchen, dining,

living room, mudroom, and TV room. The second floor will have a family room and three bedrooms including the master suite. The exteriors of all the units will look the same, but the interiors of the affordable units will have some differences in the upgrades between market rate homes.

James McDowell, of Eastern Land Survey Associates prepared the site development plan. He stated there are twelve proposed lots, with a total of 3.6 acres, of which about 2.6 are involved with the active development. The lot sizes range from 4,950 to just over 9,100 square feet. There is a large rectangular piece (parcel A) which is where the proposed septic system will be constructed. The proposed roadway is 450 feet in length from the beginning to end of the cul-de-sac. Post Office Square was built with a sewer system, water supply system, and storm drain system all done back in mid to 1980's. They are proposing to build a gravity sewer system that will go down the cul-de-sac and be distributed over two very large septic tanks and a dosing chamber that will pressure dose the septic system. There will be a water supply system that ties into the one on Post Office Square. As for storm drainage, the runoff from the various driveways and some of the roofs will run into catch basins and manholes. The front will be directed to the existing storm drainage system on Post Office Square which runs into a fairly substantial detention basin. That basin and piping is commonly owned by land owners in the subdivision.

Rebecca Cunning, Landscape Architect began by explaining she does a typical planting plan for the different housing styles. It's a cottage style type house and the lots are pretty small so they've done front plantings that don't overwhelm. They are all native species with the introduction of a few non native species that are non evasive. The reason she does north and south facing of the different styles is so that you get the idea of the type of vegetation their using and what it will look like. On the actual lots the planting is mainly in the front and they will be grassing the rest of the area. They've done street trees that are all native to this area. As far as existing vegetation they plan on leaving it wherever they can. They want to buffer the industrial use from the residential use. She said that is the basic plan. She submitted the landscape plan and the plantings that will be used.

Lou Levine said with respect to the town departments and their comments, the only open items are with the Engineering Department and Dean Charter of Municipal Properties who are looking for a landscape plan. That plan will be submitted to them tomorrow.

With respect to the Water District and the Board of Health the Engineers have a tentative meeting with them on Monday or Tuesday to take care of their issues. There was mention in the comments from Brewster Conant and Isabella Choate regarding the septic system requiring individual testing. Lou Levine spoke with Doug Halley and his solution and suggestion to the issue is to make the septic system a common system like a condominium and the individual

homes would remain as the ownership homes. This would alleviate the necessity for testing each individual lot.

There will be a Homeowner Association for plowing and for landscaping. It's felt in a smaller condensed area a modest monthly homeowner charge for the homeowner is a very minor item for the homeowners association. They'll get the Board the documents for the homeowner's association as well as the budget.

In Roland Barti's memo to the board he mentioned some numbers to skew. Lou said they will review them but the numbers are out of date and it doesn't matter because it's not going to be a condominium. In any event, he will get the documents to the board.

Tom Tidman's comments need to be discussed. He doesn't have any major issues. He was wondering if they could do common drives. The Engineer stated they would prefer to not do common drives.

Lou Levine added they expect the Selectmen to issue their letter of recommendation shortly.

There were comments from Town Counsel in response to Roland's request relative to the Purchase and Sale agreement being in Mr. Singleton's name, as opposed to the applicant Post Office Square LLC. The only other issue is the extension which carries it out further for the agreement and that would satisfy the jurisdictional issues. Town Counsel issues will be addressed.

Roland also mentioned sidewalks in his memo. There is a sidewalk on Post Office Square and one on Route 27. Roland is talking about potential for a sidewalk on Brook Street. Lou believes it's a substantial distance from the site and he believes the land on both sides of the street is owned by Mr. Conant and Mr. Conant doesn't want a sidewalk. Ken believes the Board would agree with that even though they aren't making any decisions tonight.

Lou said they need to give the Town a complete waiver list and they will provide that list before the next hearing. They realize it is their obligation.

Lou added there was a comment left open in the Engineering department memo about the drainage and that the petitioner is draining extra water into the street. They will follow up on that and will send it to the Board and copy Town Counsel on whether they have the right or not to do that.

Nancy Tavernier, Chairman of Acton Community Housing Corporation said they've been very involved in this project since the Summer of 2012 and are pleased that the Petitioner has brought this project to town and appreciate their willingness to continue to commit to the project and hope they can go forward.

Brewster Conant, abutter to the project said the map still has his land shown as the Acton Water District. He gave the Acton Water District 20 acres of the well and he is quite protective of that property. He would like the boundaries to be marked on the project along with the house lots.

Ken asked for a motion to continue the hearing to March 3, 2014 at 7:30 pm in room 126. The motion was so moved.

Board of Appeals Hearing #13-06 is continued to Monday, March 3, 2014 at 7:30 pm.

Monday, March 3, 2014 7:30 PM

Hearing #13-06

6 Post Office Square

Continued

Present at the hearing were Ken Kozik, Member; Richard Fallon, Member; Suzanne Buckmelter, Alternate Member; Scott Mutch, Zoning Enforcement Officer and Cheryl Frazier, Board of Appeals Secretary. Also present at the hearing was Attorney Louis Levine from D'Agostine, Levine, Parra & Netburn, James MacDowell, of Eastern Land Survey Associates, William Luster, and Rebecca Curran , Landscape Architect from RC Design.

Ken Kozik re-opened the hearing by listing the new documents that were submitted since the last hearing. The first document, dated February 19, 2014 was from Eastern Land Survey Associates, Inc. to Chris Allen at the Water District. The second document dated February 20, 2014 was from the Design Review Board with their comments. The third document was a list of Waiver requests from the applicant. The fourth document was a memo from John Keilty to the Engineering Department date February 18, 2014. The fifth document was a Board of Selectmen document with their comments, dated February 25, 2014. The sixth document was an email dated February 27th from Matt Mostoller of the Acton Water District to the BOA. The seventh document was an email from Matt Mostoller to Eastern Land Survey Associates, Inc. regarding the Water Impact Report. The eighth document dated February 27, 2014 was and email from Doug Halley of the Health Department to Cheryl Frazier regarding the wastewater system. The final and ninth document was an email from Dean Charter, of Municipal Properties to Rebecca Curran regarding the proposed landscape plan.

Ken said before he begins he wanted to thank the petitioner for giving the Board the opportunity to view the site.

Ken recapped what happened at the last hearing. He said there were a number of outstanding issues with various Boards and Town Departments and he asked Mr. Levine if all the issues had been taken care of. Ken asked where they stand with the outstanding issues.

Mr. Levine said they met with Doug Halley Board of Health and believe they have met his concerns and he is satisfied with the plans. They also met with Chris Allen of the Water District and he was satisfied with the plans and would like to stay in the loop with the monitoring of the plan. There was discussion regarding the landscaping plan. Dean Charter has now seen and reviewed the landscape plans and has made a couple of recommendations which they are fine with. Design Review Board issued a letter endorsing the project as designed and had some recommendations. The Board of Selectmen issued a letter supporting the project and made five recommendations that the applicant will meet. One of their requests was for a contribution to the town sidewalk fund. Lou mentioned that they might have an issue with that. The Engineering Department asked them to submit a memo and supporting documents from Attorney Keilty relative to their right to drain into the drainage system.

Lou said he will deal with the sidewalk issue. This is a very small project with sidewalks along Post Office Square, which is a private way, and with a sidewalk already on Main Street. With Nancy Tavernier's help they looked at the 40B projects in the past and found that a majority of the projects had not been asked to contribute to the sidewalks. It would be a task on the project. Ken said it's not a major stumbling block.

Ken asked Lou about the waivers. Ken said it seems like there are a lot more waivers than there were before. Mr. Levine said it did grow a bit. He said he sent it to Scott for his review.

Ken asked Scott if he got a chance to look at the list. He said he did look at it briefly and it is thorough, it's comprehensive and it does cover a vast majority of the waivers that are required.

Rebecca Cutter, Landscape Architect said she went over the plan with Dean Charter and he agreed with it, but at the last meeting there was a property owner present that suggested a fence to delineate the property lines so people don't end up encroaching the property. The fence will be a post and rail vinyl fence that they are proposing along one side of the property line and along the back of the property and that's the only change.

Ken asked Scott for his input. Scott said he thinks everything has been covered with the revisions that were made and with the waivers that were sought he thinks they're comfortable.

Ken asked member Suzanne Buckmelter if she had any questions. She asked if they had considered a solid fence to deter people from going through it.

The landscape architect, Rebecca Cutter felt with the open fence you could see the natural land and the post and rail would be a better solution.

Ken asked Rich Fallon if he had any questions. Rich thought the last time there were various questions from the Engineering department. Lou said he spoke with Paul Campbell, of the Engineering department and his understanding was the landscaping was outstanding but they were going to get that done with Dean Charter. Paul had raised an issue relative to the drainage and said specifically he just wanted it to be raised. Lou believes everything else has been resolved with the Engineering Department. Rich asked Lou if he could get something from Engineering stating that. Lou said there is a more recent memo in January stating that.

Rich would like the petitioner to get something from the BOH and the Engineering Dept. stating they are all set.

Brewster Conant abutter, 562 Main Street had some questions in connection with the fencing. He'd like to see the fence extended some and he's sure the Water District would like that too. Lou told Mr. Conant to look at the plan now and just mark it up.

Louise Gehardt, 22 Grasshopper Lane, abutter has a question about the wetlands. Lou Levine explained that there is a letter from Conservation stating that they don't fall within the jurisdiction of the wetlands or any vernal pools. She just wanted to have clarification that any drainage running to the strip in the back of her property will not affect the wetlands. She also had questions about the drainage and how it would affect her property.

Ken said he likes the idea of keeping the hearing open. Rich and Suzanne agreed. Ken said the draft decision would be circulated to everyone to look at. Scott told Ken when they release the Draft Decision it will be put on the town docushare website for everyone to view.

The Board, Lou Levine, and Scott spoke briefly regarding the sidewalk request that the Selectmen are asking for. Ken asked Scott Mutch if he could look into the past 40B Comprehensive Permits and if they were required to make contributions toward sidewalks on their project. Lou had the statistics of the past 40B's and if they contributed or not, which he shared with the Board.

The Board moved to continue the hearing to Monday, April 14, 2014 at 7:00 pm in Room 204.

Monday, April 14, 2014 7:00 PM

Hearing #13-06

6 Post Office Square

Continued

Ken re-opened the hearing for the Comprehensive 40B Hearing #13-06 for 6 Post Office Square.

Present at the hearing were Ken Kozik, Member; Richard Fallon, Member; Suzanne Buckmelter, Alternate Member; Scott Mutch, Zoning Enforcement Officer and Cheryl Frazier, Board of Appeals Secretary. Also present at the hearing was Attorney Louis Levine from D'Agostine, Levine, Parra & Netburn, James MacDowell, of Eastern Land Survey Associates, and William Luster,

Ken Kozik began by reading the new submissions in the file since the last hearing was held on March 3, 2014. There is a submission from Acton Community Housing Corporation dated today, a Post Office Crossing Homeowner's Trust document, a draft decision from Scott Mutch, Zoning Enforcement Officer, a red-lined revision from Lou Levine in reaction to that that draft decision. A note from Rebecca Curran, another note from Acton Community Housing Corporation and a draft decision which has Town Counsel redlined comments.

Ken Kozik stated that in his opinion generally the Board does not consider things that are submitted on the evening of the hearing. The Board works during the day so are unable to read these documents.

Ken asked his fellow Board Members if they wanted to go through Mr. Levine's redlined draft decision or Town Counsel's. The Board agreed to go over Town Counsel's version of the red-lined draft decision.

Next, Ken wanted to deal with Mr. Conant's request regarding the post and rail fence and demarcation of property in the back so there's no trespassing. Ken doesn't see it as part of this decision. The applicant stated that when they met with Mr. Conant after the last hearing and agreed on what they'd do and set the language but it was not put in the decision but they have no problem putting it in the decision. Ken said the language states that in addition to the post and rail fence as shown on the landscape plan of record the fencing shall extend an additional 94 feet in a Southeastern direction. Ken asked if that addressed Mr. Conant's concerns. He replied it did for the most part. Ken said they would be sure that the language goes in the decision.

That was not in the decision but the developer promises it will be put in the decision. Ken asked Lou if he had any issues with the Acton Community Housing Corporation memo that was submitted today. Mr. Levine did not have any issues.

Ken asked Nancy if she had any other questions or concerns. He asked the same of Mr. Conant. Neither of them had any issues.

After discussing the redlined changes made by Town Counsel in Scott Mutch's draft decision the Ken asked the Board members if they wanted Scott to update the draft decision to reflect the changes made tonight and have another open hearing to review it again, or approve it subject to the changes that were discussed tonight and close the hearing. Board members Suzanne Buckmelter and Rich Fallon believe and agreed that the hearing should be closed tonight. The applicant and Mr. Levine agreed.

The applicant graciously offered to donate \$9,000 to a sidewalk fund after the sale of the 10th house.

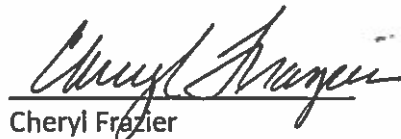
Ken asked for a motion to close Hearing #13-06. The motion was so moved. The hearing was closed.

The Board VOTED to APPROVE the 40B COMPREHENSIVE PERMIT, Hearing #13-06, for 6 Post Office Crossing subject to the modifications that were added to the draft document of Town Counsel's memo.

Respectfully submitted,



Kenneth Kozik
Chairman, Board of Appeals



Cheryl Frazier
Secretary, Board of Appeals